

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

In the matter of an application for a
mandate in the nature of a Writ of
Certiorari under and in terms of
Article 140 of the Constitution of
the Democratic Socialist Republic
of Sri Lanka.

CA (Writ) Application No. 99/17

Uthuma Lebbe Abdul Kareem,
No. 295, Thaikkaya, 2nd Land,
Sammathurai.

PETITIONER

Vs.

1. Eng. F.M.S.F. Weerasinghe,
Deputy General Manager (East),
Deputy General Manager's
Officer,
Ceylon Electricity Board,
Uppuveli Road,
Trincomalee.

And 12 others

RESPONDENTS

Before: Justice Yasantha Kodagoda, P.C, (P/CA)
Justice Arjuna Obeyesekere

Counsel: Nizam Kariapper P.C, with M.I.M. Iyunullah for the
Petitioner

Ms. Nayomi Kahawita, Senior State Counsel for the
Respondents

Argued on: 13th June 2019

Decided on: 13th June 2019

Justice Arjuna Obeyesekere

The Petitioner has filed this application seeking a Writ of Certiorari to quash the decision of the Appellate Authority of the Ceylon Electricity Board communicated to the Petitioner by document annexed to the petition marked 'Z'.

The Petitioner is an employee of the Ceylon Electricity Board. Pursuant to disciplinary proceedings initiated against the Petitioner, the disciplinary order annexed to the Petition marked 'P8' has been served on the Petitioner. According to the Rules of disciplinary procedure of the Ceylon Electricity Board, annexed to the petition marked as 'P9' and more specifically in terms of paragraph 12.2 thereof, an "employee aggrieved by an order of transfer or punishment or dismissal made as a disciplinary measure has a right of appeal to the Board of Directors or to the relevant Appellate Authority as the case may be." It is the position of the Petitioner that he submitted an appeal dated 24th July 2016 which has

been annexed to the petition marked 'P10'. The decision of the Appellate Authority of the Ceylon Electricity Board on the said appeal has been communicated to the Petitioner by letter marked as 'Z'. It is the submission of the learned President's Counsel for the Petitioner that the Appellate Authority appointed by the Board of Directors of the Ceylon Electricity Board has not given reasons for its decision and that it has in effect rubber stamped the decision of the Inquiry Officer without considering the merits of his appeal. This Court has examined document marked 'Z', and it is clear that the document does not disclose the reasons that led the Appellate Authority to confirm the decision of the Inquiry Officer. It is the view of this Court that the Petitioner was entitled to know the reasons for the rejection of his appeal, and that the failure to provide reasons for such rejection, at least to this Court, renders the said decision liable to be quashed by a Writ of Certiorari.

When this matter was taken up for argument on 16th November 2018, the learned Senior State Counsel appearing for the Ceylon Electricity Board informed this Court that the Ceylon Electricity Board is agreeable to afford the Petitioner a fresh hearing by the Appellate Authority in respect of the appeal that he has already lodged. The learned Senior State Counsel submits today that the Ceylon Electricity Board has no objection to the order marked 'Z' being quashed and a Writ of Mandamus being issued to the Board of Directors of the Ceylon Electricity Board directing that a fresh hearing be given to the Petitioner by the Appellate Authority on the appeal already filed by the Petitioner.

In the said circumstances, this Court proceeds to issue a Writ of Certiorari in terms of paragraph (ii) to the prayer to the petition, quashing the

decision contained in the said letter 'Z'. Although the Petitioner has not prayed for a Writ of Mandamus directing that a fresh hearing be held, as the decision is being quashed due to reasons not being given, a fresh hearing needs to be afforded to the Petitioner. In order to enable such a course of action, this Court proceeds to issue a Writ of Mandamus on the Board of Directors of the Ceylon Electricity Board to afford the Petitioner a fresh hearing on the appeal submitted by the Petitioner marked 'P10', within 8 weeks from today and thereafter, for the Appellate Authority to inform the Petitioner its decision, with reasons for such decision.

This Court makes no order with regard to costs.

JUDGE OF THE COURT OF APPEAL

Justice Yasantha Kodagoda, P.C, (P/CA)

I agree.

PRESIDENT OF THE COURT OF APPEAL

Lwm/-