

## JARO EXPRESS CO., INC., AND PEDRO TELLERIA, PETITIONERS, VS. CARLOS LOPEZ, RESPONDENT.

*G.R. No. 46051. September 09, 1938*

Ponente: DIAZ, J.

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### DIAZ, J.:

The question to be determined in this case is whether or not the judgment rendered in case No. 49063 of the Public Service Commission is in accordance with law. Petitioners contend that it is not, for, as they allege in their brief, in granting respondent's application,

"I. The commission erred in approving the application when it clearly appears that there was no evidence before it to support reasonably said decision;

"II. The commission erred in not holding that public convenience does not require the approval of the application; and

"III. The commission erred in denying the motions for reconsideration filed by the petitioners."

The salient facts in the record may be briefly stated as follows:

Carlos Lopez, respondent herein, applied for permission to engage in the business of land transportation in the City of Iloilo and in the neighboring towns like La Paz, Jaro, Pavia, Santa Barbara, Arevalo, and Oton, by means of thirty cars each having a capacity of four passengers, which are commonly known as "Taxicabs, Willis 77". The petitioners Jaro Express Co., Inc., and Pedro Telleria who have also been engaged in the same business, the former operating twenty-eight cars, and the latter twenty-six, opposed his application. The Public Service Commission, after hearing all the witnesses and receiving the evidence which the parties saw fit to submit, decided the case in favor of the applicant, but under the conditions appearing in its decision. It granted the application because, in its opinion, the evidence adduced by the applicant consisting of the latter's own testimony and that of his witnesses Bartolome Puzon, an engineer of the Bureau of Public Works, Dr. Ramon B. Ferrer, health inspector of Iloilo, and Teodorico Hernando, assistant chief of the marine division of Iloilo, and of the report and testimony of the chief inspector of the Public Service Commission, Jose F. Arcillas, showed that the public convenience and necessity demanded a more adequate service commensurate with the number of inhabitants of the City of Iloilo and the neighboring towns, namely 148,229, and with the exigencies of the times and of progress. It gave neither weight nor importance to the evidence adduced by petitioners consisting of the testimony of their witnesses Feliciano Fajardo, Eladio Pingoy, Tereso Britanio, Jose Anabo, Raymundo J. Llandere, Jose Jinigaon, Ana Gonzalez, Elpidio Magbanua, and twelve others, (1) because from the report and testimony of the said chief inspector Arcillas, a disinterested person who, by order of the Public Service Commission, went to the scene and remained there for several days in order to know de visu, with the assistance of other inspectors, the situation and the prevailing conditions in which public services for transportation by autotrucks and taxicabs operated, and from the other evidence submitted to him, it appeared that petitioners' cars which were not more than fifty-four and the only ones of their kind operating in the entire territory, used to carry

more passengers than their capacity permitted for the reason that their number was not sufficient to meet the public need, there being, as above stated, not less than 148,229 inhabitants; (2) because the taxicabs of petitioners, instead of going around in the streets so as to be available to those who might need them, remained waiting for calls or orders in their garages erected at various points within the territory where they could operate; and (3) because in the opinion of the commission, there is field enough for more than two transportation concerns of the size of those which petitioners have in the territory aforementioned.

The law allows the modification or reversal of a judgment of the Public Service Commission only in the cases in which it clearly appears that the same is not reasonably supported by the evidence, or is contrary to law, or has been rendered without any authority or jurisdiction (sec. 35 of Commonwealth Act No. 146). It is a fact, however, that none of these is present in the case now before us. The commission considering the preponderance of the evidence, certainly not by reason of its amount or quantity, but on account of its quality, importance and weight, decided the case in the manner already pointed out. We find no reason for altering this conclusion because aside from the fact that it is just, we are not authorized to interfere with the prudent and correct exercise of a power conferred upon it, nor are we allowed to substitute its judgment with our own by now declaring that no need exists for more taxicabs in a city or territory of 148,229 souls where the activity in its port and airfield is such that, as we are made to understand from the evidence, no less than 5,000 sojourners enter and leave it every month, and where the commission upon which the law confers the power to grant a certificate of public convenience upon its finding that the interest and convenience of the public require it (sec 16 of Commonwealth Act No. 146), holds, and not without basis, precisely the contrary (*San Miguel Brewery vs. Lapid*, 53 Phil., 539; *Manila Electric Company vs. Mateo*, G. R. Nos. 45455 and 45456, July 21, 1938).

In view of all the foregoing, we hold that petitioners' petition is without merit; that the errors attributed to the Public Service Commission do not exist; and that the decision of said commission from which they appealed should be, as it is hereby, affirmed in all its parts, with costs against petitioners. So ordered.

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

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