

1971

*Present : de Kretzer, J.*

T. B. D. RUMBLAN, Appellant, and THE CEYLON PRESS  
WORKERS' UNION, Respondent

*S. C. 78 of 1969—L. T. 219896*

*Industrial Disputes Act—Lawful dismissal of a workman—Whether compensation can be awarded to him.*

Where the dismissal of a workman who has caused continuing loss to his employer is justified, no compensation can be awarded to him by a Labour Tribunal.

**A**PPEAL from an order of a Labour Tribunal.

*R. L. Jayasuriya*, for the employer-appellant.

*Nimal Senanayake*, with *Nihal Singaravelu*, for the applicant-respondent.

*Cur. adv. vult.*

June 10, 1971. DE KRETZER, J.—

The Ceylon Press Workers' Union filed an application in the Labour Tribunal on the 18th of March, 1964, on behalf of S. A. Romiel, who had been a "Cylinder cum Plating Machine Minder" in the employ of the A & R Trading Company, complaining that he had been dismissed on 21.2.64 "without notice or any justifiable reason" and praying for—

- (1) reinstatement with back wages;
- (2) such other and further relief that the Tribunal shall seem meet.

The application was inquired into by the President on 21.6.68 and the lawyer for the applicant, who neither gave nor called evidence, closed the case "seeking for a reasonable compensation to the workman concerned." The President reserved his order which was not delivered until 21st May, 1969. He held that the dismissal of the workman was justified but considered that in the exercise of his right to make a just and equitable order, he had to accede to the request that there should be an award of compensation. Taking the contract of employment A1 as a guide to the measure of damages, he ordered compensation in Rs. 1,200. The Respondent-Company has appealed from this order.

It appears to me that perhaps due to the long lapse of time between hearing and judgment, the President had lost sight of the fact that the evidence was that the damage which the applicant had caused to the machine which resulted in his dismissal was one that would cause continuing loss to the respondent, and that therefore it would be neither just nor equitable to give the person who had caused such damage compensation. The President was apparently not familiar with the decision reported in 1954 (1) L. L. J. 805, the case of *The Equitable Coal Company, Limited v. Alugusing and another*<sup>1</sup>, where it was held that where the dismissal or damage is proper and justified, no compensation can be awarded.

The appeal is allowed, with costs payable to the applicant.

*Appeal allowed.*

<sup>1</sup> 1954 (1) L. L. J. 805.