

**PASCUA AND MOURISE TRANSPORTATION CO., INC. (AS SUCCESSOR
IN INTEREST TO MANUEL R. PASCUA AND TITO G. EDURICO),
OPPOSITOR AND APPELLANT, VS. ELINO CONCEPCION, APPLICANT
AND APPE...**

G. R. No. L-4312. August 15, 1951

Ponente: REYES, J.

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REYES, J.:

This is an appeal from a decision of the Public Service Commission insofar as it grants the appellee a permanent certificate of public convenience for a TPU service between San Francisco del Monte and Quiapo via España Street.

The record shows that appellant and appellee are both post-war TPU operators between Manila and San Francisco del Monte via España Street. Starting operation with an emergency or temporary certificate that was to expire in 1948, they later applied for a permanent one, and, in the case of appellant, authority was also asked for increase of vehicular equipment from 5 to 9 units. Having obtained both, appellant tried to block approval of appellee's application on the ground that continuance of appellee's operation on this line would spell ruinous competition. But the Commission decided in appellee's favor and granted him a permanent certificate.

Appellant now contends that there is total lack of evidence to support this decision as not one of appellee's witnesses has testified on the volume of traffic on the line in question. But as counsel for appellee has well said, appellant himself has supplied the evidence with the testimony of Dr. Manuel R. Pascua, a co-owner of appellant's business, to the effect that, according to his daily observation, the busses on this line are always full during rush hours and sometimes some passengers are left behind. Moreover, having with its application for additional units or trips represented to the Commission that there is plenty of traffic on this line, appellant cannot now be heard to say the contrary.

Appellant and appellee have both risked capital by starting operation with a temporary certificate. Despite competition-, both of them must have prospered or they would not want their respective certificates made permanent. With the volume of traffic apparently on the increase as may be deduced from the fact that appellant has almost doubled his units, it would be sheer discrimination to grant one a permanent status, with an increase of trips besides, and doom the other to extinction with the expiration of his temporary certificate.

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

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Tuason, Jugo and Bautista Angelo, JJ., concur.

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