

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

G. Kumarage,
Ganegoda,
Akmeemana,

Petitioner

Case No.C.A.263/07

Vs.

National Salaries and Cadres
Commission, B.M.I.C.H.
Colombo 07.
And 16 Others.

BEFORE : S. SRISKANDARAJAH, J (P/CA)
H.N.J.PERERA, J

COUNSEL : A.M.L.Amarasinghe with Sriyani Manamperi,
for the Petitioner,
M.N.B.Fernando DSG
for the Respondents.

Argued on : 08.12.2011

Decided on : 11.02.2013

S.Sriskandarajah, J,

The Petitioner is the Chief Translator (Sinhala) of the Legal Draftsman's Department. The Petitioner joined the Legal Draftsman's Department as a Translator (Recruitment Grade) on 4/01/1980 and, after several years of service, he was promoted to the post of Chief Translator (Sinhala) on 6/04/1995. The educational qualifications required to become a Translator of the Legal Draftsman's Department are as follows:-

- 1) A Graduate of a recognized University with Sinhala as a subject; or
- 2) An Attorney-at-Law;
- 3) A person with 5 years experience as a Translator with Credit Pass in the English Language at the General Certificate of Education (Ordinary Level Examination).

The Petitioner submitted that the Deputy Registrar of the Court of Appeal and Court Registrar's Service Grade 1 have been placed on the salary code of T-5-5-1 in the Public Administration Circular No.2/97 (iii). The salary anomaly that existed in the post of Chief Translator in the Legal Draftsman's Department was rectified by the Director-General of the Department of Management Services by letter dated 31/07/2007, and a new salary code was introduced, viz., 7-5-1 of the P.A. Circular 2/97 (iii) and it was assigned to the post of Chief Translator of the Legal Draftsman's Department. Based on the Budget Proposals of 2005, the Ministry of Public Administration issued a Circular No.9 of 2004, by which a revision of public sector salaries was effected. According to this Circular, the Deputy Registrar of Court of Appeal of Grade 1 of Court Registrar's Service were placed on the salary code of TB5-5-1. By this Circular, the Petitioner and the Deputy Registrar of Court of Appeal and Grade 1 Court Registrars Service were

once again placed on the same salary scale by Circular No.6 of 2006, issued by the Ministry of Public Administration on 25th April 2006, under the heading "Restructuring of Public Service" based on Budget Proposal of 2006. A separate salary code was allocated to each and every post in the Public Service.

In terms of the above Circular, separate salary codes were allocated to each post in the public service. Accordingly, there are 37 salary codes, and every public servant was assigned one of the salary codes. The Petitioner's position is that there was no salary code allocated for the Translators attached to the Legal Draftsman's Department in the said circular but, however, the Petitioner admitted that there is a salary code given to the Translators' Service. It is the position of the Respondents, under the restructuring and salary scales and positions of re-categorisation, the salary scales were categorized to different positions and 126 salary scales that existed were amalgamated and brought down to 37 salary scales. Under this re-categorisation, the different services were made to fall under different groups, depending on their speciality. The Deputy Registrar of the Court of Appeal and Grade 1 of Court Registrar's Service in the Judicial Service have been listed under the category of executives in the senior level of government service, and the salary scale of SL-1-2006 and the said No.8 had been assigned to the said post. As such, the said post cannot be compared with the Translator which is not an executive post, and in view of the level of responsibility of the organizational structure, different posts were regrouped with a new terminology, and the qualifications for the recruitment to the lowest grade of the Translator Service in the government are, a graduate of a recognized university or an Attorney-at-Law or Diploma in Commerce of a recognized technical college/ or Higher National Diploma of the Open University of Sri Lanka or National Diploma of Technology of the University of Moratuwa. This Translator's Service is similar to the appointment to the post of Chief Translator in the Legal Draftsman's Department. Hence, the Petitioner cannot be assigned

to a salary scale of an executive, as prayed for, by the Petitioner and, if the Petitioner is placed in the executive service, that will create a salary anomaly within the salary structure of the entire public service and the Translators' Service, in particular. The definition of the group field/office based officers was given by the Salary and Cadre Commission as employees recruited with degree qualifications with post-graduate qualifications and are possessed or are expected to acquire skill of defined nature of such Translators. Hence, the placing of the Petitioner in the field/office based officer's salary scale is justifiable in the given circumstances. In the above circumstances the Petitioner is not entitled to seek a Writ of Certiorari to quash the salary scale assigned to him by P11 and, therefore, this Court dismisses this Application without cost.

President of the Court of Appeal

H.N.J.Perera, J

I agree

Judge of the Court of Appeal