

1968 *Present* : Samerawickrame, J., and Wijayatilake, J.

D. L. CHANDRA DE SILVA, Petitioner, and
T. AMBAWATTA, Respondent

*S. C. 283/68—Application for Writs in the nature of a Writ
of Certiorari and/or Mandamus on T. Ambawatta, Chairman,
Conciliation Board, No. 1, Galle*

*Conciliation Board—Jurisdiction—Requirement of a dispute which arose within the
Conciliation Board area—Meaning of term “dispute”.*

A dispute between a member of the Clerical Service stationed and resident within a Conciliation Board area in Galle and the Government of Ceylon acting through an Assistant Secretary of the Ministry of Justice who functions in Colombo cannot be considered to have arisen entirely within the Conciliation Board area.

Obiter : A unilateral act, even if it be a wrongful one, cannot be said to be a dispute. A dispute involves a controversy between two parties at least and imports conflicting acts and statements by them.

APPPLICATION for writs of *certiorari* and *mandamus*.

E. R. S. R. Coomaraswamy, with *M. T. M. Sivardeen*, *V. Nanayakkara* and *M. Borelessa*, for the petitioner.

Ananda de Silva, Crown Counsel, as *amicus curiae*.

Cur. adv. vult.

December 16, 1968. SAMERAWICKRAME, J.—

The petitioner states that he submitted applications Nos. 2394 and 2395 to the respondent, who is the Chairman of the Conciliation Board No. 1 of Galle, in which applications he set out disputes which had arisen within the jurisdiction of the said Conciliation Board of Galle. He further states that the respondent has unlawfully refused to refer the said disputes for inquiry to the Conciliation Board. He applies for a writ of *certiorari* to quash the order of the respondent refusing to refer the complaints contained in his applications to the Conciliation Board and for a writ of *mandamus* compelling him to do so.

Mr. E. R. S. R. Coomaraswamy appearing for the petitioner, stated that his client had filed the applications before the Board not because he expected the Board to effect a settlement of the disputes, but in view of the fact that when he filed an action, he might be met with the objection that his action was bad in the absence of a certificate from the Chairman of the panel of the Conciliation Board to the effect that it has not been possible to effect a settlement. Mr. Ananda de Silva, Crown Counsel, appearing as *amicus curiae*, said that the view taken by the Attorney-General was that the matters set out by the petitioner in his applications were not such as fell within the purview of the Conciliation Board and that an action in respect of those matters could be instituted without a certificate from the Chairman of the panel of Conciliators of the Conciliation Board. He further said that the Court and the petitioner could feel assured that a different position would not be taken up if and when an action was filed.

In Application No. 2395, the petitioner states that the first two persons who were made respondents to his application and who at the relevant times held the office of Magistrate, Galle, had issued letters to him calling upon him to show cause and imposing disciplinary penalties on him though they had no authority to do so. The petitioner further states that he had been called upon by the Assistant Secretary to the Ministry of Justice to show cause why he should not be dismissed or otherwise punished by notice dated the 12th July, 1967. He states that the Assistant Secretary too has acted without authority.

The 3rd respondent to this application was Her Majesty's Attorney-General, Colombo. He states that a dispute has arisen between him and the respondents in respect of the said matters referred to above

and of his present status as clerk in Grade II of the Executive Clerical Class of the General Clerical Service of the Government.

The issue of letters by the 1st and 2nd respondents and the service of notice to show cause by the Assistant Secretary may be considered to have taken place within the jurisdiction of the Conciliation Board area. A unilateral act, however, even if it be a wrongful one, cannot be considered to be a dispute. A dispute involves a controversy between two parties at least and imports conflicting acts and statements by them. A dispute between a member of the Clerical Service stationed and resident within the Conciliation Board area and the Government of Ceylon acting through an Assistant Secretary of the Ministry of Justice who functions in Colombo, cannot be considered to have arisen entirely within the Conciliation Board area. I am, therefore, of the view that the dispute set out in application No. 2395 is not one which the Conciliation Board No. 1, Galle, had power to inquire into. In view of this finding, it is unnecessary to consider the elaborate points of law raised and discussed at the argument.

Learned counsel for the petitioner intimated to us, after the argument, that his client does not propose to file an action in respect of the matters set out in application No. 2394 and that he was not asking for an order in respect of that matter.

The application is, therefore, dismissed, but in the circumstances, without costs.

WJAYATILAKE, J.—I agree.

Application dismissed.
