

## RED LINE TRANSPORTATION CO., INC., PETITIONER, VS. MARIANO GONZAGA, RESPONDENT.

*G.R. No. 10831. April 28, 1960*

Ponente: PADILLA, J.

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### **PADILLA, J.:**

Under Rule 43 of the Rules of Court the petitioner prays for a review of the decision rendered by the Public Service Commission, granting authority to the respondent to operate, with fixed routes and regular term and time schedule for the transportation of passengers and freight and under the terms and conditions set forth therein, one truck in the line Aparri-Rizal via Dungao, Faire, Piat and Tuao; one truck on the line Aparri-Sta. Ana; and one truck on the Aparri-Tuguegarao, all in the province of Cagayan.

The Public Service Commission made the following findings and pronouncements—

As amended, this is an application for a certificate of public convenience to operate an auto-truck service for the transportation of passengers and freight on the following lines:

Aparri (Cagayan)—Rizal (Cagayan) via Dungao, Faire, Piat and Tuao;  
Aparri (Cagayan)—Sta. Ana (Cagayan) ; and  
Aparri (Cagayan)—Tuguegarao (Cagayan)

with a proposed equipment of eight (8) units.

This application is opposed by the Bachrach Motor Co., Inc. (owners and operators of the Rural Transit), Red Line Transportation Co., Inc., and Estate of E. E. Vda. de Fernando for the reasons stated in their respective written oppositions attached to the records.

After applicant had finished the presentation of his evidence he filed a petition for provisional authority to operate on the lines applied for and this Commission in an order dated July 18, 1955 authorized applicant to operate provisionally one truck on the line Sta. Ana-Aparri and one on the line Aparri-Rizal, pending final determination of this case.

It appears from the evidence submitted by the applicant and the records, of this Commission that applicant is an authorized TPU auto-truck operator on the line Aparri-Piat by virtue of the certificate of public convenience issued in his favor in Case No. 67507; that there is an urgent need for the operation of additional buses on the lines applied for as the present operators are rendering inadequate service; that during the summer season there are plenty of passengers because there are barrio fiestas, town fiestas and other special occasions; that the buses running on the lines proposed to be served by applicant are very insufficient to handle the volume of passengers during those months; that operators at present do not follow their time schedules and passengers sometimes have to wait for hours before they can ride; that Aparri is a commercial center of Cagayan and there is a big volume of passengers traveling to and from Aparri coming from the different points along the lines applied for that there are many merchants who go to Aparri, Piat, Tuao, Camalaniugan, Buguey, Gonzaga and Sta. Ana; that during the

months from January to August there is a big number of people from the Ilocos region who go to, Buguey, Gonzaga, Gattaran, Lallo and Alcala to help in the harvest in those towns and the present means of transportation are not enough to handle all these passengers because buses are oftentimes packed to capacity and there are many people waiting for transportation along the way who cannot be accommodated; that in Sta. Ana they catch plenty of fish which the inhabitants carry to Aparri, Buguey; Gonzaga and other towns and there are many fish vendors who travel from Sta. Ana to Aparri and vice-versa; that Tuguegarao as the capital of the province of Cagayan is also a commercial center and the buses of the Red Line Transportation Co., Rural Transit and the Angat Manila Transportation, are inadequate to meet the needs of the travelling public; that the buses of the oppositors are already fully loaded when they leave Aparri and cannot pick up passengers waiting along the road; that the Red Line Transportation Co. is rendering poor service and the people are complaining of the lack of transportation facilities.

On the other hand, the oppositors Red Line Transportation Co, and Rural Transit submitted evidence to the effect that there are already many TPU auto-truck operators on the lines applied for in the present case; that the authorized capacity of the buses operating on these lines ranges from 30 to 60 but they carry an average load of only from 18 to 20 passengers; and that the present services of the said oppositors and other operators on the lines in question are more than sufficient to take care of the needs of the traveling public.

After a careful study of the evidence submitted by the parties as well as the records of this Commission on auto-truck services on the lines covered, by the present application, we are convinced that there is sufficient traffic to warrant the grant to the applicant of authority to operate one truck on the line Aparri-Rizal via Durigao, Faire, Piat & Tuao; one truck on the line Aparri-Sta. Ana and one truck on the line Aparri-Tuguegarao, instead of the eight trucks proposed by the applicant.

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Petitioner contends that the Public Service Commission should have denied the application for the reason that the respondent is already a holder of a certificate of public convenience to operate an auto truck service from the town of Aparri to the municipality of Piat, such certificate having been granted subject to a condition that during the five-year life of the certificate its holder would not ask for extension of line or trips or Increase of equipment, and that there is absolutely no evidence to support: the decision.

The questions to be decided then are (1) whether the Public Service Commission erred in granting the certificate of public convenience to the respondent, the latter being a holder of another certificate granted to him in case No. 67507, subject to a condition that during its lifetime of five years he (the respondent) would not ask for extension of line or trips or increase of equipment; and (2) whether there is evidence to support the decision complained of.

The petitioner claims that the condition imposed in case No. 67507 was voluntarily offered by the respondent, and for that reason it desisted, from further objecting to the application filed therein, believing that the certificate of public convenience to be granted then to the respondent, subject to the condition referred to, would not harm or cause damage to its transportation business, and it agreed to the granting and issuance of the certificate to the respondent. Petitioner further contends that the auto truck service applied for and authorized on the line from Aparri to Rizal, for all intents and purposes is an extension of the Aparri-Piat line.

In the certificate granted in case No. 67507, the line is from the town of Aparri passing through the towns of Camalaniugan, Lallo, Gattaran, Faire, to Piat, the line terminal. In the certificate granted by the Public Service Commission in its decision now under review, the first line is from Aparri passing through the towns of Camalaniugan, Lal-lo, Gattaran, Faire (up to this point the same partial line as that granted in case No. 67507), Tuao, to Rizal, its terminal; the second line is from Aparri passing through the towns of Camalaniugan, Gonzaga,

to Santa Ana, its terminal; and the third line is from Aparri passing through the towns of Camalaniugan, Lal-lo, Gattaran (up to this point the same partial line as that granted in case No. 67507), Alcala, Amulung, Iguig to Tuguegarao, its terminal.

It is, therefore, apparent that the first line from Aparri to Rizal is not strictly an extension of the former line authorized in case No. 67507, because it deviates from Faire to Tuao to reach Rizal, the line terminal. Neither is the third line from Aparri to Tuguegarao, its terminal, strictly an extension of the former line authorized in case No. 67507, because although passing through the same town up to Gattaran the former line continues to Faire and Piat, the line terminal; whereas the third line is from Gattaran passing through the towns of Alcala, Amulung, Iguig to Tuguegarao, the line terminal.

And even granting that the first and third lines or routes under the last certificate granted by the Public Service Commission were an extension of the Aparri-Piat line under the former certificate granted by the Commission, still if the Commission is satisfied that public service or convenience requires or demands that the line of such extension be run, operated and served and that the applicant is financially capable of operating it, the Commission has the power to grant a certificate of public convenience to the applicant for the operation of such extension line.[1]

As to the claim that there is no evidence to sustain the decision, we find that there is enough evidence to support it. Not only did the Public Service Commission take into consideration the evidence submitted by the parties but it also considered the records of auto-truck services on the lines within the territory where the respondent applies to operate his lines.

The decision under review is affirmed, with costs against the petitioner.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Concepcion, Endencia, and Gutierrez David, JJ., concur.

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[1] Section 16(m), Commonwealth Act No. 146, as amended; Pampanga Bus Company, Inc. vs. Fernando Enriquez, 66 Phil., 645; Pasay Transportation Co., Inc. vs. The Public Service Commission, 59 Phil., 278; Negros Ice & Cold Storage Co., Inc. vs. Public Service Commission, et al., 90 Phil., 138; and Victory Liner, Inc. vs. Saulog Transit, Inc., 99 Phil., 443; 63 Off. Gaz. (17) 6638.

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