

BULACAN BUS COMPANY, INC., PETITIONER AND APPELLANT, VS. FERNANDO ENRIQUEZ, RESPONDENT AND APPELLEE.

G.R. No. 46085. November 04, 1938

Ponente: DIAZ, J.

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DIAZ, J.:

Inasmuch as two cases of identical nature and related to each other are involved herein, and as the same question is raised in both, the above-entitled cases were heard jointly before the Public Service Commission and are likewise to be considered jointly in this instance.

After the Public Service Commissioner had taken the evidence which the parties deemed advisable to present, he rendered judgment, as had been asked him, in favor of the respondents, lifting the restrictions imposed upon the certificates of public convenience issued to them respectively in the year 1929, in cases Nos. 20450 and 22478, and 28880 of the Public Service Commission, to authorize them to engage in the land transportation business by means of autotrucks, following the overruling of the oppositions presented against their application by the Pampanga Bus Company, Inc., Bulacan Bus Company, Inc., Pasay Transportation Company, Inc., Manila Electric Company, Manila Railroad Company, and Aurora V. Nerit, who, like the above-stated respondents, were also engaged in the same business. The Bulacan Bus Company, Inc., appealed from the decision of the Public Service Commissioner and assigns in its brief the following errors:

"1. The Public Service Commission erred in not taking into account the increase in the number of buses operated by unrestricted operators along the restricted area as a natural and necessary consequence of the increased volume of traffic therein.

"2. The Public Service Commission erred in holding that the lifting of the restrictions of the applicants is for the public convenience.

"3. The Public Service Commission erred in holding that the lifting of applicants' restriction will not at all prejudice the oppositors because of the fact that the said applicants have been actually, although clandestinely and illegally, violating their restrictions.

"4. The Public Service Commission erred in not holding that the restricted area in question is now, as it has always been, adequately and satisfactorily served by the oppositors.

"5. The Public Service Commission erred not only in lifting the restrictions contained in the certificates of public convenience of the applicants but also in changing their time schedules."

The five errors above-quoted clearly raise the same question, to wit: whether or not the restrictions imposed upon the respondents should be lifted.

Fernando Enriquez, the respondent in case G. R. No. 46085, is engaged in the land transportation business since 1929, and by virtue of his certificate of public convenience, he could make ten round trips daily between Masantol and Manila, via Macabebe and Apalit, and two round trips between Masantol and Guadalupe, via Manila. His

business was subject to the restriction not to pick up or drop passengers within the distance of 55 kilometers from the municipality of Calumpit to Manila, and vice versa, via Pulilan, Piaridel, Guiguinto, Bigaa, Bocaue, Marilao, Meycauayan, Polo and Caloocan, and within the distance of 7.5 kilometers of his line from Manila to Guadalupe, and vice versa.

Marcelo Diaz, the respondent in case G. R. No. 46036, is likewise engaged in the land transportation business from the year 1929, and by virtue of his certificate of public convenience, he could make, three round trips daily from the barrio of Santa Cruz of the municipality of San Luis to Manila. His business was subject to the restriction not to pick up passengers or freight at San Jose or at any intermediate point between San Jose and Manila, or in this city, or north of the same, with San Jose as destination. It was likewise subject to the restriction not to pick up passengers or freight at Tulano, for Manila, or at intermediate points and vice versa.

The reasons which the Public Service Commissioner took into account in deciding the question in favor of the respondents, were as follows: (1) The great volume of traffic existing on their routes, which began to be constantly on the increase a few years after they had been granted their respective certificates of public convenience, which fact is not disputed by the petitioner because it is precisely the same reason invoked by it in asking said commissioner for the lifting of the restrictions which, in turn, existed on its certificate of public convenience, on February 26, 1938 (case No. 51309 of the Public Service Commission); and the same reason invoked by it shortly before, in seeking, as it in fact sought and was granted, an increase in the number of its autotrucks, so that it may now have 49 instead of only 39; (2) when the restrictions, the lifting of which is now under consideration, were imposed upon the respondents, the public convenience did not yet demand the service now demanded by it; (3) to maintain the restrictions imposed upon the respondents, as it has been so done to date, notwithstanding the fact that the circumstances and necessities of life have changed, is tantamount to discriminating between the respondents and the petitioner and the other companies which, together with the latter, opposed the application of the respondents, naturally to the prejudice of the respondents; (4) by lifting the restrictions imposed upon the respondents, they would be given the same opportunity as that now had by the petitioner, to serve the public, which would thereby be better served than it is now, because in this manner it would be saved the trouble of having to wait long, whenever it needs to go from one place to another, by using the autotrucks of the public service; (5) to avoid encounters or disputes which ordinarily and frequently take place when persons, who are not aware of the restrictions to which the respondents are subject, compel or force the latter to admit them into their autotrucks in order to go from one point to another on their route; and (6) to promote the public convenience or interest over and above the private interest of those engaged in the autotruck transportation business.

The evidence of record supports the conclusions arrived at by the Public Service Commissioner, particularly on the point that the lifting of the restrictions imposed upon the respondents does not work to the prejudice of the petitioner, on the ground that there are a vast field and sufficient customers for all the three of them, and even for the others actually engaged in the same business on the same routes had by them; and also on the point that, in doing so, the public, which makes use of the autotrucks of the public service for its business and other necessities, would be more adequately served. In view of all the foregoing, and following the already established rule that when an order or a decision of the Public Service Commission is reasonably supported by the evidence, it should be sustained instead of modified (*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; *Gilles vs. Halili*, 38 Off. Gaz., 1988), the necessary and inevitable conclusion arrived at by this court is that the lifting of the restrictions to which the respondents were subject, was and is in accordance with the law, as it was so held by the Public Service Commissioner in his judgment.

Wherefore, the judgment of the Public Service Commissioner is affirmed in toto, and the petitioner is ordered to pay the costs in said two cases G. R. Nos. 46085 and 46086. So ordered.

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

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