

1974 Present : Sirimane, J., and Tittawella, J.

CEYLON WORKERS' CONGRESS, Appellant, and A. V. SUBRAMANIAM PILLAI and another, Respondents

S.C. 115/71—Labour Tribunal Case No. 12/2658—2668

Industrial dispute—Labour Tribunal—Withdrawal of an application made before it—Whether the application can be made again subsequently.

When an application before a Labour Tribunal has been dismissed with the consent of the parties, another application cannot be made subsequently as between the same parties in respect of the same dispute.

A PPEAL from an order of a Labour Tribunal.

K. Shinya, with Nihal Singaravelu, for the applicant-appellant.

P. Thuraiappah, with S. Mahendran, for the employers-respondents.

February 18, 1974. SIRIMANE, J.—

The Socialist Workers' Congress originally made an application in respect of the 11 workers who have been dismissed—Labour Tribunal Case No. 12/2241-2251. When this case came on for inquiry on the 9th February, 1970, the workers were represented by their Union, the Socialist Workers' Congress, and the parties agreed that the facts relating to all the 11 applications

are the same and that they could be disposed of together. Thereafter an application was made to withdraw the 11 applications. This motion was allowed and the applications were dismissed. No appeal was taken from this order.

About 5 months later, that is on the 21st July, 1970, the Ceylon Workers' Congress made the present application on behalf of the same 11 workmen. When this matter came up for inquiry the order in the earlier application was produced and it was submitted that in view of that order the present application cannot be maintained. The lawyers appearing for the parties addressed the President on the legal position and also referred to the replication filed by the workers where they had said that the original application was withdrawn without their knowledge or consent. It was however not denied that the Socialist Workers' Congress continued to represent the said workers on the date of the withdrawal, and it was also not denied that the said workers were in fact members of the said Socialist Workers' Congress on that date.

The President in his present order has considered the submissions made before him and he has referred to the fact that when cases come up for inquiry there is a discussion and an attempt is made to settle cases and in some cases settlements are arrived at, in other cases the applications are withdrawn and in still other cases evidence has to be led and an order made.

In view of these matters, since no attempt was made by the workers to appeal against the order made on the 9th February, above referred to, and since all Presidents are under a duty to make just and equitable orders, I do not think we would be wrong in assuming that the original President has, after discussion, addressed his mind to the facts and permitted the withdrawal of the 11 applications. His dismissal of the applications under those circumstances, not having been challenged, must remain.

In these circumstances we are unable to say that the learned President who heard the present application was wrong in the conclusion he arrived at, namely that there was already an order in respect of these 11 workmen in the earlier application and that the present application should therefore fail.

We therefore dismiss the appeal. We do not make any order as to the costs.

TITTAWELLA, J.—I agree

Appeal dismissed.