

1970

Present : Alles, J.

THE SUPERINTENDENT, THUTTUDUWA ESTATE,
ETHKANDURA *et al.*, Appellants, and NATIONAL ESTATE
EMPLOYEES' UNION *et al.*, Respondents

S. C. 26/69—L. T. Cases Nos. 4735 and 4736

Industrial Disputes Act (Cap. 131)—Section 31B (6)—A labourer's employment under two successive owners of same estate—Termination of his services on ground of old age—Gratuity payable by second owner—"Just and equitable order".

When the services of a labourer who has been working on an estate under two successive owners are terminated on the ground of old age, the gratuity payable under section 31B (6) of the Industrial Disputes Act by the recent owner should be calculated only from the time when he became owner of the estate.

APPEAL against an order of a Labour Tribunal.

Bala Nadarajah, for the respondent-appellants.

No appearance for the employee-respondents.

Cur. adv. vult.

June 8, 1970. ALLES, J.—

In this case the 2nd respondent, who became the owner of Thuttuduwa Estate in 1966, has been ordered to pay to two women labourers, who were employed on the estate since 1945 and whose services had been terminated on the ground of old age, a sum of Rs. 500 each as gratuity. The learned President has stated that although the 2nd respondent became the owner of the estate only recently "it would be wrong to deny any payment to the two employees". I agree, but if the liability for such payment is cast entirely on the 2nd respondent who became owner in 1966 it would not be a just and equitable order, particularly as Section 31B (6) of the Industrial Disputes Act provides for the payment of gratuity by the previous employer.

Since it is not clear from the President's order whether the 2nd respondent has been ordered to pay gratuities to these two employees from 1945, I remit this case to the Labour Tribunal for a review of the gratuities payable. If the gratuity ordered has been calculated from 1945, I direct that the learned President order that the gratuity payable by the 2nd respondent should be calculated only from 1966. There will be no costs of this appeal.

Order varied.