

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

CA Writ No. 349/14

Chrishantha Chandrasiri Widisinghe
No. 62 A, Opposite the Bus stand,
Galle Road,
Baddegama.

PETITIONER

Vs.

Sudharma Karunarathna
Secretary
Ministry of Health,
Siwasiripaya, No. 385,
Rev. Baddegama Wimalawansa Thero Mawatha,
Colombo 10.

Administrative Appeals Tribunal
No. 39/1,
Horten Place.
Colombo 7.

And 18 others.

RESPONDENTS

C.A. Writ 349/2014

BEFORE : Vijith K. Malalgoda, PC, J (P/CA)

H.C.J. Madawala, J.

COUNSEL : L.M.K. Arulanandan PC with Wettamuni for the
Petitioner. Priyantha Nawana, DSG for the 1A, 18-20
Respondents.

DECIDED ON: 25.02.2015

Vijith K. Malalgoda, PC, J (P/CA)

Petitioner has filed this application seeking a writ of certiorari to quash a decision taken by the secretary of Health which is marked P14 based on a directive of Public Service Commission which is marked as P10 after a disciplinary inquiry. He further avers to issue an interim order staying the decision in P14 pending his appeal to AAT. Learned DSG submitted that the document P14 is a Ministerial Act in which the secretary has merely implemented based on an order given by the secretary of the Public Service Commission. He further submits that the petitioner has suppressed the material before this Court which amounts to a lack of *uberima fides* on the part of the petitioner. The Public Service Commission has decided to transfer him out of Galle District on disciplinary

grounds and secretary to the Health Ministry has only informed that the said order by sending him to the dispensary, Atharagalle as a medical officer. We see that there is no demotion from his transfer as submitted by the Counsel for the Petitioner, Petitioner has submitted that the petitioner is a trained officer in informatics and therefore, he should be given a position at a hospital where there is informatics available. However, we find that when the Petitioner transferred in the year 2013 that was made on a request by him to go out of informatics unit. This clearly shows that the petitioner on his own request wanted to go out of informatics but when he was transferred on disciplinary grounds insisting that he should be given a station where informatics is available. We see no reason to grant notices in this case and therefore the notices of this application are refused. No costs.

PRESIDENT OF THE COURT OF APPEAL

H.C.J. Madawala, J.

I agree.

JUDGE OF THE COURT OF APPEAL.

NR/-