

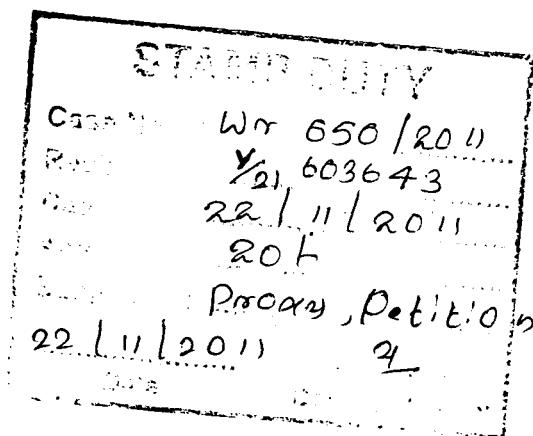
**IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA**

In the matter of an application for a Mandate in
the nature of Writ of Certiorari under and in
terms of Article 140 of the Constitution of the
Republic.

Ceylon Petroleum Corporation
609, Dr. Danister de Silva Mw.
Colombo 09.

Petitioner

C.A. /Writ Application No. 650/2011
(Arbitration No. A 3335) - Vs -



01. R. Godallawatta
'Vindya Sewana'
No. 24/A, Siyatha Lane,
Negombo Road,
Malkaduwawa,
Kurunegala
02. Mrs. N. Jayawickrama,
No. B 9,
Matha Road,
Manning Town Flats,
Colombo 8.
03. Hon. Gamini Lokuge,
Minister of Labour
Relations and Productivity
Promotion,
Labour Secretariat,
Colombo 05.
04. W.J.L.U. Wijayaweera,
Commissioner of Labour,
Labour Secretariat,
Colombo 05.
05. Registrar,
Industrial Court,
Labour Secretariat,
Colombo 05.

RESPONDENTS

C.A. Writ Application No.650/2011

BEFORE : S. Sriskandarajah J. (P/CA)
Deepali Wijesundera J.

COUNSEL : Priyantha Jayawardena for the
Petitioner.

R. Chula Bandara for the 1st
Respondent.

ARGUED &
DECIDED ON : 23rd January, 2012.

S. Sriskandarajah J. (P/CA)

The learned Counsel for the Petitioner submitted to Court that the objection raised by the Petitioner before the learned Arbitrator that the reference of the Minister of labour made under section 41 of the Industrial Disputes Act is bad in law for the reasons that the said reference is an act of an executive and that act interferes with the independence of the judiciary as the reference was in relation to the decisions made by the Supreme Court in case No.SC. Application No. 35/2007 and SC(FR) No. 930/2009. In the first Judgment namely SC. Application No. 35/2007 the Supreme Court has observed that the Respondents has decided to reinstate the Petitioner with effect from the date of interdiction with back wages.

As the Petitioner has received the entire relief that he sought

in the said application the proceedings were terminated.

In the said reference the Minister has referred a dispute namely whether Mr. Godallawatta has been placed on the due salary point at the time of reinstating him in service by the Ceylon Petroleum Corporation. This reference is in relation to whether the said workman was placed in the correct salary point in other words whether the workman is entitled for his increments during the period he was not in service. But this dispute has nothing to do with the settlement arrived at in the Supreme Court case to reinstate the workman with backwages.

The second reference is in relation to the promotion of the workman in view of the stagnation in the same grade. That too cannot be considered as an interference with the decision of the Supreme Court in SC(FR) Application No. 930/2009 which judgment specifically stated that any future promotion would only be made in terms of P1 or any subsequent approved amendment after full disclosure and by a transparent process.

The second reference whether the said workman is entitled for promotion in view of the stagnation can very well be considered within the provisions of the said circular and the amendments to the circular and therefore this reference too cannot be considered as an interference with the judicial power.

The 3rd reference is a consequential reference to the reference number two. In view of the above observation, this Court is not inclined to issue notice on this application. Application is dismissed.

PRESIDENT OF THE COURT OF APPEAL.

Deepali Wijesundera J.

I agree.

JUDGE OF THE COURT OF APPEAL

Kpm/