

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

*In the matter of an Application for a Writ of
Certiorari and Mandamus and Prohibition under/
in terms of Article 140 of the Constitution of the
Democratic Socialist Republic of Sri Lanka.*

Wataraka Gamage Aruna Priyantha Dharmapala,
2/26,
Colombo Road,
Rathnapura.

Appellant

**Court of Appeal case
No. CA 313/2017 Writ.
USAB No. 885/2016**

Vs.

1. University Services Appeals Board,
No-20, Ward Place, Colombo 07.
2. Mr. Palitha Fernanda PC, Chairman,
University Services Appeals Board,
No-20, Ward Place, Colombo 07.
3. Mr. Neville Abeyratne PC, Vice Chairman,
University Services Appeals Board,
No-20, Ward Place, Colombo 07.
4. Dr. Mrs. Neela Gunasekara, Member,
University Services Appeals Board,
No-20, Ward Place, Colombo 07.
5. Mrs. Prathibha Abeysinghe , Secrerary,
University Services Appeals Board,
No-20, Ward Place, Colombo 07.
6. University of the Visual & Performing Arts,
No-20, Albert Crescent, Colombo 07.
7. Prof. Ariyaratna Kaluarachchi,
Vice Chancellor,
University of the Visual & Performing Arts,
No-20, Albert Crescent, Colombo 07.
8. Prof. Mudiyanse Dissanayake,

9. Prof. Kusuma Karunaratne,
10. Prof. Sarath Chandrajeewa,
11. Prof. M.R. Podinilame,
12. Prof. Kolitha Bhanu Dissanayake,
13. Mr. Gunasena Thenabadu,
14. Mr. Jayalath Manorathne,
15. Mrs. Chithra Karunaratne,
16. Mr. Mangala Senanayake,
17. Mr. Jagath Ravindra,
18. Mr. A.W. Sirisena,
19. Dr. Dharmasena Pathiraja,
20. Mr. C. Maliyadda,
21. Mr. Gamini Sumanasekara,
22. Mrs. Thakshila Ranatunga, Acting Registrar,
University of the Visual & Performing Arts,
No-20, Albert Crescent, Colombo 07.
23. University of the Visual & Performing Arts,
No-20, Albert Crescent, Colombo 07.
24. Prof. Mohan De Silva, Chairman,
University of the Visual & Performing Arts,
No-20, Albert Crescent, Colombo 07.

Respondents

(Respondents from 2 to 4 above are members of the USAB)

C/O the Chairman, University Services Appeals Board, No-20, Ward Place, Colombo 07.

(Respondents from No. 7 to 21 above are members of the University Council)

C/O the Vice Chancellor, University of the Visual & Performing Arts, No-20, Albert Crescent, Colombo 07.

Before : L.T.B. Dehideniya J, (P/CA)

&

A.L. Shiran Gooneratne J.

Counsel : Sarath Edirisinghe with Sasith Sanathana for the Appellant.
Suranga Wimalasena SSC, for the 6th to 24th Respondents.

Supported on : 08/11/2017

Decided on : 30/11/2017

Order

A.L. Shiran Gooneratne J.

We have heard Counsel representing both parties to this application.

When this Petition was taken up for support both parties consented to all Petitions connected to this Application (CA writ Nos. 314/17, 315/17, 316/17 and 317/17) to be taken up together as all the Petitioners are employees of the University of Visual and Performing Arts, with similar grievances and complaints and the relief sought are identical and therefore to abide by one decision.

The Petitioner has filed Petition dated 3rd October 2017, pleading inter alia,

- a) to issue a mandate in the nature of Writ of Certiorari quashing the order of dismissal made against the Petitioner shown in Final order (P 34) and/ or any other document/s incidental thereto;
- b) to issue a mandate in the nature of Writ of Certiorari quashing any decisions taken by anyone or more of the Respondents to suppress

the Petitioner of the post of lecturer as reflected in the document marked (P 06);

- c) to issue a mandate in the nature of Writ of Mandamus on the Respondents to appoint the Petitioner to the post of lecturer to implement the decision of the selection committee **dated on or around 05-01-2011**, together with consequential entitlements thereto:

Paragraph 7 of the Petition refers to circular No. 166, where the Petitioner states,

“that he was recruited to the University by following the same procedure applicable to Lecturers under Section 7(2) of the University Ordinance as per the Circular 166 dated 06-04-1982 by the UGC (P 06).”

The Petitioner states that the said circular No. 166 is marked P 05. However document marked P 05 is an undated document titled “approval by the University Grants Commission at its 107th meeting held on 4th and 5th March 1982.” Accordingly document marked P 05, has absolutely no reference to a Circular No. 166 dated 06-04-1982, as pleaded. Document marked ‘P 06’ is an internal communication dated 19-03-2013, to the Head of faculty of the University of Visual and Performing Arts from the Assistant Registrar of the said University.

Paragraphs (V) and (VII) to the prayer refers to a letter dated **on or around 05-01-2011** as per Circular No. 166. It is observed that the Petitioner with no precision or accuracy of the date of the decision of the selection committee. has sought to implement such decision to have the Petitioner appointed to the post of lecturer. It is also observed that a letter dated 05-01-2011 is not pleaded or produced to Court together with the Petition. other than a reference made to it in the prayer to the Petition. Therefore paragraphs (IV), (V) and (VII) to the prayer of the Petition are devoid of preciseness and therefore inconsistent with the averments contained therein.

In *Siriwardena vs. Provincial Public Service Commission (2012 BLR) Vol. XIX - Part II Anil Gooneratne, J* held,

“The other aspect is about the uncertainty of the remedy. It is important to correctly plead the relief sought. One should never have a vague prayer. As far as possible there should be reference to the order or decision to be quashed. Court should not be called upon to supply the omission. Specific relief should be pleaded with certainty.”

Therefore due to the said uncertainty in the Petition, the Court cannot grant the substantive relief prayed for by the Petitioner.

Writ Remedies, Justice B.P. Banerjee, 6th Edition at page 127, states,

“Writ petitions are decided on the basis of statements on affidavit. If the petition contains misleading, inaccurate statements or there are suppression of material facts, the Court will not entertain the petition.”

In the circumstances we refuse notice.

Petition is dismissed without costs.

This decision applies to CA writ Nos. 314/17, 315/17, 316/17 and 317/17.

JUDGE OF THE COURT OF APPEAL

L.T.B. Dehideniya J, (P/CA)

I agree.

PRESIDENT OF THE COURT OF APPEAL