

1968

*Present : Samerawickrame, J.*

THE MANAGER, URY GROUP, PASSARA, Appellant, and THE  
DEMOCRATIC WORKERS' CONGRESS, Respondent

*S. C. 184/67—Labour Tribunal Case, 1689/B*

*Labour Tribunal—Requirement that its order should only be made against a natural or legal person—Amendment of pleadings—Permissibility.*

Where, in an application made to a Labour Tribunal, the name of the employer-respondent has not been stated but his identity can be sufficiently known from his designation or description, the caption in the pleadings may be suitably amended so as to satisfy the requirement that a Labour Tribunal's order can only be made against a natural or legal person.

**A**PPEAL from an order of a Labour Tribunal.

*C. Ranganathan, Q.C., with A. M. Coomaraswamy, for the employer-appellant.*

No appearance for the applicant-respondent.

*Cur. adv. vult.*

July 7, 1968. SAMERAWICKRAME, J.—

Learned Counsel appearing for the appellant was unable to urge any grounds upon which I could hold that the findings made in the order of the President of the Labour Tribunal should be set aside. He, however, pressed the appeal on a question of law. He submitted that an order could only be made by the Tribunal against a natural or legal person. In this case, the party who was made respondent to the application and against whom the order has been made is, "The Manager, Ury Group, Passara". In support of his contention, he referred to the case of *Superintendent, Deeside Estate, Maskeliya v. Nankai Thozhilar Kazhakam*<sup>1</sup> in which Siva Supramaniam J. held that an application filed and an order made against "the Superintendent, Deeside Estate, Maskeliya" was bad in as much as the order made was not one against a natural or legal person and was, therefore, not an enforceable order.

While I agree that an application should be made against a natural or legal person, I do not think there should be the same insistence on the proper naming of the respondent as there would be, for example, in the case of an application made to a Court of law. If there is such designation

<sup>1</sup> (1968) 70 N. L. R. 270.

or description from which the identity of the employer can be known, it should be sufficient. I am in respectful agreement with my brother Siva Supramaniam that an order made by a Labour Tribunal should, on the face of it, be against a natural or legal person as for the purposes of enforcement, such an order may be presented to a Court. This may, however, be effected by a suitable amendment of the caption, where necessary, before an order is made. It is important that Presidents of Labour Tribunals should pay attention to this matter, as otherwise applications for the enforcement of their orders may have to be accompanied by affidavits or other material to establish the natural or legal person against whom the orders were made.

I think that in this case no prejudice has been caused by the failure to make by name the Manager, Ury Group, Passara, the respondent to the application filed in this matter, because the person who was the Manager has filed answer and has also filed the appeal against the order of the President of the Labour Tribunal. From the proxy filed in these proceedings by the Firm of Proctors who filed the appeal, his name appears to be W. Wickremasinghe. For the purpose, therefore, of rectifying matters and of obviating any further difficulty that may otherwise arise, I direct that the caption in the pleadings and in particular in the order of the President of the Labour Tribunal should be amended by stating the employer to be W. Wickremasinghe, The Manager, Ury Group, Passara. The appeal is dismissed.

*Appeal dismissed.*

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