Central Provinces Transport Services ... vs Raghunath Gopal Patwardhan on 6 November, 1956

Equivalent citations: 1957 AIR 104, 1956 SCR 956, AIR 1957 SUPREME COURT 104, 1957 SCC 35, 1957 (1) LABLJ 27, 1956-57 11 FJR 298, 1957 MPLJ 121

Bench: Natwarlal H. Bhagwati, S.K. Das, P. Govinda Menon

PETITIONER:
CENTRAL PROVINCES TRANSPORT SERVICES LTD.

Vs.

RESPONDENT:
RAGHUNATH GOPAL PATWARDHAN.

DATE OF JUDGMENT:
06/11/1956

BENCH:
AIYYAR, T.L. VENKATARAMA
BENCH:
AIYYAR, T.L. VENKATARAMA
BHAGWATI, NATWARLAL H.
DAS, S.K.
MENON, P. GOVINDA

CITATION:
1957 AIR 104 1956 SCR 956

ACT:
Industrial Dispute-Dismissal of Employee for misconduct Criminal prosecution-Acquittal-Application for reinstatement and compensation-Maintainability-Dismissed Employee, Meaning of Dispute between employer and an individual employee-Whether an industrial dispute-Central Provinces and Berar Industrial Disputes Settlement Act, 1947 (C. P. and Berar XXIII of 1947), ss. 2(10), (12) and 16-Industrial Disputes Act (XIV of 1947), s. 2(k).

HEADNOTE:
In June, 1950, goods belonging to the appellant company were stolen and as the result of an enquiry the respondent was dismissed on the ground of gross negligence and misconduct. He was prosecuted on a charge of theft but was acquitted in March, 1952, and thereupon he made an application before the

Labour Commissioner
957
for reinstatement and compensation under s. 16(2) of the Central Provinces and Barar Industrial Disputes Settlement Act, 1947. It was contended for the appellant that the application was not main tainable because (1) the respondent was not an employee on the date of the application, having been dismissed long prior thereto and (2) his dispute was an individual and not an industrial dispute
Held, (1) that the definition of "employee" in s. 2(10) of the Act includes one who has been dismissed and has ceased to be in service, and that the inclusive clause therein was inserted ex abundanti cautela to repel a possible contention that employees discharged under ss. 31 and 32 of the Act would not fall with Ins. 2(10) and cannot be read as importing an intention generally to exclude dismissed employees from that definition.
Western India Automobile Association v. Industrial Tribunal Bombay ([1949] F.C.R. 321), relied on.
(2) that a dispute between an employer and an employee who has been dismissed and who makes a claim for reinstatement and compensation, would be an industrial dispute within the meaning of s. 2(12) of the Act, and s. 16enables the employee to enforce his individual rights against an order of dismissal, discharge, removal or suspension.
Quaere, whether a dispute simpliciter between an employer and a workman would be an industrial dispute within s. 2(k) of the Industrial Disputes Act, 1947 (XIV of 1947).

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No 320 of 1955. Appeal by special leave from the judgment and order dated October 19, 1954 of the Labour Appellate Tribunal of India at Bombay in Appeal No. 76 of 1954.

H. J. Umrigar, E. J. Muharir and Rameshwar Nath, for the appellant.

S. W. Dhabe and R. A. Govind, for the respondent. 1956. November 6. The Judgment of the Court was delivered by VENKATARAMA AYYAR J.-The Central Provinces Transport Services Ltd., Nagpur, was, at the material dates, a public limited company, and the respondent was employed as a mechanic therein. In June 1950, goods belonging to the Company were stolen, and suspicion fell on the respondent. There was an enquiry into the matter, and that resulted in his dismissal on June 28, 1950, on the ground of gross negligence and misconduct. He was then prosecuted on a charge of theft, but that ended in his acquittal on March 3, 1952. Thereafter, be applied to the Company to be reinstated, and failing to get redress, filed on October 1, 1952, an application before the Labour Commissioner under section 16(2) of the Central Provinces and Berar Industrial Disputes Settlement Act XXIII of 1947, hereinafter referred to as the Act, for reinstatement and compensation. The Company resisted the-claim on the ground, inter alia, that as the applicant had

been dismissed on June 28, 1950, he was not an employee on the date of the applica- tion, that accordingly there was no "industrial dispute touching the dismissal of an employee" as required by s. 16, sub-ss. (1) and (2) of the Act, and that, in consequence, the proceedings under that section were incompetent. The Assistant Labour Commissioner, before whom the matter came up for hearing, agreed with this contention, and dismissed the application. The respondent preferred a revision against this order to the Provincial Industrial Court ,under a. 16(5) of the Act, and by its order dated February 5, 1954, that Court held that a dismissed employee was an employee as defined in s. 2(10) of the Act, that a dispute by such an employee was an industrial dispute within s. 2(12) of the Act,. and that the application under s. 16(2) of the Act was therefore maintainable. In the result, the order of dismissal was set aside and the matter remanded for enquiry on the merits. Against that order, the Company appealed to the Labour Appellate Tribunal, which by its order dated October 19, 1954, affirmed the decision of the Provincial Industrial Court, and dismissed the appeal. The Company has preferred the present appeal against this order under Art. 136. Pending the appeal to this Court, the Company went into liquidation and has been taken over by the State of Madhya Pradesh, and is now being run under the name of Central Provinces Transport Services (under Government ownership), Nagpur. On the application of the respondent, the record has been suitably amended. The point for decision in this appeal is whether an application for reinstatement and compensation by a dismissed employee is maintainable under s. 16 of the Act. That section, so far as is material to the Present question, runs as follows:

> "(1) Where the State Government by notification so directs, the Labour Commissioner shall have power to decide an industrial dispute touching the dismissal, discharge, removal or suspension of an employee working in any industry in general or in any local area as may be specified in the notification.
>
> "(2) Any employee, working in an industry to which the notification under sub-section (1) applied may within six months from the date of such dismissal, discharge, removal or suspension, apply to the Labour Commissioner for reinstatement and payment of compensation for loss of wages".

The argument of Mr. Umrigar for the Appellant is that it is a condition prerequisite to the entertainment of an application for reinstatement under this section that there should be an industrial dispute touching the dismissal of an employee, that there was none such in this case, because the respondent was not an employee on the date of the application, having been dismissed long prior thereto and further because his dispute was an individual and not an industrial dispute.

It will be convenient at this stage to refer to the relevant provisions of the Act, as they stood on the material dates. Section 2(10) defines an employee as follows:

> "employee" - means any person employed by an employer to do any skilled or unskilled manual or clerical work for contract or hire or reward in any industry and includes an employee discharged on account of any dispute relating to a change in respect of which a notice is given under section 31 or 32 whether before or after the discharge".

Section 2(12) defines "industrial dispute" as meaning "any dispute or difference connected with an industrial matter arising between employer and employee or between employers or employees". Under s. 2(13), "industrial matter" means "any matter relating to work, pay, wages, reward, hours, privileges, rights or duties of employers or employees, or the mode, terms and conditions of employment or refusal to employ and includes questions pertaining to

(a) the relationship between employer and employee, or to the dismissal or non-employment of any person....') It is not disputed that a question of reinstatement is an industrial matter as defined in s. 2(13) of the Act. The controversy relates to the question whether it is an industrial dispute as defined in s. 2(12) of the Act' The contention of the appellant is that it does not fall within that definition., because the further condition prescribed by s. 2(12) that it must be between an employer and employee is not satisfied. It was argued by Mr. Umrigar that when the respondent was dismissed on June 28, 1950, his employment came to an end, and that he could not thereafter be termed an employee, as that word is ordinarily understood, that it could not have been the intention of the legislature to include in the definition of an employee even those who had ceased to be in service., as otherwise there was no need for the further provision in s. 2(10) that discharged employees would in certain cases be employees; and that, in any event, the inclusive portion of the definition would, on the principle Expressio unius est exclusive alterius, operate to exclude all exemployees, other than those mentioned therein.

The question whether a dismissed employee is an employee as defined in s. 2(10) of the Act must be held to be practically concluded by the decision of the Federal Court in Western India Automobile Association v. Industrial Tribunal, Bombay(1). There, the point for determination was whether a claim for reinstatement by a dismissed workman was an industrial dispute as defined in s. 2(k) of the Industrial Disputes Act XIV of 1947. It was held that the definition in s. 2(k) including as it did, all disputes or (1) [1919] F.C.R. 321.

differences in connection with employment or non-employment of a person was sufficiently wide to include a claim for reinstatement by a dismissed workman. Counsel for the appellant sought to distinguish that decision on the ground firstly, that it was given on a. statute different from what we are concerned with in this appeal, and secondly, that the reference there, included other items of dispute, which un- doubtedly fell within the Act, and the question of reinstatement took its complexion from those items. We do not see any force in. either of these contentions. Section 2(12) and s. 2(13) of the Act are substantially in pari materia with s. 2(k) of Act XIV of 1947, and the ratio of the decision in Western India Automobile Association v. Industrial Tribunal, Bombay (supra) will be as much applicable to the one enactment as to the other., Nor does it make any difference that there were comprised in the reference other items which fell within the definition under s. 2(k), because if the Government had no jurisdiction under the Act to refer the question of reinstatement of dismissed employee for adjudication,' then the to that extent, be treated as a nullity,reference must, and it would be immaterial that it was intravires as regards the other items of dispute.

We are also unable to accede to the contention of the appellant that the inclusive clause in s. 2(10) of the Act, is an indication that the legislature did not intend to include within that definition those who had ceased to be in service. In our opinion, that clause Was inserted ex abuNdanti cautela to

repel a possible contention that employees discharged under ss. 31 and 32 of the Act would not fall within S. 2 (10), and cannot be read as importing an intention generally to exclude dismissed employees from that definition. On the other hand, s. 16 of the Act expressly provides for relief being granted to dismissed em- ployees by way of 'reinstatement and compensation, and that provision must become useless and inoperative, if we are to adopt the construction which the appellant seeks to put on the definition of employee in s. 2(10). We must accordingly bold agreeing with the decision in Western India Automobile Association V. Industrial Tribunal, Bombay (supra) that the definition of "employee" in the Act would include one who has been dismissed and the respondent cannot be denied relief only by reason of the fact that he was iiot in employment on the date of the application.

It was next contended that even assuming that the respondent was an "employee" as defined in s. 2 (10) of the Act, his dimissal could not be held to be an industrial dispute as defined in s. 2(12), because that term properly meant that the dispute was one between employer on the one hand and the industry represented by its workmen as a class on the other, and that a dispute between the employer and a single employee would be an individual dispute and would therefore be outside the purview of a. 2(12). It was argued in support of this contention that the object of all tabour legislation was not so much to deal with individual rights of workmen, for the enforcement of which there was an appropriate forum in the ordinary courts of the land as to regulate the relation between capital and labour, treating them as distinct entities, so that public peace and order might not be disturbed and production might not suffer, and for that end, to recognise the right of labour to speak and act as a body for the protection of its common interests and to provide a machinery for speedy settlement of disputes which that body might raise; and that it could not have been the intention of the legislature, where the above considerations did not operate, to interfere with the normal relations between employer and employee under the law and to provide an additional forum to the employee to vindicate his rights. Reliance was placed in support of this contention on decisions of the Madras, Calcutta and Patna High Courts and of Industrial Tribunals.

The question whether a dispute by an individual workman would be an industrial dispute as defined i s. 2(k) of the Act XIV of 1947, has evoked considerable conflict of opinion both in the High Courts and in Industrial Tribunals, and three different views have been expressed thereon: (I) A dispute which concerns only the rights of individual workers, cannot be held to be an industrial dispute. That was the opinion expressed in Kandan Textiles v. Industrial Tribunal(1). There, Rajamannar C. J. observed that though the language of the definition in s. 2(k) was wide enough to include such a dispute, the provisions of S. 18 suggested that something more than an individual dispute between a worker and the employer was meant by an industrial dispute. The other learned Judge, Mack J., was more emphatic in his opinion, and observed that the Act was "never intended to provide a machinery for redress by a dismissed workman". It became, however, unnecessary to decide the point, as the court came to the conclusion that the reference it self was bad for the reason that there was no material on which the Government could be satisfied that there was a dispute. The views expressed in Kandan Textiles v. Industrial Tribunal (supra) were approved in Manager, United Commercial Bank Ltd. V. Commissioner of Labour(2); but here again, the observations were obiter, as the point for decision was whether a right of appeal conferred by s. 41 of the Madras Shops and Establishments Act XXXVI of 1947 was taken away by implication by Act XIV of 1947. The question, however, arose directly for decision in J. Chowdhury v. M. C. Banerjee(3), in which the order of the

Government referring the dispute of a dismissed employee to the adjudication of a Tribunal was attacked as incompetent, and it was held by Mitter J., following the observations in Kandan Textiles V. Industrial Tribunal (supra) that the dispute in question was not an industrial dispute, and that the reference was, in consequence, bad.

(11)A dispute between an employer and a single employee can be an industrial dispute as defined in s. 2(k). That was the decision in Newspapers Ltd., Allahabad v. State Industrial Tribunal, U.P. (i). In that case a reference of a dispute by a dismissed employee and the award of the Tribunal passed on that refer-

(1) [1949] 2 M.L.J. 789: A.I.R. 1951 Had. 611. (2) A.I.R. 1951 Mad. 141. (8) [1951] 55 C.W.N. 256. (4) A.I.R. 1954 All. 516, ence were attacked as bad on the ground that the dispute in question was not an industrial dispute within s. 2(k) of Act XIV of 1947, and it was held by Bhargava J., that an industrial dispute could come into existence even if the parties thereto were only the employer and a single employee and that the reference and the award were, in consequence, valid. A similar decision was given by a Full Bench of the Labour Appellate Tribunal in Swadeshi Cotton Mills Company Ltd. v. Their Workmen(1).

(III) A dispute between an employer and a single employee cannot per se be an industrial dispute, but it may become one if it is taken up by the Union or a number of workmen. That was held by Bose J., in Bilash Chandra Mitra v. Balmer Lawrie & Co.(2), by Ramaswami and Sarjoo Prosad JJ., in New India Assurance Co. v. Central Government Industrial Tribunal(3) and by Balakrishna Ayyar J., in Lakshmi, Talkies, Madras v. Munuswami and others(4) and by the Industrial Tribunals in Gordon Woodroffe & Co. (Madras). Ltd. v. Appa Rao(5) and Lynus & Co. v. Hemanta Kumar Samanta(6).

The preponderance of judicial opinion is clearly in favour of the last of the three views stated above, and there is considerable reason behind it. Notwithstanding that the

-language of s. 2(k) is wide enough to cover a dispute between an employer and a single employee, the scheme of the Industrial Disputes Act does appear to contemplate that the machinery provided therein should be set in motion, to settle only disputes which involve the rights of workmen as a class and that a dispute touching the individual rights of a workman was not intended to be the subject of an adjudication under the Act, when the same bad not been taken up by the Union or a number of workmen. If that were the correct position, the respondent was not entitled to apply under s. 16(2) of the Act as the workmen in the industry had not adopted his dispute as their own and chosen to treat it as (1) [1953] 1 L.L.J. 757.

(3) A.I.R. 1953 Patna 321.

(5) [1955] 2 L.L J. 541.

(2) A.I.R. 1953 Cal. 613.

(4) [1955] 2 L.L.J. 477.

(6) [1956] 2 L.L.J. 89.

their' casus belli with the Company. But then, we are directly concerned in this appeal not with the Industrial Disputes Act XIV of 1947 but with the Central Provinces and Berar Industrial Disputes Settlement Act XXIII of 1947, and in the view which we take of the rights of the respondent under that statute, there is no Deed to express a final opinion on the question whether a dispute simpliciter between an employer and a workman would be an industrial dispute within 9. 2(k) of Act XIV of 1947.

Now, the Central Provinces and Berar Industrial Disputes Settlement Act XXIII of 1947 with which we are concerned, is not in pari materia with Act XIV of 1947. It no doubt covers the ground occupied by that Act, and contains provisions relating to arbitration, adjudication, awards, strikes and lock-outs. But it contains more. It enacts in Ch. IV provisions which are intended to regulate the contract of employment between employer and workmen, a subject which is covered by a distinct piece of Central legislation, Industrial Employment (Standing Orders) Act XX of 1946. The object of that Act was, as appears from the preamble thereto, "to require employers in industrial establishments formally to define conditions of employment under them", whereas the object of the Industrial Disputes Act XIV of 1947 is, as set out in its preamble, "to make provision for the investigation and settlement of industrial disputes and for certain other purposes". Thus, even though the two enactments are pieces of what is termed labour legislation, their objects and their vision are different. While Act XIV of 1947 may be said to be primarily concerned with disputes of labour as a class Act XX of 1946 is directed to getting the rights of an employee under a contract defined. Now, as the Central Provinces and Berar Industrial Disputes Settlement Act XXIII of 1947 covers the ground occupied by both Act XX of 1946 and Act XIV of 1947, it would be proper to interpret the expression "industrial dispute" therein in a sense wider than what it bears in Act XIV of 1947, so as to cover not only disputes of workmen as a class but also their individual disputes.

And this view receives considerable support from other provisions of the Act. Section Al enacts that an ap- plication under that section can be made either by an employer or employee-concerned or by a representative of the employees concerned. Section 2(24) defines "representative of employees" as meaning a union or where there is no union, persons elected by the employees not exceeding five. Thus, there is a clear recognition of the rights of an individual employee as distinguished from a class of employees, to move for redress. It is argued by Mr. Umrigar that this re- cognition is only for the purpose of s. 41 and that no inference can be drawn therefrom that the employee has a similar right to apply under s. 16(2). But the importance of s. 41 consists in this that it indicates that the Act has in contemplation the enforcement-of individual rights of workmen also. Then we have s. 53, which runs as follows:

> "Save with the permission of the authority holding any proceeding under this Act, no employee shall be allowed to appear in such proceeding except -through the representative of employees:
>
> Provided that where only a single employee is concerned he may appear personally"., This section again recognises the rights of employees to agitate their individual rights

> under the provisions of the Act. Section 16 is intended, in our opinion, to enable an employee to enforce his individual rights when there is an order of dismissal, discharge, removal or suspension, and in the context, "industrial dispute" must be interpreted as including the claim of an employee who has been dismissed, for reinstatement and compensation.
>
> The view taken by the Industrial Court and the Labour Appellate Tribunal as to the meaning of "industrial dispute"

in the Central Provinces and Berar Industrial Disputes Settlement Apt XXIII of 1947" is therefore correct, and this appeal must be dismissed with costs.

Appeal dismissed.

APPENDIX Reference to the memory of late Dr. Bijan Kumar Mukherjea, Ex-Chief Justice of India, by the Judges and members of the Bar of the Supreme Court of India assembled at a meeting on February 23, 1956.

S. R. DAS, C.J.-Mr. Attorney-General we have met here today under the shadow of death to mourn the passing away of one who only the other day was our Chief Justice and beloved leader. He had been ailing for some time but we did not anticipate that his end was so near. Therefore, when the melancholy news came suddenly over the wires, my colleagues and I felt a severe shook as all of you must also have done. We have assembled here today to pay our respectful homage to the memory of our departed leader.

Bijan Kumar Mukherjea was born on August 15' 1891. His father late R. D. Mukherjea was a Sanskrit' scholar. He was a Vakil of the Calcutta High Court but used to practice at Hooghly. Mukherjea had his early education at Hooghly and thereafter at Calcutta. He obtained his Master's Degree in History. In B.L. and M.L. examinations he topped the list of successful candidates and secured University gold medals. He was Ananth Deb Research Prizeman.

Bijan Kumar Mukherjea was enrolled as a Vakil o the Calcutta High Court on the Appellate Side on January 9, 1914. Shortly thereafter Sir Ashutosh Mookerjee, who had an eye for discovering talents, offered him a lectureship in the University Law College. This was a great help to the struggling junior and indeed, changed the whole course of his life and career, for the stipend, meager as it was, enabled him to struggle at the Bar of the Calcutta High Court instead of moving to Patna where a new High Court had recently been set up.

His rise at the Bar was not meteoric but was a steady one. He passed through the hard trial but momentary disappointments or set backs did not dim his enthusiasm or dishearten him. While practising at the Bar, he secured his Doctorate in Law. His academic distinctions and studious habit stood him in good stead. His scholarly erudition, good grounding in legal principles and deep insight into human nature soon brought him to the forefront of the profession. To his legal learning and forensic skill was added a graceful style of advocacy ,Which was entirely his own. His merit was soon

recognised and in or about 1934 he was appointed the junior Government Pleader and within two years the senior Government Pleader.

True to tradition he was elevated to the High Court Bench in 1936 Distinguished as an Advocate he became greater as a Judge. His sweet temper and amiable disposition endeared him to his colleagues as well as to the members of the Bar and particularly to the junior members. I am happy to bear testimony to his kindness, courtesy and consideration for his colleagues for I had the privilege of sitting with him on the Bench of the Calcutta High Court. In 1947 he served on the Boundary Commission.

In 1948 Bijan Kumar Mukherjea along with Shri Mehr Chand Mahajan, who happily is with us, was called upon to serve as a Judge of the Federal Court. He readily responded to the call of duty and came all the way to New Delhi leaving at Calcutta his only son to whom he had been both a father and a mother. In the midst of his work on the Bench, he could find time to prepare and deliver his Tagore Law Lectures on the Hindu Law of Endowments. On the retirement of Shri Mahajan on December 23, 1954, Mukherjen, became the the fourth Chief Justice of this Court.

He brought with him here his profound legal scholarship, a clear thinking and rational mind and a burning sense of justice. The Law Reports will bear testimony to his sound erudition, and his masterly grasp of the fundamental principles which lie at the root of our legal system. His judgments had a freshness and a compactness and were not mere collections of precedents. He delved deep into the foundations of the law and analysed the underlying principles with clarity and precision. By his judgments he made priceless contributions to our legal literature. As a Judge he shed lustre on the High Court at Calcutta as well as on this Court.

His energy was not confined to law only. He was closely associated with the Scout movement in Bengal. He was a profound Sanskrit scholar and earned the degree of Saraswati. Perhaps he imbibed his Sanskrit scholarship from his revered father. He became President of the Bengal Sanskrit Association. He was also a Fellow of the Calcutta University. He was also a good student of philosophy. He had sensitive and fine literary tastes and he could recite from memory long passages from Tagore's works as well as from the works of Sanskrit and English poets. He was an essentially religious main with a scrupulously chaste character. He was pure in thought, word and deed. Mukherjea was loved and respected because of his deep human sympathy, piety and the nobility of his character. He drew people towards him and radiated a serenity on all who came into contact with him. I have heard more than one person say that on returning home after a visit to Mukherjea he felt that he had returned as a better man.

He was ailing and undergoing suffering and pain and death must have brought relief and deliverance to him. But by his premature retirement and death our Court and country have lost an illustrious Chief Justice, an erudite scholar, a sound jurist and above all, a great gentleman and we, who had the privilege of working with him and sharing our joys and sorrows with him, have lost a brilliant colleague, a respected leader and a lovable friend. We mourn his death as a personal loss and we pay our respectful homage and sincere tribute of appreciation and affection to the memory of the great departed soul. May his soul rest in eternal peace. We also offer our sincere sympathies to

his son who is an Advocate of this Court.

M. C. Setalvad, Attorney General of India.-My Lords, The Bar respectfully associates itself with all that has fallen from my Lord the Chief Justice.

His ill health followed by his painful illness which led to his premature retirement made us all feel that he would not be with us for long. Yet when the news of the end came, so endearing was his personality and so great his kindness to everyone who came it contact with him, that all of us were deeply touched.

Rarely has one the privilege of appearing before a Judge with such a deep knowledge of fundamental principles in all branches of the law and an unfailing and quick grasp of legal issues. Whether it was a question relating to Hindu Religious Endowments, a subject in which he had made extensive research, or a constitutional question or a question of the law of contract his piercing intellect and analytical mind immediately perceived the points that arose, the Counsel had to be prepared to deal with a series of searching questions on all the legal aspects which arose. His erudition in law is writ large in the numerous judgments delivered by him scattered over the reports of this Court during the last six years. His masterly exposition of the doctrine of equality before the law in Cheranjitlal's case and his analysis of the law of frustration of contract with a view to show that in India it had its roots not in the theory of a term implied by the parties but in a positive statutory provision, are landmarks in the development of our law of the Constitution and our law of contract. Truly did Justice Douglas of the United States speak in his recently delivered Tagore' Law Lectures of the march of. legal doctrine from Marshall to Mukherjea.

Nor were his interests confined to the sphere of law. He was a keen student of philosophy and literature, had a profound knowledge of Sanskrit and was deeply interested in all literary and cultural problems. He had a prodigious memory and even a few minutes with him gave one glimpses of many an interesting event in the history and politics of Bengal.

Great as a Judge and a learned scholar, he was, I think, even greater as a man. Simple and unassuming, gentle and kind, frank and outspoken, he won the affection of all who. came to know him. A few months ago, a member of the Bar was brought before a Bench over which he presided to answer a charge of misconduct which he admitted. Considering the question of punishment, the late Chief Justice asked Counsel assisting the Court whether it would be just to punish the Advocate with a year's suspension when he had a family dependent on his professional earnings. That was a question truly characteristic of him and showed his kindly heart. We at the Bar voice our deep grief at the sad demise of a great and distinguished Chief Justice and extend our warm sympathies to his bereaved family.