

MANILA ELECTRIC COMPANY, PETITIONER, VS. PUBLIC SERVICE COMMISSION AND MOISES AMPIL, RESPONDENTS.

G. R. No. 44583. March 31, 1936

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is an original petition for a writ of certiorari filed by the Manila Electric Company against the Public Service Commission and Moises Ampil praying for the issuance, after the necessary proceedings, of an order declaring said commission's resolution of September 13, 1935, in case No. 42170 thereof, null and void, for lack of jurisdiction to render it.

The pertinent facts necessary for the resolution of the legal question raised in the present petition, which are inferred from the petition and the documents attached thereto, are as follows:

The respondent Moises Ampil is an operator of an auto-calesa service in the City of Manila and neighboring municipalities, with a certificate of public convenience duly issued by the respondent Public Service Commission. On December 29, 1934, the petitioner Manila Electric Company filed a complaint with said commission against the respondent Moises Ampil for charging passenger rates less than what he was authorized to charge, which complaint was registered as case No. 42170. In the decision rendered by said commission on August 9, 1935, in said complaint and in three others later filed against said respondent Moises Ampil, it was ordered that his certificate of public convenience be suspended for a period of six months (Exhibit A).

On August 25, 1935, the Public Service Commission rendered another joint decision in three other complaints against said respondent Moises Ampil, which were registered as Nos. 42726, 42820 and 42907, ordering him to pay the nominal costs of investigation at the rate of P25 for each case (Exhibit B).

On August 28, 1935, the petitioner Manila Electric Company filed a petition for a rehearing in the above cited case No. 42820, protesting against the imposition simply of nominal costs of investigation upon the respondent Moises Ampil (Exhibit B-1).

On September 3, 1935, the Public Service Commission denied said motion for a rehearing on the ground that the certificate of public convenience of the respondent Moises Ampil was then under suspension for six months.

On September 11, 1935, the respondent Moises Ampil filed a motion in said case No. 42170, praying that the suspension of his certificate of public convenience for six months be lifted (Exhibit C).

On September 13, 1935, the petitioner Manila Electric Company filed a motion praying for the denial of said motion of the respondent Moises Ampil, dated September 11, 1935 (Exhibit C-1). On the same date, September 13, 1935, the respondent Public Service Commission, without hearing the parties or serving notice to the petitioner, granted the motion of the respondent Moises Ampil, of September 11, 1935 (Exhibit D).

On September 16, 1935, the petitioner Manila Electric Company was served with a copy of the resolution of

September 13, 1935, rendered in case No. 42170. On the same date, September 16, 1935, the petitioner filed a motion for a rehearing (Exhibit E), which was set for hearing on September 23, 1935. On said date the respondent Moises Ampil appeared through his attorney, waived his right to present evidence in support of his motion of September 11, 1935 (Exhibit C), and asked for permission to file a memorandum which was granted.

On September 30, 1935, the Public Service Commission denied the petitioner's motion for a rehearing of September 16, 1935 (Exhibit F).

The only question to be decided in this case is whether or not the Public Service Commission has jurisdiction to cancel the suspension of a certificate of public convenience ordered by it before the lapse of the period of suspension fixed in the order.

Section 28 of Act No. 3108 provides as follows:

"Sec. 28. The Commission, at any time, may order a rehearing to extend, revoke, or modify any order made by it. Once a case has been decided after the rehearing, any interested party may, if he so desires, take an appeal to the Supreme Court by following the procedure prescribed in section thirty-five of this Act, and in this case the Commission may stay the effects of the order made by it during the pendency of such appeal."

Under the legal provision above quoted, the Public Service Commission, at any time, may order a rehearing to modify any order made by it. The order of December 29, 1934, issued in case No. 42170, directing the suspension of the respondent Moises Ampil's certificate of public convenience for a period of six months is among those that, at any time after a rehearing, may be modified under section 28 above quoted.

The petitioner contends that, said order of suspension having become final, the commission could no longer amend it, citing in support of his theory the doctrine laid down in the case of Manila Electric Company vs. Public Service Commission (61 Phil., 456). In said case this court said:

"Once questions are decided by the Public Service Commission and confirmed by the Supreme Court, neither the Public Service Commission nor the Supreme Court can be expected to go over and over again the same questions. Nor should the Public Service Commission attempt to review a decision of the Supreme Court. Finality must be written on Public Service Commission cases just as public policy demands that it be written on judicial controversies."

The above quoted doctrine does not prevent the commission, for just cause, and when the circumstances of each case and public policy so require, from extending, revoking or modifying an order made by it after said order has become final. What this court meant is that once a question has been definitely decided and the decision has become final, that same question cannot again be raised between the same parties. The orders of the Public Service Commission are subject to changes and alterations whenever public policy and the needs of public services so require, always after a rehearing in accordance with section 28 of Act No. 3108, as amended. The order of suspension of a certificate of public convenience issued by the Public Service Commission is of the nature of a disciplinary measure affecting only the service whose certificate of public convenience has been suspended, and, as such, the commission has ample powers to cancel it either on petition of the parties or *motu proprio*, when in its opinion it is justified by the circumstances of the case and public policy so demands.

As to the question raised by the petitioner Manila Electric Company that there was no rehearing before the cancellation of the order of suspension of the certificate of public convenience issued in favor of the respondent Moises Ampil in case No. 42170 was granted, while it is true that no such rehearing was had and the Public Service Commission therein acted in violation of section 28 of Act No. 3108, as amended, the rehearing granted by virtue of said petitioner's motion of September 16, 1935 (Exhibit E), which rehearing was held on September 23, 1935, cured said omission.

For the foregoing considerations, we are of the opinion and so hold that the Public Service Commission, after a rehearing, has discretionary power to cancel an order of suspension of a certificate of public convenience when it is justified by the circumstances of the case and public policy so demands.

Wherefore, not finding any merit in the petition for certiorari before us, it is denied and dismissed, with costs to the petitioner. So ordered.

Avanceña, C. J., Abad Santos, Diaz, Recto, and Laurel, JJ., concur.

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