

**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 *Writ of Certiorari and Prohibition* under
article 140 of the Constitution of the Democratic
Socialist Republic of Sri Lanka**

CA/WRIT/290/2015

1. All Ceylon Bank Employees' Union,
464/20, Pannipitiya Road,
Palawatte,
Battaramulla.
2. Wasantha Samarasinghe,
President,
All Ceylon Bank Employees' Union,
464/20, Pannipitiya Road,
Palawatte,
Battaramulla.
3. Gamini Ratnasiri,
General Secretary,
All Ceylon Bank Employees' Union,
Bank of Ceylon Branch,
Bank of Ceylon,
12th Floor,
Head Office,
Bank of Ceylon Square,
No.01, Bank of Ceylon Mw,
Colombo 01.

4. H.H.Mahanama,
2/17, Anagarika Darmapala Mw,
Maligaspe,Galle.

5. G.B. Nuwan Gunaratne,
No. 145,
Sandaresgama,
Eppawala.

6. I.K.G. Darshana Thusitha Kumara,
No.222 D,
“Darshana”,
Ketawala,
Lewula,
Via Kandy.

7. M.A. Shamika Dilini Perera,
No. 80/29/1,
Samagi Mw,
Panaluwa Estate,
Atygala Rd,
Watareka,
Padukka.

8. S.A. Sashini Harshika Subasinghe,
“Supasan”,
Minuwangoda Rd,
Dunagaha.

9. S.A. Chamitha Lakmali P erera,
No. 648,
Undugoda Rd,
Nawagamuwa, Ranala.

10. P.K. Piumi Thesarani,
2/19, Arachchige Watte,
Saranmudali Mw,
Hetthatiya- Central,
Matara.

11. H. Sithara Danushthi Habaragamuwa,
No. 555/1,
“Sumudu”
Henehaththa,
Biyagama.

PETITIONERS

Vs,

1. Bank of Ceylon,
Head Office,
Bank of Ceylon Square,
No.01, Bank of Ceylon Mw,
Colombo 01.
2. Retired Air Chief Marshal Harsha Abeywickrema,
Former Chairman,
C/O Chairman,
Bank of Ceylon,
Head Office,
Bank of Ceylon Square,
No.01, Bank of Ceylon Mw,
Colombo 01.
3. Ronald C. Perera PC,
Chairman, Bank of Ceylon,
Head Office, Bank of Ceylon Square,
No.01, Bank of Ceylon Mw,
Colombo 01.

4. S. Pushpa Wellappili,
Director
5. Ranel T. Wijesinghe,
Director
6. Brian J. Sinniah,
Director
4th to 6th Respondents are of Board of Directors,
Bank of Ceylon,
Head Office, Bank of Ceylon Square,
No.01, Bank of Ceylon Mw,
Colombo 01.
7. D.M. Gunasekara,
General Manager,
Bank of Ceylon,
29th Floor,
Head Office, Bank of Ceylon Square,
No.01, Bank of Ceylon Mw,
Colombo 01.
8. K.D.S. Bandara,
Senior Deputy General Manager
(Product and Development Banking),
Bank of Ceylon,
25th Floor,
Head Office, Bank of Ceylon Square,
No.01, Bank of Ceylon Mw,
Colombo 01.

9. S.M.S.C. Jayasuriya,
Deputy General Manager
(International and Treasury),
Bank of Ceylon,
Member
10. G.H. Chandrasiri,
Deputy General Manager
(Human Resource),
Bank of Ceylon,
Member
11. S.H. Ranawaka,
Chief Legal Officer,
Bank of Ceylon,
Member
12. D.P.K. Gunasekara,
Deputy General Manager
(Corporate and Offshore Banking),
Bank of Ceylon,
Member
13. W.P.R.P.H. Fonseka,
Deputy General Manager
(Retail Banking),
Bank of Ceylon,
Member
14. P. Jayasoma,
Deputy General Manager
(Sales and Channel Management),
Bank of Ceylon,
Member

15. B.M. Premarathne,
Assistant General Manager
(Human Resource operations),
Bank of Ceylon,
Member
9th to 15th Respondents are of Human Resource Policy
Committee,
Bank of Ceylon,
Head Office, Bank of Ceylon Square,
No.01, Bank of Ceylon Mw,
Colombo 01.

16. G.D. Siva,
Assistant General Manager
(Training and Development),
Bank of Ceylon,
Secretary,
Human Resource Policy Committee,
Bank of Ceylon,
C/O General Manager,
Bank of Ceylon,
Head Office, Bank of Ceylon Square,
No.01, Bank of Ceylon Mw,
Colombo 01.

17. N.A Senevirathne Bandara,
Chief Manager (Compensation and Administration),
26th Floor, Bank of Ceylon,
Head Office, Bank of Ceylon Square,
No.01, Bank of Ceylon Mw,
Colombo 01.

And 100 others

RESPONDENTS

**Before: Vijith K. Malalgoda PC J (P/CA) &
S. Devika de. L Tennakoon J**

Counsel: Shyamal A. Collure for the Petitioners
Romesh de. Silva PC, with Chandimal Mendis, Eraj de. Silva and
Akila Amunugama for the 1st, 3rd to 17th Respondents

Written Submissions on: 18.02.2016, 24.02.2016

Order on: 29.04.2016

Order

Vijith K. Malalgoda PC J

Petitioners to the present application have come before this court seeking inter alia, prerogative writs in the nature of *Writ of Certiorari* and *Writ of Prohibition*.

- a) To quash a decision to promote 18th to 117th Respondents to the grade of Officer Trainee
- b) To prohibit 1st to 15th Respondents from promoting to the grade of Officer Trainee contrary to the provisions contained in P-6 and P-10

In addition to the above relief, the Petitioners have prayed for the issuance of an interim relief directing the 1st to 17th Respondents not to confirm 18th to 117th Respondents in the Grade of Executive Officer in the 1st Respondent.

When the matter was supported before this court for notices, the Learned President Counsel who represented the 1st to 17th Respondents (except 2R) informed court that the issuance of interim relief had become academic since 18th to 117th Respondents have already being confirmed in the Grade of Executive Officers but did not object for the issuance of notice on the Respondents.

After notices were issued on the Respondents, the Learned Counsel for the Petitioners once again renewed their application for interim relief and the matter had come up before us on 27.01.2016 to support for interim relief.

At the time the matter was supported before us for interim relief 1st and 3rd to 17th Respondents through their counsel raised a preliminary objection, to the effect that the interim relief prayed in the Petition is wider, than the main relief prayed for.

As pointed out by the Learned Counsel for the 1st to 17th Respondents (except 2 R) the main relief prayed by the Petitioners refer to the quashing of a decision to promote the 18th 117th Respondents by way of a *Writ of Certiorari* and Prohibiting such promotion by way of a *Writ of Prohibition* but no relief is sought by way of *Writ of Certiorari* or *Prohibition* to quash a decision to confirm or prohibit any confirmation of the said Respondents.

When considering the material placed by both parties before this court including the confirmation letters of several Respondents filed along with a motion dated 18th December 2015 the court observes that, a large number of Respondents have now confirmed in their positions by the 1st Respondent bank and therefore granting interim relief will become purely academic and of no use. It is further observed by this court that in the absence of main relief, preventing the confirmation of the 18th to 117th Respondents and also considering the fact that several of them have now confirmed in their position, this court decides to up hold the preliminary objection raised by the Respondents.

Preliminary objection up held. Interim relief not granted.

PRESIDENT OF THE COURT OF APPEAL

S. Devika de. L Tennakoon J

I agree,

JUDGE OF THE COURT OF APPEAL