

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

In the matter of an application for Special  
Leave to Appeal from the Judgment of the  
Court of Appeal of the Democratic Socialist  
Republic of Sri Lanka under and in terms  
of Article 128(2) of the Constitution.

Dilani Nima Nanayakkara,  
150, Wekunagoda Road,  
Galle.

**Petitioner**

**SC Appeal No: 86/2009  
SC/SPL/LA/75/2009  
CA Writ Application No:  
1496/2006**

**Vs.**

1. Buddhist and Pali University of Sri Lanka,  
214, Bauddhaloka Mawatha,  
Colombo 07.
2. Prof. Ven. Wegama Piyaratana,  
Vice Chancellor,  
Buddhist and Pali University of Sri Lanka.
3. Ven. Akiriyagala Nanda,  
Dean,  
Faculty of Buddhist Studies and a member of  
the Council,  
Buddhist and Pali University of Sri Lanka.
4. Dr. Ven. Neluwe Sumanawansa,  
Dean,  
Faculty of Languages and a member of the

Council,  
Buddhist and Pali University of Sri Lanka.

5. E.A. Wickremasinghe,  
Associate Professor,  
Department of Sinhala and Modern  
Languages and member of the Council,  
Buddhist and Pali University of Sri Lanka.
6. Ven. Wauwae Dhamarakkita,  
Member of the Council,  
Buddhist and Pali University of Sri Lanka.
7. Koggala Wellala Bandula,  
Member of the Council,  
Buddhist and Pali University of Sri Lanka.
8. Kodituwakku,  
Secretary Ministry of Religious Affairs  
and member of the Council,  
Buddhist and Pali University of Sri Lanka.
9. S.S.N. De Silva,  
Senior Assistant Secretary,  
Ministry of Higher Education and  
member of the Council,  
Buddhist and Pali University of Sri Lanka.
10. A.A. Nawarathne,  
Member of the Council,  
Buddhist and Pali University of Sri Lanka.
11. Dr. Ven. Thumbullae Sri Seelakkanda,  
Member of the Council,  
Buddhist and Pali University of Sri Lanka.
12. Prof. Ven. Bellanwita Wimalarathna,  
Member of the Council,  
Buddhist and Pali University of Sri Lanka.

13. Ven. Kotugoda Dammawansa,  
Member of the Council,  
Buddhist and Pali University of Sri Lanka.
14. Ven. Depanama Sugathabandu,  
Member of the Council,  
Buddhist and Pali University of Sri Lanka.
15. Prof. Chandra Wickramagamage,  
Member of the Council,  
Buddhist and Pali University of Sri Lanka.
16. Ven. Valamitiyawewa Kusala Damma,  
Member of the Council,  
Buddhist and Pali University of Sri Lanka.
17. Registrar,  
Buddhist and Pali University of Sri Lanka.
18. Deputy Registrar,  
Buddhist and Pali University of Sri Lanka,

All of 214, Bauddaloka Mawatha,  
Colombo 07.

**Respondents**

**AND NOW BETWEEN**

Dilani Nima Nanayakkara,  
150, Wekunagoda Road,  
Galle.

**Petitioner-Petitioner**

**Vs.**

1. Buddhist and Pali University of Sri Lanka,  
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14. Ven. Depanama Sugathabandu,  
Former member of the Council,  
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15. Prof. Chandra Wickramagama,  
Former member of the Council,  
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18. Deputy Registrar,  
Buddhist and Pali University of Sri Lanka,  
  
All of 214, Bauddhaloka Mawatha,  
Colombo 07.

**Respondents-Respondents**

19. Prof. Ven. Itthademeliya Indasara,  
Former Vice Chancellor,  
Buddhist and Pali University of Sri Lanka.
20. Prof. Ven. Uthurawala Dhammaratana,  
Former member of the Council,  
Buddhist and Pali University of Sri Lanka.
21. H.M. Herath,  
Secretary Ministry of Religious Affairs  
and former member of the Council,  
Buddhist and Pali University of Sri Lanka.
22. Piyasena Ranapura,  
Senior Assistant Secretary Ministry of  
Higher Education and former member of  
the Council,  
Buddhist and Pali University of Sri Lanka.
23. Prof. Ven. Kollupitiye Mahinda  
Sangarakkita,  
Former member of the Council,  
Buddhist and Pali University of Sri Lanka.
24. Ven. Balangoda Sobitha,  
Former member of the Council,  
Buddhist and Pali University of Sri Lanka.

25. Ven. Banagala Upatissa,  
Former member of the Council,  
Buddhist and Pali University of Sri Lanka.
26. Ven. Trikunamale Ananda,  
Former member of the Council,  
Buddhist and Pali University of Sri Lanka,  
  
All of 214, Bauddaloka Mawatha,  
Colombo 07.

### **Respondents**

27. Prof. Ven. Neluwe Sumanawansa,  
Vice Chancellor,  
Buddhist and Pali University of Sri Lanka.
28. Ven. Ilukewala Dhammaratana,  
Dean, Faculty of Buddhist Studies,  
Buddhist and Pali University of Sri Lanka.
29. Somarathne Vidanapathirane,  
Member of the Council,  
Buddhist and Pali University of Sri Lanka.
30. T.K.W.T.P. Premarathne,  
Member of the Council,  
Buddhist and Pali University of Sri Lanka.
31. Ven. Niyangoda Vijithasiri,  
Member of the Council,  
Buddhist and Pali University of Sri Lanka.
32. Prof. Ven. Kotapitiye Rahula,  
Member of the Council,  
Buddhist and Pali University of Sri Lanka.

33. Ven. Nedagamuwe Wijayamaithree,  
Member of the Council,  
Buddhist and Pali University of Sri Lanka.
34. Wimal Wijeratne,  
Member of the Council,  
Buddhist and Pali University of Sri Lanka.
35. K.A. Weerasena,  
Member of the Council,  
Buddhist and Pali University of Sri Lanka.
36. Uditha Garusinghe,  
Member of the Council,  
Buddhist and Pali University of Sri Lanka.
37. Kalyananda Thiranagama,  
Member of the Council,  
Buddhist and Pali University of Sri Lanka.
38. Prashantha Lal De Alwis,  
Member of the Council,  
Buddhist and Pali University of Sri Lanka.
39. E.A. Gunasena,  
Member of the Council,  
Buddhist and Pali University of Sri Lanka,  
  
All of 214, Bauddhaloka Mawatha,  
Colombo 07.

**Added Respondents**

**Before:**           **Justice A. L. Shiran Gooneratne**  
                         **Justice Achala Wengappuli**  
                         **Justice Menaka Wijesundera**



**Counsel:** Manohara De Silva, PC with Harithriya Kumarage instructed by Bandara Thalagune for the **Petitioner-Appellant**.

Yuresha De Silva, DSG instructed by Sonali Collure, SASA for the **Respondents**.

**Argued on:** 05/08/2025

**Decided on:** 11/09/2025

**A. L. Shiran Gooneratne J.**

### **FACTUAL BACKGROUND**

1. This matter arises from an Appeal filed by the Petitioner seeking to set aside the Judgment of the Court of Appeal dated 05/03/2009 and to obtain the relief prayed for in the Petition dated 28/09/2006 filed in the Court of Appeal.
2. According to the Petition, the Petitioner was appointed as a Clerk Grade III at the Buddhist and Pali University of Sri Lanka with effect from 03/05/1999 (P1), and was subsequently confirmed in that said post by letter dated 26/01/2004 (P2). She was promoted to Clerk Grade II with effect from 03/05/2005 (P3). Her service record indicates transfers across various divisions of the University, including the Finance Division, the Administration Division at Homagama and Colombo, and thereafter the Internal Examinations Division.
3. The Petitioner states that, as she was ill and in a state of depression, she informed the 1<sup>st</sup> Respondent University of her illness on 25/07/2006 via telegram, followed by a medical certificate dated 21/07/2006 (P16) with a recommendation of one month's medical leave. On 27/07/2006, the

Petitioner tendered her Letter of Resignation dated 27/07/2006 (P7), stating her intention to resign with effect from 24/07/2006. This was followed by the Petitioner's letter dated 10/08/2006 (P8) which is the acknowledgement of the consequences of resignation.

4. The Petitioner contends that, subsequently, she recovered from her fragile state of mind and, upon realizing the potential severity of her action and its consequences, immediately submitted a letter dated 22/08/2006 (P9), seeking to withdraw both her Letter of Resignation dated 27/07/2006 and her letter of acknowledgment of the consequences of resignation dated 10/08/2006.
5. The Petitioner contends that upon receiving the Letter of Resignation, the Petitioner was informed of the consequences of resignation by letter dated 03/08/2006 tendered to Court by the Respondents, marked as R5a, issued in accordance with Section 4.6 of Chapter V of the Establishments Code of the University Grants Commission and the Higher Educational Institutions/Institutes. The Petitioner acknowledged receipt of this communication by letter dated 10/08/2006 (P8).
6. The Petitioner's Letter of Resignation was forwarded to the University Council on 18/08/2006. Since the previous meeting of the Council had been held on 25/07/2006, both the Letter of Resignation and the letter seeking its withdrawal were placed before the Council for consideration at its 258<sup>th</sup> meeting held on 29/08/2006. The Council resolved to accept the resignation and to reject the request for withdrawal, which was informed to the Petitioner by letters dated 04/09/2006 (P12 and P13).

7. The Petitioner states that the Registrar of the University, by letters dated 04/09/2006, communicated the decisions of the Council: namely, that the Council had decided to refuse her request to be re-employed or reinstated (P12) and had accepted her resignation (P13).
8. The Petitioner states that, in terms of Section 4.5 of Chapter V of the Establishments Code of the University Grants Commission and the Higher Educational Institutions/Institutes, a notice of resignation tendered under Section 4.3 of the said Chapter “*is not effective until it is approved by the appropriate appointing authority.*”
9. In the circumstances, it is submitted that, as at 29/08/2006, there was no effective resignation for the 1<sup>st</sup> Respondent University and its Council to accept; therefore, the termination of the Petitioner’s services is unlawful.
10. The Petitioner further states that her Letter of Resignation was not accepted by the Council of the University, which is the appropriate appointing authority, until 29/08/2006; therefore, since she withdrew her Letter of Resignation by letter dated 22/08/2006, as at 29/08/2006, there was no effective resignation for the Council to accept. Accordingly, the acceptance of the Letter of Resignation on 29/08/2006 is arbitrary, capricious, unjustifiable, irrational, and therefore *void ab initio*, having no force or effect in law.
11. The Petitioner, inter alia, sought the grant of a writ of *certiorari* quashing the decisions of the Council communicated to her by letters dated 04/09/2006 (P12 and P13). By Judgment dated 05/03/2009, the Court of Appeal dismissed the application of the Petitioner. The Petitioner is now before this

Court seeking to have the said Judgment set aside and to obtain the relief prayed for in the Petition dated 16/04/2009 filed in this Court.

On 07/07/2009, the learned Counsel for the parties were heard in Support of the said Petition. Upon consideration of the submissions made before this Court, Special Leave to Appeal was granted on the following questions of law, set out in paragraphs 18(e), (f), and (g) of the Petition;

- (a) the Court of Appeal erred in holding that “the Petitioner by applying for re-employment is estopped from challenging the acceptance of the resignation”,
- (b) the Court of Appeal erred in not considering and/or erred by the improper application of the provisions of the UGC Establishments Code,
- (c) the Court of Appeal erred in holding that the Petitioner had resigned from her post even though the Petitioner had moved to formally withdraw her resignation prior to Council approval for such resignation being granted;

### **LEGAL FRAMEWORK AND ANALYSIS**

12. In terms of Section 16(1) of the Buddhist and Pali University of Sri Lanka Act, No. 74 of 1981 (as amended), the University Council functions as the principal executive and governing authority of the University. The Council consists of the Vice Chancellor together with fourteen members appointed by the President.

13. Pursuant to Section 17(2)(xiii) of the Act, the Council is vested with the power to appoint, suspend, terminate, or otherwise exercise disciplinary control over employees of the University.
14. Accordingly, the resignation tendered by the Petitioner must be considered within the statutory and regulatory framework governing the University. In this regard, the Establishments Code of the University Grants Commission and Higher Educational Institutions/Institutes provides that a resignation becomes effective only upon approval by the appointing authority, and subject to compliance with Sections 4.6 and 4.7 thereof.
15. **Sections 4.5, 4.6 and 4.7 of Chapter V of the Establishments Code of The University Grants Commission And The Higher Educational Institutions/Institutes**, reads as follows:

*4.5. “Notices of resignation given under subparagraphs 4.1, 4.2 and 4.3 above are not effective until they are accepted by the appropriate appointing authority upon complying with the requirements of subparagraphs 4.6 and 4.7 below.”*

*4.6. “On receipt of a letter of resignation, the person concerned should be informed in writing of the consequences of his resignation: viz ;*

*(a) he will have no right to revert to his post thereafter ;*

*(b) he will forfeit all claims for any benefits arising from his service in the Commission/Higher Educational Institution/ Institute, should he afterwards succeed in obtaining employment in the Commission/ Higher Educational Institution/ Institute ;*

*(c) if his resignation is accepted, any application to withdraw it later will not be considered.”*

*4.7. “An acknowledgement to the effect that he has been informed of these consequences of resignation be obtained from him and filed in his personal file along with his notice of resignation.”*

16. Upon the Petitioner’s submission of the Letter of Resignation dated 27/07/2006, the University was required to ensure compliance with Section 4.6 of the Universities Establishments Code. In fulfilment of this requirement, the Petitioner was formally notified in writing of the legal and administrative consequences of her resignation through the document marked R5a. This notification expressly set out the irreversible nature of the resignation once accepted, including the forfeiture of any right to revert to her post and the inability thereafter to withdraw the resignation.
17. Subsequently, in accordance with Section 4.7 of the Universities Establishments Code, the Petitioner acknowledged in writing that she had received and understood the implications of her resignation. This acknowledgment, conveyed by her letter dated 10/08/2006 (P8), evidences that the Petitioner was duly informed of, and accepted, the legal consequences attendant on her decision to resign.
18. Even if the Petitioner initially failed to appreciate the gravity of her resignation, the documentary record demonstrates that she was afforded adequate notice of, and clarity regarding its irrevocability. The adherence to the procedural safeguards contained in the Universities Establishments Code ensured that the resignation was made knowingly and voluntarily.

19. In terms of institutional procedure, Section 16(8) of the Buddhist and Pali University of Sri Lanka Act requires that the University Council convene on not fewer than ten occasions annually, in the following terms:

*16. (8) “The Council shall meet whenever necessary so however that it meets on not less than ten occasions in a year.”*

20. The Council meeting for the month of July was held on 25/07/2006, and the Petitioner’s resignation was received shortly thereafter. The resignation letter was accordingly placed before the Council on 18/08/2006 (P10) for deliberation at its next scheduled meeting on 29/08/2006.
21. Before the Council could consider the resignation, the Petitioner submitted a further letter dated 22/08/2006 (P9), seeking to withdraw her resignation and requesting re-employment. It is specifically noted that the said Letter of Resignation was placed before the council on 18/08/2006 prior to the receipt of the letter dated 22/08/2006, through which the Petitioner sought to withdraw her resignation and requested re-employment. This request for withdrawal and re-employment, together with her Letter of Resignation, was duly placed before the Council at its 258<sup>th</sup> meeting held on 29/08/2006. Having considered the documents and the relevant circumstances, the Council resolved to accept the Petitioner’s resignation and to reject her request for withdrawal and re-employment.
22. The Petitioner was formally notified of this decision by letters dated 04/09/2006 (P12 and P13), thereby concluding the administrative process in accordance with the governing statute and the Universities Establishments Code.

23. The 1<sup>st</sup> Respondent thus acted in conformity with the applicable statutory and regulatory provisions. The Petitioner's resignation was processed with due regard to institutional procedure, and her subsequent request for withdrawal was duly considered and rejected by the competent authority.
24. Furthermore, the Petitioner's application to the Court of Appeal in Case No. 1496/2006, seeking to quash the documents marked 'P12' and 'P13' by way of a writ of *certiorari*, was dismissed on 05/03/2009. The Court found no procedural impropriety or lack of jurisdiction in the issuance of the impugned documents, thereby affirming the validity of the actions taken by the University. The Petitioner failed to establish any legal basis on which to impugn the *vires* of the said documents, and the dismissal of her application further confirmed the procedural integrity of the decision-making process of the University.

## **CONCLUSION**

25. In all the above circumstances, this Court finds that the Buddhist and Pali University acted in conformity with the statutory provisions of the governing statute and the Establishments Code of the University Grants Commission and the Higher Educational Institutions/Institutes. The Petitioner's letter dated 22/08/2006 (P9), seeking to withdraw her resignation and requesting re-employment, was duly placed before the Council at its 258<sup>th</sup> meeting held on 29/08/2006. Upon due consideration of all relevant material, the Council resolved to accept the Petitioner's resignation and to reject her request for withdrawal and re-employment.

In all the above circumstances, I answer the questions of law (a), (b) and (c) in the negative, and uphold and affirm the Judgment of the Court of Appeal dated 05/03/2009.



26. The Petitioner was duly informed of the consequences of her resignation, which she had expressly acknowledged in writing. Accordingly, the Council's decision to accept the resignation and reject the withdrawal request was both lawful and procedurally sound.
27. For these reasons, the Appeal is dismissed. The Judgment of the Court of Appeal dated 05/03/2009 is hereby affirmed. No order as to costs.

**Judge of the Supreme Court**

**Achala Wengappuli, J.**

I agree

**Judge of the Supreme Court**

**Menaka Wijesundera, J.**

I agree

**Judge of the Supreme Court**