

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

World Vision Lanka (Guarantee)
Limited.,
No. 619/8,
Dr. Danister de Silva Mawatha,
Colombo 9.
Petitioner

CASE NO: CA/WRIT/383/2016

Vs.

1. Commissioner General of Labour,
Department of Labour,
Labour Secretariat,
Narahenpita,
Colombo 5.
2. Assistant Commissioner of
Labour,
District Administrative Complex,
Siribopura,
Hambantota.
3. H.G. Bilesa Erandi,
Boganawewa,
Thanamalwila.

Respondents

Before: Mahinda Samayawardhena, J.
Counsel: Jinaprith Fernando for the Petitioner.
Virum de Abrew, Senior D.S.G., for the
Respondents.
Decided on: 11.03.2019

Samayawardhena, J.

The petitioner filed this application seeking to quash by way of certiorari the determination of the Commissioner of Labour marked P5 whereby the petitioner was asked to pay a sum of Rs. 98,700/= as Employee Provident Fund contribution to the 3rd respondent, and to compel the Commissioner of Labour by way of mandamus to refund the said sum deposited with the Commissioner (P10).

The only question to be decided is whether or not the 3rd respondent is an employee of the petitioner to be entitled to claim EPF from the latter.

The petitioner says that it is a company incorporated under the laws of Sri Lanka and is a part of the International Non-Governmental Organization—World Vision International, which has several community development projects initiated in Sri Lanka.

According to the petitioner such community development projects are carried out through the Government Agent of the area with the help of the Community Based Organizations.

According to the 3rd respondent (vide 1R1), World Vision International has started development programs in the village

relevant to this case through *Bogahawawe Grama Sanwardhena Samithiya*, and she, along with others, has implemented the programs of the *World Vision International* on a monthly allowance (not salary) paid by the *Grama Sanwardhena Samithiya*.

The contention of the 3rd respondent is her monthly allowance was paid by the *Grama Sanwardhena Samithiya* out of the funds allocated to the *Grama Sanwardhena Samithiya* by the *World Vision International*.

As seen from 1R2, issued by the former Chairman of the *Grama Sanwardhena Samithiya*, not only these allowances, all the moneys for development activities in the village have been paid out of the moneys credited by the *World Vision International* to the *Grama Sanwardhena Samithiya*.

The *World Vision International* being a Non-Governmental Organization is doing some benevolent/voluntary work to uplift the living standard of the villagers.

The petitioner (World Vision Lanka (Guarantee) Limited) has not recruited the 3rd respondent as an employee to carry out their projects. If at all, she has been recruited by the *Grama Sanwardhena Samithiya* although her monthly allowances have been paid out of the funds released by the petitioner to the *Samithiya*. There is no formal Letter of Appointment issued to the 3rd respondent either by the petitioner or the *Grama Sanwardhena Samithiya*. According to 1R1, that monthly allowance is also not a handsome amount—started at Rs.2500/= and ended at Rs.8000/=. The petitioner has not supervised her

work. In short, the petitioner has had no control over the 3rd respondent.

It is the position of the petitioner that the petitioner has a staff of around 516 throughout the country, and the petitioner pays EPF to those employees. The petitioner further says that there may be several hundreds of people employed by Community Based Organizations such as *Bogahawawe Grama Sanwardhena Samithiya* to carry out their projects, and if the 3rd respondent's request is allowed, everybody who has contributed to carry out development activities in the villages would make similar applications.

In the facts and circumstances of this case, it is clear that there had not been any employer-employee relationship between the petitioner and the 3rd respondent.

The reliefs as prayed for in paragraphs (b) and (c) of the prayer to the petition are granted.

Application allowed. No costs.

Judge of the Court of Appeal