

1966 Present : Abeyesundere, J., and G. P. A. Silva, J.

BRITISH CEYLON CORPORATION LTD., Appellant, and **N. KRISHNADASAN**
and 3 others, Respondents

*S. C. 488 /65-Application for the issue of a Mandate in the nature of a
Writ of Certiorari on N. Krishnadasan and three others*

*Certiorari-Arbitrator appointed to settle an industrial dispute-Circumstances when he should
be a person appointed by the Judicial Service Commission-Industrial Disputes Act.*

A person who has not been appointed by the Judicial Service Commission to function as a judicial officer is disqualified from being appointed as an Arbitrator under the Industrial Disputes Act for the purpose of settling by arbitration an industrial dispute involving questions of the wrongful dismissal of employees and the relief that should be given to them. Such questions relating to contracts of employment can be determined only by a Court of law.

APPLICATION for the issue of a Writ of Certiorari. H. V. Perera, Q.G., with Lakshman Kadirgamar, for the Petitioner. K. Palakidnar, for the 2nd Respondent.

January 21, 1966. **ABEYESUNDERE, J.-**

This is an application for a Writ of Certiorari to quash the award made by the first respondent purporting to function as an Arbitrator appointed under the Industrial Disputes Act for settlement by arbitration of an industrial dispute between the second respondent, a Trade Union, and the petitioner in regard to the dismissal of the six employees specified in para. 5 of the petition.

The first respondent was appointed as arbitrator by the then Minister of Labour and Housing and the dispute that was required to be settled by arbitration was as follows :-

"Whether the termination of the services of the following employees is justified and to what relief each of them is entitled :-

1. B. Kusumawathie,
2. R. Jinadasa,
3. D. K. P. Nandawathie,
4. S. D. Eugene,
5. K. K. Leelawathie,
6. W. Ranasinghe."

The question whether the termination of the services of the aforesaid employees was justified and the question as to what relief should be granted to them, if the termination of their services was not justified, should both be determined on the basis of the existing contracts of employment. They were, therefore, questions which could have been determined only by a Court of law. The first respondent, not having been appointed to function as a judicial officer by the Judicial Service Commission, had no power to determine the two aforesaid questions and the award purported to have been made by him is consequently invalid.

I therefore set aside the award dated 28th October, 1965, made by the 1st respondent and published in Gazette No. 14,659 of 26th November, 1965.

The petitioner is entitled to his costs of the proceedings in this court and such costs shall be paid by the 2nd respondent.

G. P. A. SILVA, J.-I agree.

Application allowed.

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