

**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 Article 140
of the Constitution of the Democratic Socialist
Republic of Sri Lanka

CA (Writ) Application **40/2011**

Y.M.Upasena
No. 22/SA,
Shri Sarananda Mawatha,
Hingarugamuwa,
Badulla.

Petitioner

Vs.

Sri Lanka Transport Board
No. 200, Kirula Road,
Colombo 05.

Chief Regional Manager,
Sri Lanka Transport Board,
Regional Board,
Badulla.

Respondents

C.A. Writ Application No.40/2011

Before : S.Sriskandarajah, J(P,C/A)
Deepali Wijesundera, J

Counsel: Chula Bandara with Nipuni de Zoysa
for the Petitioner.
Anusha Samaranayake SSC
for the Respondent.

Argued &
Decided on: 28.06.2012

S.Sriskandarajah, J. (P,C/A)

The petitioner by his amended petition has sought a writ of certiorari to quash the decision contain in document marked "P5" and the circular marked "P8". The learned senior state counsel informs court that the circular marked "P8" which was issued by Chairman of the Board was withdrawn by document marked "1R4" by the Board. Therefore the quashing of the said circular will not arise.

The document marked "P5", is a letter informing the petitioner that he is retired on the date on which he reached the age of 55. The learned Senior State Counsel has brought to the notice of this court that the Board has considered the retirement of the

petitioner to whom the said letter P5 was issued under Public Enterprises Circular No.52. The Board has re- considered his retirement on the application of the petitioner and has decided to retire him by letter marked "1R3" as he has reached the age of 55.

The learned counsel for the petitioner made submissions based on Circular No. 60 of 29.04.2011. This circular is not applicable to any of the petitioners referred to in this application or in the connected application as they have reached the age of 55 before this circular came into existence.

The position right from the date of appointment to retirement of these petitioners is that their age of retirement is 55 and they can be given extension up to 57 if their services are needed and if they satisfy certain conditions. The petitioners have no right to seek for an extension but the extensions are given after due consideration of the board, under P6A the Public Enterprises Circular 52. The petitioners extension after 55 years would be considered by the board when there is a need for his service and if he satisfy certain conditions. But as the board has

come to a finding that they are excess staff and the services of this petitioner is no more required the said letter of retirement was issued to the petitioner. In these circumstances, this court is of the view that there is no illegality or irrationality in the issue of the said letter of retirement and therefore there is no reason for this court to interfere with the said decision of the Board. Hence this court dismisses this application. The application is dismissed without costs.

PRESIDENT OF THE COURT OF APPEAL

Deeplai Wijesundera, J

I agree

JUDGE OF THE COURT OF APPEAL

Na/-