

NATIONAL SHIPYARDS AND STEEL CORPORATION, PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS AND JOSE ABIDAY AND 38 OTHERS, RESPONDENTS.

G.R. No. L-20838. July 30, 1965

Ponente: REGALA, J.

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REGALA, J.:

The National Shipyards and Steel Corporation (hereinafter referred to as NASSCO) seeks in this case a review of an order of the Court of Industrial Relations, requiring it to pay Jose Abiday and 38 other employees the amount of P81,093.81 for overtime work.

For a background of this case, the following are the facts: NASSCO is the owner of a number of vessels used in connection with its business of ship building and repair. Respondents are employed as crew members of its tugboats.

On April 15, 1957, respondents filed this case in the Court of Industrial Relations where it was docketed as Case No. 1058-V, claiming overtime compensation from the NASSCO. The case was submitted for decision on a stipulation of facts, of which the following forms part:

"4. That to meet the exigencies of the service in the performance of the above work, petitioners (i.e., Abiday and the 38 other employees) 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 (i.e., NASSCO)

* * * *

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

On November 22, 1957, the Court of Industrial Relations issued an order requiring NASSCO to pay respondents 25 per cent additional compensation for work done in excess of eight hours and, for this purpose, directed its examiner to make the computation on the basis of the log book, time sheets and other records of the NASSCO.

The examiner submitted two reports, the first, which was filed on February 14, 1958, covering the period January 1 to December 31, 1957, and the second, which was filed on April 30, 1958, covering the period January 1, 1954 to December 31, 1956, in both of which he credited respondents with overtime work at an average of five hours a day.

These reports became the subject of review in this Court in two separate petitions for certiorari filed by NASSCO. In G. R. No. L-13732 (NASSCO vs. CIR) decided on April 14, 1959, NASSCO challenged the jurisdiction of the Court of Industrial Relations and raised the question of whether the order of that court, which directed the computation of overtime pay, could be considered a decision. The petition was dismissed for lack of merit. In 107

Phil. 1006 (NASSCO vs. CIR), decided on April 29, 1960), NASSCO raised again the question of jurisdiction. Again the petition was dismissed, the resolution on the first petition having become the law of the case.

On November 25, 1960, therefore, respondents filed a "petition" asking the Court of Industrial Relations to direct its examiner to proceed with the computation of overtime pay for the period 1949-53 and 1958-60. This was granted. On June 15, 1962, therefore, the examiner submitted a third report which the Court of Industrial Relations in its order of November 27, 1962 approved. NASSCO asked for a reconsideration but the Court of Industrial Relations en banc denied its motion. Hence this petition for review.

NASSCO's position is that (1) there is no evidence to support the examiner's finding that respondents rendered five hours of overtime service daily during the periods 1949-53 and 1958-60 and (2) the Court of Industrial Relations has no jurisdiction with respect to the claims of three of the respondents who have ceased to be its employees.

With respect to its first contention, NASSCO avers that there is no evidence as to the number of hours of overtime work rendered by the respondents except the fact that they remained on board the vessels while sailing. It cites the case of Luzon Stevedoring Co. vs. Luzon Marine Department Union, 101 Phil., 257, in which it was held that the correct criterion in determining whether or not sailors are entitled to overtime pay is not whether they were on board and could not leave the ship beyond the regular eight working hours a day but, rather, whether they actually rendered service in excess of eight hours.

This case actually is a sequel of the first two cases already referred to above (NASSCO vs. CIR, G. R. No. L-13732, decided on April 14, 1959, and NASSCO vs. CIR, 107 Phil., 1006., decided on April 29, 1960).

The first error assigned by the petitioner that there was no evidence submitted to support the Court's finding that respondents rendered five hours overtime service, is not well taken. Pedro de Joya, the marine land surveyor employed by the petitioner testified that the respondent had really worked overtime as shown by their daily time sheets, payrolls, logbooks and other pertinent records of the petitioner. De Joya stated that the crew of the ship or launch of the petitioner were supposed to work on a three-8 hours shifts—but they only had two men assigned on the deck, the captain and the master; in the engine only 2 men engineers and two oilers were assigned; and in other places in the launch or ship only two members of the crew were assigned so that each member of the crew ordinarily worked a minimum of at least 12 hours each. He testified further that sometimes the crew had to work more than 12 hours due to repairs, storms and other calamities.

With regard to the second assignment of error, that the Court of Industrial Relations has no jurisdiction with respect to the claim of three of the respondents, this Court also believes that the same is not well taken. At the time this case was decided by the Court of Industrial Relations the three respondents Rodolfo Rianza, Gualberto Legaspi and Mauricio Zulueta were actually employees of the petitioner. In fact, the first order of the court dated November 22, 1957 granting the respondents overtime pay including the three mentioned employees, shows that they were actually working with the petitioner, although at the time of filing of the motion dated November 25, 1960, for the continuation of the computation of overtime, they were no longer employees of the petitioner.

Furthermore, the finding of the Court of Industrial Relations to the effect that the said respondents had worked overtime is a finding of fact which this Court cannot disturb if it is supported by sufficient evidence. We have examined the records and We feel that the same is supported by evidence.

In view of the foregoing consideration, the decision of the Court of Industrial Relations is hereby sustained. Costs against the petitioner.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B. L., Paredes, Dizon, Makalintal, Bengzon, J. P. and

Zaldivar, JJ., concur.

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