

MANDALUYONG BUS CO., INC., DIONISIO MANALOTO, HERMINIA PASCO, SOLEDAD SAN AGUSTIN, BLAS REYES, ANASTACIO ESMAO, MAXIMO REYES, MANDBUSCO, INC., AND MERCEDES CLEMENTE, PETITIONERS...

G. R. No. L-21964. October 19, 1966

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

Review of a decision of the Public Service Commission [1] granting respondent Luis Enrique a certificate of public convenience to operate eight (8) PUJ jeepneys on a six-kilometer line: Bambang (Pasig, Rizal) Epifanio de los Santos Avenue corner Shaw Boulevard (Mandaluyong, Rizal), via poblacion of Pasig.

Following are the facts found by the Commission:

"We find that on the line applied for there are several buses that pass x x x but most of these buses come from long distant provinces and they do not usually pick up passengers on the way whose destinations are near. The proposed service will benefit not only the residents living along the line but also those who are working in the various factories and business establishments situated within the vicinity of the proposed line. However, we find that the grant of eight (8) jitneys will be sufficient to serve those commuters on the proposed line.

Finding further that applicant is a Filipino citizen and financially capable to operate and maintain the proposed service, the Commission believes that the certificate of public convenience applied for may be as it is hereby GRANTED to the applicant, x x x ."[2]

1. Drawing our attention, at the outset, is the evidence that prior to the application, respondent was already operating four (4) jeepneys without first procuring a certificate of public convenience. We would not have hesitated to clamp down on this application, were it not for the peculiar circumstances of this case. The evidence of record discloses that, with the collapse of the bridge at Rosario, and the closure to vehicular traffic of the Vargas bridge at Bagong Ilog, Pasig, commuters in great number found themselves stranded. These were mostly of the laboring class. Although, of course, there were also school children, employees and merchants among them. This circumstance induced what is locally coined as "colorum" operation of about 30 jeepneys. The Municipal Council of Pasig took stock of the situation and, on September 17, 1962, adopted Resolution 211, whereunder it took a direct hand, rounded the unlicensed operators, and offered direct help to procure the approval of their certificates of public convenience. Respondent filed his application on the following day, September 18.

Unauthorized operation of public utilities should not be countenanced. It would seem though that stern necessity should take respondent's case out of the rigidity of the rule which normally should bar approval of his application. From all appearances, respondent's was an operation in good faith. It was in response to a pressing need. At least, respondent exhibited no wilful disregard of the law - he promptly filed his application. [3] The interests of the commuters are paramount.[[4]]

Respondent's application should not be turned down on this score.

2. An examination of the record convinces us that the findings of fact of the Commission on the question of public necessity and convenience are amply sustained by the record. The evidence for respondent on this point finds full support in the following, culled from the transcript of the testimony of Arturo Clemente - witness for petitioners - viz:

"Q. Mr. Clemente, the applicant claims that there is need for additional unit on the line. What can you say as to that?

A. I agree that there is need for additional equipment." [5]

And if more were still needed, the very fact that about 30 unauthorized jeeps ply along the six-kilometer line, furnishes a clear indicium that the services of the existing authorized operators did not meet the public demand.[6] The truth of the matter is that petitioners here operate on extended lines, going to Quiapo and coming from as far as Sta. Maria, Jalajala, Tanay, Antipolo and Pililla,[7] with the result that when petitioners' buses pass by the short line applied for, they are usually filled.[8]

3. Neither is there merit to petitioners' averment that, as established operators, they should be given preference to increase their equipment. Because, they failed in their obligation to apply for such increase at the time when necessity arose.[9] Since the route applied for is short, petitioners overlooked public necessity, as it would not advance their private interests. At any rate, the Public Service Commission has spoken. In the factual environment here, we are unprepared to say that discretion was abused. For, the Commission took into account as overriding, public interest and convenience. [10]

4. As unsubstantial is petitioners' claim that respondent's financial capacity is not beyond question. The approved equipment is only for eight jeeps, of which he already had five at the time of his testimony. He is a businessman, a partner in a ricemill and flower pot factory. He owns a P15,000 rock-and-adobe quarry in Teresa, Rizal, where he derives an income of about P180.00 a week. He has an P18,000 investment in the Central Market textile store of his wife. These are facts which prove his financial capacity.

Upon the foregoing, the judgment under review is affirmed. Costs against petitioners.

SO ORDERED.

Concepcion, C.J., Reyes, J. B. L., Dizon, Regala, Makalintal, Bengzon, J. P., Zaldivar and Ruiz Castro, JJ., concur.

[1] Case No. 62-5380, Public Service Commission, Luis Enrique, applicant.

[2] Record, p. 139.

[3] Re Maryville Electric Light & Power Co., P.U.R. 1927C, 453,455.

[4] Re United Parcel Service of Los Angeles, Inc., P.U.R. 1926E 321, 341; Re Pesa and Davis, P.U.R. 1928B, 783,786.

[5] Record, p. 119.

[6] La Mallorca and Pampanga Bus Co., Inc. vs. Mendiola, G.R. No. L-19558, April 29, 1966.

[7] Record, p. 118.

[8] Testimony of respondent, Record, p. 73.

[9] Philippine Long Distance Telephone Co. vs. City of Davao, et al., G.R. No. L-23080, September 20, 1965.

[10] Valle Bros. Inc. vs. Public Service Commission, et al., G.R. No. L-18694, January 31, 1966.

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