CASES

DECIDED BY

THE SUPREME COURT OF CYPRUS

IN ITS ORIGINAL JURISDICTION AND ON APPEAL FROM THE DISTRICT COURTS.

[VASSILIADES, P., L. LOIZOU, HADJIANASTASSIOU, JJ.]

1971
Jan. 23
—
"AVGI" YEROLAKKOS BUSES CO. LTD.
v.
ANDRIANI COSTA PSATHA AND ANDREAS ANTONIOU AS ADMINISTRATORS OF THE ESTATE OF COSTAS CHRISTOU, DECEASED

"AVGI" YEROLAKKOS BUSES CO. LTD.,
Appellants,

v.

ANDRIANI COSTA PSATHA AND ANDREAS ANTONIOU AS ADMINISTRATORS OF THE ESTATE OF COSTAS CHRISTOU, DECEASED,
Respondents.

(*Case stated No.* 148).

Master and Servant—Termination of employment—Section 3 *of the Termination of Employment Law*, 1967 (*Law No.* 24 *of* 1967, *which came into force on February* 1, 1968)—*Continuous employment—Computation of period of employment—Change of employment on transfer of transport business as a going concern—Transfer within the meaning of proviso to paragraph* 3 *of the Second Schedule to the Law—Period of employment with former employer rightly taken into consideration in the assessment of the compensation payable by reason of the termination of employment of the employee in the instant case—Cf.* infra.

Master and Servant—Termination of employment—Award by the statutory Tribunal of compensation under section 3 *of the said Law* (supra)—*Discretion of Tribunal under paragraph* 4 *of the First Schedule to the Law, properly exercised—Cf.* supra.

Arbitration Tribunal—Set up under Law No. 24 *of* 1967—*See* supra.

Statutes—Retrospective effect—Principles applicable in ascertaining whether a statute has retrospective effect—Intention of the

legislator sufficiently expressed in the relevant text of the statutory provision i.e. *in paragraph* 2 *of the Fourth Schedule to the aforesaid Law No.* 24 *of* 1967 (supra)—*Construction of statutes—Principles applicable.*

Termination of Employment Law, 1967—*See* supra—*See also First Schedule thereto, paragraphs* 1 *to* 4 *; Second Schedule Part I paragraphs* 1 *and* 3, *Part II paragraph* 4, *Part IV ; Fourth Schedule paragraphs* 1, 2 *and* 3 *; section* 16 (1) (2) *of the same Law—Cf. The English Redundancy Payments Act,* 1965, *section* 8 (1) *and* (2) *; The English Contracts of Employment Act* 1963, *Schedule* 1, *paragraph* 10 *sub-paragraphs* 1 *and* 2.

Employment—Termination of—Compensation—Computation etc.—See supra.

This is an appeal (by way of case stated) by the employers against the award of the Arbitration Tribunal set up under the Termination of Employment Law, 1967, whereby they awarded under section 3 of the statute compensation, assessed at the sum of £163.500 mils, to one of the appellants' employees for his dismissal in June, 1968 (13 June, 1968). The said employee died shortly after the institution of the relevant proceedings. The aforementioned Law was enacted in 1967 but it came into operation some time later on *viz.* on February 1, 1968.

The facts of the case are shortly as follows :

The deceased employee was originally employed by two gentlemen of Yerolakkos village, as driver of their omnibus from March, 1956 until November 22, 1965, when they transferred their said vehicle to the present appellants as a going concern, with its licences, route permits etc. ; the appellants continued ever since to use the omnibus much as before, with the same driver (the said deceased) now in their employment. In June, 1968 (13 June 1968) the appellants terminated the aforesaid employment of their driver. Soon after the employee applied to the appellant Company for compensation under the provisions of section 3 of the Law (*supra*). The matter eventually reached the Arbitration Tribunal as a dispute under the Law. Pending the proceedings the employee died on August 11, 1968 ; and the proceedings were continued by his personal representatives.

On June 13, 1969, the Arbitration Tribunal awarded to the estate of the deceased employee £163.500 mils compen-

sation, under the provisions of section 3 of the Law, reckoning the period of employment according to the contents of the First, Second and Fourth Schedules to the statute, taking into account, *inter alia*, part of the period of the employee's said service with his former employers, precisely the period as from January 1, 1960 (*infra*) until November 22, 1965, when the appellants acquired the business as a going concern, taking over together with the omnibus its driver, the employee, as stated above.

The question is whether the period from January 1, 1960 (the appointed day fixed in paragraph 2 of the Fourth Schedule to this statute, *infra*) until November 22, 1965 (when the employee took employment in the service of the appellants as above) can in law be taken into account in reckoning the period of employment in respect of which the employee is entitled to compensation under section 3 of the statute. The Arbitration Tribunal, as stated above, decided the question in the affirmative; and calculated the compensation accordingly. On the contrary, the appellants contended that the correct answer must be in the negative, inasmuch as, in the absence of an express provision, the Termination of Employment Law, 1967, cannot be applied retrospectively so as to cover employments prior to the date on which it came into operation (February 1, 1968).

The material part in section 3 of the Law reads:

"3. Where on or after the appointed day (*i.e.* February 1, 1968) an employer terminates .... the employment of an employee .... the employee shall have a right to compensation .... calculated in accordance with the First Schedule."

The First Schedule makes reference to the Fourth Schedule under which the compensation has to be calculated for the termination of employment by reason of redundancy. The second paragraph of this Fourth Schedule provides that:

"No payment shall be made in respect of any employment before the 1.1.1960."

On the other hand paragraph 3 of the Second Schedule provides that it applies "only to employment with the same employer", provided that:

".... when the business of an employer is transferred to another as a going concern then weeks of employment

with the former employer shall be counted in computing the period of employment with the latter employment."

In the instant case it is not disputed that the business of the omnibus of the former employers of the employee was transferred "as a going concern" to the appellants on November 22, 1965; the employee taking employment with the latter at the same time and continuing in such employment until June, 1968, when his services were terminated as stated earlier.

Dismissing the appeal, the Court :—

Held, (1). Statutory provisions must be construed and applied so as to serve the object which the legislator intended to serve by such provisions; the Court finding the legislator's intention from the text of the law construed as a whole.

(2) It is quite clear that a right was created by the Termination of Employment Law, 1967, for the benefit of all employees to get compensation for the termination of their employment after the date on which the said Law came into force (February 1, 1968); and that the compensation must be found as provided in the statute by reference (as rightly held by the Arbitration Tribunal) to periods of service prior to the date on which the Law came into operation.

(3) If that amounts to retrospective effect or retrospective application of the Law such was clearly, in our opinion, the intention of the legislator sufficiently expressed in the relevant provisions of the statute (see, particularly, the second paragraph of the Second Schedule, *supra*).

(4) Case remitted to the Arbitration Tribunal for determination accordingly, with a note that the Tribunal has correctly interpreted and applied in the instant case the relevant provisions of the Termination of Employment Law, 1967 (Law No. 24 of 1967).

Order accordingly.

Cases referred to :

G. D. Ault (Isle of Wight) Ltd. v. *Gregory*, reported in I.T.R. (Industrial Tribunal Reports) Vol. 2, 1966-67, p. 301;

A. W. Champion Ltd. v. Scoble, reported in the said same Vol. 2, at p. 411;

Dallow Industrial Properties Ltd. v. *Else, Dallow Industrial Properties* v. *Curd*, reported in the said same Vol. 2, at p. 304 ;

The Southern Electricity Board v. *Collins* [1969] 2 All E.R. 1166 ;

R. v. *Oliver* [1944] K.B. 68, at p. 76 ;

Croxford's case [1936] 2 K.B. 253, at p. 281.

Case stated.

Case stated by the Chairman of the Arbitration Tribunal relative to his decision of the 13th June, 1969, in proceedings under section 3 of the Termination of Employment Law, 1967 (Law No. 24 of 1967) instituted by Andriani Costa Psatha and Another in their capacity as administrators of the estate of Costas Christou, deceased, against " Avgi " Yerolakkos Buses Co. Ltd., whereby the sun of £163.500 mils compensation for the unjustified dismissal of their employee, the said late Costas Christou, was awarded to the applicants in their said capacity.

M. Christofides, for the appellants.

No appearance for the respondents.

Cur. adv. vult.

VASSILIADES, P. : Mr. Justice Hadjianastassiou will deliver the first judgment.

HADJIANASTASSIOU, J. : This is an appeal by employers " Avgi " Yerolakkos Buses Co. Ltd., against a decision of the Tribunal under the Termination of Employment Law, 1967, dated 13th June, 1969, whereby they made an award of a payment in the sum of £163.500 mils for the dismissal of one of their employees, the late Costas Christou.

The facts found by the Tribunal were as follows :— That the respondents before them, the present appellants, were registered on the 22nd November, 1965, as a transport company. Their registered office is at Yerolakkos. They mainly run a bus service between Yerolakkos and Nicosia. They also hire their buses for organized tours, particularly during the summer. At all material times to this case, they owned the same number of buses, *i.e.* seven. Five of them were driven by the five shareholders and the other two were driven by the two employees of the respondents, one of whom was the deceased Costas Christou.

Prior to the Company's incorporation, the deceased was employed from the 14th March, 1956, as a driver by a certain Nicolas Argyrou, who was carrying on a transport business in association with one of the company's present shareholders, namely, Stavros Kanonistis. On their incorporation, the respondents bought the buses and the business of Nicolas Argyrou and Stavros Kanonistis, as a going concern. They also took over the deceased as a driver. Neither one of the respondents' two employees belonged to a trade union. There was no agreement between them and the respondents regulating their terms and conditions of employment. Early in 1968 they made certain claims which the respondents turned down. Following the respondents' refusal to discuss their claims, one of them joined the PEO and the other the SEK trade unions.

By a letter dated the 16th April, 1968, both trade unions put the same claims to the respondents who again refused to negotiate. The trade unions then asked the Nicosia District Labour Officer to mediate. By a letter dated the 29th May, 1968, the District Labour Officer invited both sides to a meeting at his office, which was in fact held on the 3rd June, 1968. At this meeting, they negotiated on the basis of the claims submitted. They reached an agreement on all the claims apart from the increase in wages. The respondents asked for time to consider this claim and promised to give their reply as early as possible. Before giving their reply, the respondents called both employees to their office and offered them an increase of £0.500 mils per week. They warned them that if they rejected it they would both be dismissed, but both of them rejected this offer.

Two days later, *i.e.* on the 13th June, 1968, the respondents notified the deceased, as well as the other employee, in writing, that their services would be terminated on the 1st July, 1968, because of lack of work and for reasons of economy. On the same day the deceased saw the respondents and, for reasons which he did not disclose to them, told them that he did not want to work the period of the notice and left. Soon after his dismissal he found new similar employment with approximately equal wages. The deceased died on the 11th August, 1968, from a stroke. He had in the meantime applied to the Tribunal for compensation and payment in lieu of notice.

It would be observed that the deceased was offered the same job by the appellants, but there is no evidence on what terms the late Costas Christou accepted his new employment, and on terms no less favourable. After

about two years and six months, however, in the employment of these appellants, the appellants dismissed him, and the sole question was whether the applicant was dismissed by reason of redundancy. The Tribunal say that the reason why the employers dismissed him was not for reasons due to redundancy. The Tribunal had this to say at pp. 7 and 8 :—

> " We accept that his dismissal was due to his union membership and the claims he submitted, *i.e.* for one of the reasons which section 6 (2) (*a*) of the law specifically provides shall never constitute valid reasons for dismissal."

In my judgment, one has only to accept those facts as found by the Tribunal to realize that this could not conceivably be said to be a case of dismissal by reason of redundancy. In any event, in fairness to counsel for the appellants, he has conceded that his clients have failed to discharge the rebuttable presumption cast upon them under the provisions of section 6 (1) of our law, that the termination of the employment of this employee, the late Costas Christou, by the employers has not been for one of the reasons set out in section 5. See *A. W. Champion Ltd.* v. *Scoble*, 1966-67 I.T.R. Vol. 2, 411.

As it has been stated earlier, the late Mr. Christou, although he had been employed by Mr. Nicolas Argyrou and Mr. Stavros Kanonistis, had in fact only been employed by "Avgi" Yerolakkos Buses Co. Ltd. since the takeover for a period of 130 weeks ; if the administrators could only count that period of 130 weeks during which the late Mr. Christou was employed by the appellants, then they did not satisfy the requirements of paragraphs 3 and 4 (*c*) of the Second Schedule of Law 24/67 of the deceased having been in continuous employment for the purposes of compensation.

I find it constructive to deal first with section 3 of the Termination of Employment Law, 1967 (Law No. 24/67) which came into force on the 1st February, 1968 :—

> " Where on or after the appointed day, an employer terminates for any reason other than those set out in section 5 of the employment of an employee who has been continuously employed by him for not less than twenty-six weeks, the employee shall have a right to compensation payable by his employer and calculated in accordance with the First Schedule :
>
> Provided that an employer and an employee may by agreement in writing made at the time the employee enters into the employment extend the

period of continuous employment provided by this section to a maximum of one hundred and four weeks."

That requires one to turn to the First Schedule to the Termination of Employment Law, 1967, which is as follows :-

" 1. Any compensation awarded by the Tribunal to an employee under section 3 shall be assessed as set out in this Schedule.

2. The compensation shall in no case be less than the employee would have received had he been declared redundant by his employer and had been entitled to a redundancy payment under Part IV, as calculated under the Fourth Schedule.

3. The compensation shall in no case exceed one year's wages.

4. Save as provided by paragraphs 2 and 3 of this Schedule, the Tribunal shall have complete discretion in their award. They shall, however, in assessing the award give consideration to, *inter alia*, the following :—

(*a*) the wages and any other emoluments of the employee ;

(*b*) the length of service of the employee ;

(*c*) the loss of career prospects of the employee ;

(*d*) the actual circumstances of the dismissal ;

(*e*) the age of the employee."

With regard to computation of period of employment, one has to look at the Second Schedule to the same law, and paragraph 1 states that the period of employment shall be calculated in weeks. Paragraph 3 is in these terms :—

" The foregoing provisions of this Schedule apply only to employment with the same employer : Provided that when the business of an employer is transferred to another employer as a going concern then weeks of employment with the former employer shall be counted in computing the period of employment with the latter employer."

Then in Part II under the heading of " Continuity of Employment ", paragraph 4 to the same Schedule reads :—

" The continuity of employment shall not be broken by any of the following :—

(*a*) .....

(*b*)

(*c*) a change in the employer as set out in the proviso to paragraph 3 of this Schedule."

I now turn to Part (IV) under the heading " Redundacy ", and section 16 (1) of the law, so far as relevant reads :—

" Where on or after the appointed day, the employment of an employee who has been continuously employed for one hundred and four weeks or more by the same employer is terminated because of redundancy the employee shall be entitled to a redundancy payment from the Fund :

(2) The length of the period of employment and whether or not the employment has been continuous, shall be decided, for the purposes of sub-section (1), in accordance with the Second Schedule "

It would be observed that the "same employer" referred to in section 16 sub-section 1, is in the present case " Avgi " Yerolakkos Buses Co. Ltd., and the employment being 130 weeks.

With regard to the amount of the redundancy payment, I turn to Schedule 4 of the law, and the relevant provisions in that Schedule are paragraphs 1, 2 and 3 which read :—

" 1. An employee who becomes redundant within the meaning of section 18 shall receive a redundancy payment from the Fund calculated as follows :—

(*a*) two weeks' wages for each period of fifty-two weeks of continuous employment up to a maximum of six years ;

(*b*) one week's wages for each period of fifty-two weeks of continuous employment in excess of six years up to a maximum of twenty years' service in all.

2. No payment shall be made in respect of any employment before the 1st January, 1960.

3. The length of the period of employment and whether or not the employment has been continuous shall be decided in accordance with the Second Schedule "

The first question which I have to consider in this appeal is, therefore, what is meant upon the true construction of the words " when the business of an employer is transferred to another employer as a going concern " which are to be found in the proviso to paragraph 3 of the Second Schedule ; and the second is whether weeks of employment with the former employer, namely Nicolas Argyrou and Stavros Kanonistis, shall be counted in computing the period of employment with the latter employer.

There is no doubt that the wording of our own sections of Law 24/67 has been modelled on the lines of the English Redundancy Payments Act, 1965, and the Contracts of Employment Act, 1963. I would, therefore, propose quoting some relevant sections from the English Acts. In accordance with the requirements of section 8 (1) of the Redundancy Payments Act, 1965, an employment must be a continuous employment for a period of 104 weeks. Section 8 (2) of the Act, however, provides as follows :—

> " Subject to the preceding sub-section, and to the following provisions of this section, the provisions of Schedule 1 to the Contracts of Employment Act, 1963, (computation of period of employment) and the provisions of any order for the time being in force under section 7 of that Act in so far as it modifies that schedule, shall have effect for the purposes of this part of the Act, in determining whether an employee has been continuously employed for the requisite period."

Schedule 1 of the Contracts of Employment Act, 1963, and the relevant provision in that schedule is paragraph 10 sub-paragraphs 1 and 2. Sub-paragraph 1 provides :—

> " Subject to this paragraph, the foregoing provisions of this Schedule relate only to employment by the one employer."

Sub-paragraph 2 provides :—

> " If a trade or business or an undertaking (whether or not it be an undertaking established by or under an Act of Parliament) is transferred from one person to another, the period of employment of an employee in the trade or business or undertaking at the time of the transfer shall count as a period of employment with the transferee and the transfer shall not break the continuity of the period of employment."

Now in *G. D. Ault (Isle of Wight) Limited* v. *Gregory*, reported in I.T.R. Vol. 2, 1966–67, p. 301, the headnote reads :—

> " Continuous employment—whether employment continuous following transfer or separate part of employer's business.
>
> The references in Schedule 1 to the Contracts of Employment Act, 1963, to the transfer of a trade or business include the transfer of any undertaking which is conducted by the owner as a separate and self-contained part of his operations in which assets, stock in trade and the like are engaged. Thus an employee's employment will not be broken on his transfer to new employment with the purchaser of a separate part of his former employer's business."

Diplock, L. J., who delivered the first judgment of the Queen's Bench Division, in dismissing the appeal from the decision of the Industrial Tribunal, had this to say at p. 303 :—

> " The agreement which I have read is in my view as plain an example of an agreement for the sale of a business as one could find. It sells the whole of the stock in trade ; it sells the plant and equipment ; it purports to assign the benefit of all contracts, and in effect Brading & Blundell part with the goodwill of their business in the Isle of Wight by entering into a covenant not to carry on that business any further.
>
> The only question in this case as I see it is whether paragraph 10 (2) of Schedule 1 to the Contracts of Employment Act, 1963, where it speaks of a trade or business or an undertaking being transferred from one person to another, applies only, as Mr. Turriff has contended it applies when the whole of the business activities of the transferor are transferred to the transferee, and it is said that in the case of Brading & Blundell they had some other business activities at Reading.
>
> In my view, where the sub-paragraph refers to the transfer of a trade or business, that covers and includes the transfer of any trade business or undertaking which is run by the owner as a separate and self-contained part of his operations in which assets, stock in trade and the like are engaged. It may be an individual may carry on two different trades at different times, and if he transferred one of them, then clearly in my view it would be within the sub-paragraph ; or he may carry on the same trade at

different places, but if he maintains it as a separate and self-contained part of his operations, as plainly this was maintained according to the agreement to which I have referred, then in my view the transfer of that separate part of his operations carried on in the particular trade is a transfer from one person to another of a trade or business within the meaning of paragraph 10 (2).

I would observe in passing that the reference in that sub-paragraph to the employee is not to the employee of the employer but the employee in the trade or business or undertaking at the time of the transfer.

Mr. Gregory was an employee in the business at the time of the transfer, and accordingly he is entitled to count his service with Brading & Blundell in the period for which he is entitled to redundancy payment."

In *Dallow Industrial Properties Limited* v. *Else, Dallow Industrial Properties* v. *CURD*, reported in Vol. 2, 1966/67 I.T.R. the headnote reads at p. 304 :—

"Continuous employment—change of employer on purchase of factory premises—whether transfer of a business.

The respondents were employed by JI Ltd. at a factory in Luton. In 1962 the manufacturing business of JI Ltd. was transferred to Bristol and the factory premises put up for sale. Pending the sale the company used the premises for storage and the respondents were employed there, one as a maintenance worker and the other as a security officer. In 1964 the factory premises were sold to the appellants. The respondents entered their employ but 101 weeks were dismissed. An Industrial Tribunal awarded each of the respondents a redundancy payment, having decided that their employment with JI Ltd. and the appellants was to be regarded as continuous. The appellants appealed.

Held : The respondents had not been employed for the requisite period of 104 weeks because their periods of employment with JI Ltd., and the appellants could not be considered as continuous within the provisions of the Redundancy Payments Act, 1965, and the Contracts of Employment Act, 1963. In order for employment to be continuous with different employers it was necessary for there to

have been a transfer of a business, nor merely a change in ownership of an asset but the continuation of operations carried on by the trader. In this case only the premises were transferred, not a business or undertaking. The appeals would be allowed."

Applying that construction of the relevant sub-paragraph of the Schedule to the English Act of 1963 to the present case, *viz.* to paragraph 3 of the Second Schedule to the Law 1967, it is plain to me that the former owner did transfer to the appellants as a going concern the business of transport and, therefore, is within the meaning of the said paragraph 3 of the Second Schedule. Since, therefore, the late Mr. Christou was an employee in the business at the time of the transfer, he is accordingly entitled to count his services with his former employers in computing the period of employment with the latter employers, the appellants. I would, therefore, as at present advised, take the view that the Tribunal came to a right conclusion, that in assessing the amount of compensation payable to the administrators of the estate of the late Mr. Christou, took into consideration the period of employment with the former employers as from the 1st January, 1960. Cf. *The Southern Electricity Board* v. *Collins* [1969] 2 All E.R. 1166.

Counsel for the appellants, however, mainly maintained that with regard to the calculation of the quantum of the payment to the late Mr. Christou, the Tribunal should have calculated on the basis of employment as from the 22nd November, 1965, and not earlier, since Law 24/67 does not contain clear provisions as to its retrospective effect. I am content to adopt what has been said by Scott, L.J., in *Croxford's* case [1936] 2 K.B. 253 at p. 281 :—

> "I should like to make this observation about the principle called in aid by the respondent's counsel in *Norman's* case—namely, that which is stated and explained on p. 186 of the 7th ed. of Maxwell on the Interpretation of Statutes. That page seems to me to contain an almost perfect statement of the principle that you do not give a statute retrospective operation unless there is perfectly clear language showing the intention of Parliament that it shall have a retrospective application."

But if the language is plainly retrospective, it must be so interpreted. See *R.* v. *Oliver* [1944] K.B. 68 at p. 76.

When one reads the wording of paragraph 3 of the Second Schedule to the Law 24/67, in conjunction with

paragraph 4 (*c*) of the same Schedule, I am satisfied that the legislature expressed its intention in perfectly clear language, that it should have a retrospective application. Although it is embarrassing to the new employer who has to pay a bigger amount of compensation to his employee, nevertheless, the position in law is clear, and I would, therefore, dismiss this contention of counsel.

With regard to the quantum of compensation awarded to the administrators of the estate of the late Mr. Costas Christou, counsel has further contended that the Tribunal should have awarded the minimum amount allowed under the First Schedule to the law.

The Tribunal in assessing the amount of compensation, has taken into consideration that the deceased was dismissed from service on the 13th June, 1968, and that his wages were £8.500 mils per week. In computing the period of employment the Tribunal had reached the conclusion that the deceased completed 8 periods of 52 weeks of continuous employment. The finding of the Tribunal was that the applicants were entitled, according to Schedule 1, to a minimum of 14 weeks wages, *viz.* £119.000 mils and a maximum of one year's wages, *viz.* £442.000 mils as compensation.

The Tribunal, further, had this to say :—

> " In assessing the amount of compensation, we have to consider, *inter alia*, certain criteria set out in paragraph 4 of the Schedule. On the basis of this criteria, but for the fact that the deceased had found a new similar employment soon after his dismissal with more or less the same wages are awarded, would have been substantially above the minimum. The circumstances of the dismissal would justify such an award."

Later on they went on to say :—

> " In all the circumstances of the case, we hold that the applicants should receive £163.500 mils compensation."

Having given my best consideration to counsel's argument, on the whole, I am satisfied that the Tribunal exercised rightly its discretionary powers, and although I felt that the award could have been a bit less, nevertheless, I am not prepared to interfere and disturb the amount of the award.

For the reasons I have endeavoured to explain, I am of the view that the Tribunal came to a right decision, and I would, therefore, dismiss the appeal.

VASSILIADES, P. : I agree that the Arbitration Tribunal correctly construed and applied to the facts of this case the relevant provisions of the Termination of Employment Law (No. 24/67). The material facts, taken from the statement of the case by the Tribunal are briefly these :—

The deceased Costas Christou (hereinafter referred to as " the employee ") was employed as driver of the omnibus by the owners of the vehicle, Nicolas Argyrou and Stavros Kanonistis, of Yerolakkos, from March, 1956 until November, 1965, *i.e.* for a period of about nine years.

In November 1965, (22.11.65), the respondents were formed and registered as a private limited liability company (hereinafter referred to as " the Company ") under the Companies Law, with the object of carrying on transport business. For the purposes of their business, the Company acquired suitable vehicles, one of which was the omnibus of Argyrou and Kanonistis ; and at the same time took over in their employment its driver, the employee herein, who continued driving the omnibus for its new owners, the Company.

Stavros Kanonistis was one of the founder members of the Company, who acquired his omnibus as a going concern, with its licences, route permits, etc., and continued to use it much as before, with the same driver now in their employment.

This went on for over two years, until early 1968, when the drivers of the Company's vehicles submitted to their employers certain claims regarding wages and other terms of employment. The employers refused to discuss the claims ; and the drivers (including the employee) joined one or another Trade Union, who now took up their members' claims as a labour dispute. Negotiations followed which, however, led to such a state of affairs that the employers (the respondent Company) decided to reorganise their business and terminated the employee's service on grounds of redundancy, they said. They gave the employee notice of termination of his employment ; but, before expiry of the notice, the employee found other employment and left the Company's service. His wages at the material time were £8.500 mils per week.

Soon after the termination of his employment as above, in June 1968, (13 6.1968) the employee applied to the

Company for compensation under the provisions of section 3 of the Termination of Employment Law (No. 24/67). The matter eventually reached the Arbitration Tribunal as a dispute under the law. Pending the proceedings the employee died on August 11, 1968 ; and the proceedings were continued by his personal representatives for the benefit of the heirs.

On June 13, 1969, the Arbitration Tribunal awarded to the estate of the deceased employee £163.500 mils compensation, under the provisions of section 3 of the Law, reckoning the period of employment according to the contents of Schedule 1, 2 and 4 of the statute, taking into account the period of the employee's service with his former employers (Argyrou and Kanonistis) from whom the Company acquired their business as a going concern in November 1965, taking over together with their omnibus its driver, the employee, as stated above.

The Company now dispute the correctness of the decision of the Arbitration Tribunal mainly on the ground that the Termination of Employment Law having come into effect on February 1, 1968, cannot be applied retrospectively to employment prior to that date. This is the matter for decision in the case before us at this stage. Learned counsel for the Company put the issue concisely and clearly at the end of his address : The question is whether the period from 1.1.1960 (the appointed day fixed in para. 2 of the Fourth Schedule to this Statute) until 22.11.1965 (when the employee took employment in the service of the Company as above), can be taken into account in reckoning the period of employment in respect of which the employee is entitled to compensation under section 3 of the Statute. The Arbitration Tribunal decided the question in the affirmative ; and calculated the compensation accordingly.

It is contended on behalf of the Company that the correct answer to the question must be in the negative, in as much as the law cannot have retrospective effect or application in the absence of express provision for retrospective force in the law itself.

The material part in section 3 reads :

> " 3. Where on or after the appointed day (1.2.68), an employer terminates .... the employment of an employee .... the employee shall have a right to compensation .... calculated in accordance with the First Schedule."

The First Schedule makes reference to the Fourth Schedule under which the compensation is calculated for the termination of employment by reason of redundancy. The Fourth Schedule provides in the second paragraph thereof that—

> "No payment shall be made in respect of any employment before the 1.1.1960;"

the appointed day referred to above. The third paragraph of the same Schedule providing for the period of employment on the basis of which the compensation is calculated, makes reference to the Second Schedule which provides for the manner in which the period of employment is calculated. The third paragraph of that Schedule (Second) provides that it applies "only to employment with the same employer", provided that—

> "... when the business of an employer is transferred to another employer as a going concern then weeks of employment with the former employer shall be counted in computing the period of employment with the latter employer."

In the instant case it is not disputed that the business of the omnibus of the former employers of the employee (Argyrou and Kanonistis) was transferred "as a going concern" to the Company in November 1965; the employee taking employment with the Company at the same time and continuing in such employment until June, 1968, when his services were terminated as stated earlier..

Therefore, the period of employment with his "former employer" must be taken into account in finding the period of employment under paragraph three of the Second Schedule upon which (period of employment) the compensation to which he is entitled under section 3 will be found. Quite rightly, in the opinion of this Court, learned counsel for the Company conceded as much. His contention is that the Statute cannot be applied retrospectively so as to cover the period of employment with the "former employer" of the deceased employee.

Statutory provisions must be construed and applied so as to serve the object which the legislator intended to serve by such provisions; the Court finding his (the legislator's) intention from the text of the law construed as a whole. This is a well settled and generally accepted principle in the interpretation of statutes. One of the

objects which the legislator intended to serve, or one of the evils which he intended to remedy, by the enactment of the Termination of Employment Law, 1967 (No. 24/67) is clearly, in my opinion, to create the right to compensation in favour of an employee whose employment is terminated under certain circumstances. Section 3 expressly provides for the creation of such right ; and the manner in which the compensation shall be calculated.

It is true that by making reference to the First Schedule to the Law and then to the Fourth Schedule and back again from the latter to the Second Schedule, the calculation of the compensation appears rather complicated. But it is, I think, clear that from the date on which the Law came into operation under section 32 (1.1.68) a right was created under the law for the benefit of all employees to get compensation for the termination of their employment after such date ; and that the compensation must be found as provided in the Statute by reference (as rightly held by the Arbitration Tribunal) to periods of service prior to the date on which the Law came into operation. If that amounts to retrospective effect or retrospective application of the Law such was clearly, in my opinion, the intention of the legislator sufficiently expressed in the relevant provisions of the statute. I would remit the case to the Arbitration Tribunal for determination accordingly.

L. LOIZOU, J. : I also agree that the dispute, the subject-matter of this case, was correctly determined by the Tribunal ; and I would remit the case to the Tribunal with the opinion of this Court accordingly.

VASSILIADES, P. : In the result the case shall be returned to the Arbitration Tribunal with a note that in the opinion of the Court the Arbitration Tribunal has correctly interpreted and applied the relevant provisions of the Termination of Employment Law (No. 24/67) in the instant case.

Order accordingly.