

1947 Present : Soertsz S.P.J., Keuneman J. and Canekeratne J.  
BRITISH CEYLON CORPORATION, LTD., Petitioner,  
and CROSSETTE THAMBYAH, Respondent.

S. C. 620.—IN THE MATTER OF AN APPLICATION FOR A MANDATE IN THE  
NATURE OF A WRIT OF CERTIORARI AGAINST G. CROSSETTE  
THAMBYAH, A TRIBUNAL APPOINTED UNDER THE ESSENTIAL  
SERVICES (AVOIDANCE OF STRIKES AND LOCKOUTS)  
ORDER, 1942.

*Writ of certiorari—Trade dispute referred to Tribunal for settlement—Question whether trade dispute was involved not raised before Tribunal—Possibility of raising such question before Supreme Court—Essential Services (Avoidance of Strikes and Lockouts) Order, 1942.*

Where a Tribunal appointed under the Essential Services (Avoidance of Strikes and Lockouts) Order, 1942, made an award in respect of a trade dispute, and both sides had put their cases on the footing that there was a trade dispute, the objection that there was no trade dispute involved cannot be raised for the first time before the Supreme Court in an application for a writ of certiorari to quash the award.

<sup>1</sup> (1941) 43 *New Law Reports* 566.

<sup>2</sup> (1919) 21 *New Law Reports* 145.

**A** PPLICATION for a writ of *certiorari*. This application and Application No. 619 (*Vide* (1947) 48 N. L. R. 105) were referred by Soertsz A.C.J. to a Bench of three Judges.

H. V. Perera, K.C. (with him N. K. Choksy), for the petitioner.

N. Nadarajah, K.C. (with him C. Shanmuganayagam), for the respondent.

S. Nadesan (with him N. Nadarasa), for the Ceylon General Workers' Union.

Walter Jayewardene, C.C., as *amicus curiae*.

*Cur. adv. vult.*

March 7, 1947. SOERTSZ S.P.J.—

This is an application for a writ of *certiorari* quashing an award made by a Tribunal appointed under the Essential Services (Avoidance of Strikes and Lockouts) Order, 1952. The principal ground upon which the proceedings and award in this case were called in question was that there was no trade dispute involved in this petition and that, for that reason, the Tribunal had no power to inquire into it. This objection was not taken when the petition came up before the Tribunal. Both sides put their cases on the footing that there was a trade dispute and, therefore, no occasion arose for the Tribunal to consider that question. It is too late to raise it now. If the objection had been taken, the other party might have been able to show that there was a trade dispute. There is no adequate material before us for us to consider that question. Section 8 makes the findings of the District Judge or Tribunal final. In my opinion, there has been no case made out before us for the issue of the writ applied for.

I would refuse the application.

KEUNEMAN J.—I agree.

CANEKERATNE J.—I agree.

*Application refused.*

