

## NOTES OF CASES

### DISMISSAL FROM PUBLIC EMPLOYMENT

*Vasudevan Pillai v. City Council of Singapore*<sup>1</sup>

*Vasudevan Pillai v. City Council of Singapore* brings to the forefront the increasing number of situations involving the interplay of private law and public law principles. In this case, the plaintiffs who were daily rated labourers employed by the defendant authority were dismissed for their refusal to carry out certain orders which they alleged were outside the scope of their employment. They claimed a declaration that the dismissal was wrongful, payment of their salary from the date of their dismissal to the date of judgment, and damages for wrongful dismissal.

The basis of the plaintiffs' claim was that the defendant council had failed to comply with rules of natural justice in dismissing them. Under the regulations relating to daily rated labourers, when the conduct of an employee was considered with a view to his dismissal or punishment, the defendant authority was required to order an enquiry. Such an enquiry was in fact held but it was contended that the officer conducting the enquiry had failed to record the statements of all the witnesses in the presence of the plaintiffs and also that he had supplied the deputy president who dismissed the plaintiffs with information without the latter's knowledge. The trial judge held that the officer conducting the enquiry was acting in a quasi-judicial capacity and that he had failed to act in accordance with rules of natural justice but that the defect was cured by the appeal proceedings before the sub-committee of the establishments committee. The decision was affirmed by the Federal Court of Appeal. Thomson L.P. approached the case from an entirely private law angle. He held that the plaintiffs had, in refusing to obey the orders issued to them repudiated their contract and thus entitled the city council to dismiss them summarily. He made no reference to the rules prescribed for the dismissal of such employees. He rejected as relevant the natural justice argument on the ground that there was no evidence that it was a condition of the plaintiffs' contract of employment that "if the employee repudiated the contract then the employer should not be at liberty to accept that repudiation unless he conducted an inquiry into the circumstances in which it took place and that that inquiry should be conducted in accordance with the principles of so-called natural justice". This reasoning seems somewhat over-simplified. Its effect is to render nugatory the procedural code enacted for the dismissal of daily rated workers. The rules state:

"1. The maintenance of discipline is essential and since proof of misconduct or dereliction of duty will be required before an employee can be dismissed, it is necessary for departments to pay particular attention to the question of disciplinary enquiries and the correct procedure to be adopted in disciplinary cases."

Misconduct which was stated to warrant dismissal was defined to include "wilful disobedience to specified orders". The rules then prescribe:

"When the conduct of an employee is being considered with a view to his dismissal or punishment, the following procedure must be followed. . . ."

The procedure prescribed for dismissal for wilful disobedience to specified orders is thus mandatory. The plaintiffs' dereliction of duty constituted misconduct in the nature of wilful disobedience to specified orders and their dismissal was thus governed by the statutory rules. This was so recognized by the defendant authority which in

1. [1965] 2 M.L.J. 51.

dismissing the plaintiffs, proceeded under the regulations. Indeed, it was held by Wee C.J. (Singapore) that the plaintiffs had been wrongfully dismissed under these regulations, reversing the decision of the trial judge on the ground that where a quasi-judicial tribunal had failed to observe rules of natural justice, such failure could not be cured by the fact that on an appeal, the appellate tribunal had so conducted its proceedings as to observe all the rules of natural justice. However, after coming to this conclusion, Wee C.J. then reached the same decision as Thomson L.P. i.e. that since the plaintiffs in refusing to obey the orders issued to them had repudiated their contract of employment, the defendant authority was entitled to dismiss them summarily and hence the dismissal was not wrongful. This is indeed very curious for if the plaintiffs had been wrongfully dismissed under the regulations it is difficult to understand how much dismissal could have been justified under the law of master and servant in the face of the statutory gloss on the dismissal of daily rated workers. It is perplexing to find that so often, whenever there is a conflict between public law and private law principles, the latter are held to prevail even in the face of mandatory statutory provisions.<sup>2</sup> The concurrence of Barakbah C.J. (Malaya) with the decisions of the other two members of the Court who differed on the relevance of the procedural code governing the plaintiffs' dismissal is another remarkable feature of the case.

2. *Cf. Vidyodaya University Council v. Silva* [1965] 1 W.L.R. 77. See note in (1965) M.L.R. 475.