

1970 Present : Pandita-Gunawardene, J.

K. KARUNARATNE, Appellant, and R. D. JACKOLIS APPUHAMY
Respondent

S. C. 69/69—L. T. 7/36402

Labour Tribunal—Whether application by workman for balance wages lies—Industrial Disputes Act (Cap. 131), s. 31B (1)—Wages Boards Ordinance (Cap. 136), ss. 2 (a), 4, 61.

Section 31B (1) of the Industrial Disputes Act provides as follows :—

“ 31B (1). A workman or a trade union on behalf of a workman who is a member of that union, may make an application in writing to a labour tribunal for relief or redress in respect of any of the following matters :—

- (a) the termination of his services by his employer ;
- (b) the question whether any gratuity or other benefits are due to him from his employer on termination of his services and the amount of such gratuity and the nature and extent of any such benefits ;
- (c) such other matters, relating to the terms of employment, or the conditions of labour, of a workman as may be prescribed.”

Held, that an application for the recovery of balance wages does not come within the purview of the Section.

APPEAL from an order of a Labour Tribunal.

P. A. D. Samarasekera, for the respondent-appellant.

M. L. de Silva, with *Justin Perera*, for the applicant-respondent.

Cur. adv. vult.

December 18, 1970. PANDITA-GUNAWARDENE, J.—

The applicant who is respondent to this appeal was engaged as a Baker under the appellant in 1966, at a salary of Rs. 100 per month ; of this Rs. 100, the applicant permitted the appellant to keep back Rs. 60, so that he may draw the amount collected as a lump sum on termination of his services. It is the applicant's case that on termination of his services the appellant did not pay back the amount accumulated which totalled Rs. 1,440.

The Tribunal made award in the applicant's favour, directing the appellant to deposit Rs. 1,440 which amount the applicant was authorised to collect. The appeal is from this order of the Tribunal.

The application was made under Section 31B of the Industrial Disputes Act. It was contended for the appellant that the action for the recovery

of balance wages is outside the terms of Section 31B of the Act. Section 31B provides as follows :—

“ 31B (1) A workman or a trade union on behalf of a workman who is a member of that union, may make an application in writing to a labour tribunal for relief or redress in respect of any of the following matters :—

- (a) the termination of his services by his employer ;
- (b) the question whether any gratuity or other benefits are due to him from his employer on termination of his services and the amount of such gratuity and the nature and extent of any such benefits ;
- (c) such other matters, relating to the terms of employment, or the conditions of labour, of a workman as may be prescribed.”

It would seem to follow that the recovery of balance wages does not come within the purview of this Section.

Learned Counsel for the applicant however submitted that the words “gratuity or other benefits” are wide enough to cover a claim for balance wages ; and that the term “gratuity” is so elastic or flexible as to include balance wages within its meaning.

“Gratuity”, I should think, connotes and implies a fixed money present in recognition of services rendered—a bounty on retirement. It is a benefit obtained or granted for work done. I, therefore, find myself unable to agree with learned Counsel for the applicant.

In the course of his argument, learned Counsel for the appellant invited my attention to the Wages Boards Ordinance—hereinafter referred to as the Ordinance—(Cap. 136, L. E. C.). I was referred to Gazette Notification 11,095 of 22.3.1957, by virtue of which the provisions of this Ordinance were declared to be applicable to the Baking Trade.

Under Section 2 (a) of this Ordinance the Employer was required to pay “the worker” his wages *without any deduction* other than an *authorised deduction*. A deduction from the wages such as in this case *does not* come within the term “an authorised deduction”.

Such a deduction *not being an authorised deduction* was forbidden under Section 2 (a) to which reference has already been made.

The Ordinance also declares such a deduction to be a penal offence triable in the Magistrate’s Court (*vide* Sections 4 and 61 of the Ordinance). On conviction of the Employer, repayment of this deduction to the worker was also provided (*vide* Section 4 (2) of the Ordinance, as amended by Ordinance No. 27 of 1957).

The remedy open to the applicant was therefore to submit his complaint to the Commissioner of Labour for a charge to be laid against the appellant under the relevant Section of the Ordinance. The applicant has mistakenly or otherwise sought the wrong Forum.

For these reasons I set aside the order of the Tribunal. The appeal is allowed, but without costs.

Appeal allowed.