

JOSE DE LA PAZ, PETITIONER, VS. THE PUBLIC SERVICE COMMISSION AND IRENEO CARANDANG, RESPONDENTS.

G.R. Nos. 13833-34. August 13, 1959

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Irineo Carandang filed two applications before the Public Service Commission in cases Nos. 103076 and 107484 to operate a TPU service from Bonifacio Monument to Libertad via Highway 54, Buendia and Culiculi, which applications were jointly heard with those of the MD Transit & Taxicab Co., Inc. (case No. 102656), Adelaida Dionisio and Pacencia Baluyot (case No. 103686), Lorenza D. Azicate (case No. 103852) and Q. C. Manalo & Sons, Inc. (case No. 103916). The aforesaid applications were opposed by Jose de la Paz, Fortunato F. Halili and several auto-caleza operators operating on Buendia street.

During the hearing, Carandang made of record that he was adopting the evidence submitted by the MD Transit & Taxicab Co., Inc., regarding the need of the laborers residing in the municipalities of Polo and Meycauayan, Bulacan province, Malabon, Caloocan, Navotas and Grace Park, Caloocan, Rizal province, Balintawak and other places in Quezon City, who work in the factories along Buendia street. Carandang, however, presented additional evidence to prove his financial capacity to operate the bus service and testified in a general way that the laborers residing in Culiculi needed means of transportation to go to Pasong Tamo and Buendia as there was no direct bus service in the line applied for. He also presented the testimony of Eduardo Ramirez to the effect that there is no direct service by any operator from Bonifacio Monument to Libertad via Highway 54, Buendia and Culiculi, and that Culiculi and its neighboring areas like Dolores, De Leon, Cementina and Libertad are thickly populated and those residing therein do not have adequate bus service to go to Highway 54 or to Taft Avenue.

In a decision rendered on December 17, 1957, the Public Service Commission granted a certificate of Public convenience to MD Transit & Taxicab Co., Inc., to operate only five units instead of the ten applied for in its application, and denied the applications of the other applicants including that of Irineo Carandang on the ground that the needs of public convenience on the lines applied for by them only warrant the operation of five units.

Jose de la Paz, Irineo Carandang, as well as the other applicants whose applications were denied, filed separate motions for reconsideration which were jointly heard by the Public Service Commission, and on April 7, 1958, the Commission issued an order denying all the motions for reconsideration with the exception of that of Carandang which was found well taken with the result that he was granted a certificate of public convenience to operate four units on the line Bonifacio Monument via Highway 54, Buendia and Culiculi, passing through Pasay Road, Del Pilar, Dolores, Cementina, Burgos, Zamora and Libertad up to Taft Avenue. Commissioner Aspillera dissented in a separate opinion intimating that since the line granted is not the one applied for the action of the Commission is illegal.

Jose de la Paz comes now before us through the present petition for certiorari contending that in granting such certificate of public convenience to Irineo Carandang the Commission has acted in excess of its jurisdiction.

In acting favorably on the motion for reconsideration of Carandang, the Commission gave credence to his claim that his proposed operation is for the line Bonifacio Monument-Libertad via Highway 54, Buendia and Culiculi, which in scope covers not only the area of Culiculi but its environs. The Commission found that this claim is supported by the testimony of Eduardo Ramirez to the effect that there is actually no direct service by any operator from Bonifacio Monument to Libertad via Highway 54, Buendia and Culiculi, and that the neighboring areas of Culiculi like Dolores, De Leon, Cementina and Libertad are thickly populated and the residents therein do not have adequate service to go to Highway 54 or to Taft Avenue.

While it may be true that the neighboring areas of Culiculi like Dolores, De Leon, Cementina and Libertad are thickly populated and the residents therein do not have adequate service to go to Highway 54 and to Taft Avenue, it is however likewise true that those areas are not covered by the application of Irineo Carandang. In fact his application merely covers the line from Bonifacio Monument to Libertad via Highway 54, Buendia and Culiculi. The areas neighboring Culiculi cover a big territory and the residents therein are actually taking advantage of the means of transportation afforded by the other operators along Highway 54 via Buendia and other environs who were not given an opportunity to object to the line actually granted to Carandang. To allow such deviation from the application of Carandang would be to give him an advantage to the prejudice of the other operators.

On this point Commissioner Aspillera made the following interesting observation: "Can we really authorize the service on a line where the evidence is as regards the need on another line? Our findings on public convenience must be based on evidence so that if we authorize a line where no evidence has been presented as to the needs of the public the authorization is illegal. We have a finding that there is enough service on the route Highway 54 and Buendia and the line granted to Carandang is via Pasay Road, Del Pilar, Dolores, Cementina, Burgos, Zamora and Libertad up to Taft Avenue; but this is not the line proposed by the applicant so that necessarily is not covered by his evidence. Witness Ramirez for Carandang, mentioned in the majority order, testified as to passengers along Buendia and Pasong Tamo but it will be noticed that the line granted to Carandang does not pass Buendia but goes on a circuitous route over Pasay road, Del Pilar and Cementina and there is no evidence that there is any traffic on a major portion of the route." To this observation we agree.

Under the law, the Public Service Commission is empowered to adopt the necessary rules governing its hearing and investigations among which is that which requires that the order setting an application for hearing be published in two newspapers of general circulation at least 10 days prior to the date of hearing (*Mondia, et al. vs. The Public Service Commission, et al.*, 65 Phil., 708). The implication we draw from this requirement is that an application cannot be amended as to substantially modify its objective without notice to the public and to other operators whose lines may be affected. As this requirement has not been followed we may properly conclude that the action of the Commission is unauthorized and illegal. It cannot therefore be given our sanction.

Wherefore the order of the respondent Commission dated April 7, 1958 is hereby set aside. No pronouncement as to costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Labrador, Endencia, and Barrera, JJ., concur.

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