

## TELESFORO GILLES, PETITIONER AND APPELLANT, VS. ANATALIO HALILI AND THE PUBLIC SERVICE COMMISSION, RESPONDENTS AND APPELLEES.

*G.R. No. 45398. June 30, 1938*

Ponente: DIAZ, J.

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### DIAZ, J.:

On April 20, 1934 the petitioner prayed in case No. 40050 that a certificate of public convenience be issued to him by the Public Service Commission for the operation of an auto-truck service for passengers and freight from 6.30 a. m. to 5.30 p. m. every day, at intervals of two hours or one hour, as the public convenience might, in the future, require, between the following points:

- (1) Barrio of Ka-riapay of the municipality of San Jose del Monte in the Province of Bulacan and the City of Manila, passing through Novaliches in the Province of Rizal and vice versa; and
- (2) Barrio Ipo of the municipality of Norzagaray in the Province of Bulacan and the City of Manila, also passing through Novaliches in the Province of Rizal and vice versa.

In the two proposed lines there had been, and it seems there is now, no other auto-truck service than that of the respondent Anatalio Halili. The Public Service Commission, after hearing the parties and weighing their evidence, denied the application of the petitioner, being of the opinion that there was no necessity for an additional service of auto-trucks in the said lines because the public interest would not benefit thereby, inasmuch as there is already an adequate and sufficient service, which is the one being operated by the respondent long before the filing of the said application by the petitioner; and for the further reason that the deficiencies and irregularities which were noted or which might be noted in the service of the former, could be easily remedied by administrative action. From the order or decision of the commission which thus denied his application, the petitioner appealed and filed the present petition for review. He now contends that the commission committed the following errors:

- In declaring that the service of auto-trucks of the respondent in the lines in question is adequate and sufficient to meet the public needs; in not finding that such service of the respondent is inefficient, absolutely unsatisfactory and inadequate; and in not likewise finding that notwithstanding the fact that he has been given ample opportunities to better his service, he has neither taken advantage of the same nor shown any desire to improve it.
- In not finding that there is more than a sufficient number of passengers and freight to justify the operation of another service besides that of the respondent, and that, consequently, there could be no ruinous competition between the two.
- In not holding that the passenger and freight rates fixed by the respondent in different parts of his lines are discriminatory, high and oppressive, considering the economic situation of the public; and in not finding that the respondent is continuously violating the conditions of his certificate of public convenience.
- In finding that there is evidence tending to show that the petitions of the various residents which form part of the

evidence adduced in the case, and the recommendations of other persons in favor of the granting of the service applied for to the petitioner have been inspired and induced by him.

- In not holding that the denial of the issuance of the certificate of public convenience applied for by the petitioner would violate the spirit of Article XIII, section 8 of the Philippine Constitution.

- In not granting the certificate of public convenience applied for by the petitioner.

We have carefully studied the record of the case and cannot but concur with the Public Service Commission in its finding in the decision that the evidence adduced by the parties was contradictory; for, while that of the petitioner shows that the service rendered by the respondent is inadequate because it fails to accommodate all persons desiring to utilize his vehicles, that of the respondent, on the other hand, proves the contrary. In these circumstances, the commission certainly acted with prudence in sending two of its inspectors to the territory covered by the respondent in order to ascertain the real state of things. This it did to remove all doubts and to decide correctly the propriety of granting the application of the petitioner. In the separate reports submitted by the inspectors, they stated the following:

"During the investigation conducted of the auto-truck service of Mr. Anatalio Halili in the Manila-San Jose del Monte and Manila-Monte Ipo lines from March 22d to 28th, 1935, I found that the service rendered was adequate to the demand of the public. I draw this from the fact that very seldom were passengers not accommodated. In fact, passengers were refused only on trip between Manila and Novaliches but never between Novaliches and San Jose del Monte or Monte Ipo." (Report of one of the Inspectors.)

"The results of my observation disclose the following:

"1. In the lines Manila-San Jose and Manila-Mt. Ipo, there was only one operator that was conducting a passenger and freight service.

"2. In the line Manila-San Jose, the cars were 61 per cent loaded when they passed La Loma in outgoing trips and 60 per cent loaded in incoming trips.

"3. In the line Manila-Mt. Ipo, the cars were 51 per cent loaded when they passed La Loma in outgoing trips and 44 per cent loaded in incoming trips.

"4. The cars were clean, good-looking, and had an average registered capacity for 30 passengers.

"5. The cars passed daily with regularity." (Report of the other Inspector.)

Both reports were submitted by the parties as their own evidence and now form part of the record as Exhibits XX and YY. Coming, as this evidence did, from persons who did not have the least interest in the controversy as the inspectors who submitted the same and the same having been, moreover, presented by the parties, the Public Service Commission did well in taking it into consideration in order to arrive at the conclusion that there was no necessity for the operation of an additional service of auto-trucks in the two lines in question which required the approval of the application of the petitioner because (a) public interest did not demand it and, further, because the service rendered by the respondent is sufficient and adequate. It is certainly not the duty of this court to sift the evidence anew to find out for itself whether or not the preponderance of said evidence is such as will justify the order issued by the Public Service Commission. It has repeatedly held that when an order or decision of the commission is reasonably supported by the evidence, it should not be disturbed (*San Miguel Brewery vs. Lapid*, 53 Phil., 539; *Philippine Shipowners' Association vs. Public Utility Commissioner and Board of Appeal*, 43 Phil., 328; *Philippine Shipowners' Association vs. Public Utility Commission*, 51 Phil., 957; *Manila Railroad Company vs. A. L. Ammen Transportation Co.*, 48 Phil., 900; *Manila Electric Company vs. Balagtas*, 58 Phil., 429), because the court is not authorized to substitute its own discretion for that of the commission (*Manila Yellow*

Taxicab and Aero Taxicab Co. vs. Danon, 58 Phil., 75), and because its power in such cases is limited to determining if the commission has had sufficient evidence to support its order or whether it had jurisdiction to issue it. (Sec. 35, Act No. 3108.)

Having arrived at this conclusion, it is unnecessary to consider the other questions raised by the petitioner because, as regards the passenger and freight rates which the respondent has been charging for its service, the commission points out in its appealed order that such irregularity has already been corrected by a separate order issued in the case. Concerning the other anomalies and irregularities alleged with or without reason by the petitioner, the same may be remedied by administrative action and not by granting to another the authority to operate an additional service which might, in the long run, lead to ruinous competition.

Moreover, it is a settled rule in this jurisdiction that before a certificate of public convenience and necessity may be issued to a land transportation company, there being already a holder of a certificate for that purpose, the latter must be given an opportunity to improve its service if the same is deficient or inadequate (Bohol Land Transportation Company vs. Jureidini, 53 Phil., 560).

There is no need to state at length that the act of the Public Service Commission in denying the application of the petitioner is neither violative of nor against the spirit of Article XIII, section 8 of the Philippine Constitution, the petitioner's allegation to the contrary notwithstanding, inasmuch as the certificate of public convenience issued to the respondent is not a franchise or a certificate exclusive in character, nor has the commission considered it as such in rendering its appealed decision. What it has stated therein is that at present or, at least, at the time it was rendered, there was no need that another enter the territory of the respondent in order to operate an additional transportation service because the service of said respondent is sufficient and adequate, and the public interest did not demand the additional service.

In view of all the foregoing, it being clear that the errors imputed to the commission are unfounded, the decision appealed from is affirmed with costs against the petitioner. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Imperial, Laurel, and Concepcion, JJ., concur.

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