

1967 *Present* : H. N. G. Fernando, C.J., and Samerawickrame, J.

KALUTARA TOTAMUNE MULTI-PURPOSE CO-OPERATIVE
SOCIETIES UNION LTD., Petitioner, and H. S. PERERA
and 3 others, Respondents

S. C. 3/66—Application for a Mandate in the nature of a Writ of Certiorari

*Co-operative Societies Ordinance—Section 53—Dispute relating to a contract of
employment—Reference to an arbitrator—Powers of the arbitrator.*

Where a dispute relating to a contract of employment between a co-operative society and an officer of the society is referred by the Registrar to an arbitrator, the arbitrator can allow only a remedy or relief due to a party under the law. Accordingly, the officer cannot be awarded any compensation if he is ordered to be retired for inefficiency on the ground of mismanagement. An arbitrator under the Co-operative Societies Ordinance does not have the same powers as a labour tribunal under the Industrial Disputes Act.

APPLICATION for a writ of *Certiorari*.

E. R. S. R. Coomaraswamy, with *Nihal Jayawickrema* and *H. A. Abeywardene*, for the Petitioner.

M. Kanagasunderam, Crown Counsel, for the 2nd Respondent.

October 6, 1967. H. N. G. FERNANDO, C.J.—

This is an application for the quashing of the award made under Section 53 of the Co-operative Societies Ordinance. Apparently the Society decided to dismiss the Administrative Secretary on the ground of mismanagement, and the Petitioner decided to refer the matter to the Registrar of Co-operative Societies who referred the "dispute" to an Arbitrator. The Arbitrator has found that the Administrative Secretary was guilty of mismanagement in that he had cashed a large number of cheques, totalling to an extremely high amount, for a customer of the Society. The Arbitrator himself states in the award that the Society cannot retain the services of a person who has been found guilty of such conduct as this, and has accordingly ordered that the Administrative Secretary be retired for inefficiency. Nevertheless, the Arbitrator has ordered that a year's salary be paid to him as compensation for loss of career. On an appeal to him the Registrar of Co-operative Societies who is the 2nd Respondent above-named ordered that he should be paid Rs. 6,300.

The dispute between the Society and its Secretary relates to a contract of employment between the Society and the Secretary, and if the Society was justified in terminating the contract on the ground of misconduct on the part of the Administrative Secretary, the latter can have no legal rights for any compensation. An Arbitrator under the Co-operative Societies Ordinance does not have the same powers as a Labour Tribunal under the Industrial Disputes Act. An Arbitrator can allow only a remedy or relief due to a party under the law.

We set aside the award in so far as it orders the Society to pay one year's salary to the 3rd respondent, as well as the order of the 2nd Respondent for payment of Rs. 6,300. The 3rd respondent must pay to the Society the costs of this application.

SAMERAWICKRAME, J.—I agree.

Application allowed.