

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

N. D. Yasaratna,
C/O Hameed Stores,
Kalpitiya Road,
Palaviya.

Plaintiff

C.A. No. 897 / 2000 F

Vs.

D.C. Colombo No. 4682 / SPL

Lanka Salt Limited,
Elvitigala Mavatha,
Narahenpita,
Colombo 5.

Defendant

AND NOW BETWEEN

N. D. Yasaratna,
C/O Hameed Stores,
Kalpitiya Road,
Palaviya.

Plaintiff Appellant

Vs

Lanka Salt Limited,
Elvitigala Mavatha,
Narahenpita,
Colombo 5.

Defendant Respondent

BEFORE : UPALY ABEYRATHNE, J.

COUNSEL : The Plaintiff Appellant – Absent and
unrepresented
Nayomi Kahawita SC for the Defendant
Respondent

ARGUED ON : 13.02.2013

DECIDED ON : 22.05.2013

UPALY ABEYRATHNE, J.

The Plaintiff Appellant (hereinafter referred to as the Appellant) instituted the said action against the Defendant Respondent (hereinafter referred to the Respondent) in the District Court of Colombo seeking a judgement for specific performance.

The Appellant has averred in his plaint that by circular No. T 7/39/92 dated 19.11.1992 the Respondent had introduced a pension scheme on voluntary basis subject to a payment of compensation. Upon the said circular about 120 employees of the Respondent Company inclusive of the Appellant had applied to retire on payment of compensation. But the Respondent had disallowed the Applications of 20 employees inclusive of the Appellant requesting them to be in the service until the Respondent find alternative employees for the service of the Respondent Company. Thereafter the Appellant had agreed to the said request of the Respondent and continued to be in the service of the Respondent Company.

The Appellant has further averred that thereafter on several occasions he had requested the Respondent to allow him to retire on the said basis under the said circular but the Respondent had failed to consider the Appellant's application for retirement.

The Appellant has instituted the said action in the District Court on the basis that there has been an agreement between the parties and the Respondent has failed to give effect to the said agreement.

I have carefully considered the facts of the case. It is apparent from the pleadings of the plaint that the Appellant is seeking for a judgment giving effect to the said circular. The said relief claimed by the Appellant falls within the writ jurisdiction of the Court of Appeal and therefore the learned District Judge cannot invoke the jurisdiction of the District Court on the issue raised by the Appellant.

In the aforesaid circumstances the issue No 01 should have been answered in the negative and on that ground the Appellant's action should have been dismissed. Therefore I do not find any reason to interfere with the dismissal of the Appellant's action by the judgment dated 22.11.2000. Accordingly this appeal dismissed with costs.

Appeal dismissed.

Judge of the Court of Appeal