

ORIGINALDecision No. 48563

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

California Central Airlines,
a corporation,

Complainant,

vs.

Pacific Southwest Airlines,
a corporation,

Defendant.

Case No. 5450

O P I N I O N

California Central Airlines, by a complaint filed herein on March 16, 1953, alleges that it and defendant, Pacific Southwest Airlines, each operates scheduled air transportation between points within California in conformity with tariffs filed with and approved by this Commission, that defendant is charging \$11.70 for a one-way coach fare between Burbank and San Francisco-Oakland, that complainant charged the same fare between the same points until June 15, 1952, and on that date complainant increased such one-way coach fare to \$13.50 pursuant to Order No. 20-12-146 of this Commission issued April 29, 1952, that defendant has deliberately refused to raise its coach fare to the prejudice of complainant and that such action on the part of defendant violates Sections 21 and 22 of Article XII of the Constitution in that defendant's coach fares are discriminatory for the transportation of the same class of passengers being transported by complainant and because defendant is charging a less or different compensation for the transportation of air passengers than established by Order No. 20-12-146 dated April 29, 1952. Complainant asks that this Commission issue an order requiring defendant to

cease discriminating against such air passengers and to cease charging less for such service than specified in complainant's tariff.

Defendant, by its answer, admitted it is engaged in intra-state scheduled air transportation between Burbank and San Francisco-Oakland, and charges \$11.70 for a one-way coach fare between these points pursuant to a tariff filed with and approved by this Commission and denies that such fare is in any manner prejudicial or discriminatory as to complainant or is violative of the constitutional provisions referred to. Defendant prays, inter alia, that the complaint be dismissed because it does not state a cause of action.

Section 21 of Article XII, in so far as pertinent here, provides that:

"No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this state."

The pertinent portion of Section 22 of Article XII reads:

"Said commission shall have the power to establish rates of charges for the transportation of passengers and freight by railroads and other transportation companies, and no railroad or other transportation company shall charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or freight, or for any service in connection therewith, between the points named in any tariff of rates, established by said commission than the rates, fares and charges which are specified in such tariff."

It is our opinion that the discrimination referred to in Section 21 relates to discrimination between the passengers of a single carrier and that the requirement in Section 22 is that no company shall charge a less or different fare than that specified in its own tariff approved by the Commission.

The complaint alleges and the answer admits that defendant is charging the \$11.70 fare specified in its tariff. Defendant is therefore complying with Section 22. There is no allegation that defendant is charging any of its one-way coach passengers any other fare, and therefore no violation of Section 21 is alleged.

The fact that defendant is not charging the \$13.50 fare specified in complainant's tariff constitutes no cause of action herein. In fact, if defendant were charging that fare while its present tariff is effective then it would be violating Section 22.

We, therefore, find that the complaint herein must be dismissed because it does not state a cause of action.

O R D E R

Based upon the conclusions and findings contained in the foregoing opinion,

IT IS ORDERED that the complaint be and it is hereby dismissed.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 5th day of May, 1953.

R. J. [Signature]
President

Harold B. [Signature]

Kenneth [Signature]
[Signature]

Commissioners