

1968 Present : H. N. G. Fernando, C.J., and Srimane, J.

BRITISH CEYLON CORPORATION LTD., Petitioner, and
S. A. WLJAYATILAKE and 5 others, Respondents

*S. C. 340/64—Application for Writs in the nature of a Writ of
Certiorari and Prohibition*

*Industrial Disputes Act—Disputes between an employer and different employees—
Holding of a single arbitration proceeding for the settlement of the disputes—
Permissibility.*

A single reference to one arbitrator of separate matters in dispute between the same employer and different employees is permissible under the Industrial Disputes Act if the separate disputes are likely to involve the decision of substantially similar (albeit not identical) matters and the joint reference makes for expedition and consistency.

APPLICATION for Writs of *Certiorari* and Prohibition.

H. V. Perera, Q.C., with S. J. Kadirgamar, Q.C., and Desmond Fernando, for the Petitioner.

C. Ranganathan, Q.C., with A. Mahendrarajah and K. Sivanandan, for the 2nd, 3rd and 4th Respondents.

Cur. adv. vult.

August 28, 1968. H. N. G. FERNANDO, C.J.—

This was an application for Writs of *Certiorari* and/or Prohibition in respect of certain proceedings before an arbitrator to whom an industrial dispute had been referred under the Industrial Disputes Act.

One of the grounds taken in the application was that the Minister had no power to refer for arbitration a dispute between an employer and an individual workman. Counsel could not rely on this ground in the argument before us because the present bench is bound by the decision of the majority of a bench of 7 Judges in *Colombo Apothecaries Co. Ltd. v. E. A. Wijesooriya and four others*¹.

Hence the only argument urged before us was that in this case there were 3 distinct disputes between an employer and 3 different employees, and that the Act does not authorise the holding of a single arbitration proceeding for the settlement of distinct disputes. I must first say that cases of these three employees do not appear to be distinct from each

¹ (1968) 70 N. L. R. 481.

other. In two cases, the stated reasons for the termination of services was that the employees had made allegations against the General Manager and Accountant of the employer-Company ; and in the third case, that the employee had made allegations against the Sales Manager and other executive members of the staff.

In any event, I cannot agree that a reference to one arbitrator of separate matters in dispute between a single employer and different employees is not authorised by the Act. It would be quite in order to refer each matter separately to the same arbitrator, who would then hold several separate arbitration proceedings. A joint reference of all the matters mean that there will be a single proceeding, without the need to record and assess the same evidence at different times, but the issues to be considered (if indeed they are distinct) will each need a separate decision. This situation is quite common in cases where a Union has a dispute with one employer concerning distinct matters affecting his employees, and there is nothing in the Act which prevents the existence of the same situation in a case where several employees are parties to disputes with the same employer. On the contrary, it seems to me that where separate disputes are likely to involve the decision of substantially similar (albeit not identical) matters, a single reference to one arbitrator must make for expedition and consistency. I regret to have to observe once more that objections of this nature are in my opinion obstructive and ill-advised.

The application is dismissed with costs fixed at Rs. 525 payable by the petitioner jointly to the 2nd, 3rd and 4th respondents.

SIRIMANE, J.—I agree.

Application dismissed.
