

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

Jasenthu Liyanage Prasanga de Silva,
No. C/2/1,
Kammalwatte Housing Scheme,
Dematagoda Road,
Colombo 9.
Applicant-Respondent-Appellant

SC/APPEAL/46/2025

HC/LTA/12/2023

LT Case No. 31/34/2019

Vs.

Lanka Milk Foods (CWE) PLC,
No. 579/1, Welisara, Ragama.
Respondent-Appellant-Respondent

Before: Hon. Justice Mahinda Samayawardhena
Hon. Justice K. Priyantha Fernando
Hon. Justice Menaka Wijesundera

Counsel: Nisala Seniya Fernando for Applicant-Respondent-Appellant.
Shivan Coorey for the Respondent-Appellant-Respondent.

Argued on: 09.10.2025

Written submissions:

By the Applicant-Respondent-Appellant on 31.10.2025.

By the Respondent-Appellant-Respondent on 30.10.2025.

Decided on: 16.12.2025

Samayawardhena, J.

This appeal arises in unusual circumstances.

The employee-appellant filed an application before the Labour Tribunal alleging that his services were unjustifiably terminated by the employer-respondent. The Labour Tribunal by order dated 02.05.2023 held in favour of the appellant and ordered the respondent to pay a sum of Rs. 1,844,000 as compensation.

In terms of section 31D of the Industrial Disputes Act, if an employer decides to appeal against such order, he is required to deposit the said amount in the Labour Tribunal as a precondition to the filing of an appeal.

Being dissatisfied with the said order, the respondent deposited the sum of Rs. 1,844,000 on 06.06.2023 and filed the petition of appeal in the High Court on 07.06.2023. Both acts were done well within the prescribed time. However, the deposit was made not in the Labour Tribunal, as mandated by the Act, but in the relevant Labour Office. The respondent pleads that this occurred due to a *bona fide* mistake and that he had no intention whatsoever to disregard the law. The Labour Office confirms that the respondent deposited the said amount on 06.06.2023. I am satisfied that this was a *bona fide* mistake on the part of the respondent.

The appellant raised a preliminary objection before the High Court challenging the maintainability of the appeal on the basis that the security ought to have been deposited in the Labour Tribunal and not in the Labour Office. The High Court overruled this objection. Hence this appeal.

The Latin legal maxim *summum ius, summa iniuria* cautions, in certain circumstances, the strictest application of the law may itself result in injustice. However, this observation should not be regarded as a licence to intentionally flout the law or to defeat its mandatory requirements. The case

at hand is a unique case in which the respondent has substantially complied with the statutory requirement, and the deviation has occurred solely due to a *bona fide* mistake, without any intention to circumvent the law.

There is no need to engage in an academic exercise by answering the questions of law. I am of the view that the ends of justice will be met by permitting the High Court to determine the appeal on the merits.

The appeal is dismissed without costs.

The High Court is directed to conclude the appeal as expeditiously as possible.

Judge of the Supreme Court

K. Priyantha Fernando, J.

I agree.

Judge of the Supreme Court

Menaka Wijesundera, J.

I agree.

Judge of the Supreme Court