

1971

Present: H. N. G. Fernando, C.J.

MACKWOODS LTD., Appellant, and TEA, RUBBER, COCONUT &
GENERAL PRODUCE WORKERS' UNION, Respondent

S. C. 31/70—Labour Tribunal, 2/32092

*Industrial Disputes Act—Proceedings before Labour Tribunal—Evidence—
Confession made to a police officer by workman—Admissibility.*

Where, in proceedings before a Labour Tribunal, the main issue for consideration was whether a workman's services were lawfully terminated on the ground that he was guilty of theft—

Held, that a confession made to a police officer by the workman about the commission of theft was not inadmissible in evidence in a civil proceeding.

APPEAL from an order of a Labour Tribunal.

Lakshman Kadirgamar, with *P. Ramanathan*, for the employer-appellant.

T. Joganathan, for the applicant-respondent.

Cur. adv. vult.

February 14, 1971. H. N. G. FERNANDO, C.J.—

In this case the President of the Labour Tribunal ordered the re-instatement of a workman who had been employed as a lorry driver by the Applicant Company. The President has rightly stated that the main issues for consideration were whether the workman was guilty of theft or whether he aided and abetted in the commission of theft. He made order in favour of the workman for the reason thus stated:—

“There is no evidence for me to conclude that he had any hand in the theft or aided and abetted in the commission of the theft.”

It is apparent that the President either overlooked a statement which the workman made to the Police, or else thought that statement to be inadmissible as being a confession made to a Police officer. Such a confession is not inadmissible in a civil proceeding.

In that statement, the workman clearly admitted that the labour contractor's representative, one Kitchel, whose duty it was to load and unload tea chests on and from the lorry which the workman drove, had made a certain suggestion after some tea chests had been loaded on the lorry for transport to the Appellant's stores. That suggestion was “since these chests are not weighed again, we can remove some tea from these chests”. The workman further admitted that he agreed to this suggestion, that he drove the lorry to some place, that there some tea was put into gunny bags, and that Kitchel took away the gunny bags. There was also evidence that when the workman drove the lorry to the Appellant's store, the tea chests appeared to have been tampered with; they were therefore weighed and a shortage was discovered. The Appellant at first denied making the statement, but in cross-examination he said “I made a statement to the Police on 20th May. That was the statement that was read out to me today”.

There was thus clear evidence that by driving the lorry to the place at which tea was stolen from the chests, and by agreeing to the suggestion that the tea be removed, the workman did aid and abet the commission of the theft. But for the grave misdirection that there was no such evidence, the President would necessarily have held that the dismissal of the workman was justified. For these reasons, I set aside the order of the Tribunal with costs fixed at Rs. 105.

Order set aside.