

IN THE COURT OF APEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF
SRI LANKA

In the matter of an Application for Writs of
Certiorari, Prohibition and Mandamus.

C.A. (Writ) Application
No.794/2007

Trade Union of Store Keepers of the Sri Lanka
Ports Authority,
3D 42, Jayawardanagama,
Battaramulla.

PETITIONER

Vs.

1. The Sri Lanka Ports Authority,
Chaithya Road, Colombo 01.
2. Ms. S.A.N.P. Perera
3. Ms. Chithra Samarawickrama
4. Ms. A.M.N. Rohini Abeysundera
5. Ms. P.V. Preethi Fernando
6. Ms. K.D. Gnana Perera

Purchasing Officers
Sri Lanka Ports Authority
Chaithya Road, Colombo 01.

RESPONDENTS

BEFORE : **S.Siskandarajah, J, P/CA**

COUNSEL : A.P.Niles with Ajith de Zoysa,
for the Petitioners.

Janak de Silva DSG
for the 1st Respondents.

Sanjeewa Jayawardene
for the 2nd to the 6th Respondent

Argued on : 07.02.2011, 28.02.2011 and 14.03.2011

Decided on : 13.09.2012

S.Sriskandarajah, J

The Petitioner in this application is seeking a Writ of Certiorari to quash the appointments made in August 2007 to the post of Purchasing Officer Grade IV, and the Petitioner has also sought a prohibition against the making of any appointments/promotions to Grade IV which is contrary to the promotion scheme of 1984, and to create or implement any scheme of appointments or promotions to Grade IV, where such scheme does not include the requirement of service as Store Keeper.

The Petitioner is a Trade Union that was created in 2002 to look after the interests of the Store Keepers of the 1st Respondent, the Sri Lanka Ports Authority. The Petitioner submitted, the post of Store Keeper of the 1st Respondent was in existence from the time of the creation of the 1st Respondent Authority. In terms of Section 7(1)(e) of the Sri Lanka Ports Authority Act, the 1st Respondent Authority has the power to make rules in relation to the officers and service of the Authority, including their appointment,

promotion, remuneration, discipline, conduct, leave, working time, holidays and the grant of loans and advance of salary to them.

The Petitioner submitted, by a Board Memorandum dated 9th November 1984, a scheme of promotion to Store Officer Executive Grade IV was approved and, accordingly, an internal candidate of the said Authority to be promoted to the said post. In addition to the basic educational qualification, the candidate should have 8 years experience in store-keeping, of which 4 years should be as a Store Keeper Grade I. The said promotion scheme, according to the Petitioner, was not implemented for about 15 years and, thereafter, in 1996-1997, four promotions were made to Store Officer Grade IV and, thereafter, in the year 2006, four more promotions were made to Store Officer Grade IV. The 1st Respondent, when the Supply Division of the Authority was restructured, the Board of Management in the meeting held on 25/11/1999 approved six posts of Purchasing Officers in Executive Grade IV. In order to fill these vacancies, the external and internal schemes of recruitment for the said posts were formulated, and approval of the Board of Directors was obtained at the Board Meeting held on 28/11/2001. The Department of Management Services had granted approval by letter dated 7/10/2003 to the said six create positions of Purchasing Officers and to implement the scheme of recruitment. The 1st Respondent submitted that from 1999 to 2003, several clerks were appointed to cover up the duties of Purchasing Officers.

The Petitioner contended that the Store Keepers have been shut out from promotions to executive posts in other sections because the service in the stores were not included as a qualification for promotion. This position was denied by the 1st Respondent, and the 1st Respondent stated, if the Store Keepers want to join the other sections, they can apply for the non-executive post as per scheme of recruitment for the respective post, the Store Keepers can apply for the post of Store Officers and Purchasing Officers which are executive Grade IV posts.

The 1st Respondent's position is that the Purchasing Officer post was created in 1999 and, according to the approved cadre in the Supply Division; there are 10 posts of Executive Officer Grade IV. Out of these 10 posts, four posts were allocated to Store Officers and this was filled on 1/10/1999, the remaining six posts were allocated to Purchasing Officers. The 1st Respondent contended that If the Purchasing Officer vacancy was filled exclusively from the Store Keepers, this would result in the Purchasing, Stock Controlling and Store Keeping functions becoming a close grip controlled solely by the Store Keeping fraternity. The adverse effect of such monopolistic control will create an ideal breeding ground for corruption and mal-practices and hence, as a policy decision, the executive officer Grade IV post was divided into Store Officers and Purchasing Officers. In these circumstances the Petitioner cannot claim that the Circular of 2004 issued by the 1st Respondent calling for applications for promotion to the post of Purchasing Officer is contrary to the 1st Respondent's scheme of promotion of the year 1984.

As stated above, it is a policy decision of the 1st Respondent Corporation to have a division of service to have more effective function to the 1st Respondent Authority. It is true that from the inception of the 1st Respondent Authority, the work of purchasing had been done by the Store Officers, and the Store Officers were assigned different functions, viz., purchasing functions and stock control functions, the Store Keepers are rotated between these functions with the corresponding change in the names, but the 1st Respondent Authority in 1999, by creating a cadre for Purchasing Officer, had two separate designation of officers, one for purchasing functions, and the other for stock control functions, and the 10 posts for executive officers Grade IV was divided among these two categories of officers. In these circumstances the appointments and promotions made in August 2007 to the post of Purchasing Officer Grade IV cannot be said to be in violation of the scheme of recruitment that were formulated in 1984 and, therefore, this Court cannot issue a Writ of Certiorari to quash the said promotions effected in August 2007. The Petitioner's other reliefs prayed for in this application

cannot be granted as the scheme of recruitment and the promotions were approved by the 1st Respondent Board and the Department of Management Services. In these circumstances this Court dismisses this application without cost.

President of the Court of Appeal