

1935

*Present: Soertsz A.J.*DE SILVA *v.* JACOB.15—*C. R. Trincomalee, 3,612.*

Public Officer—Seizure of salary—Constable employed in Naval Yard—Civil Procedure Code, s. 218 (h).

The salary of a constable employed in the Naval Yard under the Imperial Government is exempt from seizure under section 218 (*h*) of the Civil Procedure Code.

A PPEAL from a judgment of the Commissioner of Requests, Trincomalee.

N. E. Weerasooria (with him *G. Wickramanayake*), for plaintiff, appellant.

June 24, 1935. SOERTSZ A.J.—

This appeal arises as the result of the seizure under section 232 of the Civil Procedure Code at the instance of the plaintiff-appellant of a sum of Rs. 34.47 in the hands of the Superintendent, Naval Yard, Trincomalee. This amount was the salary payable to the defendant judgment-debtor for the month of October, 1934. On November 1, 1934, Inspector Doole was present on behalf of the Superintendent of the Naval Yard and claimed that the defendant was a Police Constable employed in the Royal Naval Yard under the Imperial Government and that, therefore, his salary was not liable to be seized. Subject to that he deposited Rs. 24.19 to the credit of the case. The matter came up for consideration on December 17, 1934.

The learned Commissioner held that the seizure was bad in view of section 218 (*h*) of the Civil Procedure Code and released it with costs. The appeal is from that order. In my opinion the order is right. Section 218 (*h*) protects the salary of "a public officer or servant". Section 5 of

the Civil Procedure Code defines a "Public Officer" as including "all officers or servants employed in this colony by or under the Imperial Government or the Government of Ceylon"—a very comprehensive definition—which, in my opinion, clearly takes in a Police Constable such as the defendant who had retired from the Ordinary Police Force, and was, at the time his salary was seized, employed as a Police Constable in the Naval Yard under the Imperial Government.

I do not see any force in the contention put forward in paragraph 4 of the petition of appeal. However often the amount was seized, it was still the same thing—the defendant's salary for October, 1934.

I dismiss the appeal.

Appeal dismissed.

