

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

*In the matter of an application for order in the nature of Writs of Certiorari, 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.  
690/2024**

**Kandambige Wimal Kandambi,**  
No. 41, Galage Mawatha,  
Mirihana, Nugegoda.

**PETITIONER**

Vs.

**1. Road Development Authority,**  
"Maganeguma Mahamedura"  
No. 216, Denzil Kobbekaduwa  
Mawatha  
Koswatta, Battaramulla

**2. T. Paskaran**  
Chairman  
Road Development Authority  
"Maganeguma Mahamedura"  
No. 216, Denzil Kobbekaduwa  
Mawatha  
Koswatta, Battaramulla

**3. C. Athaluwage**  
Former Chairman  
Road Development Authority  
"Maganeguma Mahamedura"  
No. 216, Denzil Kobbekaduwa

Mawatha  
Koswatta, Battaramulla

**4. B.M.C.K. Basnayake**

Former Member, Board of Directors  
Road Development Authority  
"Maganeguma Mahamedura"  
No. 216, Denzil Kobbekaduwa  
Mawatha  
Koswatta, Battaramulla

**5. V.K. Choksy**

Former Member, Board of Directors  
Road Development Authority  
"Maganeguma Mahamedura"  
No. 216, Denzil Kobbekaduwa  
Mawatha  
Koswatta, Battaramulla

**6. M.M. Wijitha Manamperi**

Former Member, Board of Directors  
Road Development Authority  
"Maganeguma Mahamedura"  
No. 216, Denzil Kobbekaduwa  
Mawatha  
Koswatta, Battaramulla

**7. S.G.L.T. Malaka**

Former Member, Board of Directors  
Road Development Authority  
"Maganeguma Mahamedura"  
No. 216, Denzil Kobbekaduwa  
Mawatha  
Koswatta, Battaramulla

**8. G. Harsha Wijayawardhana**

Former Member, Board of Directors  
Road Development Authority  
"Maganeguma Mahamedura"  
No. 216, Denzil Kobbekaduwa  
Mawatha  
Koswatta, Battaramulla

**9. C. Jayasooriya**

Former Member, Board of Directors  
Road Development Authority

"Maganeguma Mahamedura"  
No. 216, Denzil Kobbekaduwa  
Mawatha  
Koswatta, Battaramulla

**10. D.P. Wickremesinghe**  
Former Member, Board of Directors  
Road Development Authority  
"Maganeguma Mahamedura"  
No. 216, Denzil Kobbekaduwa  
Mawatha  
Koswatta, Battaramulla

**11. M.K.D.N. Madampe**  
Former Member, Board of Directors  
Road Development Authority  
"Maganeguma Mahamedura"  
No. 216, Denzil Kobbekaduwa  
Mawatha  
Koswatta, Battaramulla

**12. W.H.K.D.B. Rathnayake**  
Former Member, Board of Directors  
Road Development Authority  
"Maganeguma Mahamedura"  
No. 216, Denzil Kobbekaduwa  
Mawatha  
Koswatta, Battaramulla

**13. E.A.R. Renuka**  
Former Member, Board of Directors  
Road Development Authority  
"Maganeguma Mahamedura"  
No. 216, Denzil Kobbekaduwa  
Mawatha  
Koswatta, Battaramulla

**14. N.P.K. Ranaweera**  
Former Member, Board of Directors  
Road Development Authority  
"Maganeguma Mahamedura"  
No. 216, Denzil Kobbekaduwa  
Mawatha  
Koswatta, Battaramulla

**15. D.T.E. Suraweera (ex officio)**

Former Member, Board of Directors  
Road Development Authority  
"Maganeguma Mahamedura"  
No. 216, Denzil Kobbekaduwa  
Mawatha  
Koswatta, Battaramulla

**16. P.D.H. Jayasinghe (ex officio)**

Former Member, Board of Directors  
Road Development Authority  
"Maganeguma Mahamedura"  
No. 216, Denzil Kobbekaduwa  
Mawatha  
Koswatta, Battaramulla

**17. Ruwan Liyanage (ex officio)**

Former Member, Board of Directors  
Road Development Authority  
"Maganeguma Mahamedura"  
No. 216, Denzil Kobbekaduwa  
Mawatha  
Koswatta, Battaramulla

**18. H.M.R. Premasiri**

Former Member, Board of Directors  
Road Development Authority  
"Maganeguma Mahamedura"  
No. 216, Denzil Kobbekaduwa  
Mawatha  
Koswatta, Battaramulla

**19. S.M.P. Suriyabandara**

Road Development Authority  
"Maganeguma Mahamedura"  
No. 216, Denzil Kobbekaduwa  
Mawatha  
Koswatta, Battaramulla

**20. Dr. Sulakshana Jayawardena**

Interview Panel (Chairman), Former  
Secretary  
Ministry of Power and Energy  
No. 80, Sir Ernest De Silva Mawatha  
Colombo 07

**21. U.H.C. Priyantha**

Interview Panel (Member), Former

Additional Secretary (Administration)  
Ministry of Transport and Highways  
"Maganeguma Mahamedura"  
No. 216, 9th Floor, Denzil  
Kobbekaduwa Mawatha  
Koswatta, Battaramulla

**22. Bandula Gunawardane**

Former Minister  
Ministry of Transport, Highways, Ports  
and Civil Aviation  
"Maganeguma Mahamedura"  
No. 216, 9th Floor, Denzil  
Kobbekaduwa Mawatha  
Koswatta, Battaramulla

**23. R. Ganganath**

Former Secretary  
Ministry of Transport, Highways, Ports  
and Civil Aviation  
"Maganeguma Mahamedura"  
No. 216, 9th Floor, Denzil  
Kobbekaduwa Mawatha  
Koswatta, Battaramulla

**24. Hon. Vijitha Herath**

Minister of Transport, Highways, Ports  
and Civil Aviation  
Ministry of Transport, Highways, Ports  
and Civil Aviation  
"Maganeguma Mahamedura"  
No. 216, 9th Floor, Denzil  
Kobbekaduwa Mawatha  
Koswatta, Battaramulla

**24A. Hon. Bimal Rathnayake**

Minister of Transport, Highways,  
Ports and Civil Aviation  
Ministry of Transport, Highways,  
Ports and Civil Aviation  
"Maganeguma Mahamedura"  
No. 216, 9th Floor, Denzil  
Kobbekaduwa Mawatha

**25. K.D.S. Ruwanchandra**

Secretary  
Ministry of Transport, Highways, Ports

and Civil Aviation  
"Maganeguma Mahamedura"  
No. 216, 9th Floor, Denzil  
Kobbekaduwa Mawatha  
Koswatta, Battaramulla

**25A. Kapila C. K. Perera**

Secretary Ministry of Transport,  
Highways, Ports and Civil Aviation  
"Maganeguma Mahamedura" No. 216,  
9th Floor, Denzil Kobbekaduwa  
Mawatha Koswatta, Battaramulla

**26. M.S. Avanthi Senarathna**

Additional Secretary (Administration)  
Ministry of Transport, Highways, Ports  
and Civil Aviation  
"Maganeguma Mahamedura"  
No. 216, 9th Floor, Denzil  
Kobbekaduwa Mawatha  
Koswatta, Battaramulla

**RESPONDENTS**

Before: **M. T. MOHAMMED LAFFAR, J. (ACT. P/CA)**  
**K. M. S. DISSANAYAKE, J.**

Counsel: Faiszer Musthapha, P.C. with Shaheeda Barrie and Sierra  
Amarasiri for the Petitioner, instructed by Sanjeewa  
Kaluarachchi.

Sehan Soyza, S.S.C. with Ishara Madarasinghe, S.C. for the  
Respondents except the 19th Respondent.

Dr. Romesh De Silva, P.C. with Ruwantha Cooray for the 19th  
Respondents, instructed by Mr. Sanath Wijewardane.

Argued on : 20.02.2025 and 10.03.2025

Decided on : 08.05.2025

**MOHAMMED LAFFAR, J.**

The Petitioner, an accomplished Chartered Engineer with over twenty-nine years of experience in civil engineering and infrastructure development, serves as the Deputy Director General (Special Projects) in the Senior Management Category (HM 2-1) of the Road Development Authority (hereinafter the “1st Respondent Authority” or “RDA”), a statutory body established under the Road Development Authority Act No. 73 of 1981 as amended (hereinafter the “RDA Act”).

By internal circular dated 09.02.2024, the RDA invited applications for the post of Director General. In terms of the internal memo marked P9(b), internal candidates were assessed under the criteria applicable to external applicants. The Petitioner and the 19th Respondent, among others, applied for the post. Interviews were held on 27.02.2024 by a panel comprising the 11th, 20th and 21st Respondents. Thereafter, a marking sheet containing the scores of all applicants was compiled, pursuant to which the names of the top three candidates were transmitted to the Board of Directors of the RDA for further consideration.

On or about 05.03.2024, the 19th Respondent was appointed Director General of the RDA. The Petitioner, aggrieved by what he alleges to be an arbitrary and procedurally improper selection process, particularly given that he had obtained the highest score at the interview (63/100) compared to the 19th Respondent’s 61/100, instituted this application by Petition dated 25.10.2024. He challenges the said appointment on several grounds, including violation of the Scheme of Recruitment (“SOR”), absence of transparency, denial of legitimate expectation, and failure to adhere to the marking order and merit-based criteria stipulated in the SOR.

The matter was supported before this Court on 04.11.2024, 11.11.2024 and 05.12.2024. On 04.11.2024, this Court issued an interim order directing the production of the marking sheet in the order of merit. By motion dated 07.11.2024, the 14th Respondent filed the marking sheet, which confirmed that the Petitioner had secured the highest score. The Respondents were thereafter directed to file their Statements of Objections by 24.01.2025, and the Petitioner was directed to file his counter objections by 06.02.2025.

In the various Statements of Objections filed by the Respondents, several preliminary objections were raised, including laches, futility of the application, suppression of material facts, and the purported discretion vested in the Board of Directors and the Minister under Section 12(1) of the RDA Act to appoint a suitable candidate. The Petitioner, in response, contends that the approved Scheme of Recruitment requires strict adherence to merit-based selection and that the Respondents acted *ultra vires in* nominating a candidate who had not obtained the highest score.

### **THE PETITIONER'S CONTENTION**

The Petitioner contends that his non-selection for the post of Director General of the 1st Respondent Authority, despite having obtained the highest mark at the duly constituted interview, constitutes a flagrant violation of the law, the rules of natural justice, and due process. The gravamen of his grievance lies in the arbitrary, *ultra vires*, and procedurally improper appointment of the 19th Respondent to the said post, contrary to the approved Scheme of Recruitment (SOR) and established administrative norms.

The Petitioner avers that he is a senior and highly qualified professional with nearly three decades of experience in engineering and infrastructure development. His academic and professional qualifications include A BSc.



in Civil Engineering from the University of Moratuwa, A Master of Engineering in Highway & Traffic Engineering, Fellow of the Institution of Engineers Sri Lanka (IESL) and a Registered International Professional Engineer.

The Petitioner further states that he has held various senior posts within the RDA, including, Chief Engineer for the Outer Circular Highway Project, Project Director for both the Southern Expressway Extension and Port Access Elevated Highway Projects, Deputy Director General (Special Projects) at the time of applying for the post of Director General.

Throughout his service, the Petitioner has received multiple commendations from the RDA and Ministry officials, evidencing a track record of excellence, including significant improvements in project completion metrics under his leadership.

The Petitioner responded to an internal call for applications for the post of Director General issued via memo dated 09.02.2024. He submitted his application on or about 19.02.2024 under the criteria applicable to external candidates, in terms of the internal circular P9(b).

Following preliminary evaluation, the Petitioner was shortlisted and interviewed on 27.02.2024 by a panel comprising the 11th, 20th, and 21st Respondents. The Petitioner contends that:

The interview was conducted without transparency regarding the method of awarding marks, He was later informed, indirectly, that three top-scoring applicants were referred to the Board of Directors. The Petitioner scored 63/100, the highest among all applicants, whereas the 19th Respondent scored 61/100.

The Petitioner impugns the subsequent appointment of the 19th Respondent on or around 05.03.2024 as being Arbitrary and Ultra Vires, in breach of the SOR which mandated appointment strictly based on merit order at the interview (as reflected in the marking sheet marked “R1”), Procedurally flawed, as the selection was made without disclosure or explanation of deviations from the ranking or the method of final determination, Carried out with collateral intent, aimed at preferring a less meritorious candidate (i.e., the 19th Respondent) based on seniority, a criterion not recognised in the applicable SOR for external candidates, and is a violation of the Petitioner’s legitimate expectation, grounded in a fair and transparent selection process.

The Petitioner also points to the deliberate withholding of the marking sheet, which was only produced after the Court’s interim order dated 04.11.2024 directing its disclosure. The Petitioner further states that an attempt to retrospectively amend the SOR by a letter dated 17.01.2025 (marked “AI”), requesting changes to the appointment criteria after the fact, demonstrates the *mala fides* of the Respondents and the acknowledged irregularity of the original appointment.

In said circumstances the Petitioner has prayed for a writ of *certiorari* to quash the appointment of the 19th Respondent as Director General and a writ of *mandamus* compelling the Respondents to make a lawful appointment strictly in accordance with the approved SOR and the marking order,

The Petition is thus premised on the assertion that the entire appointment process was vitiated by illegality, procedural unfairness, and disregard for the governing recruitment framework, and seeks the intervention of this Court to vindicate the rule of law.

**POSITION OF THE 1ST TO 18TH RESPONDENTS (RDA BOARD AND OFFICERS)**

The 1st to 18th Respondents submit that the Petition is liable to be dismissed *in limine* on multiple preliminary grounds, namely, Laches, on account of the delay in filing, Futility, as the Petitioner's claims are moot and ineffective, Material non-disclosure, alleging suppression and/or misrepresentation of material facts, and that the Petitioner has no locus to invoke the Court's discretionary jurisdiction.

Without prejudice to the preliminary objections, these Respondents deny the substantive claims and maintain that the appointment of the 19th Respondent was made in good faith and within the statutory framework provided under Section 12 of the Road Development Authority Act No. 73 of 1981 (as amended), in compliance with internal administrative protocols and ministerial approval.

They admit that the Petitioner was called for an interview on 27.02.2024 and participated therein, but emphasize that the top three candidates were forwarded in alphabetical order to the Board of Directors by the 23rd Respondent (Secretary to the Ministry), the Board took into account not only the interview marks but also the seniority, institutional experience, and the best interests of the Authority and that the 19th Respondent, having served the RDA for 28 years and held the position of Additional Director General, was deemed more appropriate based on overall suitability, notwithstanding his slightly lower score at the interview (61/100 as opposed to the Petitioner's 63/100).

They further submit that seniority is a valid and relevant consideration under Section 12 of the RDA Act, there is no mandatory requirement that appointment must be made strictly according to interview marks alone and that the SOR is merely administrative, and cannot override the

statutory discretion conferred upon the Board and the Minister under the RDA Act. Thus it is submitted by them that the Petitioner's contention that the appointment violated the SOR or merit order should be rejected as untenable in law.

**POSITION OF THE 19TH RESPONDENT (APPOINTED DIRECTOR GENERAL)**

The 19th Respondent adopts a firm stance that his appointment was lawful, regular, and validly effected under and in terms of Section 12 of the RDA Act, following due process and ministerial approval.

The 19th Respondent denying the Petitioner's claim that the selection process was irregular or that the Petitioner had a legitimate expectation of appointment. In particular, he states that the appointment was made by the lawfully constituted appointing authority, the Court should not seek to usurp the statutory discretion vested in that authority and that the Petitioner has failed to establish any grounds of judicial review, such as illegality, irrationality, or procedural impropriety, necessary to vitiate the decision.

The 19th Respondent disputes the weight the Petitioner places on the interview marking sheet and emphasizes that merit alone is not determinative, he himself is a senior officer with 28 years of service, has held high-ranking positions including Additional Director General, and also states that the appointing authority properly considered overall competence, experience, and suitability, which cannot be reduced to numerical scores alone.

The 19th Respondent further submits that the Petitioner's present claim is a convenient afterthought, especially given that the Petitioner had

previously failed to secure other senior appointments, including as Additional Director General in mid-2024.

The 19th Respondent characterizes the Petition as an attempt to improperly challenge a valid appointment, made with no evidence of bias, mala fides, or procedural misconduct, and thus prays that the Petition be dismissed *in limine* with costs.

### **POSITION OF THE 21ST TO 26TH RESPONDENTS (INTERVIEW PANEL AND MINISTERIAL OFFICIALS)**

These Respondents, comprising members of the interview panel and officials from the Ministry of Transport, Highways, Ports and Civil Aviation, also raise preliminary objections including laches, non-disclosure, and misconceived legal grounds, seeking the dismissal of the Petition *in limine*.

On the merits, they state that the interview process was conducted in a fair, transparent, and objective manner, the top three scoring candidates were forwarded to the appointing authority in alphabetical order without recommendation or ranking preference and that the ultimate appointment was made by the 1st Respondent Authority's Board and the Minister, and not by the interview panel.

These Respondents maintain that the SOR was followed up to the point of interview and ranking, but it was not binding on the appointing authority in determining final selection. They also submit that the Petitioner's interpretation of the SOR as requiring strict appointment solely based on interview scores is misplaced and inconsistent with the discretion conferred under Section 12 of the RDA Act.

Additionally, they note that the 19th Respondent had the second highest score (61/100), equal to another candidate, The Board of Directors and the Minister considered seniority, institutional knowledge, and service needs, and were satisfied that the 19th Respondent was most suitable. They also submit that the approval by the Minister vests legal authority and finality to the appointment.

These Respondents also deny any allegations of bias, collusion, or procedural irregularity, and state that the Petitioner's reliance on legitimate expectation is unsustainable, as no assurance or representation was ever made to him concerning the outcome.

### **OBSERVATIONS OF THIS COURT**

The primary legal instrument governing the appointment of the Director General of the Road Development Authority (RDA) is Section 12(1) of the Road Development Authority Act No. 73 of 1981 (as amended), which provides:

*“The Authority shall, with the approval in writing of the Minister, appoint a Director-General of the Authority.”*

This section vests the RDA with the authority to appoint a Director General subject to ministerial approval, while leaving the method of selection to be governed by the approved Scheme of Recruitment (SOR), which functions as an administrative guide governing merit-based evaluation.

The approved SOR (marked “P20(c)” and “1R4”) explicitly stipulates that appointments shall be made purely in the order of merit at the interview, and that all recruitments shall be strictly in compliance with the SOR.

Page 103 of the SOR states: “*All recruitments to this category shall be strictly in compliance with the provision of this Scheme of Recruitment.*”

Page 104 of the SOR states: “*Appointment will be made purely in the order of merit at the interview.*”

The core of the Petitioner’s legal argument is that the Respondents acted *ultra vires* the governing statutory and administrative framework, in appointing the 19th Respondent despite the Petitioner obtaining the highest interview score of 63/100, while the 19th Respondent secured only 61/100, which he shared with another candidate. The Petitioner states that:

- The SOR was binding, and any deviation from the ranking order constitutes a material illegality. He relies on the clause in the SOR which mandates that appointments shall be made "purely in the order of merit at the interview".
- The interview panel’s function was limited to evaluation, final selection must adhere to the SOR and the published ranking sheet (marked “R1”).
- The concealment of the marking sheet until an interim order by this Court on 04.11.2024, and the subsequent attempt to amend the SOR retrospectively by letter dated 17.01.2025 (marked “AI”), evinces *mala fides* and procedural manipulation.
- The invocation of seniority as a decisive factor is contrary to the SOR, which makes no reference to seniority as a basis for selection under the external category. All candidates were evaluated under the external category, including the 19th Respondent, who was also an Additional Director General since 10.11.2023.

The Petitioner accordingly contends that the appointment is null and void *ab initio*, and must be quashed by way of certiorari, and a fresh appointment made strictly in line with the merit order prescribed by the SOR.

The Respondents argue collectively that:

- The appointment was made pursuant to the discretion conferred under Section 12 of the RDA Act, which is not fettered by the SOR. They characterize the SOR as non-binding and administrative in nature.
- The Board and Minister are entitled to consider factors beyond marks, including Seniority, Leadership experience, Institutional familiarity, Long-standing service and overall suitability for the post.
- The 19th Respondent was lawfully appointed by the competent authority, having served 28 years and having secured the second-highest mark, equal to another applicant, and thus fell within the shortlisted top three candidates.
- No representation or legitimate expectation arose in the Petitioner's favour, nor has he established any procedural impropriety or bad faith. Mere dissatisfaction with the result is not grounds for judicial review, especially in light of the presumption of regularity that attaches to official acts.

The Respondents thus contend that the Court ought not to interfere with what is essentially an administrative decision taken in good faith, absent manifest unreasonableness or illegality.

The Respondents have placed reliance on Clauses 4.4 and 4.5 of the approved SOR to justify the appointment of the 19th Respondent despite



the Petitioner obtaining the highest marks at the interview. It is contended that Clause 4.4 confined the role of the interview panel to merely shortlisting candidates, and that Clause 4.5 vested the Board of Directors with discretion to assess the broader “suitability” of candidates for final appointment, which may include considerations such as seniority, institutional familiarity, or leadership traits. However, this Court is not persuaded that such clauses can be interpreted in isolation to confer a licence to disregard the clear and mandatory provisions of the SOR. Mandatory clauses at page 104 and 103 admit of no exception.

If Clauses 4.4 and 4.5 were to be interpreted as authorising the Board to override the interview-based merit order, such an interpretation would nullify the binding force of the merit principle and render the recruitment process vulnerable to arbitrariness and subjective preferences. This Court is of the view that Clauses 4.4 and 4.5, properly construed, do not confer an unfettered discretion but must be read harmoniously and restrictively, within the overarching framework of the SOR, which prioritises objectivity, transparency, and merit-based selection. It is the view of this court that any contrary interpretation would violate the principle of legitimate expectation and amount to procedural impropriety.

This court observes that the SOR is clear and unequivocal in requiring that “appointments shall be made purely in the order of merit at the interview”, with no express discretion reserved for deviation. The Petitioner scored the highest marks in the marking sheet (“R1”), which was produced only upon Court direction, suggesting a lack of transparency in the process. The attempt to retrospectively amend the SOR by the 2nd Respondent via letter dated 17.01.2025, post-appointment, indicates an ex post facto justification of an otherwise irregular process. The Respondents themselves concede that all candidates were assessed under the external category, making seniority

irrelevant as per the SOR. The Petitioner's claim of legitimate expectation, is grounded on adherence to published criteria.

In this context, this court notes that the SOR was not followed, and no compelling reason was provided for deviation from the express merit-based appointment requirement, undermining the legality of the final appointment. Furthermore, the post attempt to amend the SOR, and the failure to disclose the marking sheet until ordered by Court, suggest lack of transparency and failure to act in good faith. Their invocation of seniority is inconsistent with the category under which all candidates were assessed, namely, the external stream, which did not permit such consideration.

## **CONCLUSION**

This Court has carefully considered the pleadings, affidavits, objections, counter-objections, and all documentary material tendered by the parties, as well as the oral and written submissions advanced on behalf of the respective parties.

At the heart of the instant application lies the question of whether the appointment of the 19th Respondent as Director General of the Road Development Authority was made in accordance with law, and more particularly, whether the procedure adopted by the 1st to 3rd Respondents, culminating in the impugned appointment, conformed to the requirements of the approved Scheme of Recruitment and principles of natural justice.

It is not in dispute that by internal memorandum dated 09.02.2024, applications were invited for the post of Director General of the RDA, and that both the Petitioner and the 19th Respondent duly applied under the criteria applicable to the external category, as per the internal directive

marked “P9(b)”. An interview panel comprising the 11th, 20th, and 21st Respondents conducted interviews on 27.02.2024. The marking sheet, subsequently filed upon this Court’s direction dated 04.11.2024 and marked “R1”, confirms that the Petitioner was awarded 63/100, the highest score among all candidates, while the 19th Respondent secured 61/100, which he shared with another candidate.

The approved Scheme of Recruitment, marked “P20(c)” in the Petition and “1R4” in the Respondents’ pleadings, clearly states that appointments to the post of Director General shall be made “purely in the order of merit at the interview” and that “all recruitments to this category shall be strictly in compliance with the provisions of this Scheme”. There is no ambiguity in these provisions. The SOR contains no reference to additional considerations such as “seniority,” “institutional familiarity,” or “service tenure” for candidates evaluated under the external stream.

The Respondents contend, however, that Section 12(1) of the RDA Act vests the RDA with discretion to appoint a Director General, subject to ministerial approval, and that this discretion encompasses the right to consider qualitative factors beyond the marking sheet, including seniority, suitability, and institutional knowledge. It is further contended that the SOR is merely administrative and does not override the statutory authority of the RDA Board or the Minister.

This Court is unable to accept the Respondents' interpretation of Section 12(1) as affording untrammelled discretion to deviate from the express terms of the SOR. While Section 12(1) does empower the Authority to appoint a Director General with the approval of the Minister, such power must be exercised in a manner that is lawful, reasonable, and consistent with binding administrative rules, including approved schemes of recruitment. The SOR, having been approved by the relevant Ministry and adopted by the RDA, constitutes a mandatory framework governing

the selection process. The use of the term “shall” within the SOR denotes imperative compliance with the merit-based ranking system, thereby eliminating the scope for extraneous considerations in final appointments, absent amendment of the SOR through lawful means.

The Respondents' reliance on seniority as a justification for departing from the marking order is particularly misplaced. The record confirms that all candidates were evaluated under the external stream, and no provision within the SOR permits the invocation of seniority within this stream. The attempt by the 2nd Respondent to amend the SOR, through a letter dated 17.01.2025, referencing a discrepancy between the SOR and Section 12 of the RDA Act, strongly supports the Petitioner's contention that the impugned appointment was procedurally irregular and legally flawed.

The doctrine of legitimate expectation necessitates that the recruitment process be conducted in strict adherence to the binding provisions of the approved Scheme of Recruitment, upon which the Petitioner was entitled to reasonably rely.

In **Junaideen Mohamed Iqbal v. The Divisional Secretary, Kundasale** (CA/Writ/328/2015, CA Minutes of 19.02.2020), the Court of Appeal articulated the principle of legitimate expectation in the following terms:

*“...When a public authority represents that it will or will not do something within its authority and later attempts to rescind the said representation, a person who has reasonably relied on it should be entitled to enforce it by law. This concept is based on the principles of natural justice and fairness, and seeks to prevent the abuse of power by public authorities...”*

Further, Wade and Forsyth, in their authoritative treatise *Administrative Law* (11th Edition, at p. 451 - 452), discuss the rationale for protecting legitimate expectations as follows:

*“...A further and more satisfactory reason for the protection of legitimate expectations lies in the trust that has been reposed by the citizen in what he has been told or led to believe by the official. Good government depends upon trust between the governed and the governor. Unless that trust is sustained and protected, officials will not be believed and the government becomes a choice between chaos and coercion.”*

*“...It is not enough that an expectation should exist: it must in addition be legitimate. But how is it to be determined whether a particular expectation is worthy of protection? This is a difficult area since an expectation reasonably entertained by a person may not be found to be legitimate because of some countervailing consideration of policy or law.*

*A crucial requirement is that the assurance must itself be clear, unequivocal and unambiguous. Many claimants fail at this hurdle after a close analysis of the assurance. The test is how, on a fair reading of the promise, it would have been reasonably understood by those to whom it was made...”*

The deviation from the merit based ranking order, in the absence of a legally cognizable justification, amounts to a violation of that expectation, and is amenable to judicial review. Where the decision-making process is infected by illegality, irrationality, procedural impropriety, or breach of binding rules, this Court is not only entitled but obligated to intervene. The Respondents have failed to demonstrate that the appointment of the

19th Respondent, despite his lower score, was legally justifiable within the bounds of the governing SOR and applicable statutory provisions.

In these circumstances, the Petitioner's grievance is well founded in law, and the appointment of the 19th Respondent is liable to be quashed for being *ultra vires*, arbitrary, and procedurally unlawful. This Court is satisfied that the Petitioner is entitled to the reliefs set out in prayers (c), (d), (e), and (f) of the Petition, and the same are hereby granted.

*Application allowed. No Costs.*

PRESIDENT OF THE COURT OF APPEAL (ACTG)

**K. M. S. DISSANAYAKE, J.**

I agree.

JUDGE OF THE COURT OF APPEAL