

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

In the matter of an application for
Mandate in the nature of Writs of
Certiorari, Mandamus and Prohibition
In terms of Article 140 of the
Constitution.

Dingiri Bandara Aldeniya,
61, Pathum Uyana,
Kundasale.

Appellant-Petitioner

C.A. Application 504/2010 (Writ)

Vs.

- 1. The Secretary,
Administrative Appeals Tribunal,
5, Dudley Senanayake Mawatha,
Colombo 8
And 4 Others**

Respondents-Respondents

**BEFORE : S. SRISKANDARAJAH, J (P/CA)
P.W.D.C.JAYATHILAKA, J**

**COUNSEL : L.M.K.Arulanandam PC
for the Petitioner,
M.N.B. Fernando DSG,
for the Respondents**

Argued on : 12.12.2012

Decided on : 11.03.2013

S.Sriskandarajah, J,

The Petitioner was an officer of the Sri Lanka Education Administrative Service, in the year 2000, he had served as the Deputy Director of Education, attached to the office of the Central Provincial Ministry of Education. While he was serving as Deputy Director of Education, he has recommended payment of certain vouchers on the basis that the Department of Education had held in-service training sessions on different dates in different locations wherein, in fact, no such training sessions had been held. The Petitioner was charged for the said offence and, after a formal disciplinary inquiry, the Disciplinary Tribunal exonerated the Petitioner from all the charges. The Public Service Commission, on receipt of the Disciplinary Tribunal's findings, had reconsidered the matter, as it is entitled to do, as the Public Services Commission is the disciplinary authority of the Petitioner, and it found the Petitioner guilty of Counts Nos.1, 4 and 5 and had exonerated the Petitioner from Counts Nos.2 and 3, and imposed a punishment on the Petitioner to deduct a sum of Rs.53,625/- from his pension gratuity and to deduct 20% of the balance gratuity and to deprive the Petitioner of the wages not paid during the period of interdiction.

The Petitioner appealed against the said Public Service Commission order to the Administrative Appeals Tribunal. According to the Petitioner, his superior had given prior approval about holding of the training sessions pertaining to the charges and it is the Petitioner's position that he examined the supporting documents and found that they appeared to be in order. He also said that he checked with the relevant officers in his office before recommending the payment. The Petitioner also relied on the evidence of a witness, N.R. Ethipola, who has said that she attended the said session at the said venue on the said date, and she signed the attendance sheet. She had accepted her

payment of Rs.100/- and that she received her Certificate for Attendance. According to her, there were other Teachers who attended the said session. The Petitioner's contention is that, that the said evidence shows that, in fact, the training sessions were held and the vouchers he approved were for the said training sessions.

The Administrative Appeals Tribunal observed that the evidence of the Chairman of the Primary Investigations Committee, Karunaratna, shows that a team of officers who had conducted the primary investigations had conducted a random check of the payment of vouchers and had found that out of 11 training sessions, for which claims have been made, 10 have not been actually conducted. The said training sessions have been restricted to paper records only and had not been conducted in fact. The Administrative Appeals Tribunal also observed, the officer who had recommended the payment vouchers are themselves Deputy Director of Education and persons who have conducted such training sessions in the past. They ought to have considered the question as to whether the vouchers are in fact true and they ought to have satisfied themselves, that such payments are in fact due. The Administrative Appeals Tribunal also observed that the officers who had made the payments had to take the entire responsibility in the absence of the said payments being authorized by the Head of their Department, viz., the Director of Education. In terms of Financial Regulation 136, the officer who is empowered to commission, supplies work or services, will have to do so in writing and will be responsible to the accounting officer that, inter alia, the services are covered by appropriate authority and falls within authorized financial provisions and properly chargeable to the accounts involved. The Petitioner recommended Voucher No.M/32 for payment to Teachers for participating in in-training training sessions held on 27/03/2000 (at Kandy Mahamaya Girls School) for Rs.53,625/- which was paid to Ananda Munasinghe. By Voucher No.M/174 payment to teachers for participating in in-training sessions held on 7/04/2000 (at Kandy Mahamaya Girls School) for Rs.34,375/- paid to Ananda Munasinghe. The Petitioner has also approved payment on voucher No.M/32 for payment to teachers for participating in in-service

training sessions held on 30/02/2000 (at Kandy Wariyapola Sri Sumangala Vidyalaya) for Rs.33,475/- to be paid to Ananda Munasinghe. It is the finding of the Administrative Appeals Tribunal that the Petitioner, by recommending the said payments, had virtually approved the said payments. Therefore, there is a responsibility on him to have satisfied himself that the provisions of FR 137 had been fulfilled before recommending payment. In these circumstances the Administrative Appeals Tribunal found that the Appellant cannot escape responsibility by stating that he was satisfied on paper. In these circumstances the Public Services Commission had rightly found the Appellant guilty on Counts 1, 4 and 5. The Administrative Appeals Tribunal, after considering the services rendered by the Petitioner, and the mitigating circumstances had mitigated the punishment. In these circumstances this Court is of the view that the decision of the Administrative Appeals Tribunal cannot be quashed on any ground that could be raised in a writ application and, therefore, 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