

NORTHERN LUZON TRANSPORTATION, INC., PETITIONER AND APPELLANT, VS. SANTIAGO SAMBRANO, RESPONDENT AND APPELLEE.

G.R. No. 38082. March 04, 1933

Ponente: IMPERIAL, J.

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IMPERIAL, J.:

This is a petition for review filed by the Northern Luzon Transportation, Inc., to set aside the Public Service Commission's decision of July 29, 1932, by virtue of which Santiago Sambrano, the respondent herein, was authorized to increase the number of trips of his auto-trucks operating on the lines between Vigan and Laoag and Vigan and San Fernando, and vice versa.

Santiago Sambrano, through an application docketed as case No. 16029, obtained a certificate of convenience to operate, under a fixed time-schedule, a certain number of trucks on the lines, between Vigan and Laoag and Vigan and San Fernando, and vice versa. Having obtained authority to operate without a fixed time-schedule between Vigan and San Fernando, as both a regular and an irregular operator, on October 3, 1931, Sambrano filed another petition docketed as case No. 28517, seeking a permit to increase the number of trips to be made by his trucks on both lines alleging that public service so demanded. This petition was opposed by the Northern Luzon Transportation, Inc., but after due hearing the commission rendered the decision appealed from granting the additional trips requested.

The appellant-corporation assigns the following alleged errors:

"FIRST ASSIGNMENT OF ERROR

"The commission erred in granting to Santiago Sambrano additional trips without finding and declaring that the public interests will be promoted in a proper and suitable manner by the operation of such additional service.

"SECOND ASSIGNMENT OF ERROR

"The commission erred in granting the additional trips where there was no evidence to reasonably support the decision.

"THIRD ASSIGNMENT OF ERROR

"The commission acted irregularly when it decided the application during the absence of the associate commissioner who heard this case.

"FOURTH ASSIGNMENT OF ERROR

"The commission erred in denying the motion for rehearing."

The first two errors may be considered jointly. In said assignments of error it is alleged that the commission erred

in granting additional trips without sufficient evidence to reasonably support the decision and without any showing that the public interests would be promoted thereby.

Leaving aside for the moment the facts established by the evidence, it appears in the decision that there was enough traffic on the lines in question requiring the granting of additional trips as prayed for. Such finding is more than sufficient to justify that the decision is based on public necessity.

The evidence presented in support of the application for additional trips justifies the commission's conclusion that there was sufficient traffic on the lines served by the appellee and that the public interests would be better served by granting additional trips. The Public Service Law does not authorize this court to set aside a decision of the commission unless it clearly appears that it is not supported by the evidence. We are of the opinion that these assignments of error are without any legal foundation and, for this reason, they are overruled.

In the third assignment of error, it is alleged that the proceeding followed by the commission in this case was irregular on the ground that the evidence was heard by one commissioner and the decision penned by another. It is intimated that the commissioner who decided the same could not have been acquainted himself with the evidence therein in view of the fact that the stenographic notes were not transcribed until more than one month after the decision in question had been promulgated.

The law does not prohibit a commissioner other than the one who has taken the evidence therein from deciding a case pending before the commission. This is so clear that the law itself permits the presentation of evidence before commissioners. All that is required is that a hearing be held during which the interested parties are given the opportunity to present the evidence they may deem convenient and this has been strictly complied with. The assertion that Commissioner De Vera decided the case without a knowledge of the evidence therein solely because the stenographic notes were transcribed by the stenographer after the publication of the decision, is unfounded, and the reason for this is that said commissioner could have considered and studied the evidence without the necessity of the transcript by merely having said notes read to him by the stenographer who took them, and this was, undoubtedly, what happened in this case.

The case of Soriano and Santos vs. Del Rosario and Rural Transit Co. (55 Phil., 934), cited by the appellant, is not applicable in this case because its theory was not sustained therein. If the proceedings in said case were found insufficient and irregular and the corresponding resolution was set aside, it was due to the fact that the interested parties had not been properly heard. At all events, no rule was laid down in that case to the effect that a case within the jurisdiction of the commission cannot be decided by a commissioner other than the one who originally heard the same or before whom all or part of the evidence therein was presented. It was, of course, suggested that it would be advisable to have the same commissioner, who tried a case or heard the evidence, render decision therein.

Not finding any error to justify revocation or modification of the decision appealed from, the same is hereby affirmed, with costs against the petitioner-appellant. So ordered.

Villamor, Villa-Real, Hull, and Vickers, JJ., concur.

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