

**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 Writs of *Certiorari* and *Mandamus* under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Court of Appeal Case No.

CA/WRT/0193/2019

1. **H. P. D. Nayanathilake Ranasinghe,**
154/1/A, Weeragula,
Yakkala.
2. **J. D. Pradeep Pandikorala,**
Aluthwatta, Batuwanthudawa Road, Hapugala,
Wakwella, Galle.
3. **Neil Gunarathne,**
18A, Ahupiyannawa, Ukgalbada, Kaluthara.
4. **H. P. Pushpakumari,**
Silverdale Road, Vilpatha, Dodangoda,
Kaluthara.
5. **M. A. S. Jayadewa,**
Kandegedara, Devalegama.
6. **M. D. H. Meddehetti,**
338, Agalawaththa Road,
Weththewa,
Mathugama.

Petitioners.

Vs.

1. **Tea Small Holding Development Authority,**
No.70, Parliament Road, Pellawaththa,
Battaramulla.
2. **Wijerathna Devagedara,**
Chairman (Ceased to hold office)
- 2A. **Mahinda Vidanapathirana,**
Chairman (Ceased to hold office)
- 2B. **Dr. Thushara Priyadarshana,**
Chairman,
Tea Small Holding Development Authority,
No.70, Parliament Road, Pellawaththa,
Battaramulla.
3. **D. G. Maheepala,**
General Manager,
Tea Small Holding Development Authority, No.70,
Parliament Road, Pellawaththa, Battaramulla.
4. **J. M. G. Jayasinghe,**
Deputy General Manager (Development), (Ceased
to hold office)
- 4A. **C. J. I. T. Fernando,**
Deputy General Manager (Development), Tea
Small Holding Development Authority, No.70,
Parliament Road, Pellawaththa, Battaramulla.
5. **Harshan De Silva,**
Manager
(Human Resources/Administrative),
Tea Small Holding Development Authority, No.70,
Parliament Road, Pellawaththa, Battaramulla.

6. **W. K. Chathurangi,**
Deputy Director (Development),
Ministry of Plantation Industries
11th Floor, State II, Sethsiripaya, Battramulla.
7. **J. A. Ranjith,**
Secretary,
Ministry of Plantation Industries, (Ceased to hold
office).
- 7A. **Ravindra Hewavitharana,**
Secretary, Ministry of Plantation
Industries, (Ceased to hold office).
- 7B. **Janaka Dharmakeerthi,**
Secretary,
Ministry of Plantation Industries
11th Floor, State II, Sethsiripaya, Battramulla.
8. **W. P. L. Wijewardena,**
Director, (Ceased to hold office)
- 8A. **K. H. Vijayakeerthi,**
Director,
Tea Small Holding Development Authority,
No.70, Parliament Road,
Pellawaththa, Battaramulla.
9. **Dr. Mohan Abeyarathna,**
Director, (Ceased to hold office)
- 9A. **Dr. L. S. K. Hettiarachchi,**
Director,
Tea Small Holding Development Authority,
No.70, Parliament Road, Pellawaththa,
Battaramulla.

10. **M. J. S. Ravisinghe,**
Director, (Ceased to hold office).
- 10A. **W. Jinadasa,**
Director,
Tea Small Holding Development Authority,
No.70, Parliament Road, Pellawaththa,
Battaramulla.
11. **Kumudu Meegahage,**
Director, (Ceased to hold office).
- 11A. **J. Jayasundara,**
Director,
Tea Small Holding Development
Authority,
No.70, Parliament Road, Pellawaththa,
Battaramulla.
12. **E. A. J. K. Edirisinghe,**
Director,
Tea Small Holding Development Authority,
No.70, Parliament Road, Pellawaththa,
Battaramulla.
13. **Weeratunga Herath,**
Director, (Ceased to hold office).
- 13A. **T. H. Richard,**
Director,
Tea Small Holding Development
Authority,
No.70, Parliament Road, Pellawaththa,
Battaramulla.

14. **Amara Disanayake,**
Director, (Ceased to hold office).
15. **W. T. R. P. Wimalarathna,**
Director, (Ceased to hold office).
16. **K. L. Gunarathna,**
Director,
Tea Small Holding Development Authority,
No.70, Parliament Road, Pellawaththa,
Battaramulla.
17. **Roshan Rajadurei,**
Director,
Tea Small Holding Development Authority,
No.70, Parliament Road, Pellawaththa,
Battaramulla.
18. **Nuwan Wijesinghe,**
Director, (Ceased to hold office).
19. **Jagath Senarath Pathirane,**
Director,
Tea Small Holding Development Authority,
No.70, Parliament Road, Pellawaththa,
Battaramulla.
20. **N. M. Wijesinghe,**
Tea Small Holding Development Authority,
Regional Office,
Kalidasa Mawatha,
Matara.
21. **R. A. S. S. Ranathunga,**
Tea Small Holding Development Authority,
Regional Office New Town,
Kothmale.

22. **H. M. K. G. B. Herath,**
Tea Small Holding Development Authority,
Kalidasa Mawatha,
Regional Office, Matara.
23. **P. G. P. C. Wijesinghe,**
Tea Small Holding Development Authority,
Regional Office,
Gannoruwa, Peradeniya.
24. **A. K. Wijesekera,**
Tea Small Holding Development Authority,
Regional Office,
Atampitiya Road, Ruwanwella.
25. **H. M. G. P. Nilmini Kumari,**
Tea Small Holding Development Authority,
Regional Office,
Old Kaluthara Road,
Kegalla.
26. **M. A. I. Abeyasena,**
Tea Small Holding Development Authority,
Regional Office,
New Town, Rathnapura.
27. **S. I. U. Senadeera,**
Tea Small Holding Development Authority,
Regional Office,
New Town, Kothmale.
28. **Mahinda Batagoda,**
Tea Small Holding Development Authority,
Regional Office,
Mahamodara, Galle.

Respondents

Before: **M. T. MOHAMMED LAFFAR, J.**

Counsel: Chathura Galhena with Dharani Weerasinghe and K. Wickramasinghe for the Petitioners.

J. Fernando with D.D.P. Dassanayake for the 20th, 25th and 28th Respondents.

Madushka Kannangara, S.C. for the State.

Argument: By way of written submissions.

Written Submissions tendered on: 02.11.2023 by the Petitioners.

01.11.2022 by the 20th, 25th & 28th Respondents.

15.12.2023 by the 1st, 2A, 3rd, 4A, 6, 7A, 8A, 9A, 10A, 11A, 12th, 16, 17 & 19th Respondents.

Decided on: 29.08.2024.

MOHAMMED LAFFAR, J.

The Petitioners are seeking a mandate *inter-alia*, in the nature of;

1. Writs of *Certiorari* quashing the interview conducted by the 2nd to 6th Respondents on 14-01-2019, interview marks contained in **P26**, the decision of the Board of Directors of the 1st Respondent Authority consisting of 2nd and 8th to 19th Respondents approving the interview results and the appointments given to the 20th to 28th Respondents as Zonal Tea Development Extension Officers by the letter dated 26-04-2019.
2. A Writ of *Mandamus* compelling the Board of Directors of the 1st Respondent Authority to conduct a fresh interview for the post of Zonal Tea Development Extension Officers with a properly constituted interview panel.

In a nutshell, the Petitioners contended that the interview conducted by the 2nd to 6th Respondents on 14-01-2019 for the post of Zonal Tea Development Extension Officers was biased, irrational, arbitrary, *ultra-vires* and bad in law on the footing that;

1. The allocation of marks for the candidates was unfair.

2. The 2nd and 5th Respondents are not eligible to be members of the interview panel.

Admittedly, the Petitioners, who joined the 1st Respondent Authority as Tea Inspectors were eligible to be promoted to the next grade known as the Zonal Tea Development Extension Officers. The Petitioners applied to the said grade pursuant to the advertisement published by the 1st Respondent (**P17**). The written examination was held on 24-03-2018 and the applicants who passed the written examination were called for an interview which was scheduled to be held on 14-01-2019.

In the interview, the marks were allocated in the following manner.

1. 30 marks for the work experience.
2. 30 marks for additional qualification.
3. 15 marks for skills and performance.
4. 25 marks for the performance at the interview.

The marks allocated to each applicant are contained in the mark sheet produced as **P26** which was subsequently approved by the Board of Directors on 21-03-2019. The position of the Petitioners was that the marks allocated for the candidates were, *ex-facie*, irrational, unfair, biased and arbitrary.

At the interview, 30 marks were allocated for the work experience. It is evident from the mark sheet (**P26**) that the 20th Respondent has been allocated 30 marks for his eight years of work experience (from 01-02-2011 to 14-01-2019). The Petitioners have been allocated marks as set out below;

The 1st Petitioner.....20 years experience.....10 marks.

The 2nd Petitioner.....28 years experience.....12 marks.

The 3rd Petitioner.....20 years experience.....10 marks.

The 4th Petitioner.....21 years experience.....10 marks.

The 5th Petitioner.....19 years experience.....08 marks.

The 6th Petitioner.....21 years experience.....10 marks.

It is pertinent to note that the interview panel has not given any explanation as to why the 20th Respondent has been allocated more marks when he has only eight years of working experience and the Petitioners who have over nineteen years of working experience have been allocated less marks.

It is undisputed that the required qualification for the said promotion was a Diploma in Agriculture or a Diploma in Plantation Management or a Diploma in Plantation Project Management. As such, possessing a Degree is an additional qualification. 30 marks were allocated for the additional qualification. The 3rd and 6th Petitioners, while in service, have obtained B.Sc. Degree in Plantation Management from the University of Wayamba. It is to be noted that the 3rd and 4th Petitioners have been allocated 4 marks and 7 marks for their additional qualifications respectively. There is no explanation as to why different marks have been allocated to the 3rd and 6th Petitioners pertaining to their Degrees.

Moreover, at the interview, 15 marks were allocated for skills/performance. It is significant to note that the Petitioners have obtained annual salary increments without any impediments during their service. It is evident that having recognized the performance and working experience of the 6th Petitioner, the 1st Respondent Authority has given an acting appointment to the 6th Petitioner in the superior grade of the Officer-in-Charge in Kalutara Division. However, at the interview, the 6th Petitioner was allocated only 2 marks.

The 2nd Petitioner is presently functioning as a Grade I Tea Inspector in Galle with satisfactory service performance. The 3rd Petitioner is presently functioning as a Tea Inspector/Project Officer in Uva with a satisfactory service performance. However, the 2nd and 3rd Petitioners were not allocated marks for their performance.

This Court is mindful of the fact that the interview panel has not given an explanation or reasons for allocating marks in an aforesaid irrational manner. In this scenario, it is the view of this Court that the allocation of marks in **P26** is biased, irrational, unfair and arbitrary, and therefore, the same is liable to be quashed.

Furthermore, the Petitioners took up the position that the constitution of the interview panel was illegal on the premise that;

1. The appointment of the 2nd Respondent (a member of the interview panel) as the Chairman of the 1st Respondent Authority was illegal as the said appointment was not recommended by the Advisory Committee established by the Cabinet.
2. According to the report of the Presidential Inquiry Unit (P23), the 5th Respondent, (a member of the interview panel) is subject to a disciplinary inquiry, and therefore, he is not eligible to be a member of the said interview panel.

In terms of the Circular bearing No. PS/PCMD/19/2018 dated 31-12-2018 issued by the Presidential Secretariat (P22), the Chairman and Board Members of State Corporations and Statutory Boards should be appointed upon the recommendation of the Advisory Committee established by the Cabinet and the approval of His Excellency the President. It is to be noted that the 2nd Respondent was appointed as the Chairman of the 1st Respondent

Authority by the Minister concerned on 21-12-2018 well before the said Circular marked as P22, and therefore, P22 was not applicable to the 2nd Respondent.

The 5th Respondent is the Human Resources Manager of the 1st Respondent Authority. In terms of the Report of the Presidential Inquiry Unit dated 18-07-2018 (P23), it was recommended that the 5th Respondent should be removed from the post of Human Resources Manager and immediate disciplinary action should be taken against him due to his corrupt practices and lack of qualification. In such a situation, appointing the 5th Respondent as a member of the interview panel is unfair, illegal and unreasonable.

For the foregoing reasons, Writs of Certiorari quashing the interview conducted by the 2nd to 6th Respondents on 14-01-2019, interview marks contained in **P26**, the decision of the Board of Directors of the 1st Respondent Authority consisting of 2nd and 8th to 19th Respondents approving the interview results and the appointments given to the 20th to 28th Respondents as Zonal Tea Development Extension Officers by the letter dated 26-04-2019 are issued. A Writ of *Mandamus* compelling the Board of Directors of the 1st Respondent Authority to conduct a fresh interview for the post of Zonal Tea Development Extension Officers with a properly constituted interview panel is also issued. The Petitioners are entitled to the reliefs as prayed for in the prayers to the Petition. The Petitioners are entitled to a sum of Rs. 10,000/- each as costs of this Application, payable by the 2nd to 6th Respondents.

Application allowed with costs.

JUDGE OF THE COURT OF APPEAL