

**IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC
OF SRI LANKA**

*In the matter of an application for grant of Writs
of Quo warranto, Mandamus and Prohibition
under and in terms of Article 140 of the
Constitution of the Democratic Socialist Republic
of Sri Lanka.*

**CA Writ Application No.
76/2025**

RENUKA DUSHYANTHA PERERA
No. 365, Nagahawela Road,
Kotikawatta,
Angoda.

PETITIONER

Vs.

HON. ANANDA WIJEPALA
No. 278/24, Sanhinda Mawatha,
Nagahakotuwa Road,
Imbulgoda.

AND OTHERS

RESPONDENTS

Before: **M. T. MOHAMMED LAFFAR, J. (President C/A)- Actg.
K. M. S. Dissanayake, J.**

Counsel: Vishva Vimukthi with Charuka Chamupathi for the Petitioner,
instructed by S. Senewirathna.

Upul Kumarapperuma PC with Chyamara Nanayakkarawasam for
the 1st Respondent.

Sumathi Dharmawardhena, ASG, PC with Madusha Thanipuliarachchi for the 3rd Respondent.

Supported on: 17. 02. 2025

Decided on: 07. 05. 2025

MOHAMMED LAFFAR, J. (President of The Court of Appeal- Actg)

The Petitioner seeks, *inter alia*, a writ of quo warranto to declare that the election of the 1st Respondent as a Member of Parliament is invalid and that the 1st Respondent is not entitled to hold the office of Member of Parliament. Additionally, the Petitioner seeks a writ of prohibition against the 1st Respondent, preventing him from sitting and voting in Parliament.

When this matter was taken up for support on 17/02/2025, the learned President's Counsel for the 1st Respondent and the learned Additional Solicitor General (ASG) for the 3rd Respondent raised preliminary legal objections regarding the maintainability of this application. By consent, this Court decided to dispose of the preliminary legal objections by way of written submissions.

The 1st Respondent was elected as a Member of Parliament for the Kurunegala District and was subsequently appointed as the Minister of Public Security and Parliamentary Affairs. While serving in this capacity, the 1st Respondent was also appointed as the Chief of Staff to the President.

The Petitioner contends that the 1st Respondent is disqualified from being a Member of Parliament under Article 91(1)(d)(viii) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Under Article 91(1)(d)(viii) and Article 91(1)(e) of the Constitution, a public officer is disqualified to be elected as a member of parliament or to sit and vote in Parliament, which reads thus;

(1) No person shall be qualified to be elected as a Member of Parliament or to sit and vote in Parliament (d) if he is -

(viii) 64[a public officer or a member of the Sri Lanka State Audit Service holding any office] created after November 18, 1970, the initial of the salary scale of which is, on the date of the creation of that office, not less than the initial of the salary scale applicable, on that date, to an office referred to in item (vii) or such other amount per annum as would, under any subsequent revision of salary scales, correspond to the first-mentioned initial,

It is abundantly clear that when the 1st Respondent was elected to Parliament, he was neither a public officer nor serving as Chief of Staff to the President. Therefore, his subsequent appointment to this position cannot retroactively disqualify him from membership in Parliament. The constitutional test of eligibility applies strictly to the candidate's qualifications at the time of election, not to offices they may later assume during their parliamentary term.

The 1st Respondent's membership in Parliament cannot be challenged through quo warranto merely because he later assumed the honorary position of Chief of Staff. It is pertinent to note that the Petitioner has not challenged the 1st Respondent's subsequent appointment as Chief of Staff, if at all, the validity of his appointment as Chief of Staff, not his election as MP, ought to have been challenged separately, as the two are distinct and separate matters. To couple them would amount to an improper retroactive application of constitutional disqualifications.

Since the 1st Respondent was fully qualified under the Constitution and existing laws when elected to Parliament, issuing a writ of quo warranto to nullify his election would unjustly override the democratic will of the voters. Such an action would undermine fundamental democratic principles by disregarding the valid electoral mandate granted to him at the time of his election, despite his subsequent appointment.

It must be noted that the 1st Respondent's appointment as Chief of Staff was expressly made on an honorary basis, as confirmed by the presidential appointment letter dated 14/02/2025, which explicitly excludes any salary, allowances, or official benefits. This honorary character is decisive in determining that the position does not constitute a 'public office' under Article 91 of the Constitution for three fundamental reasons.

Firstly, an honorary appointment lacks the essential attributes of a permanent public office. It carries no remuneration, no fixed tenure, and no statutory duties that would integrate the holder into the formal structure of government service.

Secondly, the absence of remuneration places it outside the constitutional threshold for disqualification under Article 91(1)(d)(viii), which specifically references positions with designated salary scales.

Thirdly, honorary positions by their very nature are transient and advisory, without legal permanence or accountability that characterizes public offices.

For the foregoing reasons, the preliminary objections are upheld. I hold that there is no merit in this application and the Petitioner failed to establish a *prima facie* case. Thus, the notices are refused, and accordingly the application is dismissed without costs.

Application dismissed. No cost.

President of the Court of Appeal (Actg.)

K. M. S. Dissanayake, J.

I agree.

Judge of the Court of Appeal