

NATIONAL SHIPYARD AND STEEL CORPORATION, PETITIONER, VS. COURT OF INDUSTRIAL RELATION AND DOMINADOR MALONDRAS, RESPONDENTS.

G.R. No. L-17068. December 30, 1961

Ponente: REYES, J.B.L., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/b104528608be/>

REYES, J.B.L., J.:

Petition filed by the National Shipyards and Steel Corporation (otherwise known as the NASSCO) to review certain orders of the respondent Court of Industrial Relations requiring it to pay its bargeman Dominador Malondras overtime service of 16 hours a day for a period from January 1, 1954 to December 31, 1956, and from January 1, 1957 to April 30, 1957, inclusive.

The petitioner NASSCO, a government-owned and controlled corporation, is the owner of several barges and tugboats used in the transportation of cargoes and personnel in connection with its business of shipbuilding and repair. In order that its bargemen could immediately be called to duty whenever their services are needed, they are required to stay in their respective barges, for which reason they are given living quarters therein as well as subsistence allowance of P1.50 per day during the time they are on board. However, upon prior authority of their superior officers, they may leave their barges when said barges are idle.

On April 15, 1957, 39 crew members of petitioner's tugboat service, including herein respondent Dominador Malondras, filed with the Industrial Court a complaint for the payment of overtime compensation (Case No. 1058-V). In the course of the proceeding, the parties entered into a stipulation of facts wherein the NASSCO recognized and admitted—

4. That to meet the exigencies of the service in the performance of the above work, petitioners have to work when so required in excess of eight (8) hours a day and/or during Sundays and legal holidays (actual overtime service is subject to determination on the basis of the logbook of the vessels, time sheets and other pertinent records of the respondent).

* * * * *

6. The petitioners are paid by the respondent their regular salaries and subsistence allowance, without additional compensation for overtime work;"

Pursuant to the above stipulation, the Industrial Court, on November 22, 1957, issued an order directing the court examiner to compute the overtime compensation due the claimants.

On February 14, 1958, the court examiner submitted his report covering the period from January 1 to December 31, 1957. In said report, the examiner found that the petitioners in Case No. 1058-V, including herein respondent Dominador Malondras, rendered an average overtime service of five (5) hours each day for the period aforementioned, and upon approval of the report by the Court, all the claimants, including Malondras, were paid their overtime compensation by the NASSCO.

Subsequently, on April 30, 1958, the court examiner submitted his second partial report covering the period from January 1, 1954 to December 31, 1956, again giving each crewman an average of five (5) overtime hours each day. Respondent Malondras was not, however, included in this report as his daily time sheets were not then available. Again upon approval by the Court, the crewmen concerned were paid their overtime compensation.

Because of his exclusion from the second report of the examiner, and his time sheets having been located in the meantime, Dominador Malondras, on September 18, 1959, filed petitions in the same case asking for the computation and payment of his overtime compensation for the period from January 1, 1954 to December 31, 1956, and from January to April 30, 1957 which, he alleged, was not included in the first report of the examiner because his time sheets for these months could not be found at the time. Malondras' petition was opposed by the NASSCO upon the argument, among others, that its records do not indicate the actual number of working hours rendered by Malondras during the periods in question. Acting on the petition and opposition, the Industrial Court ordered the examiner to examine the log books, daily time sheets, and other pertinent records of the corporation for the purpose of determining and computing whatever overtime service Malondras had¹ rendered from January 1, 1954 to December 31, 1956.

On January 15, 1960, the chief examiner submitted a report crediting Malondras with a total of 4,349 overtime hours from January 1, 1954 to December 31, 1956, at an average of five (5) overtime hours a day, and after deducting the aggregate amount of subsistence allowance, received by Malondras during this period, recommended the payment to him of overtime compensation in the total sum of P2,790.90.

On February 20, 1960, the Court ordered the examiner to make a re-examination of the records with a view to determining Malondras' overtime service from January 1, 1954 to December 31, 1956, and from January 1, 1957 to April 30, 1957, but without deducting from the compensation to be paid to him his subsistence allowance. Pursuant to this last order, the examiner, on April 23, 1960, submitted an amended report giving Malondras an average of sixteen (16) overtime hours a day, on the basis of his time sheets, and recommending the payment to him of the total amount of P15,242.15 as overtime compensation during the periods covered by the report. This report was, over the NASSCO's vigorous objections, approved by the Court below on May 6, 1960. The NASSCO moved for reconsideration, which was denied by the Court en banc, with one judge dissenting. Whereupon, the NASSCO appealed to this Court.

There appears to be no question that respondent Malondras actually rendered overtime services during the periods covered by the examiner's report. This is admitted in the stipulation of facts of the parties in Case No. 1058-V; and it was on the basis of this admission that the Court below, in its order of November 22, 1957, ordered the payment of overtime compensation to all the petitioners in Case No. 1058-V, including respondent Dominador Malondras, after the overtime service rendered by them had been determined and computed on the basis of the logbooks, time sheets, and other pertinent records of the petitioner corporations.

The only matter to be determined here is, therefore, the number of hours of overtime for which Malondras should be paid for the periods January 1, 1954 to December 31, 1956, and from January to April 30, 1957. Respondents urge that this is a question of fact and not subject to review by this Court, there being sufficient evidence to support the Industrial Court's ruling on this point. It appears, however, that in crediting Malondras with 16 hours of overtime service daily for the periods in question, the court examiner relied only on his daily time sheets which, although approved by petitioner's officers in charge and its auditors, do not show the actual number of hours of work rendered by him each day but only indicate, according to the examiner himself, that:

"almost everyday Dominador Malondras was on 'Detail' or 'Detailed on Board'. According to the officer in charge of Dominador Malondras, when he (Dominador Malondras) was on 'Detail' or 'Detailed on Board', he was in the boat for twenty-four (24)

In other words, the court examiner interpreted the words "Detail" or "Detailed on Board" to mean that as long as respondent Malondras was in his barge for twenty-four hours, he should be paid overtime for sixteen hours a day or the time in excess of the legal eight working hours that he could not leave his barge. Petitioner NASSCO, upon the other hand, argues that the mere fact that Malondras was required to be on board his barge all day so that he could immediately be called to duty when his services were needed does not imply that he should be paid overtime for sixteen hours a day, but that he should receive compensation only for the actual service in excess of eight hours that he can prove. This question is clearly a legal one that may be reviewed and passed upon by this Court.

We can not agree with the Court below that respondent Malondras should be paid overtime compensation for every hour in excess of the regular working hours that he was on board his vessel or barge each day, irrespective of whether or not he actually put in work during those hours. Seamen are required to stay on board their vessels' by the very nature of their duties, and it is for this reason that, in addition to their regular compensation, they are given free living quarters and subsistence allowances when required to be on board. It could not have been the purpose of our law to require their employers to pay them overtime even when they are not actually working: otherwise, every sailor on board a vessel would be entitled to overtime for sixteen hours each day, even if he had spent all those hours resting or sleeping in his bunk, after his regular tour of duty. The correct criterion in determining whether or not sailors are entitled to overtime pay is not, therefore, whether they were on board and can not leave ship beyond the regular eight working hours a day, but whether they actually rendered service in excess of said number of hours. We have ruled to that effect in *Luzon Stevedoring Co., Inc. vs. Luzon Marine Department Union, et al.*, 101 Phil., 257:

I. Is the definition for 'hours of work' as presently applied to dryland laborers equally applicable to seamen? Or should a different criterion be applied by virtue of the fact that that seaman's employment is completely different in nature as well as in condition of work from that of a dryland laborer?

* * * * *

Section 1 of Commonwealth Act No. 444, known as the Eight-Hour Labor Law, provides:

'SEC. 1. The legal working day for any person employed by another shall be of not more than eight hours daily. When the -work is not continuous, the time during which the laborer is not Working AND CAN LEAVE HIS WORKING PLACE and can rest completely, shall not be counted.

The requisites contained in this section are further implemented by contemporary regulations issued by administrative authorities (Sections 4 and 5 of Chapter III, Article I, Code of Rules and Regulations to Implement the Minimum Wage Law).

For the purposes of this case, we do not need to set for seamen a criterion different from that applied to laborers on land, for under the provisions of the above quoted section, the only thing to be done is to determine the meaning and scope of the term 'Working place' used therein. As we understand this term, a laborer need not leave the premises of the factory, shop or boat in order that his period of rest shall not be counted, it being enough that he 'cease to work', may rest completely and leave or may leave at his will the spot where he actually stays while working, to go somewhere else, whether Within or outside the premises of said factory, shop or boat. If these requisites are complied with, the period of such rest shall not be counted." (Italics supplied)

While Malondras' daily time sheets do not show his actual working hours, nevertheless, petitioner has already admitted in the Stipulation of Facts in this case that Malondras and his co-claimants did render service beyond eight (8) hours a day when so required by the exigencies of the service; and in fact, Malondras was credited and already paid for five (5) hours daily overtime work during the period from May 1 to December 31, 1957, under

the examiner's first report Since Malondras has been at the same job since 1954, it can be reasonably inferred that the overtime service he put in whenever he was required to be aboard his barge all day from 1954 to 1957 would be more or less consistent. In truth, the other claimants who served with Malondras under the same conditions and period have been finally paid for an overtime of 5 hours a day, and no substantial difference exists between their case and the present one, which was not covered by the same award only because Malondras' time records were not found until later.

The next question is whether or not the subsistence allowance received by Malondras for the periods covered by the report in question should be deducted from his overtime compensation. We do not think so, for the Stipulation of the Facts of the parties show that this allowance is independent of and has nothing to do with whatever additional compensation for overtime work was due the petitioner NASSCO's bargemen. According to the petitioner itself, the reason why their bargemen are given living quarters subsistence allowance at the rate of P1.50 per day was because they were required to stay in their respective barges in order that they could be immediately called to duty when their services were needed (Petition, par. 5, p. 2). Petitioner having already paid Malondras and his companions overtime for 1957 without deduction of the subsistence allowances received by them during this period, and Malondras' companions having been paid overtime for the other years also without deducting their subsistence allowances, there is no valid reason why Malondras should be singled out now and his subsistence allowance deducted from the overtime compensation still due him.

The last question involves petitioner's claim that it was error for the examiner to base Malondras' overtime compensation for the whole year 1954 at P6.16 a day, when he was appointed in the tugboat service only on October 1, 1954, and before that was a derrick man with a daily salary of P6.00. In answer, respondent Malondras asserts that the report of the examiner, based on his time sheets from January 1, 1954, show that he had already been rendering overtime service from that date. This answer does not, however, deny that Malondras started to get P6.16 a day only in October, 1954, and was before that time receiving only P6.00 daily, as claimed by petitioner. We think, therefore, that the records should be reexamined to find out Malondras' exact daily wage from January 1, 1954 to September, 1954, and his overtime compensation for these months computed on the basis thereof.

Wherefore, the order appealed from is modified in the sense that respondent Malondras should be credited five (5) overtime hours instead of sixteen (16) hours a day for the periods covered by the examiner's report. The court below is ordered to determine from the records the exact daily wage received by respondent Malondras from January 1, 1954 to September, 1954, and to compute accordingly his overtime compensation for that period. In all other respects, the judgment appealed from is affirmed, No costs in this instance.

So ordered.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador Concepcion, Barrera, Paredes, Dizon, and De Leon, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.