

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

In the matter of an application in terms  
of Article 126 read with Article 17 of the  
Constitution.

**Madapathage Tilak Jayantha Perera,**  
No. 1395/5,  
Hokandara Road,  
Pannipitiya.

**PETITIONER**

**SC / FR / 248 / 2019**

**VS.**

1. State Printing Corporation,  
Panaluwa,  
Padukka.
2. Sendanayake Arachchige Binara  
Jayawardena,  
The Chairman,  
State Printing Corporation,  
Panaluwa,  
Padukka.
3. R.M. Nilantha Monarawila,  
General Manager,  
State Printing Corporation,  
Panaluwa,  
Padukka.

4. Hon. Attorney General,  
Attorney General's Department,  
Hulftsdorp,  
Colombo 12.

**BEFORE** : **A.H.M.D. NAWAZ, J.**  
**ARJUNA OBEYESEKERE, J. &**  
**M. SAMPATH K.B. WIJERATNE, J.**

**COUNSEL** : Mangala Niyarepola with Kushini Gunaratna  
instructed by Sumudu Atapattu for the Petitioner.  
Hashini Opatha SSC for all Respondents.

**ARGUED &**  
**DECIDED ON** : 20.05.2025.

**A.H.M.D. NAWAZ, J.**

The Petitioner before this Court impugned his suspension which had been effected by a letter marked "P34" dated 16.05.2019. The Petitioner alleges that this act of suspension has resulted in an infringement of his fundamental rights guaranteed and protected under Article 12(1) of the Constitution. Having filed this petition on 14.06.2019, the Petitioner filed an amended petition dated 06.01.2020.

It is on the amended petition that the Supreme Court heard the Petitioner and granted leave to proceed by its order dated 15.06.2022. Leave was granted only under Article 12(1) of the Constitution. Statements of objection have been subsequently filed on behalf of the 1<sup>st</sup> - 4<sup>th</sup> Respondents.

When one peruses the prayer in the amended petition one could see that it is the suspension of the services of the Petitioner from the post of marketing manager at the 1<sup>st</sup> Respondent Corporation that has been impugned as null

and void. It has to be remembered that even though the suspension took place on 16.05.2019 and the Petitioner invoked the jurisdiction of this Court on 14.06.2019, the domestic inquiry against the Petitioner has since commenced upon a charge sheet. In other words, suspension on 16.05.2019 has been followed by the commencement of a disciplinary inquiry.

The conduct of the disciplinary inquiry or the commencement thereof has not been challenged either in the original petition or in the amended petition preferred before this Court. It is only the suspension that forms the principal complaint or focus of the Petitioner's application before this Court. It is trite proposition that a workman could be suspended during the pendency or prior to the commencement of a disciplinary inquiry. In such a situation it cannot be argued that the suspension which preceded the domestic inquiry would be contrary to law.

It has to be borne in mind the disciplinary inquiry conducted against the Petitioner resulted in termination of services on 25.08.2020. It is brought to the notice of this Court that the Petitioner has challenged the termination as unjust and inequitable before the Labour Tribunal, Homagama and that the inquiry has already begun after the Respondents admitted the termination. It is intimated that the Respondents have led evidence and closed their case.

The Petitioner is due to commence his case on 23.05.2025. It is not lost on this Court that the Labour Tribunal proceedings may result in an order in favour of the Petitioner. It also bears the likelihood of the order being against him. In the pending Labour Tribunal proceedings, it is crystal clear that the President of the Labour Tribunal is invested with judicial powers and will exercise his judicial mind to evaluate the evidence on suspension and rule on its propriety or otherwise.

In such a situation, this Court cannot possibly proceed to pronounce on the propriety or otherwise of the suspension when another forum vested with jurisdiction has embarked upon an inquiry to rule on it. If the Petitioner succeeds in his application before the learned President of the Labour Tribunal, there may be appropriate reliefs granted to the Petitioner by way of

compensation, back wages or even reinstatement. In the likelihood of such an eventuality, this Court cannot proceed to pronounce on the suspension as having resulted in an infringement of the Petitioner's fundamental rights, since both the Respondent-employer and the Petitioner could exercise their rights to establish the lawfulness or otherwise of their respective positions before the Labour Tribunal.

In the circumstances, we see no merit in allowing the application of the Petitioner and we proceed to dismiss this application without costs.

**Judge of the Supreme Court**

**Arjuna Obeyesekere, J**

I agree

**Judge of the Supreme Court**

**M. Sampath K.B. Wijeratne, J**

I agree

**Judge of the Supreme Court**