

TAXICAB OPERATORS OF METRO MANILA, INC., FELICISIMO CABIGAO AND ACE TRANSPORTATION CORPORATION, PETITIONERS, VS. THE BOARD OF TRANSPORTATION AND THE DIRECTOR OF THE BUREAU OF LA...

G.R. No. 59234. September 30, 1982

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

This Petition for "Certiorari, Prohibition and Mandamus with Preliminary Injunction and Temporary Restraining Order" filed by the Taxicab Operators of Metro Manila, Inc., Felicisimo Cabigao and Ace Transportation, seeks to declare the nullity of Memorandum Circular No. 77-42, dated October 10, 1977, of the Board of Transportation, and Memorandum Circular No. 52, dated August 15, 1980, of the Bureau of Land Transportation.

Petitioner Taxicab Operators of Metro Manila, Inc. (TOMMI) is a domestic corporation composed of taxicab operators, who are grantees of Certificates of Public Convenience to operate taxicabs within the City of Manila and to any other place in Luzon accessible to vehicular traffic. Petitioners Ace Transportation Corporation and Felicisimo Cabigao are two of the members of TOMMI, each being an operator and grantee of such certificate of public convenience.

On October 10, 1977, respondent Board of Transportation (BOT) issued Memorandum Circular No. 77-42 which reads:

SUBJECT: Phasing out and Replacement of Old and Dilapidated Taxis

"WHEREAS, it is the policy of the government to insure that only safe and comfortable units are used as public conveyances;

WHEREAS, the riding public, particularly in Metro-Manila, has, time and again, complained against, and condemned, the continued operation of old and dilapidated taxis;

WHEREAS, in order that the commuting public may be assured of comfort, convenience, and safety, a program of phasing out of old and dilapidated taxis should be adopted;

WHEREAS, after studies and inquiries made by the Board of Transportation, the latter believes that in six years of operation, a taxi operator has not only covered the cost of his taxis, but has made reasonable profit for his investments;

NOW, THEREFORE, pursuant to this policy, the Board hereby declares that no car beyond six years shall be operated as taxi, and in implementation of the same hereby promulgates the following rules and regulations:

1. As of December 31, 1977, all taxis of Model 1971 and earlier are ordered withdrawn from public service and thereafter may no longer be registered and operated as taxis. In the registration of cars for 1978, only taxis of Model 1972 and later shall be accepted for registration and allowed for operation;

2. As of December 31, 1978, all taxis of Model 1972 are ordered withdrawn from public service and thereafter may no longer be registered and operated as taxis. In the registration of cars for 1979, only taxis of Model 1973 and later shall be accepted for registration and allowed for operation; and every year thereafter, there shall be a six-year lifetime of taxi, to wit:

1980 - Model 1974

1981 - Model 1975, etc.

All taxis of earlier models than those provided above are hereby ordered withdrawn from public service as of the last day of registration of each particular year and their respective plates shall be surrendered directly to the Board of Transportation for subsequent turnover to the Land Transportation Commission.

For an orderly implementation of this Memorandum Circular, the rules herein shall immediately be effective in Metro-Manila. Its implementation outside Metro-Manila shall be carried out only after the project has been implemented in Metro-Manila and only after the date has been determined by the Board."^[1]

Pursuant to the above BOT circular, respondent Director of the Bureau of Land Transportation (BLT) issued Implementing Circular No. 52, dated August 15, 1980, instructing the Regional Director, the MV Registrars and other personnel of BLT, all within the National Capitol Region, to implement said Circular, and formulating a schedule of phase-out of vehicles to be allowed and accepted for registration as public conveyances. To quote said Circular:

"Pursuant to BOT Memo-Circular No. 77-42, taxi units with year models over six (6) years old are now banned from operating as public utilities in Metro Manila. As such the units involved should be considered as automatically dropped as public utilities and, therefore, do not require any further dropping order from the BOT.

"Henceforth, taxi units within the National Capitol Region having year models over 6 years old shall be refused registration. The following schedule of phase-out is herewith prescribed for the guidance of all concerned:

"Year Model Automatic Phase-Out Year

1974 1980

1975 1981

1976 1982

1977 1983

etc. etc.

Strict compliance here is desired."^[2]

In accordance therewith, cabs of model 1971 were phased-out in registration year 1978; those of model 1972, in 1979; those of model 1973, in 1980; and those of model 1974, in 1981.

On January 27, 1981, petitioners filed a Petition with the BOT, docketed as Case No. 80-7553, seeking to nullify MC No. 77-42 or to stop its implementation; to allow the registration and operation in 1981 and subsequent years of taxicabs of model 1974, as well as those of earlier models which were phased-out, provided that, at the time of registration, they are roadworthy and fit for operation.

On February 16, 1981, petitioners filed before the BOT a "Manifestation and Urgent Motion", praying for an early hearing of their petition. The case was heard on February 20, 1981. Petitioners presented testimonial and documentary evidence, offered the same, and manifested that they would submit additional documentary proofs. Said proofs were submitted on March 27, 1981 attached to petitioners' pleading entitled, "Manifestation,

Presentation of Additional Evidence and Submission of the Case for Resolution."[3]

On November 28, 1981, petitioners filed before the same Board a "Manifestation and Urgent Motion to Resolve or Decide Main Petition" praying that the case be resolved or decided not later than December 10, 1981 to enable them, in case of denial, to avail of whatever remedy they may have under the law for the protection of their interests before their 1975 model cabs are phased-out on January 1, 1982.

Petitioners, through its President, allegedly made personal follow-ups of the case, but was later informed that the records of the case could not be located.

On December 29, 1981, the present Petition was instituted wherein the following queries were posed for consideration by this Court:

"A. Did BOT and BLT promulgate the questioned memorandum circulars in accord with the manner required by Presidential Decree No. 101, thereby safeguarding the petitioners' constitutional right to procedural due process?

B. Granting, arguendo, that respondents did comply with the procedural requirements imposed by Presidential Decree No. 101, would the implementation and enforcement of the assailed memorandum circulars violate the petitioners' constitutional rights to:

(1) Equal protection of the law;

(2) Substantive due process; and

(3) Protection against arbitrary and unreasonable classification and standard?

On Procedural and Substantive Due Process:

Presidential Decree No. 101 grants to the Board of Transportation the power

"4. To fix just and reasonable standards, classification, regulations, practices, measurements, or service to be furnished, imposed, observed, and followed by operators of public utility motor vehicles."

Section 2 of said Decree provides procedural guidelines for said agency to follow in the exercise of its powers:

"Sec. 2. Exercise of powers. - In the exercise of the powers granted in the preceding section, the Board shall proceed promptly along the method of legislative inquiry.

Apart from its own investigation and studies, the Board, in its discretion, may require the cooperation and assistance of the Bureau of Transportation, the Philippine Constabulary, particularly the Highway Patrol Group, the support agencies within the Department of Public Works, Transportation and Communications, or any other government office or agency that may be able to furnish useful information or data in the formulation of the Board of any policy, plan or program in the implementation of this Decree.

The Board may also call conferences, require the submission of position papers or other documents, information, or data by operators or other persons that may be affected by the implementation of this Decree, or employ any other suitable means of inquiry."

In support of their submission that they were denied procedural due process, petitioners contend that they were not called upon to submit their position papers, nor were they ever summoned to attend any conference prior to the issuance of the questioned BOT Circular.

It is clear from the provision aforequoted, however, that the leeway accorded the Board gives it a wide range of choice in gathering necessary information or data in the formulation of any policy, plan or program. It is not

mandatory that it should first call a conference or require the submission of position papers or other documents from operators or persons who may be affected, this being only one of the options open to the Board, which is given wide discretionary authority. Petitioners cannot justifiably claim, therefore, that they were deprived of procedural due process. Neither can they state with certainty that public respondents had not availed of other sources of inquiry prior to issuing the challenged Circulars. Operators of public conveyances are not the only primary sources of the data and information that may be desired by the BOT.

Dispensing with a public hearing prior to the issuance of the Circulars is neither violative of procedural due process. As held in *Central Bank vs. Hon. Cloribel and Banco Filipino*, 44 SCRA 307 (1972):

"Previous notice and hearing as elements of due process, are constitutionally required for the protection of life or vested property rights, as well as of liberty, when its limitation or loss takes place in consequence of a judicial or quasi-judicial proceeding, generally dependent upon a past act or event which has to be established or ascertained. It is not essential to the validity of general rules or regulations promulgated to govern future conduct of a class or persons or enterprises, unless the law provides otherwise." (Emphasis supplied)

Petitioners further take the position that fixing the ceiling at six (6) years is arbitrary and oppressive because the roadworthiness of taxicabs depends upon their kind of maintenance and the use to which they are subjected, and, therefore, their actual physical condition should be taken into consideration at the time of registration. As public respondents contend, however, it is impractical to subject every taxicab to constant and recurring evaluation, not to speak of the fact that it can open the door to the adoption of multiple standards, possible collusion, and even graft and corruption. A reasonable standard must be adopted to apply to all vehicles affected uniformly, fairly, and justly. The span of six years supplies that reasonable standard. The product of experience shows that by that time taxis have fully depreciated, their cost recovered, and a fair return on investment obtained. They are also generally dilapidated and no longer fit for safe and comfortable service to the public specially considering that they are in continuous operation practically 24 hours everyday in three shifts of eight hours per shift. With that standard of reasonableness and absence of arbitrariness, the requirement of due process has been met.

On Equal Protection of the Law:

Petitioners allege that the Circular in question violates their right to equal protection of the law because the same is being enforced in Metro Manila only and is directed solely towards the taxi industry. At the outset it should be pointed out that implementation outside Metro Manila is also envisioned in Memorandum Circular No. 77-42. To repeat the pertinent portion:

"For an orderly implementation of this Memorandum Circular, the rules herein shall immediately be effective in Metro Manila. Its implementation outside Manila shall be carried out only after the project has been implemented in Metro Manila and only after the date has been determined by the Board." [4]

In fact, it is the understanding of the Court that implementation of the Circulars in Cebu City is already being effected, with the BOT in the process of conducting studies regarding the operation of taxicabs in other cities.

The Board's reason for enforcing the Circular initially in Metro Manila is that taxicabs in this city, compared to those of other places, are subjected to heavier traffic pressure and more constant use. This is of common knowledge. Considering that traffic conditions are not the same in every city, a substantial distinction exists so that infringement of the equal protection clause can hardly be successfully claimed.

As enunciated in the preambular clauses of the challenged BOT Circular, the overriding consideration is the safety and comfort of the riding public from the dangers posed by old and dilapidated taxis. The State, in the exercise of its police power, can prescribe regulations to promote the health, morals, peace, good order, safety and general welfare of the people. It can prohibit all things hurtful to comfort, safety and welfare of society. [5] It may

also regulate property rights.[6] In the language of Chief Justice Enrique M. Fernando "the necessities imposed by public welfare may justify the exercise of governmental authority to regulate even if thereby certain groups may plausibly assert that their interests are disregarded".[7]

In so far as the non-application of the assailed Circulars to other transportation services is concerned, it need only be recalled that the equal protection clause does not imply that the same treatment be accorded all and sundry. It applies to things or persons identically or similarly situated. It permits of classification of the object or subject of the law provided classification is reasonable or based on substantial distinction, which make for real differences, and that it must apply equally to each member of the class.[8] What is required under the equal protection clause is the uniform operation by legal means so that all persons under identical or similar circumstance would be accorded the same treatment both in privi-lege conferred and the liabilities imposed.[9] The challenged Circulars satisfy the foregoing criteria.

Evident then is the conclusion that the ques-tioned Circulars do not suffer from any constitutional infirmity. To declare a law unconstitutional, the infringement of constitutional right must be clear, categorical and undeniable.[10]

WHEREFORE, the Writs prayed for are denied and this Petition is hereby dismissed. No costs.

SO ORDERED.

Fernando, C.J., Barredo, Makasiar, Concepcion, Jr., Guerrero, Abad Santos, De Castro, Plana, Escolin, Vasquez, Relova, and Gutierrez, Jr., JJ., concur. Teehankee and Aquino, JJ., in the result.

[1] Annex "A", pp. 26-27, Rollo.

[2] Annex "B", p. 28, *ibid.*

[3] Annex "D", pp. 38-53, *ibid.*

[4] p. 19, *ibid.*

[5] *Edu vs. Ericta*, 35 SCRA 481 (1970).

[6] *Samson vs. Mayor of Bacolod City*, 60 SCRA 267 (1974).

[7] *The Constitution of the Philippines*, Second Edition, p. 548.

[8] *People vs. Vera*, 65 Phil. 56; *People vs. Cayat*, 68 Phil. 12; *Central Bank vs. Cloribel*, 44 SCRA 307 (1972); *Anucension vs. National Labor Union*, 80 SCRA 350 (1977) citing *Victoriano vs. Elizalde Rope Workers' Union*, 59 SCRA 54 (1974) & *Basa vs. Federacion Obrera de la Industria Tabaquera y Otros Trabajadores de Filipinas*, 61 SCRA 93 (1974).

[9] *Gumabon vs. Director of Prisons*, 37 SCRA 420 (1971).

[10] *Morfe vs. Mutuc*, 22 SCRA 424 (1968).

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