

CRISTINA D. DE CEZAR, PETITIONER, VS. PUBLIC SERVICE COMMISSION AND PANAY AUTOBUS COMPANY, INC., RESPONDENTS.

G. R. No. 45772. December 21, 1937

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is a petition for certiorari praying for the annulment by this court of the decision rendered by the Public Service Commission in case No. 48812, entitled Panay Autobus Company, Inc. vs. Cristina D. de Cezar, the herein petitioner. In the decision in question Cristina D. de Cezar is ordered "to complete her equipment by registering for this purpose seven (7) autotrucks in addition to those already registered by her, with the obligation to do so within thirty (30) days counted from the date of this decision, warning her that upon her failure to make the registration required herein, her lines Jaro-Dumangas via Zarraga and Jaro-Dingle via Janiuay will be cancelled." "She is likewise ordered to pay the costs of investigation, etc., etc."

The petitioner seeks the annulment of the foregoing decision alleging that she had filed a motion for reconsideration on the ground that she neither had been notified of the hearing in said case, nor had had knowledge of the existence thereof until she received a copy of the decision; that the motion for reconsideration was denied on the ground that it had been filed out of time; that as the petitioner had not been notified of the time or place of the hearing, the Public Service Commission had no jurisdiction to render the decision, which is null and void; and that, having lost the right to appeal, she has no other remedy except that of certiorari now sought by her.

In answering the petition, the Public Service Commission alleged that the summons, together with a copy of the complaint in said case No. 48812, was sent by ordinary mail to the petitioner C. V. de Cezar on July 7, 1937, and that the envelope containing the summons and the copy of the complaint, addressed to Cristina V. de Cesar, Calle Fuentes, Iloilo, has never been returned to the Public Service Commission as unclaimed, attaching an affidavit to that effect, made by Simeon Larracas, an employee of the commission.

However, granting that the petitioner had never received the notice as she asserts, it not being established in any manner that she has been injured by the decision of the commission, or that she has a good defense to set up in her favor, the petition is without merit for the purpose of the issuance of the writ of certiorari applied for; all the more so because, as the petitioner is ordered in the decision "to complete her equipment by registering¹ for this purpose seven (7) autotrucks in addition to those already registered by her" it is evident that it does not refer to new matter but merely reiterates a former order so that the petitioner may comply with what she has already been ordered.

On the other hand, the petitioner having failed to state the date on which she received a copy of the decision in the motion for reconsideration presented before the Public Service Commission as well as in the petition for certiorari, it is impossible to determine whether or not she lost the right to appeal through any fault on her part.

The petition is denied, with costs to the petitioner. So ordered.

Villa-Real, Abad Santos, Imperial, Diaz, and Laurel, JJ., concur.

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