

**LAGUNA TAYABAS BUS COMPANY, PETITIONER, VS. M. RUIZ
HIGHWAY TRANSIT, INC., RESPONDENT.***G.R. Nos. 11933-34. February 29, 1960*

Ponente: LABRADOR, J.

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Respondent M. Ruiz Highway Transit, Inc. has filed a motion to reconsider the decision of this Court promulgated on November 28, 1959, in which decision we reversed that of the Public Service Commission in the above-entitled cases and denied the application of the respondent for authority to operate for public service six auto trucks on the following lines: Santa Maria (Laguna)-San Pablo City via Pila, 2 trucks, Lumban (Laguna)-Manila, Nagcarlan (Laguna)-Manila, Majayjay (Laguna)-Manila and Santa Cruz (Laguna)-Majayjay (Laguna), 1 truck each. The grounds stated in the motion for reconsideration are as follows: that in 1946 respondent-movant was authorized to operate auto trucks for the transportation of passengers and freight from Laguna to Manila and back, and that in the year 1950 the certificate of public convenience was converted into a franchise; that by reason of shortage of tires and spare parts and the failure to obtain necessary dollar allocations to purchase the same abroad, respondent-movant was not able to maintain full operational strength, for which reason the Commission reduced the grant of the original franchise in 1946 population and business have increased in the areas where the respondent-movant operated its buses; that the findings of fact of the Public Service Commission as to public necessity are not interfered with by this Court and the latter is not authorized to substitute its discretion or judgment insofar as the grant of certificates of public convenience and that the Court, therefore, diverted from this ruling and policy in reversing the grant of the petition of the respondent-movant. Other grounds were alleged but they need not be herein restated. The petitioner Laguna Tayabas Bus Company opposed the motion for reconsideration, alleging that this Court has reviewed evidence in various cases, the most important of which are: Batangas Transportation Co. et al., vs. Biñan Transportation Co. and Jose Silva, 99 Phil., 918; Padua vs. Ocampo, et al., G. R. No. L-7589, July 80, 1955; Bachrach Motor Co., etc. vs. Hipolito, G. R. No. L-9278, April 26, 1957; that we did not make any mistake in relying on the reports of checkers stationed by the Commission at major points to determine the passengers aboard the trucks operating along the lines covered by the application; that at the hearing the reports of checkers had not been impugned, etc. The respondent-movant has also filed a reply, so the motion in question is now before us for final consideration and decision.

It is true that in considering the evidence submitted before the Public Service Commission reliance was placed by us mainly on the reports of checkers. So that if the evidences alone submitted by respondent-movant on one side and the petitioner on the other are considered, it seems we are fully justified in concluding that the evidence submitted by petitioner is credible and convincing, because it cannot be denied that the actual counting of passengers aboard passenger trucks is indeed absolutely more reliable than impressions of some casual passengers or of bystanders as to the number of passengers aboard the buses. There is one material point, however, which we have overlooked and which we believe should be considered in relation with the evidence submitted by respondent-movant in support of its application. Said evidence is the fact that respondent had been granted a franchise to operate 20 passenger buses and two additional auto trucks in a decision of the Public Service

Commission dated August 17, 1950, and said certificate of public convenience was to be valid for a period of 25 years from the date of the decision. In the above decision the Public Service Commission had found as a fact that the operation and maintenance of 22 passenger buses specified in the certificate of public convenience was of public need and that the convenience of the public then needed the operation of said 22 units. If as early as 1950, the Public Service Commission had already found public necessity for the operation by respondent-movant of 22 buses, it stands to reason that when it presented its petition in the above entitled cases and when the Public Service Commission rendered decision in said cases on January 5, 1957, or some seven years after the grant of the original certificate of public convenience, such need for the operation of said trucks which were found to exist as early as 1950, continued to exist, there being no evidence to the contrary and there being positive evidence submitted by the respondent-movant that there has been increase in population and increase in number of passengers along the lines for which the certificate was issued by the Public Service Commission. In short, since a public necessity existed in 1950, such public necessity continued, if it did not increase, in 1957, in view of the increase in population and the number of passengers along the lines covered by the certificate.

We have taken into account the fact that in various decisions of the Public Service Commission, dated August 13, 1951, August 29, 1953, August 20, 1954, June 29, 1955, the respondent-movant had committed violations of the certificate of public convenience by irregular service and that some of the lines being operated had been cancelled. The irregular operation of the lines by the respondent-movant, however, appear to have been due to difficulties in getting the necessary tires and spare parts for the use of its buses. In none of the orders of the Commission finding the respondent-movant guilty of irregular service nor in that cancelling the operation of some of its lines, is it indicated that the reason for the irregularity of service or the cancellation of some lines is the absence or insufficiency of passengers along the lines.

Considering the respondent-movant had an original franchise for the operation of 20 trucks as early as 1950 and that she has proved that there has been an increase in population and an increase in passengers along the lines applied for, we are constrained to reverse our previous stand. We declare that the evidence submitted before the Public Service Commission is sufficient to sustain the finding of said Commission that there is public necessity for the operation of the revived lines granted in the decision of the Public Service Commission subject of the present petition for review. We have again gone over the reports of the checkers which we have previously studied and we know that while the buses are not overloaded at the time of the inspection of the buses, there are instances where they had 51 passengers, 47 passengers, 42 passengers, 50 passengers, 40 passengers, etc. which shows that the finding of the Public Service Commission that there was need, is not without foundation. If the buses would carry ordinarily some 15 to 20 passengers it might be said that there is no need for additional buses, but when they have from 40 to 50 passengers, most likely some more buses are needed for the convenience of the public.

Wherefore, our decision above mentioned is hereby reconsidered and set aside, and one is hereby entered declaring that upon the reexamination of the evidence, both of the original petitioner M. Ruiz Highway Transit, Inc. and the Laguna Tayabas Bus Company, the decision of the Public Service Commission subject of review is justified by the evidence on record.

The original decisions of the Public Service Commission subject of the petition for review are, therefore, affirmed, without costs.

Paras, C.J., Montemayor, Bautista Angelo, Concepcion, Reyes, J.B.L., Endencia, Barrera, and Gutierrez David, JJ., concur.

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