

1968

*Present : Alles, J.*

CEYLON TRANSPORT BOARD, Appellant, *and*  
N. M. J. ABDEEN, Respondent

*S. C. 106/67—Labour Tribunal, 10/161*

*Labour Tribunal—Misdirection on facts—Right of appeal—“ Question of law ”—  
Industrial Disputes Act, s. 31 D (2).*

Where the President of a Labour Tribunal misdirects himself on the facts, such misdirection amounts to a question of law within the meaning of section 31D (2) of the Industrial Disputes Act.

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

*N. Satyendra*, for the Employer-Appellant.

No appearance for the Applicant-Respondent.

January 30, 1968. ALLES, J.—

This was an application by the Ceylon Transport Board to terminate the services of the applicant-respondent who was a conductor employed under them. The allegation against the applicant-respondent was

that he altered figures in tickets issued by him and committed misappropriation of various sums of money. At the domestic inquiry that was held by the employer the applicant pleaded guilty to the fabrication of these documents and the misappropriation of these monies, and the applicant's services were terminated with one month's wages. Thereafter the applicant made an application to the Labour Tribunal against the order made by the Transport Board.

The President ordered the Transport Board to reinstate the applicant with effect from 21st August, 1967, and directed that no back wages should be paid to him. In the course of the inquiry evidence was led of the past record of the applicant. The Depot Operating Assistant, Mr. Wimalasena, gave evidence and it was established through his evidence that up to 1966 the applicant had been guilty of various lapses for which he was punished. This evidence was not considered by the President in the course of his order; the accused did not give evidence to contradict the evidence of Wimalasena and documents R4 and R6 were placed before the Labour Tribunal to prove that the accused had pleaded guilty to his previous lapses. The President completely failed to consider this evidence. In the course of his order he has in the penultimate paragraph of his order stated: "In my view there is something more to the case than what was told before me. This applicant was *taken as good up to August, 1966*. But suddenly somebody appears to have had a dislike for him and has gone in a voyage as it were to pinpoint the mistakes of this applicant."

It is in pursuance of these observations that the President has taken the view that the punishment meted out to the worker was excessive and that the termination was unreasonable.

The President has clearly misdirected himself on the facts and this misdirection amounts to a question of law. Under Section 31 D (2) of the Industrial Disputes Act this is an order which is properly reviewable by this Court. I therefore set aside the order of the President and I direct that the order made by the Transport Board terminating the services of the applicant was justified.

The appeal is therefore allowed, and the order of the President is set aside.

*Appeal allowed.*