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MANOLIS STAVROU
v.
MOBIL LP GAS (CYPRUS) LTD.

[TRIANTAFYLLIDES, P., STAVRINIDES, L. LOIZOU, JJ.]

MANOLIS STAVROU,

Appellant,

v.

MOBIL LP GAS (CYPRUS) LTD.,

Respondents.

(*Case Stated No.* 161).

Termination of Employment Law, 1967 (Law 24 of 1967) as amended by Law 1 of 1975—Termination of services on ground of redundancy—Dispute concerning mode of calculation of amount to be paid to employee out of the Fund under a collective agreement—An industrial dispute in the sense of s. 30 of the Law—Sections 3, 5, 16, 17, and 18 of the Law—Fact that provisions of s. 17, concerning payments out of the Fund, have been suspended by virtue of Law 1 of 1975 (supra) not a sufficient reason for finding that there was no longer an industrial dispute to be determined by the Industrial Disputes Court.

Master and Servant—Termination of services—Redundancy—See, also, under "Termination of Employment Law, 1967".

Industrial Disputes Court—Jurisdiction—Section 30 of the Termination of Employment Law, 1967 (Law 24 of 1967)—See, also, under "Termination of Employment Law, 1967".

Following the termination of the employment of the appellant in August 1974, on grounds of redundancy, a dispute arose between him and the respondents (his employers) concerning the length of the period to be taken into account in calculating a payment to be made to him by the respondents under a collective agreement.

The appellant applied to the Industrial Disputes Court for the determination of the dispute; and the Court took the view that, in the circumstances, it had no jurisdiction to deal with the matter, because there was no dispute before it as regards the lawfulness or not of the termination of the employment of the appellant and all that was in dispute between the parties was the calculation of the sum to be paid to the appellant under a collective agreement.

Hence the present appeal by way of a Case Stated.

The jurisdiction of the Industrial Disputes Court is to be found in section 30(1) of the Termination of Employment Law, 1967 (Law 24/67), as re-enacted by section 3 of Law 6/73, which reads as follows:

"(1) The Industrial Disputes Court shall have exclusive jurisdiction to adjudicate on all industrial disputes arising as a result of the application of the present Law or of any Regulations made under it or of both, including all matters incidental or complementary to such disputes".

Counsel for the appellant contended that since in section 17(1)* of Law 24/67 there is express reference to the right to compensation for redundancy under a collective agreement, the Industrial Disputes Court had jurisdiction to deal with the matter before it in the present case.

Held, (1) that though it is correct that section 17 of Law 24/67 is only applicable to cases of redundancy as defined in section 18**, on the basis of the contents of the Case Stated, this Court does not think that it can be said, with any certainty, that the termination of the services of the appellant for redundancy is not an instance coming within the ambit of section 18.

(2) That once there arises, under section 17, in relation to the payment of compensation for redundancy, as provided for under a collective agreement, the possibility of making a payment to an employee from the Fund, the calculation of the exact amount payable to the redundant employee under the collective agreement is directly related to the application of a provision of Law 24/67; and that, accordingly, any dispute as to the mode of the calculation of that amount—such as the one in the present case—is an industrial dispute in the sense of section 30 of Law 24/67, which defines the jurisdiction of the Industrial Disputes Court (see, also, sections 3, 5, 16, 17 and 18 of Law 24/67).

(3) That the fact that by Law 1/75 in a case such as that of the termination of the services of the appellant for redundancy the provisions of section 17 have been suspended in so far as payments out of the fund are concerned, was not a suf-

* Quoted at pp. 126 - 128 *post.*

** Quoted at pp. 129 - 130 *post.*

ficient reason for finding that there was no longer an industrial dispute to be determined by the Industrial Disputes Court in the present case, because the amount payable to the appellant, under the collective agreement, had still to be determined; and that, accordingly, the Industrial Disputes Court had jurisdiction to deal with the matter.

Appeal allowed.

Case Stated.

Case Stated by the Chairman of the Industrial Disputes Court relative to his decision of the 20th September, 1975, in proceedings under section 3 of the Termination of Employment Law, 1967 (Law 24 of 1967) instituted by Manolis Stavrou against Mobil LP Gas (Cyprus) Ltd. whereby his claim for compensation was dismissed, on the ground that the Industrial Disputes Court had no jurisdiction to deal with the matter.

E. Efstathiou, for the appellant.

A. Dikigoropoullos, for the respondent.

Cur. adv. vult.

The judgment of the Court was delivered by:-

TRIANTAFYLLIDES, P.: The appellant appeals, by way of a Case Stated, to this Court against the decision of the Industrial Disputes Court (in application No. 260/74) by virtue of which it was held that the said Court had no jurisdiction to deal with the matter taken before it by the appellant.

The said matter was, in effect, a dispute between the appellant and the respondents concerning the length of the period to be taken into account in calculating a payment to be made, by the respondents to the appellant, under a collective agreement, due to the termination of the services of the appellant on the ground of redundancy.

That the services of the appellant were rightly terminated by the respondents, on the above ground, was not in dispute between the parties.

The Industrial Disputes Court took the view that, in the circumstances, it had no jurisdiction to deal with the aforementioned matter, because there was no dispute be-

fore it as regards the lawfulness or not of the termination of the employment of the appellant and all that was in dispute between the parties was the calculation of the sum to be paid to the appellant under a collective agreement.

The jurisdiction of the Industrial Disputes Court is to be found in section 30 of the Termination of Employment Law, 1967 (Law 24/67), as re-enacted by section 3 of the Termination of Employment (Amendment) Law, 1973 (Law 6/73); for the purposes of the present case, the material part of section 30 is subsection (1), which reads as follows:-

"(1) Τὸ Δικαστήριον 'Εργατικῶν Διαφορῶν κέκτηται ἀποκλειστικὴν ἁρμοδιότητα νὰ ἀποφασίζῃ ἐπὶ ἁπασῶν τῶν ἐργατικῶν διαφορῶν τῶν ἀναφυομένων συνεπείᾳ τῆς ἐφαρμογῆς τοῦ παρόντος Νόμου ἢ οἱωνδήποτε Κανονισμῶν ἐκδοθέντων δυνάμει αὐτοῦ ἢ ἀμφοτέρων, περιλαμβανομένου καὶ παντὸς παρεμπίπτοντος ἢ συμπληρωματικοῦ πρὸς τοιαύτας διαφορὰς θέματος".

("(1) The Industrial Disputes Court shall have exclusive jurisdiction to adjudicate on all industrial disputes arising as a result of the application of the present Law or of any Regulations made under it or of both, including all matters incidental or complementary to such disputes".).

The Industrial Disputes Court, in reaching the conclusion that it had no jurisdiction to deal with the matter before it, referred to sections 3, 5 and 16 of Law 24/67.

Section 3, above, reads as follows:-

"3. Ὅταν, κατὰ ἢ μετὰ τὴν ὁρισθεῖσαν ἡμέραν, ὁ ἐργοδότης τερματίζῃ δι' οἱονδήποτε λόγον ἄλλον ἢ τῶν ἐν τῷ ἄρθρῳ 5 ἐκτιθεμένων λόγων, τὴν ἀπασχόλησιν ἐργοδοτουμένου ὁ ὁποῖος ἔχει ἀπασχοληθῇ συνεχῶς ὑπ' αὐτοῦ ἐπὶ εἰκοσιὲξ τοὐλάχιστον ἑβδομάδας, ὁ ἐργοδοτούμενος κέκτηται δικαίωμα εἰς ἀποζημίωσιν καταβαλλομένην ὑπὸ τοῦ ἐργοδότου του καὶ ὑπολογιζομένην συμμώνως πρὸς τὸν Πρῶτον Πίνακα:

Νοεῖται ὅτι ἐργοδότης καὶ ἐργοδοτούμενος δύναται δι' ἐγγράφου συμβάσεως συναφθείσης κατὰ τὸν χρόνον τῆς προσλήψεως τοῦ ἐργοδοτουμένου νὰ παρατείνωσι τὴν ὑπὸ τοῦ παρόντος ἄρθρου προβλεπομένην περίοδον

συνεχοῦς ἀπασχολήσεως μέχρις ἀνωτάτου ὁρίου ἑκατὸν τεσσάρων ἑβδομάδων".

("3. Where, on or after the appointed day, an employer terminates for any reason other than those set out in section 5 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".).

The material part of section 5, above, is paragraph (b) thereof, which reads as follows:-

"5. Τερματισμὸς ἀπασχολήσεως δι' οἱονδήποτε τῶν ἀκολούθων λόγων δὲν παρέχει δικαίωμα εἰς ἀποζημίωσιν:

(α) .....

(β) ὅταν ὁ ἐργοδοτούμενος κατέστη πλεονάζων ὑπὸ τὴν ἔννοιαν τοῦ Μέρους IV".

("5. Termination of employment for any of the following reasons shall not give rise to a right to compensation:-

(a) .....

(b) where the employee has become redundant within the meaning of Part IV".).

Subsection (1) of section 16, above, is the material part of such section and it reads as follows:-

"16. (1) Ὅταν κατὰ ἢ μετὰ τὴν ὁρισθεῖσαν ἡμέραν ἡ ἀπασχόλησις ἐργοδοτουμένου ἀπασχοληθέντος συνεχῶς ἐπὶ ἑκατὸν τέσσαρας ἑβδομάδας ἢ πλέον ὑπὸ τοῦ αὐτοῦ ἐργοδότου τερματίζηται λόγῳ πλεονασμοῦ, ὁ ἐργοδοτούμενος δικαιοῦται εἰς πληρωμὴν λόγῳ πλεονασμοῦ ἐκ τοῦ Ταμείου:

Νοεῖται ὅτι ὁ Ὑπουργὸς δύναται, διὰ Διατάγματος

δημοσιευθησομένου εἰς τὴν ἐπίσημον ἐφημερίδα τῆς Δημοκρατίας, νὰ ἐλαττώσῃ τὸν ὑπὸ τοῦ παρόντος ἐδαφίου καθοριζόμενον ἀριθμὸν ἑβδομάδων συνεχοῦς ἀπασχολήσεως οὕτως ὥστε νὰ ληφθῶσι ὑπ' ὄψιν τακτικαὶ ἐποχιακαὶ διακυμάνσεις εἰς τὴν ἀπασχόλησιν ἐν οἱῳδήποτε ἐπαγγέλματι ἢ εἰδικῇ ἐπιχειρήσει".

("16. (1) 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:

Provided that the Minister may, by Order to be published in the official Gazette of the Republic, reduce the number of weeks of continuous employment prescribed by this sub-section to take account of regular seasonal fluctuations in employment in any trade or specific business".).

Section 16 is to be found in Part IV of Law 24/67. By section 2 of the Termination of Employment (Amendment) Law, 1975 (Law 1/75), it was provided that the provisions in Part IV of Law 24/67 concerning the right of employees to payments, because of redundancy, from the Fund—(the Fund being that which is referred to in section 16 of Law 24/67)—is suspended in relation to instances where the employment has been terminated or will be terminated after July 14, 1974; and it appears to be common ground, in the present case, that the employment of the appellant was terminated on the ground of redundancy in August, 1974.

The Industrial Disputes Court seems to have taken the view that because it was conceded by the appellant that his employment had been terminated on the ground of redundancy, and that was a ground mentioned in section 5(b) of Law 24/67, it followed that there was no dispute as regards the application of section 3 of the same Law, in the present case, since such section 3 relates to instances other than those in which the termination of employment has taken place under the said section 5.

The Industrial Disputes Court, furthermore, took the view that since there was no dispute before it concerning

the application of section 3 of Law 24/67 it could not be said that the dispute as to the length of the period to be taken into account in calculating the amount payable to the appellant by the respondents, under the collective agreement concerned, was a matter within section 30(1) of Law 24/67, so that it would come within its jurisdiction.

By counsel for the appellant we have been referred to section 17 of Law 24/67, which reads as follows:-

"17. (1) Όταν λόγω πλεονασμού, ώς ούτος καθορίζεται έν τῷ ἄρθρῳ 18, ἐργοδοτούμενος δικαιοῦται κατὰ ἤ μετὰ τὴν ὁρισθεῖσαν ἡμέραν εἰς οἱανδήποτε ἄμεσον πληρωμὴν λόγω πλεονασμοῦ, χορήγημα λόγω ἀπολύσεως, φιλοδώρημα ἤ οἱανδήποτε ἄλλην πληρωμὴν τοιούτου ποσοῦ χορηγουμένου ἐν σχέσει πρὸς τὴν ἀπασχόλησίν του παρ' ἐργοδότη, εἴτε τὸ δικαίωμα τοῦτο ὑφίσταται λόγω ἐθίμου, νόμου, συλλογικῆς συμφωνίας, συμβάσεως εἴτε δι' ἄλλον λόγον, ἐὰν τὸ ποσὸν τῆς πληρωμῆς ταύτης ὑπερβαίνῃ τὴν πληρωμὴν τὴν ὁποίαν ὁ ἐργοδοτούμενος θὰ ἐλάμβανεν ἐν ἀναφορᾷ πρὸς τὸν Τέταρτον Πίνακα, ὁ ἐργοδοτούμενος λαμβάνει τὸ μεγαλύτερον τῶν δύο ποσῶν:

Νοεῖται ὅτι κατὰ τὸν ὑπολογισμὸν τοῦ δυνάμει τοῦ παρόντος ἐδαφίου ὀφειλομένου εἰς τὸν ἐργοδοτούμενον ποσοῦ οἱαδήποτε εἰσφορὰ γενομένη ὑπὸ τοῦ ἐργοδοτουμένου ἔναντι τῆς τοιαύτης πληρωμῆς λόγῳ πλεονασμοῦ, χορηγήματος λόγῳ ἀπολύσεως, φιλοδωρήματος ἤ ἄλλης πληρωμῆς τοιούτου ποσοῦ καὶ οἱοσδήποτε τόκος ἐπὶ τοιαύτης εἰσφορᾶς ἀφαιρεῖται.

(2) Όταν ἐν περιπτώσει πλεονασμοῦ ἐργοδοτούμενος δικαιοῦται εἰς πληρωμὴν ὡς καθορίζεται ἐν τῷ ἐδαφίῳ (1) τοῦ παρόντος ἄρθρου καὶ ἡ τοιαύτη πληρωμὴ ἰσοῦται πρὸς τὴν πληρωμὴν εἰς τὴν ὁποίαν ὁ ἐργοδοτούμενος δικαιοῦται δυνάμει τοῦ Τετάρτου Πίνακος ἤ εἶναι μικροτέρα ταύτης, τότε πληρώνονται εἰς τὸν ἐργοδοτούμενον τὰ ἀκόλουθα:

(α) ὁ ἐργοδοτούμενος λαμβάνει παρὰ τοῦ ἐργοδότου ἤ ἐξ οἱουδήποτε ταμείου ἤ ἄλλης διευθετήσεως λειτουργούσης διὰ λογαριασμὸν τοῦ ἐργοδότου τὸ συμφώνως πρὸς τὸ ἐδάφιον (1) τοῦ παρόντος ἄρθρου ὀφειλόμενον ποσόν

(β) ἡ διαφορὰ μεταξὺ τοῦ δυνάμει τοῦ Τετάρτου Πίνακος ὀφειλομένου ποσοῦ καὶ τοῦ δυνάμει τοῦ ἐδαφίου (1) τοῦ παρόντος ἄρθρου ὀφειλομένου ποσοῦ πληρώνεται εἰς τὸν ἐργοδοτούμενον ὑπὸ τοῦ Ταμείου.

(3) "Οταν ὁ ἐργοδοτούμενος δικαιοῦται δυνάμει τοῦ ἐδαφίου (1) τοῦ παρόντος ἄρθρου εἰς πληρωμὴν μεγαλυτέραν ἐκείνης τὴν ὁποίαν θὰ ἐλάμβανεν ἐν ἀναφορᾷ πρὸς τὸν Τέταρτον Πίνακα, τότε πληρώνονται εἰς τὸν ἐργοδοτούμενον τὰ ἀκόλουθα:

(α) ὁ ἐργοδοτούμενος λαμβάνει ἐκ τοῦ Ταμείου τὸ ποσὸν τὸ ὁποῖον θὰ ἐλάμβανεν ἐὰν ἡ πληρωμή του ὑπελογίζετο ἐν ἀναφορᾷ πρὸς τὸν Τέταρτον Πίνακα.

(β) ἡ διαφορὰ μεταξὺ τοῦ ἐν ἀναφορᾷ πρὸς τὸν Τέταρτον Πίνακα ὑπολογιζομένου ποσοῦ καὶ τοῦ δυνάμει τοῦ ἐδαφίου (1) τοῦ παρόντος ἄρθρου ὀφειλομένου ποσοῦ πληρώνεται ἀπ' εὐθείας εἰς τὸν ἐργοδοτούμενον ὑπὸ τοῦ ἐργοδότου ἢ ἐξ οἱουδήποτε ταμείου ἢ ἄλλης διευθετήσεως λειτουργούσης διὰ λογαριασμὸν τοῦ ἐργοδότου".

("17. (1) Where because of redundancy, as defined in section 18, an employee is entitled, on or after the appointed day, to any immediate redundancy payment, severance pay, gratuity or any other such lump sum payment granted in relation to his employment with an employer, whether this entitlement is by reason of custom, law, collective agreement, contract or otherwise, if the amount of that payment is in excess of the payment the employee would receive by reference to the Fourth Schedule then the employee shall receive the greater of the two sums:

Provided that in calculating the amount due to the employee under this sub-section any contribution made by the employee towards such redundancy payment, severance pay, gratuity or other such lump sum payment and any interest on such a contribution shall be discounted.

(2). Where, on redundancy, an employee is entitled to a payment as specified in sub-section (1) of this section and that payment is equal to or less than

the payment to which the employee is entitled under the Fourth Schedule, then payment shall be made to the employee as follows:-

(a) the employee shall receive from the employer or from any fund or other arrangement operated on behalf of the employer the amount due in accordance with sub-section (1) of this section;

(b) the difference between the amount due under the Fourth Schedule and the amount due under sub-section (1) of this section shall be paid to the employee by the Fund.

(3) Where an employee is entitled under sub-section (1) of this section to a greater payment than that he would receive by reference to the Fourth Schedule, then payment shall be made to the employee as follows:-

(a) the employee shall receive from the Fund the amount he would have received had his payment been calculated by reference to the Fourth Schedule;

(b) the difference between the amount calculated by reference to the Fourth Schedule and the amount due under sub-section (1) of this section shall be paid by the employer or from any fund or other arrangement operated on behalf of the employer, direct to the employee".).

It was argued by counsel for the appellant that, since in sub-section (1) of section 17 there is express reference to the right to compensation for redundancy under a collective agreement, the Industrial Disputes Court had jurisdiction to deal with the matter before it in the present instance.

It is useful to refer, also, in order to complete, as much as it is reasonably necessary for the purposes of this case, the picture of the relevant and interrelated legislative provisions, to section 18 and subsection (3) of section 16 of Law 24/67.

Section 18 reads as follows:-

"18. Διὰ τοὺς σκοποὺς τοῦ παρόντος Νόμου, ἐργοδοτούμενος εἶναι πλεονάζων ὅταν ἡ ἀπασχόλησίς του ἐτερματίσθη διὰ λόγους ἄλλους τῶν καθοριζομένων ἐν τῇ πρώτῃ ἐπιφυλάξει τοῦ ἐδαφίου (3) τοῦ ἄρθρου 16:-

(α) διότι ὁ ἐργοδότης ἔπαυσεν ἢ προτίθεται νὰ παύσῃ νὰ διεξάγῃ τὴν ἐπιχείρησιν ἐν τῇ ὁποίᾳ ὁ ἐργοδοτούμενος ἀπησχολεῖτο· ἢ

(β) διότι ὁ ἐργοδότης ἔπαυσεν ἢ προτίθεται νὰ παύσῃ νὰ διεξάγῃ ἐπιχείρησιν εἰς τὸν τόπον ὅπου ὁ ἐργοδοτούμενος ἀπησχολεῖτο:

Νοεῖται ὅτι τὸ Διαιτητικὸν Δικαστήριον δυνατὸν νὰ ἀποφασίσῃ ὅτι ἀλλαγὴ τοῦ τόπου ἀπασχολήσεως δὲν προκαλεῖ πλεονασμὸν ὅταν, κατὰ τὴν γνώμην τοῦ Διαιτητικοῦ Δικαστηρίου, εἶναι λογικὸν ὡς πρὸς τὸν ἐργοδοτούμενον ὁ ὁποῖος διεκδικεῖ πληρωμὴν λόγῳ πλεονασμοῦ νὰ ἀναμένηται ὅπως ὁ ἐργοδοτούμενος οὗτος συνεχίσῃ τὴν ἀπασχόλησίν του εἰς τὸν νέον τόπον ἀπασχολήσεως· ἢ

(γ) ἕνεκα οἱουδήποτε τῶν ἀκολούθων ἄλλων λόγων σχετιζομένων πρὸς τὴν λειτουργίαν τῆς ἐπιχειρήσεως:

(i) ἐκσυγχρονισμοῦ, μηχανοποιήσεως ἢ οἱασδήποτε ἄλλης ἀλλαγῆς εἰς τὰς μεθόδους παραγωγῆς ἢ ὀργανώσεως ἡ ὁποία ἐλαττώνει τὸν ἀριθμὸν τῶν ἀναγκαιούντων ἐργοδοτουμένων·

(ii) ἀλλαγῶν εἰς τὰ προϊόντα ἢ τὰς μεθόδους παραγωγῆς ἢ εἰς τὰς ἀναγκαιούσας εἰδικότητας τῶν ἐργοδοτουμένων·

(iii) καταργήσεως τμημάτων·

(iv) δυσκολιῶν εἰς τὴν τοποθέτησιν προϊόντων εἰς τὴν ἀγορὰν ἢ πιστωτικῶν δυσκολιῶν·

(v) ἐλλείψεως παραγγελιῶν ἢ πρώτων ὑλῶν·

(vi) σπάνεως μέσων παραγωγῆς· καὶ

(vii) περιορισμοῦ τοῦ ὄγκου τῆς ἐργασίας ἢ τῆς ἐπιχειρήσεως".

("18. For the purposes of this Law, an employee is redundant when his employment has been terminated for reasons other than those specified in the first proviso to sub-section (3) of section 16 of this Law:-

(a) because the employer has ceased or intends to cease to carry on the business in which the employee was employed; or

(b) because the employer has ceased or intends to cease to carry on business in the place in which the employee was employed:

Provided that the Tribunal may decide that change of place of employment does not cause redundancy when, in the opinion of the Tribunal, it is reasonable, in respect of the employee claiming a redundancy payment, to expect that employee to continue his employment in the new place of employment; or

(c) because of any of the following other reasons concerned with the operation of the business:

(i) modernization, mechanization or any other change in methods of production or of organization which reduces the number of employees necessary;

(ii) changes in products or production methods or in the skills needed on the part of employees;

(iii) closing of departments;

(iv) marketing or credit difficulties;

(v) lack of orders or raw materials;

(vi) scarcity of means of production; and

(vii) contraction of the volume of work or business".).

Subsection (3) of section 16 reads as follows:-

"(3) Τὸ ποσὸν τῆς πληρωμῆς λόγῳ πλεονασμοῦ ὑπολογίζεται συμφώνως πρὸς τὸν Τέταρτον Πίνακα:

Νοεῖται ὅτι ὅταν, ὡς ἀποτέλεσμα τοῦ πλεονασμοῦ, ἔχη μειωθῆ ἢ κατὰ τὴν γνώμην τοῦ Διαιτητικοῦ Δικα-

στηρίου ἐνδέχεται νὰ μειωθῇ τὸ κόστος τῆς παραγωγῆς ἢ λειτουργίας τῆς ἐπιχειρήσεως ὡς συνόλου ἢ τοῦ κλάδου τῆς ἐπιχειρήσεως εἰς τὸν ὁποῖον προεκλήθη πλεονασμὸς ἢ θὰ διατηρηθῇ οὐσιωδῶς τὸ αὐτὸ ἢ θὰ ἐπιτευχθῇ ὑψηλότερον ἐπίπεδον παραγωγῆς ἢ κατὰ τὴν γνώμην τοῦ Διαιτητικοῦ Δικαστηρίου ἐνδέχεται νὰ διατηρηθῇ ἢ ἐπιτευχθῇ διὰ μικροτέρου ἀριθμοῦ ἐργοδοτουμένων, τὸ ποσὸν τῆς λόγῳ πλεονασμοῦ πληρωμῆς ὑπολογίζεται ἐν ἀναφορᾷ πρὸς τὸν Πρῶτον Πίνακα, ὡς ἐὰν ἡ πληρωμὴ ἀπετέλει ἀποζημίωσιν ἐπιδικασθεῖσαν εἰς ἐργοδοτούμενον δυνάμει τοῦ ἄρθρου 3:

Νοεῖται περαιτέρω ὅτι, ὅταν τὸ Διαιτητικὸν Δικαστήριον ἀποφασίσῃ ὅτι ὁ πλεονασμὸς ἐμπίπτει ἐντὸς τῆς προηγουμένης ἐπιφυλάξεως τοῦ παρόντος ἐδαφίου, ἡ περίοδος ἡ ὁποία παρέχει τὸ δικαίωμα διὰ πληρωμὴν λόγῳ πλεονασμοῦ εἶναι εἰκοσιὲξ ἑβδομάδες, οὐχὶ δὲ ἑκατὸν τέσσαρες ἑβδομάδες ὡς προνοεῖται ὑπὸ τοῦ ἐδαφίου (1) τοῦ παρόντος ἄρθρου".

("(3) The amount of the redundancy payment shall be calculated in accordance with the Fourth Schedule:

Provided that where, as a result of the redundancy, there has been or, in the opinion of the Tribunal, is likely to be, a reduction in the cost of production or running of the business as a whole or of the branch of the business in which redundancy has occurred or substantially the same level of production will be maintained or a higher one will be attained or in the opinion of the Tribunal it is likely to be maintained or attained with a smaller number of employees, the amount of the redundancy payment shall be calculated by reference to the First Schedule, as if the payment were compensation awarded to an employee under section 3:

Provided further that where the Tribunal decides that a redundancy falls within the preceding proviso to this sub-section the qualifying period for a redundancy payment shall be twenty-six weeks and not one hundred and four weeks as provided by sub-section (1) of this section".).

Counsel for the respondents has pointed out that section 17 of Law 24/67 is only applicable to cases of redundancy "as defined in section 18"; that is correct, but, on the basis of the contents of the Case Stated before us we do not think that it can be said, with any certainty, that the termination of the services of the appellant for redundancy is not an instance coming within the ambit of section 18.

We are, furthermore, of the opinion, that once there arises, under section 17, in relation to the payment of compensation for redundancy, as provided for under a collective agreement, the possibility of making a payment to an employee from the Fund, the calculation of the exact amount payable to the redundant employee under the collective agreement is directly related to the application of a provision of Law 24/67; and, thus, any dispute as to the mode of the calculation of that amount—such as the one in the present case—is an industrial dispute in the sense of section 30 of Law 24/67, which, as already stated, defines the jurisdiction of the Industrial Disputes Court.

The last point with which we have to deal is the fact that, by virtue of Law 1/75, above, in a case such as that of the termination of the services of the appellant for redundancy the provisions of section 17—(which is in Part IV of Law 24/67)—have been suspended in so far as there are concerned payments out of the Fund.

In our view this was not a sufficient reason for finding that there was no longer an industrial dispute to be determined by the Industrial Disputes Court in the present case, because the amount payable to the appellant, under the collective agreement, had still to be determined; of course, to what extent such amount should have been paid, and from what source, was another matter, depending on the construction of the provisions of the collective agreement concerned and other relevant considerations; and as this is an issue in relation to which we have not heard any arguments we leave it open.

For the foregoing reasons we find that the Industrial Disputes Court has jurisdiction to deal with the matter taken before it by the appellant and, therefore, it should

proceed to do so under the provisions of the relevant legislation.

In view of the novelty of the issue raised in this case we shall not make any order as to the costs of the proceedings before us.

Appeal allowed.