

SAN NICOLAS TRANSPORTATION COMPANY, PETITIONER, VS. THE PUBLIC SERVICE COMMISSION AND THE NORTHERN LUZON TRANSPORTATION COMPANY, INC., RESPONDENTS.

G.R. No. 40624. November 04, 1933

Ponente: HULL, J.

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HULL, J.:

Original application for certiorari to review the following order of the Public Service Commission dated September 26, 1933, which reads:

"ORDER

"In view of the failure of the herein respondent to pay the sum of P725, which was imposed upon it by this commission as fine and costs of investigation in this case, it is ordered, that the operation of the auto-truck service of the respondent be, as it is hereby suspended. The district engineer and provincial commander of Ilocos Norte are hereby requested to recall all the TPU plates which may have been issued to the respondent and to keep them in their possession until further advice from this commission.

"Entered, Manila, September 26, 1933.

"(Sgd.) ALEX REYES

" (Judge, Court of First Instance)

"Associate Commissioner"

The petitioner is the holder of a certificate of public convenience and is operating an auto-truck service in Northern Luzon. On November 7, 1931, petitioner herein was held guilty of violations of orders of the Public Service Commission, and a fine of P700 plus P25 as costs of investigation was imposed on the company. Within due time a motion for reconsideration and new hearing was filed, but no decision was entered until July 31, 1933, when the Public Service Commission issued an order denying the motion for reconsideration and sustaining its original decision dated November 7, 1931.

Prior to that action of the Public Service Commission, this court in *Filipino Bus Company vs. Philippine Railway Company*, respondent, and Public Service Commission, intervenor, promulgated February 16, 1933 (57 Phil., 860), had held that the Public Service Commission was without authority to impose such fines. The last paragraph of that decision reads as follows:

"The Public Service Commission, being a creature of the Legislature, and not a court, it can exercise only such jurisdiction and powers as are expressly, or by necessary implication, conferred upon it by statute. As we do

not find in section 30, or any other provision of the Public Service Law, any delegation to the commission, in express words or by necessary implication, of the authority and jurisdiction to determine the guilt of the appellant, or the discretion to determine the amount of the penalty, or the authority to 'impose' the penalty here in question under pain of suspension of the appellant's certificate of public convenience and necessity, we must hold that the commission had no jurisdiction to make the order herein complained of. The order must be declared void and is hereby vacated, without prejudice to any other proceedings that may be brought lawfully against the Filipino Bus Company."

The Public Service Commission being without authority to impose such fines, its action in attempting to enforce a fine of that character by taking away the plates on petitioner's busses and so preventing the company from using the public highways, is illegal and arbitrary, and its orders predicated upon an illegal fine cannot be upheld.

Its order of September 26, 1933, must be vacated and the writ granted. No expression as to costs. So ordered.

Malcolm, Villa-Real, Imperial, and Butte, JJ., concur.

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