

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

*In the matter of an Application for  
Orders in the nature of Writs of  
Certiorari, Prohibition and Mandamus  
under Article 140 of the Constitution of  
the Democratic Socialist Republic of Sri  
Lanka.*

The Sri Lanka Transport Board,  
No. 200, Kirula Road,  
Narahenpita,  
Colombo 05.

**CA (Writ) App. No. 0182/2023**

**PETITIONER**

**Vs.**

1. Mr. Malintha Jayasinghe,  
The Arbitrator,  
No. 66, Bandaranayake Mawatha,  
Badulla.
2. Mr. K.P. Premasiri,  
No. 279, Dewram Vehara,  
Thanamalvila.
3. Mr. B.K. Prabath Chandrakeerthi,  
Commissioner General of Labour,  
Department of Labour,  
Colombo 05.
- 3A. Mr. H.K.K.A. Jayasundara,  
Commissioner General of Labour,  
Department of Labour,  
Colombo 05.

4. Hon. Nimal Siripala de Silva,  
Minister of Labour,  
Department of Labour,  
Colombo 05.

AND NOW

Hon. Manusha Nanayakkara,  
Minister of Labour & Foreign  
Employment.

- 4A. Hon. Prof. Anil Jayantha Fernando,  
Minister of Labour,  
Department of Labour,  
Colombo 05.

5. Hon. Attorney General,  
Attorney General's Department,  
Colombo 12.

### **RESPONDENTS**

**Before:** Dr. D. F. H. Gunawardhana, J.

**Counsel:**

D.I.R. Ranawaka instructed by Kosala Perera for the Petitioner.

Shemanthi Dunuwila, S.C. for the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Respondents.

**Supported on:** 10.10.2025

**Order delivered on:** 11.12.2025

## **Order**

### **Introduction**

The Petitioner is the Transport Board of Sri Lanka, which is a body incorporated under a special Act of Parliament, and is capable of suing and being sued in its corporate name. The 2<sup>nd</sup> Respondent is employed as a driver under the Petitioner and on the fateful day of 26.01.2011, while driving a bus in the course of his employment, he had knocked down a passer-by at the Central Bus Stand in Colombo (Pettah). Thereafter, he was charged before the Magistrate's Court of Colombo in case bearing No. 33286 and later exonerated and discharged from all criminal proceedings therein. However, when the proceedings were pending in the Magistrate's Court, the 2<sup>nd</sup> Respondent had been interdicted by the Petitioner; later upon being discharged, he was reinstated without being paid his salary or receiving any perks during the interdiction.

Accordingly, a dispute had arisen, and the said dispute had been referred to arbitration, and an arbitral award was granted in favour of the 2<sup>nd</sup> Respondent by the Arbitrator, who is the 1<sup>st</sup> Respondent to this Application. Being aggrieved by the said arbitral award, the Petitioner has sought to invoke the jurisdiction of this Court to quash the same by way of a *Writ of Certiorari*.

### **Arguments**

The only argument advanced by Mr. Ranawake is that the interdiction of the 2<sup>nd</sup> Respondent, who was a driver when the particular bus met with an accident and knocked down a pedestrian at the Central Bus Stand, Colombo, after which the victim succumbed to her injuries, was proper. Although the 2<sup>nd</sup> Respondent was later exonerated from all charges by the Magistrate's Court, he is not entitled to any back wages during the period of his interdiction, as the disciplinary rules

provide for that. Therefore, the arbitral award granted in favour of the 2<sup>nd</sup> Respondent is contrary to the said disciplinary rules.

On the other hand, Ms. Dunuwila argued that since the 2<sup>nd</sup> Respondent was exonerated from all charges against him in the Magistrate's Court, he was reinstated by the Petitioner. As such, the interdiction was erroneous and illegal, and therefore, he is entitled to the back wages as awarded by the Arbitrator.

### **Factual matrix**

The 2<sup>nd</sup> Respondent, who is employed as a driver under the Petitioner, while driving his bus bearing No. WPNA 1173 belonging to the Katharagama depot, knocked down a passer-by at the Central Bus Stand, Colombo, thereby fatally injuring the said person, and was charged before the Magistrate's Court of Colombo; immediately thereafter, he was interdicted without payment of his salary. However, after a few years, the Magistrate's Court inquiry was over, and by the final judgement dated 11.09.2014 delivered by the learned Magistrate of Colombo, the 2<sup>nd</sup> Respondent had been acquitted from all the charges. Consequently, the 2<sup>nd</sup> Respondent was reinstated with effect from 25.08.2016. Nevertheless, the salary that had not been paid during the interdiction was denied to the 2<sup>nd</sup> Respondent after a disciplinary inquiry. On arbitration, the 2<sup>nd</sup> Respondent has been awarded the relevant salary which had been denied by the Petitioner.

### **Dispute between the parties**

It is an undisputed fact that the Petitioner is the employer while the 2<sup>nd</sup> Respondent is the employee who has been working under the Petitioner as a driver. While he was driving the relevant bus, in the course of his employment, he met with an accident consequently resulting in the death of the said passer-by. Though he was charged before the Magistrate's Court, he was later exonerated of

all the charges. Therefore, it is quite pertinent for him to claim his wages that were denied or not paid during the interdiction, which the Petitioner failed to pay.

### **2<sup>nd</sup> Respondent is entitled to relief**

Accordingly, it is my view that since the 2<sup>nd</sup> Respondent has been exonerated by the Magistrate's Court from all the charges, and in addition to that, there is no other conviction against the 2<sup>nd</sup> Respondent for a disciplinary matter with regard to that incident; thereafter, he should be entitled to the back wages that was denied to him during the interdiction. Therefore, it is quite justified that the arbitrator concluded by awarding the relevant amount of salary which had been denied to the 2<sup>nd</sup> Respondent.

### **Conclusion**

Accordingly, I see no reason to interfere with the arbitral award, or the decision arrived based on the evidence. As such, I refuse notice, and dismiss this Application *in limine*.

**JUDGE OF THE COURT OF APPEAL**