

1951

Present : **Basnayake J.**

SINNATHAMBY (Inspector of Labour), Appellant, and
JINASENA. Respondent

S. C. 1,174—M. C. Colombo, 5,500

Wages Board Ordinance, No. 27 of 1941—Section 36—" Trade "

The trade contemplated in section 36 of the Wages Board Ordinance, No. 27 of 1941, is the trade of the employer and not that of the worker.

A PPEAL from a judgment of the Magistrate's Court, Colombo.

T. S. Fernando, with *A. Mahendrarajah*, Crown Counsel, for the Attorney-General.

H. W. Jayewardene, with *C. E. Jayewardene* and *Lyn Weerasekera*, for the accused respondent.

January 25, 1951. BASNAYAKE J.—

The respondent to this appeal has been acquitted by the learned Magistrate of the offence of failing to maintain and keep in the premises in which he is carrying on business one or more registers in the prescribed form applicable to the Motor Transport Trade as specified in *Gazette* No. 9,481 of 2nd November, 1945.

It is admitted that the respondent is not engaged in the motor transport trade, but it is submitted that the workers whom he employs to drive his lorries are workers in the motor transport trade and that the employer must therefore keep a register in the form prescribed for that trade. I am unable to assent to that proposition. Section 36 provides that every employer in any trade for which a Wages Board is established shall maintain and keep in the premises in which that trade is carried on, one or more registers in the prescribed form showing—

- (a) the name and sex of each worker employed by him, and in the case of a worker who is a woman or under the age of twenty-one years the age of the worker,
- (b) the class of work performed by each worker employed by him,
- (c) the wages paid to each such worker,
- (d) the number of hours of work performed by each such worker,
- (e) the number of hours of overtime work performed by each such worker,
- (f) the dates on which wages are paid to each such worker,
- (g) the holidays allowed to each such worker,
- (h) the amount of the maternity benefits paid to each such worker,
- (i) such other particulars as may be prescribed by regulations or required by any decision of the Wages Board.

The trade contemplated in the section is the trade of the employer and not that of the worker. In the instant case the trade of the employer is the engineering trade and the trade of the worker is the motor transport trade. The obligations imposed by section 36 in respect of an employer in the motor transport trade do not therefore fall on him. It is submitted by learned Crown Counsel that the words "in any trade" in section 36 are wide enough to catch up not only the employer's trade, but also the worker's trade. By themselves they are words of wide import but their meaning is controlled by the context in which they occur.

When the other provisions of the Ordinance are examined it becomes apparent that when the Ordinance uses the words "employer in any trade" it contemplates the employer's trade and not the worker's. Section 35 speaks of a worker in any trade, while section 37 speaks of every person engaged in any trade. The latter section also makes it clear that the obligation imposed thereby is imposed in respect of the trade of the employer and not that of the worker. When it comes to the payment of wages the Ordinance provides that the employer shall pay the minimum wages applicable to the worker's trade (section 21).

The acquittal of the respondent is therefore in my opinion right, and the appeal is dismissed.

Appeal dismissed.