

LUZON MARINE DEPARTMENT UNION, PETITIONER, VS. LEON C. PINEDA AND PINEDA'S LIGHTER TRANSPORTATION, INC., RESPONDENT.

G.R. No. L-8681. May 25, 1956

Ponente: LABRADOR, J.

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LABRADOR, J.:

Certiorari against a decision of the Court of Industrial Relations denying petitioner's claim for overtime pay for its members.

The members whose claims for overtime pay were disapproved by the court testified that they stayed in the barges of respondent for fully 24 hours, guarding the barges and the equipment therein, with responsibility for these in case of loss. Many of them also had their families staying, sleeping and living in the barges with them. Respondents in an affidavit answer alleged that the claimants had not rendered overtime work; that said claimants, at their own request, were allowed to stay, live and sleep in the barges without paying rentals, and that said privilege was extended as a favor to them as there was nothing in the barge over which to keep guard.

The court found that when the bargemen were required to work overtime, the patrons of the barges were issued dispatch tickets. When the work was done, these dispatch tickets were returned with the signature of the patrons and of the parties who hired the barges or their representatives. Sometimes the overtime work was entered by the patrons in their log books or in pieces of paper. Upon the submission of the dispatch tickets signed as above indicated, or the pieces of paper above set forth, payment of overtime work would be made upon respondents' vouchers.

The court granted overtime to those who proved their claims by such dispatch tickets, or records of overtime work, or receipts, but denied it to those who did not produce such or similar kinds of evidence, or to those whose claims were based on their testimonies alone, without supporting papers such as those mentioned above. Petitioner argues in this Court that it was error for the court to ignore the uncontradicted and corroborated parol evidence submitted by the claimants of their overtime services rendered after the respondent company had failed to produce the dispatch tickets and bills to customers for tug boats from the year 1947 to 1952.

It is not true that the testimonies of the claimants as to the rendition by them of overtime services was not contradicted. According to the report of the referee, most of the claims for overtime pay were based on the fact that the claimants stayed in their barges for 24 hours. Neither is it true that these claims were not denied. They were denied by respondent's answer, which explained, under oath of respondents' manager, that they stayed in the barges at their own request. Even without this explanation, the claim that the bargemen were on a 24-hour duty in their barges only for guarding purposes, is difficult to believe, even if not denied. No barge owner would employ bargemen on a 24-hour duty simply to stay, sleep and live in the barges with their families. The court was not bound to accept the testimonies of the bargemen; their inherent probability was within the court's power to judge. The court in its discretion refused to believe the testimonies. We believe its discretion was wisely exercised.

The validity of the argument that dispatch tickets existed merely because the claimants called for them by subpoena duces tecum is beyond our comprehension. In order that the respondents may be considered as having suppressed the tickets, the existence of these must first be approved. Testimonies of bargemen that they served is no evidence of the existence of dispatch tickets. And failure to produce supposed documents alone, is no reason for giving credence to incredible testimony.

The petitioner must have been induced to take this appeal because of the statement of the court that majority of the claimants failed "to offer any competent proof to sustain their claims. The court did not mean that the oral testimonies of the witnesses were incompetent or inadmissible. What it means is that their evidence was not satisfactory, not sufficient to persuade the court of the validity of the claims or the quantum thereof. The court, therefore, did not ignore the said testimonies; it only refused to believe them, in view of their improbability and in the absence of the most competent proof of the rendition of the services, namely the dispatch tickets, records, and receipts. Neither did it rule thereby that Government Service Insurance System vs. Vda. de Sayson overtime pay can be proved by documentary evidence alone.

On the whole we are satisfied that the court a quo did not refuse to admit the parol evidence submitted, as claimed, and committed no abuse of discretion in its appraisal.

The petition is denied, with costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Concepcion, Reyes, J. B. L., and Endenda, JJ., concur.

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