

1962

Present: Abeyesundere, J.

SHELL COMPANY OF CEYLON LTD., Appellant, and
D. C. PATHIRANA, Respondent

S. C. 33/1961—Labour Tribunal, 3,997

Labour tribunal—Termination of workman's services—Scope of tribunal's power to grant relief—Industrial Disputes Act, No. 43 of 1950, as amended by Act No. 62 of 1957, ss. 31 B (4), 31 C (1).

A labour tribunal has jurisdiction under section 31 B (4), read with section 31 C (1), of the Industrial Disputes Act to grant relief to a workman in spite of the fact that his services have been lawfully and justifiably terminated by his employer.

A labour tribunal, having considered the circumstances in which a workman's services were terminated, ordered the payment of six weeks' wages to the workman in lieu of notice instead of two weeks' wages which had been offered to him in accordance with the terms of the contract of service.

Held, that the tribunal had jurisdiction to grant such relief.

APPEAL from an order of a Labour Tribunal.

H. V. Perera, Q.C., with *S. J. Kadirgamar* and *L. Kadirgamar*, for the Employer-Appellant.

C. Ranganathan, with *M. T. M. Sivardeen* and *S. D. Jayawardene*, for the Applicant-Respondent.

May 29, 1962. ABEYESUNDERE, J.—

This is an appeal on a point of law from an order made by a Labour Tribunal on an application made by an employee of the appellant for relief under section 31B of the Industrial Disputes Act, No. 43 of 1950, as amended by Act No. 62 of 1957, in respect of the termination of his services by the appellant. The point of law that I have to consider is whether the tribunal had jurisdiction to grant relief under the aforesaid section in view of the fact that the tribunal has held that the termination of service of the respondent is not only lawful but also justified. There is no limit imposed by the legislature in regard to the power to grant relief under section 31B that would prevent the grant of relief where the termination of service is both lawful and justified. The only limit placed on the power to grant relief under the said section 31B is that contained in sub-section (1) of section 31C of the Industrial Disputes Act. That sub-section requires the order granting relief to be just and equitable. The power to grant relief under section 31B is wide in view of the fact that sub-section (4) of that section enables relief to be granted notwithstanding anything to the contrary in any contract of service between the applicant and his employer.

In the present case, the tribunal, having considered the circumstances which in its opinion necessitate the grant of relief, reached the conclusion that, taking into consideration the nature of employment, length of service and the wage period of the respondent, it would be just and equitable to grant relief in respect of the termination of his services by requiring the payment of 6 weeks' wages in lieu of notice instead of 2 weeks' wages which had been offered to him in accordance with the terms of the contract of service. It is not for me to consider whether or not the grounds on which the tribunal considered that the applicant was entitled to relief are reasonable or justifiable. So long as the tribunal had jurisdiction to grant such relief, this Court has no power to go into any question of fact.

In view of the conclusion I have reached that the Labour Tribunal had jurisdiction to grant the relief that it has granted, I dismiss the appeal with costs.

Appeal dismissed.
