

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

In the matter of an application for mandates  
in the nature of a writ of certiorari and writ  
of Mandamus under article 140 of the  
Constitution of the Democratic Socialist  
Republic of Sri Lanka.

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Hiyare Gamage Jeewaka Dilruk  
Heenpanwila  
Hiyare, Galle.

**PETITIONER**

**C.A. (Writ) Application No.736/2010**

**Vs**

1. University of Colombo
2. Prof.(Mrs.)Kshanika Hirimburegama
- 2A. Prof.(Mr.) Kumara Hirimburegama  
The Vice Chancellor
3. Dr. Tudor Weerasinghe
4. Prof. Indralal de Silva
5. Prof. S. Sandarasegaram
6. Prof. N. Selvakumaran
7. Prof. Harshalal Senevirathne
8. Dr. P.S.M. Gunaratne
9. Prof. T.R. Ariyaratne
10. Prof. Sunil Chandrasiri
11. Prof. Nayani Malagoda

12. Prof. M.H.R. Sheriff
13. Vidyanidhi N.R. de Silva
14. Mr. Rajan Asirwadam
15. Mr. K Kang-Iswaran
16. Mr. Thilak Karunaratne
17. Mr. Chellai Thangarajah
18. Mr. C. Maliyadda
19. Mr. Mahinda Rajapaksha
20. Mr. H.M.N. Warakulle
21. Mr. P.W. Senarathne
22. Mr. M. Wickramasinghe
23. Mr. T.L.R. Silva

The Acting Registrar

#### **RESPONDENTS**

24. Dr. Cuda Wijerathne
25. Mrs. Leisha De Silva
26. Dr. Harsha Kabral
27. Mr. Ashok Pathirage
28. Mr. A.P. Gunarathna
29. Dr. Ranjini Gamage
30. Dr. H.D. Karunaratna
31. Prof. Rohan Jayasekera
32. Prof. Premakumara de Silva
33. Prof. K.R.R. Mahanama
34. Mr. Amitha K.U. Gamage
35. Mr. Samantha Rajapaksa

#### **ADDED RESPONDENTS**

All are of

No. 94, Cumaratunga Munidasa Mw  
Colombo 03.

**BEFORE**

: Deepali Wijesundera J.

**COUNSEL**

: K.G. Jinasena for the Petitioner

Chaya Sri Nammuni S.C. for the  
Respondents.

**ARGUED ON**

: 10<sup>th</sup> November, 2014

**DECIDED ON**

: 28<sup>th</sup> September, 2015

**Deepali Wijesundera J.**

The petitioner has filed this application praying inter alia for writs of certiorari to quash **P1** and **P2** and for a writ of Mandamus to compel the respondent's to reinstate the petitioner and to pay his salary.

The petitioner was employed as a labourer by the first respondent. On 24/11/2005 a complaint was made against the petitioner along with two other persons for taking a vehicle belonging to the first respondent out of the University premises without permission. A preliminary inquiry was held on 30/11/2005 and the petitioner and the other two were placed on interdiction. The interdiction letter is marked as **P1**. Subsequently he was served with a charge sheet which is

marked as **P2**. These are the two documents the petitioner is seeking to quash. The petitioner's reply to the charge sheet is marked as **P3** and the inquiry report as **P4**. The petitioner states that after interdiction no formal Disciplinary Inquiry was held and after the petitioner made several inquiries the officers of the first respondent failed to take steps to hold the Disciplinary Inquiry. The petitioner stated that since the respondent's failed to hold a formal Disciplinary Inquiry for ten years the petitioner had to make the instant application seeking writs of Certiorari and Mandamus.

The argument of the petitioner was that since the respondents failed to take action to hold a formal Disciplinary Inquiry after issuing **P1** and **P2** the petitioner should not be penalized and should be reinstated with back wages.

On perusal of Documents marked by the petitioner and the documents filed with the objections of the respondents it can be seen that after serving **P1** and **P2** on the petitioner this issue had been taken up in the University council meetings on several occasions. **R1** to **R4** documents dating from February 2006 to January 2010 show that the respondents have taken steps to hold the Disciplinary Inquiry. The respondents have written to the Attorney General for advice and after

receiving the advice of the Attorney General have allowed the driver of the said vehicle to retire on reaching 55 years age. **R4** states that the other labourer interdicted with the petitioner had appealed to the Vice Chancellor seeking a pardon for the offence alleged to have been committed by him and the council after discussion has decided to warn and reinstate him and transfer him out of the college house. **P5** also states that the petitioner has not made an appeal therefore the council decided to commence the inquiry with the available evidence at the earliest. **R6** shows that a prosecuting officer was also appointed to prosecute the petitioner. In view of these documents the petitioner's argument of undue delay in conducting the Inquiry fails.

On perusal of the documents and the petition and objections filed this court can not see a single reason to grant the relief prayed by the petitioner. The petitioner's application for writ can not be granted. The application of the petitioner is refused.

**JUDGE OF THE COURT OF APPEAL**