IN THE COURT OF APPEAL

OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

R.M. Karunarathna
No.76/B, Hinnarangas Pitiya,
Thimbirigaspitiya. Badulla.

Petitioner

CA/PHC/43/13
PHC – Badulla
Writ 75/2010

Vs.

1. Uva Provincial Council
   Raja Mawatha, Badulla.

   And 11 others.

Respondents

R.M. Karunarathna
No.76/B, Hinnarangas Pitiya,
Thimbirigaspitiya. Badulla.

Petitioner-Appellant

Vs.

1. Uva Provincial Council
   Raja Mawatha, Badulla.

   And 11 others.

Respondents-Respondents

AND NOW BETWEEN

R.M. Karunarathna
No.76/B, Hinnarangas Pitiya,
Thimbirigaspitiya. Badulla.

Petitioner-Appellant

Vs.

1. Uva Provincial Council
   Raja Mawatha, Badulla.

And 14 others.

Respondents-Respondents

BEFORE: **PRESHANTHA DE SILVA J.**
K.K.A.V. SWARNADHIPATHI J.

COUNSEL: Maharoof Murshid
For the Accused Appellant.

A. Gajadeera S.C.
For the Respondents

Argument: By way of written submissions

Date of judgment: 07.10.2022

K.K.A.V. SWARNADHIPATHI J.

JUDGMENT

The Petitioner-Appellant, referred to as the "**Appellant**", had worked as a replacement Security Guard in 1991. Later in the year 2002, his position was made a permanent position. A probation test was held where it came to light that the Appellant had not reached the minimum requirement of studies stipulated for the post, Grade 8.

By letter dated 22.09.2003, the Appellant was informed to forward his educational qualifications. His first letter of appointment was marked as "P2", and the 4th Clause is explicit that the employee, in this instance the Appellant, will be subject to the Establishment Code, Monitory regulations, Departmental orders and to all such regulations and orders of the State. By document marked "P8" dated 21.01.2000, the Secretary of the Uva Provincial Government Service Commission had requested the Appellant's educational qualifications to consider his appointment into permanent employment.
By "P10" dated 21.05.2002, the Appellant was absorbed into the permanent carder. Even this letter in paragraph 3 stated the condition mentioned in his letter of the temporary appointment.

When it came to light that the Appellant had not met the minimum qualifications, an investigation was conducted, and a disciplinary inquiry under provisions of the Establishment Code was held against the Appellant. On finding his guilt, the Appellant was dismissed from service.

The Appellant then appealed to many authorities and sought refuge in the law. The Appellant filed an application to the Provincial High Court of Uva seeking a Writ of Certiorari to quash the decision dated 15.02.2006 and for a Writ of Mandamus seeking for the Appellant to be reinstated in his post. By order dated 28.03.2013, the learned High Court Judge of Uva dismissed the application by the Appellant.

Aggrieved by that decision, the Appellant sought this Court's intervention. He had prayed to revise the order of the High Court and issue a writ of Certiorari to quash the document marked as "P27" and a Writ of Mandamus to reinstate the position he held, among others relives.

In his order dated 28.03.2013, the learned High Court Judge stated that the service was terminated after an inquiry where he was found guilty of charges. The Appellant had reached out to the Governor of the Uva Provincial in 2006.

That appeal was rejected by the Governor in the year 2006. Until 2010 the Appellant had been reading out to various persons who were not competent to reverse the decision.

Therefore, the delay cannot be considered reasonable. The Appellant argued that a delay of four years can be considered and should be considered. The delay will be considered according to the circumstances from case to case.

The Appellant must show cause for delay, which should be reasonable reasons that a court of law can concede. As the learned High Court Judge points out, running from one post to the other where there would be no remedy cannot be considered reasonable to come to Court.

The learned High Court Judge had pointed out that the Appellant had not explained to the Court why grounds which can be considered unreasonable in finding his guilt had not been shown to Court.

The Appellant argued that as he had explained the delay, his application should have been considered mere mentioning reasons are not reasons that a court can consider.

Therefore, the reasons were given by the learned High Court Judge stand firm. I see no reason to disturb Even the second ground of which the learned High Court Judge discussed that reasons had not been given as to the finding of guilt is unreasonable is good in law.

A person who comes before Court must come with clean hands.

It was the duty of the Appellant to prove his educational qualifications and prove his innocence. The inquiry found that he had studied only up to the 6th Grade.

The document marked as "P8" was issued by the Principal of B/Soranathota Madya Maha Vidyalaya issued a letter that the Appellant studied in Grad 6 in 1972. The date of leaving school is 1973, and the reason is being absent from school. It was the duty of the Appellant to show that he had studied in a manner acceptable to the inquiring officers.

The remedies from Courts can only be given to vigilant persons. Had he acceptably proved his educational qualifications, his application could have been considered.

As per the records, I find no reasons to believe other than his highest qualification was Grad 6, as stated by the inquiring officer. Therefore, as long as that finding stand, this Court cannot issue any writ. The writ jurisdiction is to persons that seek with clean hands.

For the reasons set out above, I dismiss the application of the Appellant.

Judge of the Court of Appeal

PRESANTHA DE SILVA, J.
I agree.

Judge of the Court of Appeal