

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

**In the matter of an Application for a mandate  
in the nature of *Writ of Certiorari* and  
*Mandamus* under article 140 of the  
Constitution of the Democratic Socialist  
Republic of Sri Lanka**

Sri Lankan Airlines Limited,  
Airline Centre,  
Bandaranaike International Airport,  
Katunayake.

**PETITIONER**

**CA/WRIT/133/2015**

**Vs,**

1. Hon. Wijeyadasa Rajapakshe PC, MP,  
Minister of Justice and Labour Relations,  
Ministry of Justice and Labour Relations,  
2<sup>nd</sup> Floor, Labour Secretariat,  
Narahenpita,  
Colombo 05.
2. S.B. Navinna,  
Minister of Labour,  
Ministry of Labour,  
2<sup>nd</sup> Floor, Labour Secretariat,  
Narahenpita,  
Colombo 05
3. The Commissioner General of Labour,  
2<sup>nd</sup> Floor, Labour Secretariat,  
Narahenpita,  
Colombo 05.
4. Mr. V. Vimalarajah,  
153/1, Kirulapone Avenue,  
Colombo 05

5. Mr. T. Raveendran,  
No.151/1, Collingwood Place,  
Colombo 06.
6. Ms. P.K. Sanjeevani,  
Assistant Commissioner of Labour,  
District Labour Office,  
Noegombo.

## **RESPONDENTS**

**Before:**    **Vijith K. Malalgoda PC J (P/CA)**  
                  **S. Thurairaja PC J**

**Counsel:**    Sanjeewa Jayawardena PC for the Petitioner  
                  M.A. Sumenthiran for the 4<sup>th</sup> Respondent  
                  Arjuna Obeysekara Senior DSG for the 1<sup>st</sup>, 2<sup>nd</sup> and 5<sup>th</sup> Respondents

Argued on: 04.05.2017

**Decided on: 05.05.2017**

## **Order**

**Vijith K. Malalgoda PC J**

We have considered in detail, the arguments adduced in this case, with regard to the impugned award of compensation made by the 3<sup>rd</sup> Respondent Arbitrator, in favour of 4<sup>th</sup> Respondent, produced marked A-4(a) and A-4 (b) and the specific amount of the said award of compensation made, amounting to Rs. 5, 907, 853.32, which amount the Petitioner has substantially challenged in this writ application, as being arbitrary and excessive.

We have also take cognizance of the purported methodology of computation set-out by the arbitrator, and also of the oral submissions made on behalf the Petitioner with regard to the same and to the case law cited.

We find that the arbitrator has calculated the quantum of compensation from 1999, being the year of termination, all the way up to the 4<sup>th</sup> Respondent workmen's notional date of retirement in the year 2013.

In all the circumstances of the case, including the judgment of the Court of Appeal in the previous writ application bearing No CA (Writ) 273/2007, and the proceedings in the Supreme Court in SC (SPL) LA Application No 121/2013 and having due regard to the abiding requirement stipulated by law that awards compensation cannot be arbitrary computed or unduly excessive, we have given our anxious consideration to the matter and are of the view that granting compensation up to the age of retirement i.e. 2013, in a mechanical manner, is excessive in all the circumstances of this case, and therefore, not warranted.

We have also taken in to account, prayers (b) and (c) of the petition dated 26.03.2015, filed by the Petitioner, in conjunction with prayer (e) thereof.

In the said reliefs, the Petitioner has prayed and invited this court to, in the first instance, issue mandates in the nature of writs of *Certiorari*, quashing the impugned arbitral award of the 3<sup>rd</sup> Respondent arbitrator, dated 12.11.2014, produced marked A4 (a), as well as the publication of the said award, as contained in the Government Gazette Extraordinary No 1895/20, dated 01.01.2015, produced marked A-4 (b), and furthermore, in terms of prayer (e) of the said petition, the Petitioner has invited this court to reduce the amount of the award of compensation.

In view of the finding of this court that the quantum of compensation awarded to the 4<sup>th</sup> Respondent, is excessive and not warranted, we are of the view that mandates in the nature of writs of *Certiorari*

should be issued in terms of prayers (b) and (c) of the petition dated 16.03.2015, and we accordingly proceed to:

- i) Issue a mandate in the nature of a writ of *Certiorari*, quashing the award of the 3<sup>rd</sup> Respondent, dated 12.11.2014, in arbitration bearing No A/3196, marked A-4 (a) and
- ii) Issue a mandate in the nature of a writ of *Certiorari*, quashing the said award published in the Government Gazette Extraordinary, dated 01.01.2015, as reflected in A-4(b)

Furthermore, in the exercise of the discretion of this court, we further proceed to grant prayer (e) to the petition, and instead of the impugned award of Rs. 5, 907,853.32 made by the 3<sup>rd</sup> Respondent, which is now quashed, we make order the payment of compensation to the 4<sup>th</sup> Respondent, to a total sum of Rs. 4,500,000/=

In view of the above findings, granting any other relief as prayed by the Petitioner will not arise and we consider the reliefs referred to above, as being just and equitable in all the circumstances.

In view of the pendency of this dispute for a very long period of time, we direct that the said reduced sum of Rs. 4,500,000 be paid by the Petitioner to the 4<sup>th</sup> Respondent within one month of the date of this order i.e. on or before 05.06.2017.

Application allowed. No costs.

PRESIDENT OF THE COURT OF APPEAL

S. THURAIRAJA PC J

I AGREE,

JUDGE OF THE COURT OF APPEAL