

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

In the matter of an Application for Orders in the nature of Writs of *Certiorari*, *Prohibition* and *Mandamus* under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Court of Appeal Case No.

CA/WRT/0195/23

1. Ceylon Electricity Technological Engineers Superintendents Union.
P.O. Box 2254,
Colombo-02

2. A. G. U. Nishantha,
The President,
Ceylon Electricity Technological Engineers Superintendents Union,
P.O. Box 2254,
Colombo-02.

3. H. W. K. Achinda Dumindaraj,
Joint Secretary,
Ceylon Electricity Technological Engineers Superintendents Union,
P.O. Box 2254,
Colombo-02.

Petitioners

Vs

1. Ceylon Electricity Board,

No. 50, Sir Chittampalam A. Gardiner
Mawatha,
Colombo 02.

2. N. S. Ilangakoon,
Chairman,
Ceylon Electricity Board,
No. 50, Sir Chittampalam A.
Gardiner Mawatha,
Colombo 02.
3. M. R. V. R. Meepura,
Member
4. B. Wijayarathne,
Member
5. Mahesh Abeysekara,
Member
6. Ruban Wickramarachchi,
Member
7. E. S. C. Edirisinghe,
Member

3rd to 7th Respondents all of:
Members of the Board
Ceylon Electricity Board,
No. 50, Sir Chittampalam A.
Gardiner Mawatha,
Colombo 02.

8. Eng. Rohan Seneviratne,
General Manager,
Ceylon Electricity Board,
No. 50, Sir Chittampalam A.
Gardiner Mawatha,
Colombo 02.

9. Eng. P. A. J. P. K. Perera,
Deputy General Manager (Personnel),
Ceylon Electricity Board,
No. 50, Sir Chittampalam A.
Gardiner Mawatha,
Colombo 02.

Respondents

Before: **M. T. MOHAMMED LAFFAR, J.**
S. U. B. KARALLIYADDE, J.

Counsel: Shantha Jayawardane, with Ms. Hiranya Damunupola for the
Petitioner.

Ms. Yuresha Fernando, DSG., with Sehan Soysa, SC and Ms. Tashya
Gajanayake for the Respondents.

Supported on: 10.07.2023

Written Submissions on: 11.08.2023 by the Petitioners

Decided on: 14.09.2023

MOHAMMED LAFFAR, J.

The General Manager of the Ceylon Electricity Board (CEB), published in “Daily News” newspaper on 30-03-2023, marked as P20, calling for applications for vacancies as Electrical Engineers Class II Grade II and Mechanical Engineers Class II Grade II on a contract basis for the Lakvijaya Power Plant, Norochcholai. The contention of the learned Counsel for the Petitioners is that the eligible criteria stipulated in P20 are contrary to the eligible criteria set out in the Scheme of Recruitment and Promotion-2002 (SOR=2002), applicable for different categories of services of CEB with effect from 29-10-2002 which is marked and produced as P8.

In those circumstances, the Petitioners are seeking, *inter-alia*, a Writ of Certiorari quashing the said document marked as P20 and a Writ of Prohibition prohibiting the Respondents from recruiting Electrical Engineers Class II Grade II and Mechanical Engineers Class II Grade II on a contract basis for the Lakvijaya Power Plant, Norochcholai. Moreover, the Petitioners are seeking interim reliefs as follows;

(i). An Interim Order suspending the operation of the decision of the 1st to 9th Respondents calling applications for Electrical Engineer Class II Grade II and Mechanical Engineer Class II Grade II on a contract basis for the Lakvijaya Power Plant, Norochcholai, as reflected in P20 until the final determination of this Application.

(m). An Interim Order restraining the 1st to 9th Respondents from making appointments based on the advertisement marked P20 until the final determination of this Application.

(n). An Interim Order restraining the 1st to 9th Respondents from calling for interviews any potential candidates who applied for vacancies advertised in P20 until the final determination of this Application.

We heard the learned Counsel for the Petitioners in support of this Application. We heard the learned Deputy Solicitor General on behalf of the Respondents as well. Having scrutinized the Petition, affidavits, documents, limited objection of the Respondents and submissions, *ex-facie*, it appears to this Court that the eligible criteria stipulated in P20 are contrary to the eligible criteria set out in the Scheme of Recruitment and Promotion-2002 (SOR=2002), applicable for different categories of services of CEB with effect from 29-10-2002, marked as P8. The learned DSG contended that due to the urgent need of recruiting professionally qualified Engineers for the smooth power supply to the country, the CEB approved the recruitment of 10 Electrical Engineers and 9 Mechanical Engineers for

the said power plant on a contract basis for a period of five years, and accordingly, called for applications for the said posts by P20. In paragraph 5 (v) of the limited objections, the Respondents admitted that they could not obtain approval from the Minister concerned. It appears to this Court that there are no impediments for the CEB to recruit Engineers in accordance with P8. The Respondents, in their limited objections, failed to state a satisfactory reason for not complying with P8.

The Petitioners state that there are about 200 members of the 1st Petitioner Union who are currently serving as Engineering Assistants and Superintendents in CEB who have fulfilled the required qualifications in terms of SOR 2002 (P8) to apply for vacancies of Class II Grade II of the Engineering Service of CEB. These qualified internal employees have been denied the right to apply for the vacancies advertised in P20. This Court is mindful of the fact that the age limit is stipulated as below 35 years in P20 which is contrary to P8. Moreover, around 22 Engineering Assistants and Superintendents, presently attached to the Lakvijaya Power Plant, Norochcholai have also been denied their right to apply for the said posts as the advertisement P20 is not in terms of P8. It is pertinent to note that though these Engineers are going to be appointed for a period of five years, at the end of the said period they can be made permanent as per P20, which reads as follows;

“The appointment will be on a contract basis for a period of five years. Those who have successfully completed a continuous five-year contract period will be considered for absorption to the permanent Electrical/Mechanical Engineers of CEB.”

The foregoing clause of P20 will cause material prejudice to the members of the 1st Petitioner Union. In these respects, it appears to this Court that, if the interim Orders are not issued, prejudice will be caused to those employees.

In these circumstances, it is the considered view of this Court that this is a fit and proper case to issue notices on the Respondents and to grant interim Orders until the final determination of this Application.

Thus, the notices are issued on the Respondents and the Interim Orders as prayed for in paragraphs (i), (m) and (n) of the prayers to the Petition are issued until the final determination of this Application.

JUDGE OF THE COURT OF APPEAL

S. U. B. KARALLIYADDE, J.

I agree.

JUDGE OF THE COURT OF APPEAL