

1971

Present : Samerawickrame, J.

R. G. SILVA, Appellant, *and* SOUTHERN FREIGHTERS LTD.,
AMBALANGODA, Respondent

S. C. 117/68—L. T. Galle No. G. 3524

Industrial Disputes Act—Section 31 B. (1) (b)—Workman who has himself terminated his employment—Whether he can claim gratuity.

A workman, when he was asked by his employer to wait for some time, lost his temper and vacated his post. He did not report for work thereafter. His period of service could not be regarded as long.

Held, that the workman was not entitled to the payment of a gratuity.

APPEAL from an order of a Labour Tribunal.

A. de Z. Gunawardena, with *Bimal Rajapakse*, for the employee-appellant.

R. L. Jayasuriya, for the employer-respondent.

Cur. adv. vult.

May 5, 1971. SAMERAWICKRAME, J.—

This is an appeal against the dismissal of an application made on behalf of a workman. The President of the Labour Tribunal found that the workman had vacated his post. He stated, "Then, when he was asked by the establishment to wait for some time he had lost his temper and

vacated his post. He had not reported for work thereafter. There is no reason to disbelieve the Respondent's evidence. As Geeris Silva has vacated his post he cannot be granted any relief under the Industrial Disputes Act". I see no reason to interfere with the finding of fact arrived at by the President of the Labour Tribunal that the workman had vacated his post.

Learned counsel for the appellant submitted that the President had misdirected himself when he stated that as the workman had vacated his post he cannot be granted any relief under the Industrial Disputes Act and submitted that a gratuity might be granted even to a workman who has himself terminated employment. As a matter of law it may be correct that under Section 31B (1) (b) of the Act relief or redress may be available in respect of gratuity or other benefits even where the workman himself terminates his employment. In this case however, it cannot be said that the period of employment was long. A workman who terminates his employment in the manner set out in the order of the President after a period of service which cannot be regarded as long, does not appear to be entitled to the payment of a gratuity. The appeal is accordingly dismissed.

Appeal dismissed.