

MANILA YELLOW TAXICAB CO., INC., ET AL., PETITIONERS AND APPELLANTS, VS. N. & B. STABLES CO., INC., RESPONDENT AND APPELLEE.

G. R. No. 41443. November 03, 1934

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Villa-Real, /.:

This case embraces five appeals taken, the first by the petitioner Manila Yellow Taxicab Co., Inc., the second by Fausto Barredo, the third by Ana Vda. de Corominas, the fourth by Teodoro R. Yangco and the fifth by Francisco Javier, from the decision rendered by the Public Service Commission in cases Nos. 36319 (G. R. No. 41443) and 35027 (G. R. No. 41448), granting the applicants the N. & B. Stables Co., Inc., and Domingo Vital certificates of public convenience to operate, the former 30 taxicabs in addition to its garage cars and the latter 20 taxicabs in substitution of so many of its garage cars for the transportation of passengers without a fixed route within the City of Manila and the neighboring municipalities.

The appellants assign, in support of their appeal, seven alleged errors as committed by the Public Service Commission in its said decision, which will be discussed hereinbelow.

The principal question to be decided in these appeals, and to which those raised by the appellants in their seven assignments of alleged errors may be reduced, is whether or not there is evidence of record reasonably supporting the appealed decision.

On this point the Public Service Commission in its decision in question states as follows:

"From the results of our own careful observation and investigation of the operation of taxicabs in the city as well as the evidence of record, the commission is satisfied that the taxicab situation has not yet reached that point of saturation which would induce us to rule that no additional units should be allowed to be operated, either by the granting of certificates to new applicants or authorizing the increase of the equipment of the present operators. Therefore as the applicants have shown by their evidence that they are financially able to operate and maintain the taxicab service which they are applying for and that such services will promote public welfare, the commission believes that their applications are deserving of favorable consideration."

Therefore the Public Service Commission has arrived at the conclusion that the public taxicab service in the City of Manila has not yet reached such a state as not to permit the operation of more cars, after a careful observation and investigation of said service and after considering the evidence of record consisting of the testimony of said applicants and their witnesses.

In the case of *San Miguel Brewery vs. Lapid* (53 Phil., 539), this court, reiterating the doctrine laid down in the cases of the *Philippine Shipowners' Association vs. Public Utility Commissioner and Board of Appeal* (43 Phil., 328), and *Ynchausti Steamship Co. vs. Public Utility Commissioner and Board of Appeal* (44 Phil., 363), stated as follows:

"PUBLIC SERVICE COMMISSION ; REVIEW OF ORDERS.—When an order of the Public Service Commission, granting a privilege to an applicant, is reasonably supported by the evidence, there is no reason to

reverse the order of the commission, because, as was said in the case of *Dauner vs. Unson* (G. R. No. 28957, promulgated September 29, 1928, not reported), decided by the second division of this court, in reviewing orders of this character, it must be remembered that this court is not required to examine the proof de novo and to determine for itself whether or not the preponderance of the evidence really justifies the order issued by the lower court."

The appellants question the sufficiency of said evidence to reasonably support the decision in question on the ground that the commission lacks authority to base its decision relative to the existence or inexistence of a public necessity for more taxicabs upon the result of its own observation and investigation of the operation of taxicabs in the City of Manila; that a great part of the oral evidence adduced at the hearing had already been presented by E. Vesnan (Case No. 31423), the Austin Taxicab Co. (Case No. 33453), Panfilo Sabellano (Case No. 34983) and Ramon Silos (Case No. 39434) in support of former applications, which evidence the commission deemed insufficient to justify the grant of the total number of cars for the operation of which Esmeralda Vesnan sought authority, and the grant of the applications of the Austin Taxicab Co., Panfilo Sabellano and Ramon Silos, and that the additional evidence fails to show that from the taking of the former evidence until the presentation of the new evidence within the period of six months, there has been a change in the economic and social conditions in Manila to justify the increase of the number of taxicabs in operation.

In deciding the former cases above cited, the Public Service Commission stated the following in its decision:

"While the commission is satisfied that the present number of taxicab operators, including those herein granted certificates, taking into account the resources at their command, is sufficient to fill the public need for the time being, nevertheless with the data before us we do not feel justified just now in making a definite announcement as to the number of operators and units of taxicabs that should be authorized until a more thorough investigation can be made on that point."

It will be seen that the Public Service Commission was not certain whether or not the number of taxicabs then in operation, together with the additional ones authorized, was sufficient to satisfy the public need, although the commission believed at the time that it was, leaving the final determination of the question until after it has conducted a more thorough investigation. Therefore the fact that the Public Service Commission, in case No. 31423 (G. R. No. 40139), has refused to authorize E. Vesnan to operate 200 bantam taxicabs, granting her only 10 which this court increased to 20, because it then believed, in view of the limited data available, that the public necessity was sufficiently satisfied, does not prevent it from changing its view after a more thorough observation and investigation, not only because it is characteristic of the wise to change their opinion, but also because it reserved to itself such change of opinion. It would have been a clear demonstration of poor judgment if, after having been convinced otherwise, it had persisted in its error.

The appellants deny that the Public Service Commission has the power to base its decision relative to the necessity or lack of necessity of more taxicabs for the convenience of the public in the City of Manila upon the result of its observations and investigations of the operation of taxicabs.

In the case of *State ex rel. Northern Pac. Ry. Co. vs. Public Service Commission* (95 Wash., 376; 163 Pac, 1143), the Supreme Court of the State of Washington in a decision of March 24, 1917, laid down the following doctrine which was affirmed in the case of *State ex rel. Northern Pac. Ry. Co. vs. Public Service Commission* (166 Pac, 793):

"The Public Service Commission as an administrative and regulative body is not bound to acquire its information concerning all matters involved in a proceeding "before it entirely from the evidence of witnesses or other evidence produced before it, but may take into consideration the results of its general investigations, general information upon a given subject within its powers, and all matters which affect the matter and

concerning which it" must determine the facts."

According to the above cited American doctrine, the Public Service Commission, the functions of which are administrative and regulative in addition to being quasijudicial, did not exceed its authority in basing its decision upon the result of its own observation and investigation, in connection with the evidence presented at the hearing. Inasmuch as this court is not required to examine the evidence de novo or to determine for itself whether or not the preponderance of the evidence justifies the order issued by the commission, in accordance with the doctrine laid down in the case of *San Miguel Brewery vs. Lapid*, supra; inasmuch as said commission has based its decision upon the result of its own observation and investigation and upon the evidence presented at the hearing; inasmuch as this court cannot substitute its own discretion for that of said commission; and it appearing that the evidence reasonably supports said decision, there is no reason to reverse it. (*Manila Yellow Taxicab Co. and Aero Taxicab Co. vs. Danon*, 58 Phil., 75; *Manila Electric Co. vs. Balagtas*, 58 Phil., 429.)

In addition to the general considerations above stated, there is the special consideration that the herein applicants-appellees, the N. & B. Stables Co., Inc., and Domingo Vita! are garage operators with certificates of public convenience, the former wishing to operate, in addition to its garage, taxicabs principally for the use of its patrons and later for public service, and the latter to substitute 20 of his garage touring cars by closed taxicabs also for the convenience of his patrons who prefer to use the latter means of transportation, being a more economical service for short trips. A similar substitution has been granted to the Manila Yellow Taxicab Co., Inc., Fausto Barredo, Aero Taxicab Co., Inc., and finally to Julio Danon.

As regards the question of whether or not the Public Service Commission erred in not having given the appellants the opportunity to increase their equipment before admitting new companies, said appellants admit having filed applications praying for authority to increase their respective equipment but later, when the applications in these cases were set for hearing, they withdrew said applications alleging that the public convenience did not demand such increase. However, when the commission approved the applications in the cases under consideration and declared that there was need for a greater number of such vehicles, said appellants again filed their applications for an increase of equipment, the total increase thereof sought by them amounting to 380 cars. Therefore the appellants not only had the opportunity to request permission to increase their equipment but also actually applied for it but later withdrew their applications. Inasmuch as the appellants, through their own voluntary desistance, had deprived the commission of its jurisdiction to pass upon their applications for an increase of equipment jointly with the applications under consideration, they cannot now charge that said commission has not given them said opportunity before issuing certificates of public convenience to the new applicants.

For the foregoing considerations, this court is of the opinion and so holds: (1) That the Public Service Commission in the exercise of its quasi-judicial and administrative functions has the power to take into consideration the result of its own observation and investigation of the matter submitted to it for consideration and decision, in connection with other evidence presented at the hearing of a case; and (2) that a transportation company which files an application to increase its equipment and later withdraws it pending the hearing of other applications of similar companies to engage in the same business, has no right to complain of not having been given the opportunity to increase its equipment before the authorization of said new companies.

Wherefore, not finding any error in the appealed decision, it is affirmed in toto, with costs against the appellants. So ordered.

Avancena, C. J., Street, Abad Santos, and Diaz, JJ., concur.

HULL, J.:

I concur in the result.

VICKERS, J.:

I concur in the result.

CONCURRING

MALCOLM, J., concurring:

As the Public Service Commissioner very properly observed, the petitions of the N. & B. Stables Co., and Domingo Vital present features not found in the other cases. These two applicants are now operating garages, and according to the evidence the demands of their clientele require the placing and operation of taxicabs with their garage services. Such a reason is proper, while in addition it appears that the purpose back of the petitions is to retire cars from the garage business and substitute them with taxicabs. In other cases, the Public Service Commission and this court have authorized garages to amplify their service by putting into operation taxicabs or by substituting taxicabs for garage cars, and there is no reason why the same principle should not be given application here. For these reasons, I am fully convinced that the Public Service Commission was right in approving the applications of the N. & B. Stables Co., and Domingo Vital.

DISSENTING

BUTTE and GODDARD, JJ., dissenting:

The grounds of our dissent in these cases are the same as set out in the dissenting opinion in cases G. R. Nos. 41434 to 41442, 41444 to 41447 and 41449.

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