

1972

Present : Wimalaratne, J.

A. R. HETTIARACHCHI, Appellant, and THE VIDYALANKARA UNIVERSITY, Respondent

S. C. 259/70—Labour Tribunal, 7/29762

Industrial Disputes Act—Termination of a workman's services—Probationary period of employment—Whether confirmation is automatic at end of probationary period.

A person appointed to a post on probation cannot claim automatic confirmation on the expiry of the period of probation, unless the letter of appointment provides that the appointee shall stand confirmed in the absence of an order to the contrary. If a probationer is allowed to continue on probation after the period of probation has expired, he continues in service as a probationer.

APPEAL from an order of a Labour Tribunal.

K. Shanmugalingam, for the applicant-appellant.

N. Satyendra, for the employer-respondent.

Cur. adv. vult.

November 24, 1972. WIMALARATNE, J.—

The appellant A. R. Hettiarachchi was, by letter A6 dated 31.10.63, appointed Asst. Superintendent of the Vidyalankara Press. The appointment was to be subject to one year's probation. The letter stipulated that the period of probation may be extended for a further period of one year if the University so desired.

After serving one year the appellant, by his letter A8 dated 20.11.64, requested the Registrar to limit his probationary period to one year and to confirm him in his appointment, but the University did not take action on that letter.

An entrance examination for admission to the University was to be held in April, 1965. There was a leakage of certain question papers printed at the University Press as a result of which that examination had to be cancelled and a fresh examination held. The University Authorities suspected the appellant to be the person or one of the persons responsible for the leakage; they interdicted him and after a domestic inquiry they terminated his services from 30.9.66. The learned President has held that the appellant was the person responsible for the leakage, and I am unable to say that the President was wrong in his conclusion.

The question the learned President had to decide was as to whether the Employer was justified in not confirming the appellant in his appointment. It was argued in appeal that the appellant had already been confirmed because his probationary period terminated in November, 1964, and that much more evidence was required before a permanent employee's services were terminated. Emphasis was laid on the words "if the University so desires" in letter A6, and it was urged that as the University had not informed the appellant in writing its desire to extend the period of probation it must be assumed that the appellant was confirmed in his appointment in November, 1964.

The letter A6 does not provide that confirmation shall be automatic at the end of the probationary period. A8 supports the inference that the employee himself understood that he had not been confirmed at the end of one year.

I am of the view that a person appointed to a post on probation cannot claim automatic confirmation on the expiry of the period of probation, unless the letter of appointment provides that the appointee shall stand confirmed in the absence of an order to the contrary. If a probationer is allowed to continue on probation after the period of probation has expired, he continues in service as a probationer.

The appeal is dismissed with costs.

Appeal dismissed.