

1971

*Present : Sirimane, J.*

CEYLON ESTATES OFFICERS' UNION, Appellant, and  
THE SUPERINTENDENT, GALAHANDAWATTE ESTATE,  
TALAWAKALLE and another, Respondents

*S. C. 203/68—L. T./10/783*

*Industrial Disputes Act (Cap. 131)—Section 31 B (1) (b)—Contract of service—  
Termination brought about by employee's conduct—Right of employee to seek  
relief from a labour tribunal.*

Where an employee has brought about the termination of his services by his own conduct, section 31 B (1) (b) of the Industrial Disputes Act permits a Labour Tribunal to decide the question whether any gratuity or other benefits are due to the employee from his employer.

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**A**PPEAL from an order of a Labour Tribunal.

*N. Satyendra*, for the applicant-appellant.

*S. Sharvananda*, with *S. C. Chandrasenan*, for the employers-respondents.

March 14, 1971. SIRIMANE, J.—

The case for the employee was that the employer had terminated his services. The President has held that there was no termination *by the employer*, but that the employee himself "had vacated his employment". On a reading of the order, it is clear that his finding was that the employee by his conduct severed the contract of service which resulted in the termination of his employment.

I agree with the submission made by counsel for the appellant, that in these circumstances the President could have acted under Section 31 B (1) (b) of the Industrial Disputes Act (Chapter 131) and proceeded to decide the question whether any gratuity or other benefits are due to the employee from his employer. The President had not addressed his mind to this question once he held that the termination was not effected by the employer.

I would send the case back to the Labour Tribunal to decide whether the employee is entitled to any relief under Section 31 (B) (1) (b) of the Industrial Disputes Act on the basis that he himself has brought about the termination of his services by his conduct. There will be no costs of this appeal.

*Case sent back for further proceedings.*

