

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

C.A. (Writ) No. 478/2011

Lakjaya Micro Finance Limited
No. 35/3 C,
Samuddrasanna Road,
Mount Lavinia.

PETITIONER

Vs.

Commissioner General of
Labour Department of Labour,
Colombo 05.

The Assistant Commissioner of Labour
Labour office - Colombo (West),
Department of Labour,
Colombo 05.

M. Dinesh Dilshan Kooray
5/18, Upali Mawatha,
Wadduwa.

W. A. Lakshan
218, Kudabuthgamuwa,
Mullariyawa Nawa Nagaraya

A. S. S. Perera
32/3, Madinnagoda,
Rajagiriya.

A. J. A. Rukma
377/3, Weliwala Road,
Kotikawatta, Aogoda

RESPONDENTS

C.A. Writ Application No.478/2011

BEFORE : **S. Sriskandarajah, J. (P/CA) &
P.W.D.C. Jayathilaka, J.**

COUNSEL : Avindra Rodrigo with Shanaka Gunasekera for
the Petitioner.

F. Jameel, D.S.G. for the 1st & 2nd Respondents

3rd, 4th, 5th and 6th Respondents are absent and
Unrepresented

ARGUED &
DECIDED ON : 29.01.2013

S.Sriskandarajah, J. (P/CA)

The 3rd, 4th, 5th and 6th Respondents are absent and unrepresented. They were noticed on 18.08.2011 by registered post and according to the minute of 30.08.2011 only the 4th Respondent was represented by counsel and thereafter no objection was filed or the 3rd to 6th Respondents did not participated in these proceedings.

Learned Counsel for the Petitioner submitted that the 3rd to 6th Respondents were employees of the Petitioner Company which was situated at Rajagiriya and the Head Office where the 3rd to the 6th Respondents were attached to was shifted from Rajagiriya to Mt. Lavinia. In that back ground, the 3rd to the 6th Respondents complained to the Commissioner of Labour that their services were constructively terminated and they have complained to the Commissioner that the Head

Office in which they were employed was transferred from Rajagiriya to Mt. Lavinia without their knowledge. After an inquiry, the Commissioner had come to a finding on the basis that the employment of these employees were terminated without seeking permission under Section (2) of the Termination of Employment (Special Provisions) Act and therefore the Petitioner has violated the Provisions of the said Act and therefore made an order under Section (6) to reinstate the 3rd to the 5th Respondents with back wages. This order was made on 04.07.2011 and the learned Counsel who is appearing for the Petitioner informs Court that in view of this order,+ the 3rd to the 5th Respondents had not reported to work for the Petitioner to comply with the order of the Commissioner. As the 3rd to the 5th Respondents have not reported for work and the Petitioner was not in a position to comply with that order, Court observes that it is futile for this Court to quash the said order

In view of all the above circumstances, this Court dismisses this application without costs.

PRESIDENT OF THE COURT OF APPEAL

P.W.D.C. Jayathilaka,J.
I agree

JUDGE OF THE COURT OF APPEAL

Cr/-