

1961

Present : H. N. G. Fernando, J.

THE ELECTRIC EQUIPMENT AND CONSTRUCTION CO.,
Appellant, and M. J. F. COORAY, Respondent

S. C. 13—*Industrial Tribunal, 1562*

Industrial Disputes Act—Termination of employment—Employee can claim only what is legally due from employer.

Where the termination of an employee's services is both legal and justifiable, a Labour Tribunal has power to award, not any benefit or compensation which it may consider equitable, but only a gratuity or other benefit legally due to the employee.

Richard Pieris & Co., Ltd. o. Wijesiriwardene (1960) 62 N. L. R. 233, followed.

APPEAL from an order made by a Labour Tribunal.

Joseph St. George, for employer-appellant.

R. L. N. de Zoysa, for applicant-respondent.

Cur. adv. vult.

May 22, 1961. H. N. G. FERNANDO, J.—

The respondent to this appeal, who was dismissed from his employment under the appellant on 21st December 1959, applied to the Labour Tribunal under the Industrial Disputes Act for an order that he be paid three months' salary in lieu of notice and a Christmas bonus for the year 1959, in addition to other reliefs. The appellant had paid one month's salary at the time of dismissal but was ordered by the tribunal to pay a further two months' salary in lieu of notice as well as the amount of the usual Christmas bonus. Against this order the appellant has appealed to this Court.

The tribunal's findings on the facts are that the respondent was guilty of disobedience to a lawful order of the employer and that the respondent's services were terminated for justifiable reasons. The contention for the appellant has been that upon these findings the tribunal had no jurisdiction to award to the respondent any relief other than that to which he was entitled at the time of his dismissal in terms of the contract between the parties. The contract expressly provides that the respondent's appointment may be terminated on one month's notice and further that no Provident Fund or Gratuity Schemes is applicable in the case of his appointment.

I respectfully agree with the reasons given by my brother T. S. Fernando in *Richard Pieris & Co., Ltd. v. Wijesiriwardena*¹ for the view that where the termination of the employment is, as it was in the present case, both legal and justifiable, a Labour Tribunal has power to award, not any benefit or compensation which it may consider equitable, but only a gratuity or other benefit legally due to the employee. The respondent was not entitled under his contract to any bonus whatsoever or to anything more than one month's notice of termination. This latter requirement of the contract has been fulfilled by the payment to him of one month's salary in lieu of notice. The order appealed from is set aside and the respondent will pay to the appellant Rs. 31/50 as costs of this appeal.

Order set aside.

