

WEST LEYTE TRANSPORTATION CO., PETITIONER, VS. ADELAIDO SALAZAR, RESPONDENT.

G.R. No. L-15418. September 30, 1964

Ponente: REGALA, J.

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REGALA, J.:

This is a petition to review and revoke the decision of the Public Service Commission in Case No. 104309, granting to Adelaido Salazar an extension of his line and the authority to operate two additional auto-trucks under the certificate of public convenience issued to him in Case No. 7602.

The facts, as may be gathered from the records, are as follows:

Adelaido Salazar had been authorized to operate an auto-truck service by virtue of certificate of public convenience issued by the Public Service Commission in Case 7602, with an authorized equipment of four (4) autotrucks operating on the line Maasin-Baybay, Leyte province. On February 18, 1957, in Case 104309, the said Adelaido Salazar filed with the Commission an application to increase his equipment by operating six (6) additional units, and to extend his authorized line up to Tacloban City thru the towns of Bato and Abuyog, same province.

While the case was pending, the applicant, requested for, and was granted on May 7, 1957, a provisional authority to operate four (4) additional auto-trucks on the proposed lines.

The West Leyte Transportation Co., Inc., also a holder of a certificate of public convenience, and an operator affected by Salazar's application, filed a written opposition thereto, alleging as reasons: that public convenience does not require the additional service applied for; that on the line desired, there are several operators authorized by the Commission who render efficient service to the public; that there are not so many passengers on the proposed route sufficient to justify the approval of the application; and that the granting of the said application will cause unfair and ruinous competition that will ultimately prejudice the other established operators.

Upon petition of both parties, the Public Service Commission authorized the Justice of the Peace of Baybay, Leyte, to receive their evidence by way of depositions.

During the hearing, the applicant adduced evidence to the effect that there are plenty of passengers coming from Maasin, Bato and Abuyog, consisting of employees of the government and business establishments who commute daily to Tacloban City; that a great number of merchants coming as far as Mindanao, who disembark in Maasin and Bato, proceed to Tacloban City to sell their merchandise and the only means of transportation which these passengers avail of are two buses of the applicant, one Maasin-Tacloban and the other Sogod-Tacloban via Maasin; and that these two buses are not sufficient to cope with the transportation needs of said passengers.

The oppositor, on the other hand, presented evidence tending to prove the reasons given in his written opposition. Thru certifications and/or testimony of the Municipal Treasurers of Dulag and La Paz, Leyte, regarding the 2% carrier's tax paid by existing operators and that of the Municipal Treasurer of Baybay regarding the 2% carrier's

tax paid by the applicant, oppositor maintained that because of the lack of sufficient passengers, he and the other operators along the lines in question are suffering losses in their business.

After consideration of the evidence and the facts on record, the Public Service Commission found that "on the line Maasin-Tacloban City which has a distance of 183 kilometers passing through ten important municipalities and thickly populated, there is sufficient volume of passengers who can not be properly served by the actual operators on the line. The alleged loss in the business by oppositor and the other operators does not constitute a conclusive proof of the lack of passenger traffic." The Commission then authorized the increase of respondent's equipment by adding two more units' (although he applied for six) and the extension of the line Maasin-Baybay up to Tacloban. The extension, however, in so far as the towns of Bato and Abuyog are concerned, was denied.

As regards the 2% carrier's tax of the applicant and the other operators, which was the basis of oppositor's assertion that they have been suffering business losses, the Public Service Commission has this to say:

"* * * And as regards oppositor's Exhibit 7 which is its manager's statement and Exhibits 8-13 which are the payments made by other operators for their 2% carrier's tax, we can not consider these exhibits against applicant, as he has not intervened in the preparation of said exhibits, under the rule of *res inter alios acta* (*Bed Line Transp. Co., Inc. vs. Legaspi Abrazado*, G. R. L-11411, Oct. 31, 1958). As to Exhibit 1 of oppositor which shows applicant's 2% carrier's tax payment, this could have been a vital evidence against him, had he not operated under the provisional authority issued in this case. But said Exhibit 1 contains only the gross income of applicant as a whole without any specification, however, as to the lines operated or the number of buses operated on a particular line, so that we can not determine by means of said exhibit how many buses were operated in one line, or which buses carried more passengers than the others; and it is an elementary rule of evidence that decisions should not be based on mere conjectures even though how strong they may seem to be."

Motion for reconsideration filed by oppositor having been denied, it filed the present petition.

While this case was pending with Us, the respondent filed on June 3, 1963 a motion to dismiss the appeal on the ground that the petitioner had sold all its several certificates of public convenience covering various lines in the province of Leyte. The petitioner, however, filed its opposition to this motion, alleging, among others that while it has transferred some of its certificates to Ramon Veloso, the Public Service Commission gave only a provisional approval to said transfer, subject to modification or revocation by the Commission at any time. This Court denied the motion to dismiss on June 25, 1963.

The petitioner assigns as errors of the Public Service Commission "(1) al declarar que el interes publico serio promovido debidamente mediante la concesion al solicitante Adelaido Salazar la extension de su lineo de Maasin a Baybay hasta Tacloban City; (2) al desestimar la mocion de reconsideracion presentada por la opositora."

It is to be noted that the applicant, herein respondent, during the hearing, has presented as evidence testimony of various municipal officials and residents of different towns affected by his application, attesting to the need of an additional service; resolutions of municipal councils of different towns requesting for the increase of the auto-truck service and extension of his line from Maasin to Tacloban; and affidavits of persons requesting approval of applicant's request. In other words, the Public Service Commission has considered the case in favor of the applicant because of these various evidence submitted by him.

In a long line of decisions, it has been the policy of this Court not to interfere with the findings of the Commission where some evidence reasonably supports its findings as to necessity and convenience of the authorized public utility. (*A. L. Ammen Transportation Co., Inc. vs. Desuyo*, G. R. No. L-10372, May 14, 1958). In the case of *Raymundo Transportation Co. vs. Cervo* 91 Phil., 313, this Court said:

"Whether public necessity and convenience warrant the putting up of additional services on the part of the appellee, is a question of fact which the Public Service Commission has found in the affirmative. This finding, being supported by sufficient evidence, should not be disturbed." (See also Manila Yellow Taxicab Co. and Aero Taxicab Co. vs. Danon, 58 Phil. 75; Laguna Transportation Co. vs. Vegamora, G. R. No. L-9445, April 29, 1957; and Pangasinan Transportation Co. vs. Feliciano, G. R. No. L-14401, August 31, 1962)

There appearing to be no serious question raised in this petition other than the correctness of the findings of the Public Service Commission, and finding the conclusions of the said Commission to be reasonably supported by evidence, there is no reason for Us to disturb the decision appealed from.

The petition is hereby dismissed, with costs against the petitioner.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L., Paredes, Dizon, Makalintal, Bengzon, J.P., and Zaldivar, JJ., concur.

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