

1962

Present : Herat, J.

H. A. CAROLIS APPUHAMY, Appellant, and K. PUNCHIRALA,
Respondent

S. C. 34 of 1961—Industrial Dispute—LT/4/3995

Industrial Disputes (Amendment) Act, No. 62 of 1957—Appeal from order of Labour Tribunal—“ Question of law ”.

In an appeal under the Industrial Disputes (Amendment) Act, No. 62 of 1957—

Held, that the failure of the Labour Tribunal to consider the version of the appellant amounted to a breach of a legal requirement entitling the appellant to appeal on a ground of law.

APPEAL from an order of a Labour Tribunal.

Hanan Ismail, for Respondent-Appellant.

No appearance for Applicant-Respondent.

March 26, 1962. HERAT, J.—

In this case the appellant is the employer. He had gone on a trip to the shrine at Kataragama with his family in his lorry which was driven by his chauffeur, the Respondent to this appeal. According to the appellant the Respondent had become drunk with some intoxicating liquor and was driving at a reckless speed. Naturally, the appellant checked him, whereupon he reduced his speed to an absurdly low rate of about 10 m.p.h. When the party halted to partake of a meal the appellant had commented upon the conduct of the Respondent and taken the latter to task for what he had done. Thereupon the Respondent had thrown the switch keys of the vehicle and left the place. The appellant was forced, in the circumstances, to employ a temporary driver to bring his lorry, himself and his family home.

The Respondent took action before the Labour Tribunal for wrongful dismissal. The appellant gave evidence, but the learned President of the Labour Tribunal does not seem to have accepted his evidence. I think the learned President has misdirected himself. Why should this appellant, if he had no grounds to justify his action, go on this long and arduous trip merely for the sake of picking a quarrel with his employee? To my mind there is a ring of truth in the appellant's case, which, if true, amply justified the appellant in instantaneously dismissing the Respondent. I, therefore, allow the appeal, set aside the order of the President of the Labour Tribunal and dismiss the Respondent's claim.

In my opinion the failure to consider the version of the appellant amounts to a breach of a legal requirement entitling the appellant to appeal on a ground of law. I grant the appeal. The costs of appeal is fixed at Rs. 31.50.

Appeal allowed.

1960 Present : Weerasooriya, J., and H. N. G. Fernando, J.

THE ATTORNEY-GENERAL, Appellant, and THE NORTH CEYLON BUILDERS AND CONTRACTORS LTD., Respondent

S. C. 17—D. C. Anuradhapura, 4984

Contract—Wrongful interference by third party—Performance of contract thereby prevented—Rights and liabilities of the parties.

Plaintiff company entered into a contract with the defendant (an Irrigation Engineer) on 4th June 1956 to transport and lay "rip-rap" (metal or stones) on a section of the bund of a tank before 31st August 1956. The value of the contract was no less than Rs. 45,900. Clause 6 of the agreement provided that the defendant could cancel the agreement if the plaintiff failed to make reasonable progress with the work.

Although the defendant was bound under the contract to give possession of the site to the plaintiff company to carry out its work, he was prevented from doing so on account of intimidation and wrongful interference by third parties. Consequently the Company was prevented from making any progress with the work. The defendant therefore, cancelled the contract on 26th July, 1956.

Held, that the defendant was entitled to terminate the contract on the ground that no reasonable progress had been made with the work, however unfortunate and reprehensible the causes of that situation were. The intimidation and wrongful interference by third parties did not constitute prevention of performance of the contract on the part of the defendant for whom the work was to be executed.

APPEAL from a judgment of the District Court, Anuradhapura.

V. Tennekoon, Senior Crown Counsel, for the defendant-appellant.

No appearance for the plaintiff-respondent.

Cur. adv. vult.

February 22, 1960. H. N. G. FERNANDO, J.—

In this action the Plaintiff Company successfully sued the Attorney-General for damages for alleged breach of a contract between the Plaintiff-Company and the Irrigation Engineer, Padaviya, for the transport and laying by the Company of "rip-rap" (metal or stones) on a section of the Padaviya Tank bund.