

**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 and Mandamus under Article  
140 of the Constitution of the  
Democratic Socialist Republic of Sri  
Lanka

CA (Writ) Application No.251/2011

C.S.K. Milla Withanarachchi  
No.1/26, Melwood Estate,  
Hanwella.

PETITIONER

Vs.

1. K.N. Saliya Mathew  
Chairman  
National Salaries and Cadre  
Commission  
BMICH,  
Colombo 07.  
And 14 Others

RESPONDENTS

**BEFORE** : S. SRISKANDARAJAH, J (P/CA)  
DEEPALI WIJESUNDARA, J.

**COUNSEL** : Shantha Jeyawardena with D.Imbuldeniya  
for the Petitioner,  
P.Ranasinghe DSG  
for the Respondents

**Argued on** : 31.07.2012

**Decided on** : 11.12.2012

**S.Sriskandarajah, J,**

The Petitioner was serving as the Criminologist in the Department of Sri Lanka Police at the relevant time. The Petitioner submitted that there is only one cadre position of Criminologist in the Department of Sri Lanka Police, and he was recruited to the said post after an open competitive examination and interview. The salary scale attached to the said post of Criminologist was T-5-3 under the Public Administration Circular No.2 of 1997(iii). The Petitioner also submitted that the Chief Technical and Administrative Officer of the Surveyor Department, which was a parallel position of the post of Criminologist, was also placed in the same salary scale of T-5-3.

By Public Administration Circular No.15 of 2003, dated 30/12/2003, the government revised the salaries of public servants. According to the said Circular, the salary scale of TA-5-3 was granted to the post of Chief technical and Administrative Officer of the Surveyor Department. Accordingly, when converting the Petitioner's salary, the Petitioner was also granted the salary scale of TA-5-3 for the post of

Criminologist. In the budget proposal for the year 2005, a salary revision was proposed and the said salary revision was implemented by Public Administration Circular No.9 of 2005, and the public officers who were in the salary scale of TA-5-3 under the earlier public service circular No.2003, were placed in the salary scale of TB-5-3. Accordingly, the Petitioner was granted the salary scale of TB-5-3. In the year 2006, the public service was restructured in terms of public administration Circular No.6 of 2006 dated 25/4/2006. In the restructuring of the public servants with the level of educational qualification were taken into consideration and the following criteria was followed in the said restructuring:-

- (i) Entry qualifications/scheme of recruitment,
- (ii) Promotional procedures,
- (iii) Nature of duties,
- (iv) Simplicity,
- (v) Practicability,
- (vi) Consistency/compatibility.

In consideration of the above factors, the public service was categorized into several segments, and all the public servants were categorized into different employee categories and relevant salary scales were assigned to those categorized officers. The salary scale No.SL-1-2006 was thus assigned to all the posts in the all Island service which were placed in the category of executive and other similar posts were also placed in this category.

The Petitioner submitted that the Public Administration Circular No.6 of 2006 did not provide for a separate salary scale for the post of Criminologist. In those circumstances the Public Administration Circular No.6 of 2006 provides that in respect of any post/service not included in the said Circular, the relevant Ministers/Departments, should send their proposals in accordance with the definition

in the Annexure II of the said Public Administration Circular No.6 of 2006 to the National Salaries and Cadre Commission for its recommendation. The Petitioner submitted that the Petitioner was placed in the salary scale of SL-1-5 by the Department of Sri Lanka Police and was paid the said salary. In the meantime, the Inspector General of Police submitted a recommendation dated 16/03/2010 to the National Salaries and Cadre Commission recommending the salary step of SL-1-5 for the Petitioner. The Petitioner submitted that the 13<sup>th</sup> Respondent informed the Petitioner that he is entitled only to the salary scale of SL-3 and that the National Salaries and Cadre Commission has submitted its recommendation to that effect. In the above circumstances the petitioner submitted that the decision/recommendation of the 1<sup>st</sup> to the 13<sup>th</sup> Respondents to deny the salary scale of SL-1-5 to the Petitioner is illegal and ultra vires for the reason that the said Respondents have not considered the relevant factors, viz., the recommendation of the Department of Sri Lanka Police, and also the said recommendation/decision is contrary to the provisions of the Public Administration Circular No.6 of 2006. In view of the above, the Petitioner has sought a writ of certiorari to quash the said decision/recommendation of the 1<sup>st</sup> to the 13<sup>th</sup> Respondents to place the Petitioner in the salary scale of SL-1-3 and the Petitioner has also sought a writ of mandamus directing the 1<sup>st</sup> to the 12<sup>th</sup> Respondents to place the Petitioner in the salary scale of SL-1-5 with effect from 1/01/2006.

It is admitted by the Petitioner and the Respondents, that the salary scale No.SL-1-3 was assigned to all posts in all Island Service in the category of Executives and other similar posts. The following posts in the Police Department, have been placed in the Salary Scale No. SL-1 under Public Administration Circular No.6 of 2006:

Post	Salary Scale under P.A. Circular No.09/2004	Salary Step under P.A. Circular No.06/2006
Senior D.I.G.	TB-7-5	SL-1- Step 25

D.I.G.	TB-7-3	SL-1- Step 22
S.P. Grade I	TB-6-1	SL-1-step 12
S.P. Grade II	TB-5-6	SL-1-step 8
Criminologist	TB-5-3	SL-1 step 3
A.S.P.	TB-5-1	SL-1-step 1

The initial steps of salary assigned to the post placed in the salary scale in the TB-5 category was assigned by P.A. Circular No.6 of 2006, the corresponding SL-1 salary scale; this is without causing anomalies within each department of the public sector. In the process of restructuring some of the posts that were earlier placed in the TB-5 category in the salary scale was brought under different salary scales under the P.A. Circular No.6 of 2006. It was the submissions of the Respondents that the decision to place the Petitioner in the Step No.3 of salary scale No.SL-1 of 2006 was taken after due consideration to the hierarchy in the Police Department and the previous salary scales in which the different posts were placed. In those circumstances the Respondents submitted that there is no prejudice caused to the Petitioner by placing him in step No.3 of the salary scale No.SL-1-2006, since the salary steps in respect of the other posts in the Police Department had also been varied. After the Petitioner was placed in the salary step in No.3 of salary scale No.SL-1-6 of 2006, the department had given him credit for the increment he has earned by 1/1/2006. On this date the Petitioner has been drawing the 3<sup>rd</sup> step in the previous salary scale No.TB-5-3.

The Respondents also denied that the Petitioner's salary should be placed equal to the post of Chief Technical Officer of the Survey Department, as the Criminologist, and the Chief Technical Officer of the Survey Department in terms of P.A. Circular No.9 of 2004 placed in the salary scale of TB-5-3, but in fact the Chief Technical Officer of the Survey Department was placed in TB-6-1 1 of P.A. Circular No.9 of 2004 by a Cabinet decision made on 3/03/2011, hence, the post of Chief Technical Officer was placed on SL-1-12 which was the appropriate salary step in terms of P.A. Circular 6 of 2006. As

the salary scale of the Chief Technical Officer of the Survey Department was revised by a Cabinet decision, the Petitioner cannot claim that his post is parallel to the post of the Chief Technical Officer and, therefore, he also should be placed in the same salary scale.

The Respondents, after due consideration of the recommendation made by the Police Department, have come to the finding that the placement of the Petitioner at Step No.5 of salary scale No.SL-1-2006 by the Police Department is improper, as the correct salary step of the Petitioner is SL-1-Step 3 and, as this position was taken after careful consideration by the Respondents, this Court is of the view that there is no illegality or irrationality in the decision of the Respondents and, therefore, this Court dismisses this application without cost.

President of the Court of Appeal

**Deepali Wijesundara,J**

**I agree,**

Judge of the Court of Appeal