

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

*In the matter of an application under and in  
terms of Article 17 and 126 of the Constitution  
of the Democratic Socialist Republic of Sri  
Lanka.*

**SC FR NO. 12/2015**

Owitigalage Maithreepala Owitigala  
No. 280,  
Hinguruwewa,  
Talawa,  
Anuradhapura.

**PETITIONER**

**Vs.**

1. N. K. Ilangakoon  
Inspector General of Police,  
Police Headquarters,  
Colombo 01.
2. Gamini Dissanayake  
Deputy Inspector General of Police,  
Police Headquarters,  
Colombo 01.
3. Jagath Abeysirigunawardena  
Senior Deputy Inspector General of Police,  
North Central Province,  
Office of the Senior Deputy Inspector General  
of Police,  
Meththa Mawatha,

Anuradhapura.

4. Ravi Wijewardena  
Senior Deputy Inspector General of Police,  
Northern Province,  
Office of the Senior Deputy Inspector General  
of Police,  
Meththa Mawatha,  
Anuradhapura.
5. C. Vithanawasam  
Disciplinary Inquiry Officer,  
Yakalla,  
Nedogodawewa.
6. R. A. Saaman Kumara alias Jayantha  
No. 83, 02/01 A Colony,  
Adhiranigama,  
Ihala Halmillewa,  
Eppawala.
7. Hon. Attorney General  
Attorney General's Department,  
Hulftsdorp,  
Colombo 12.

**RESPONDENTS**

**BEFORE** : **P. PADMAN SURASENA, J**  
**MAHINDA SAMAYAWARDHENA, J &**  
**MENAKA WIJESUNDERA, J**

**COUNSEL** : Anura Meddegoda, PC with Ashani Kankanange, Nadeesha

Kannangara and Tharushi Bethmage for Petitioner instructed by Varners.

Rajitha Perera, DSG for Respondents.

**ARGUED &**

**DECIDED ON** : 12-06-2025

**P. PADMAN SURASENA, J**

We have heard the submissions of the learned President's Counsel for the Petitioner and also the submissions of the learned Deputy Solicitor General who appeared for the Respondents and concluded the argument.

The Petitioner at one point of time had served as a Police Constable attached to the Eppawala Police Station.

Officers attached to the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) arrested the Petitioner on 23-04-2012. He was produced before the Magistrate's Court of Thambuttegama. Upon the Petitioner being produced before him, the Magistrate of Thambuttegama had remanded the Petitioner. The allegation made against the Petitioner for the said arrest was that the Petitioner had allegedly solicited and accepted a gratification of Rs. 5000/- from R. A. Saman Kumara alias Jayantha who has been named in this case as the 6<sup>th</sup> Respondent. Thereafter, CIABOC had taken steps to indict the Petitioner in the High Court of Colombo under case No. HCB/2130/2016. On 07-04-2022 the learned High Court Judge of Colombo relying upon the Supreme Court Judgment in *Anoma Polwatta v. L. Jayawickrema* (SC Writ Application No. 01/2011), had made order discharging the Petitioner from the charges set out in the indictment on the basis that the decision to forward the said indictment against the Petitioner had been signed only by one member of the Commission (CIABOC) when the law requires that the Commission shall comprise three members. Thus, we are of the view that the order pronounced by the learned High Court Judge does not amount to an acquittal of the Petitioner from the charges in the indictment. Indeed, the learned High Court Judge at the end of his Order dated (07-04-2022) has

specifically mentioned that the said Order is not a bar for CIABOC to forward a subsequent indictment on the same charges.

Subsequent to the afore-mentioned arrest, the Petitioner was issued a charge sheet which the Respondents have produced marked **1R2**. Thereafter, a formal disciplinary inquiry proceeding was conducted. At the end of the disciplinary inquiry, the inquiring officer by his report dated 29-04-2014 which the Respondent has produced marked **(Y)** has found the Petitioner guilty of both charges in the charge sheet. It was in accordance with the said finding of guilt that the Petitioner has been dismissed from service.

In this Petition, the Petitioner has alleged firstly that the said disciplinary inquiry was held contrary to the general principals applicable to conduct of disciplinary procedures and secondly that the charges were based on a false allegation. The Petitioner has alleged that this was done with a view to wrongfully implicate him to the alleged offence. The Respondents have submitted to this Court, a complete copy of the disciplinary proceedings conducted against the Petitioner.

We have perused the evidence and the Disciplinary Order. The 6<sup>th</sup> Respondent who was the Complainant against the Petitioner who has alleged that the Petitioner had solicited and accepted a bribe of Rs. 5000/-, has given evidence before the inquiring officer. The said witness has been cross examined by the representative who appeared for the Petitioner.

As pointed out by the learned Deputy Solicitor General, we also observe that the inquiring officer has explained the matters relating to the conduct of disciplinary proceedings to the Petitioner in following terms;

පරීක්ෂණයේ කටයුතු අවසන් කිරීමට ආසන්නව ඇත. පැමිනිල්ල පාර්ශවයේ සාක්ෂිත්, විත්තිය පාර්ශවයේ සාක්ෂිත් විමසා අවසන්ව ඇති අතර වූදින කැමති නම් ඔහුට සාක්ෂියක් දියහැකි බව විත්තිය පාර්ශවයට පැහැදිලි කර දුනිමි. වූදින සාක්ෂියක් ලබා දෙන්නේ නම් එය හරස් ප්‍රශ්න වලට භාජනය වන බවත්, වූදින සාක්ෂි දීමෙන් වැළකීමට හෝ ලිඛිත හෝ වාචික ප්‍රකාශයක් කර හැකි බව පැහැදිලි කරදේ. සාක්ෂිකරු සාක්ෂියක් නොදෙන බවත්, ලිඛිත ප්‍රකාශයක් ඉදිරිපත් නොකරන බවත් විනිශ්චය සභාවට දන්වා

සිටී. පරීක්ෂණය පැවැත්වූ ආකාරය ගැන පැමිනිල්ල පාර්ශවයෙන් හා විත්තිය පාර්ශවයෙන් කරුණු විමසමි. පරීක්ෂණය අපක්ෂපාතීව පැවැත්වූ බව පැමිනිල්ල මෙහෙයවීමේ නිලධාරී මහතා විත්තියේ රැකවරණ නිලධාරී මහතා විනිශ්චය සභාවට දන්වා සිටී. පරීක්ෂණ කටයුතු පවත්වා ගෙන යාමේදී මා වෙත සහය ලබා දුන් විත්තිය පාර්ශවයටත්, පැමිනිල්ල පාර්ශවයටත්, මහජන නියෝජිත දෙපලටත්, නියෝජ්‍ය පොලිස්පති කාර්යාලයේ කාර්ය මණ්ඩලයටත් මගේ ස්තූතිය පලකරමි. පැමිනිල්ල මෙහෙයවීමේ නිලධාරී මහතාගේ සහ රැකවරණ නිලධාරී මහතාගේ ලිඛිත ප්‍රකාශ 2014.03.08 දින සිට දින 14 ක් ඇතුළත ලියා පදිංචි තැපෑලෙන් මාගේ ලිපිනය වූ සී. විතානවසම්, විනය පරීක්ෂණ නිලධාරී “වැකැප්ම” යකල්ල, මෙගොඩවැව යන ලිපිනයට එවන මෙන් කාරුණිකව දන්වා සිටිමි. පැමිණිල්ල මෙහෙයවීමේ නිලධාරී මහතා විසින් ඔහුගේ ලිඛිත ප්‍රකාශය එවන විට පැමිනිල්ලේ සලකුණු කරන ලද මුල් ලේඛණ නොඑවන්නේ නම් පිටපත් සහතික කර මා වෙත එවිය යුතු බව අවධාරණය කරමි. පරීක්ෂණයේ කටයුතු අවසන් කරන විට වෙලාව පස්වරු 3. 00යි.

This convinces us that the inquiring officer has taken all steps necessary to ensure the smooth conduct of the disciplinary proceedings against the Petitioner fairly.

Therefore, we are of the view that there is no merit in the complaint made by the Petitioner that the disciplinary proceedings against the Petitioner was conducted contrary to the accepted legal principles relevant to the conduct of disciplinary proceedings.

Learned President's Counsel for the Petitioner also sought to argue that since there is no pending criminal prosecution against the Petitioner, the Petitioner is entitled to be reinstated in service. However, as pointed out by the learned Deputy Solicitor General, we observe that this Court in SC/FR/No. 273/2014 decided on 04-06-2015 has taken the view that such criminal proceedings would not be a relevant matter to decide on the guilt of a person in a disciplinary proceeding. The relevant part in the said judgment is as follows:

*The learned Deputy Solicitor General with emphasis argues that the outcome of the High Court case filed against the Petitioner has no bearing on the disciplinary order made against the Petitioner by the Police Department after a due inquiry. It is also said that a criminal prosecution and disciplinary*

*proceedings are independent of one another. As contained in chapter XLVII and Section 28.6 and 28.7 of the Establishment Code an acquittal or discharge by a Court of Law will not be a ground to set aside a disciplinary Order made in a disciplinary inquiry. The burden of proof defer in the above two proceedings. The said Sections 28.6 and 28.7 reads thus:*

Learned President's Counsel for the Petitioner also informs Court that at the moment, an appeal lodged by the Petitioner against the finding of his guilt is pending before the Administrative Appeals Tribunal.

We are of the view that the correctness of the Disciplinary Order could be decided in that proceedings before the Administrative Appeals Tribunal.

Having considered the submissions made by the learned Counsel for both parties and the material adduced before us, we see no basis to interfere in the final Disciplinary Order made against the Petitioner in the above instance.

We also have no basis to hold with the Petitioner that there is an infringement of his Fundamental Rights guaranteed under Article 12(1) of the Constitution. Therefore, we refuse to grant the declaration prayed for, by the Petitioner in this Petition.

We decide to dismiss this Petition without costs.

**JUDGE OF THE SUPREME COURT**

**ACHALA WENGAPPULI, J**

I agree,

**JUDGE OF THE SUPREME COURT**

**MAHINDA SAMAYAWARDHENA, J**

I agree,

**JUDGE OF THE SUPREME COURT**