

MARIANO MEDINA, PETITIONER VS. SAULOG TRANSIT COMPANY, INC., RESPONDENT*G.R. No. L-7244. June 28, 1956*

Ponente: PADILLA, J.

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On 6 February 1953, the herein respondent filed with the Public Service Commission an application to operate four (4) units for a TPU express through service between Cavite City to Olongapo, Zambales, via Manila, following a time table attached to the application, without picking up or dropping passengers in the City of Manila (case No. 70707). The herein petitioner, joined by the Victory Liner, Inc. and the Try-V-Tran, filed their respective oppositions alleging that the proposed service applied for by the respondent was unnecessary because their (the oppositors') actual service was adequate to meet the demands of the travelling public; that the proposed service would not promote public convenience but might result in a ruinous competition; and that should the Commission find there was need for the service applied for by them, the oppositors, were willing to put up additional service along the line. On 11 June 1953, after the evidence of the applicant had been submitted it prayed that a provisional permit to operate the four (4) units be issued to it, it having been shown that no transportation on that line was being run by any public service. This petition was not acted upon. At the hearing of the case, however, Mariano Medina and the Try-V-Tran did not present any evidence; Instead they filed their respective applications for authority to operate on the same Cavite-Olongapo line via Manila. Only the Victory Liner, Inc. presented evidence. In support of its opposition.

After hearing, on 15 October 1953 the Public Service Commission rendered a decision granting the applicant the certificate of public convenience applied for, to run and operate daily for the transportation of passengers and freight four (4) auto-trucks of any make, with fixed route regular termini and schedule of trips on the line Cavite City-Olongapo (Zambales) via Highway 54, and vice-versa.

Mariano Medina has petitioned for a review of the decision under Rule 43, contending that (1) the decision of the Public Service Commission is not reasonably supported by the evidence of record; and (2) that the Public Service Commission erred in not giving the petitioner the right of preference over that of the respondent in putting up the new service applied for.

On the first contention the decision of the Public Service Commission pertinent to it reads as follows;

From the evidence adduced by applicant, it appears that there are many employees working in the Olongapo Naval Base who are residents of Cavite City who continued working, at the Naval Base when it was transferred from Cavite to Olongapo; that in the previous years, these employees from Cavite could avail of the direct bus services rendered by the Green Diamond, Osteria Transit and the Cavite Motor Bus Line,, but that these operators have already stopped operating from Cavite to Olongapo; that these employees go home to Cavite City not only on Friday afternoons, but, also on other days of the week, because of overtime" work or when they are given leaves of absence.; that at present there is no direct service from Cavite City to Olongapo except that of Mariano

Medina whose busses come from Silang, as a result of which said busses are already filled with passengers and cargoes when they pass Cavite City, and passengers from Cavite City have to take the busses of applicant from Cavite City to its terminal in Manila at Florentino Torres Street; that from this terminal, passengers have either to walk or take a taxi when they have packages with them, up to the Try-V-Tran station at Oroquieta, as there are no jitneys operating between the two stations; that this system of transfer causes the passengers unnecessary delay and additional expenses in going from one station to another, and this difficulty of transportation is aggravated especially during rainy or stormy weather; and that during the time that the Green Diamond, the Osteria Transit and the Cavite Motor Bus Line were operating from Cavite City to Olongapo, a direct trip lasts about four hours, whereas by riding in the regular trips of the Saulog Transit from Cavite City to Manila, and of the Try-V-Tran or Victory Liner from Manila to Olongapo, it takes the passengers at least six hours.

On the other hand, the Victory Liner tried to prove that the present operators are rendering an adequate and sufficient service "or the needs of the passengers from Cavite City to Olongapo tint the previous operators operating on the line applied for were forced to abandon their service because of the lack of passengers obtaining online line; that the bulk of passengers is heavy only on Fridays when the employees from the Naval Base go home to Cavite, and on Sundays when the employees have to return to Olongapo to report for duty on Mondays that because the busses do not carry any passengers on Fridays on their way to Olongapo, and on Monday mornings from Olongapo to Cavite there were forced to pick local passengers from Manila along the way to Olongapo and vice-versa; that even if the few passengers from Cavite to Olongapo have to drop at Manila, they have ready and available means of transportation either from the Victory Liner or from the Try-V-Tian from Manila to Olongapo "where both operators maintain an hourly service.

After a careful consideration of the evidence presented by the parties, the Commission believes that there is really a need for authorizing the direct service applied for from Cavite City to Olongapo. We have consistently held that a direct service is more convenient to the travelling public than one which involves a transfer at some intermediate point, and this is true especially on long distance trips. In the present case, it has been proved that the difference in travelling time between the direct service and the one with transfer is two hours because the passengers have to avail themselves of the services of two operators, one from Cavite City to Manila and another from Manila Olongapo. Besides, the oppositor Victory Liner is serving only a portion of the line applied for and therefore cannot give the same service sought for in the present application.

The above quoted part of the decision supported by the evidence shows that there is need of a direct line such as that applied for by the respondent. When the petitioner filed Ms petition for a preferential right to operate over, the said line he emphasized in his application that public convenience demanded the operation of the direct service. The finding of the Commission as regards the difficulty of transfers, inconvenience, loss of time and efforts of the passengers riding on the Saulog Transit and. Medina Transit busses and transferring to those of either the Try-V-Tran, or the Victory Liner, Inc. from Cavite City to Manila at one point and from the latter city at another point to Olongapo, is supported by the evidence of record. Such being the case, the finding should not be disturbed, for it is a settled rule that this Court would not set aside a decision of the PublicService Commission as long as there is evidence that reasonably supports it.[1]

On the point of preference, the same has already been settled when this Court held[2] that:

The appellant insists that, as an old operator, it should enjoy preference in the matter of adding new auto-trucks required on the old and new lines. The appellant however, had not volunteered to apply for additional units and had. thought of claiming said right only after the appellee, aware of the increasing travelling needs of the people, filed an application for the issuance of the certificate in question. Appellant's attitude is unfair both to the public and to other, operators.

There is no doubt that the above ruling is applicable to the instant case, because it was only after the respondent had filed its application for a direct service line that the petitioner had awakened to the realization that there was need for such direct service line and filed his own application stressing the necessity for it which he in his written opposition to the respondent's application had previously denied.

The decision appealed from is affirmed, with costs against the petitioner.

Paras, C.J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., and Endencia, JJ., concur.

[1] Section 35, Com. Act No. 146. Sec Ice & Cold Storage Industries of the Phil. vs. Valero, G.R. Nos. L-1871-1872, 18 November 1949; Interprovincial Autobus vs. Mabanag, G.R. No. L-3302 11 January 1951; Halili vs. Balane, G.R. No. L-3364, 11 April 1951; Negros Ice & Cold Storage Co. vs. Public Service Commission, G.R. No. L-2846, 29 September 1951; Interprovincial Autobus vs. Clarete, G.R. No. L-4100-4102, 15 May 1952; Surigao Express Co. Inc. vs. Mortola, G.R. No. L-4816, 23 March 1954; Angat-Manila Trans. Co. vs. Tengco, G.R. No. L-5906, 26 May 1954; PANTRANCO vs. Tambot, G.R. No. L-6738, 25 August 1954; Bacolod Ice & Cold Storage Co., Inc. vs. Negros Ice & Cold Storage Co., Inc., G.R. No. L-7088, 16 May 1956.

[2] Interprovincial Autobus vs. Clarete, supra.

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