

1952

Present : Rose C.J. and Swan J.

FERNANDO, Appellant, and KHAN, Respondent

*S. C. 75—D. C. Colombo, 12,190/S.**Public Servants (Liabilities) Ordinance (Cap. 88), s. 2 (2)—Amending Act of 1951—Retrospective effect.*

The Act of March 15, 1951, by which section 2 (2) of the Public Servants (Liabilities) Ordinance was amended so as to entitle a public servant to the benefit of the Ordinance whose salary is not in excess of Rs. 520 a month has no retrospective effect.

APPEAL from a judgment of the District Court, Colombo.

G. T. Samarawickreme, for the defendant appellant.

H. W. Tambiah, with *G. C. Niles*, for the plaintiff respondent.

Cur. adv. vult.

September 5, 1952. ROSE C.J.—

The plaintiff-respondent sued the defendant-appellant for the recovery of a sum of Rs. 730·50 being principal and interest due on a promissory note dated 10th December, 1948. The action was filed on the 25th January, 1951.

The appellant is a Public Servant in receipt of a salary in excess of Rs. 300 a month but less than Rs. 520, and he contended that he was entitled to the benefit of section 2 of the Public Servants (Liabilities) Ordinance (Chapter 88), in as much as section 2 (2) of the Ordinance was amended on the 15th March, 1951, by providing that a Public Servant is entitled to the benefit of the Ordinance whose salary in regard to his fixed appointment is not in excess of Rs. 520 a month, whereas the original limit was Rs. 300.

This not being an Act which deals with procedure and there being no express provision from which an intention can be inferred to give the Act retrospective effect, I consider that the learned District Judge was correct in coming to the conclusion that the Act could have no relation to an action filed prior to 15th March, 1951. The case would seem to fall within what Lord Davey describes as, "The well known rule on the construction of statutes, that the rights of parties must be decided according to the law as it existed when the action was commenced." ¹

The appeal, is therefore, dismissed with costs.

SWAN J.—I agree.

Appeal dismissed.

