

LA MALLORCA AND PAMPANGA BUS COMPANY, INC., PETITIONERS, VS. CIRILO D. MENDIOLA, RESPONDENT.

G.R. No. L-19558. November 29, 1963

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

On account of the loss of petitioner's Exhibits D, D-1, D-1-a, D-1-b, D-1-c, D-1-d, while in the possession of the Public Service Commission, to which they had been previously submitted, and in view of the impossibility of reconstituting the same, as reported by the Commissioner of this Court, the petitioner-appellant, La Mallorca and Pampanga Bus Co., has moved for the setting aside of the decision under appeal, and a remand of the records to the Public Service Commission for a new trial. Respondent-appellee, Cirilo D. Mendiola, registered his opposition.

Considering that the lost exhibits appear to be observation reports of motor vehicles for hire, operating at specific times on the Guagua-San Fernando line, showing their plate number, passenger load, and direction taken by them, as observed by appellant's witness, Pineda, and submitted to the Commission to rebut applicant-respondent's own evidence;

Considering that there is no proof that the lost exhibits were not duly considered and taken into account by the Public Service Commission when it rendered its decision, now under appeal, where said Commission has held that—

"From the mass of evidence, we find the following facts established:—that there is the operation of ten jitneys and six buses on the proposed line; that there are daily commuters on this line; that the present number of vehicles operating on this line is not sufficient to cope with the number of passengers on this line; and that applicant is financially capable to operate and maintain the service herein applied for." (*Italics supplied*).

Considering the established rule that in cases of this nature the Supreme Court is not authorized to weight the conflicting evidence and substitute its own conclusions thereon for those of the Public Service Commission (*Halili, et al., vs. Isip*, L-1458, 28 Jan. 1950; *Ice & Cold Storage Industries vs. Valero*, 85 Phil. 7, and cases cited therein), the sole mission of this Court being to ascertain whether "it clearly appears that there was evidence before the Commission to reasonably support" the decision, a pronouncement that primarily depends on the character of the applicant's evidence, which has not been lost;

The Court resolves to DENY the petitioner's motion to set aside and remand, and to require the petitioner to file its brief within thirty (30) days from receipt of this resolution. So ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, and Makalintal, JJ., concur.

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