

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

**Case No: CA (Writ) 433/2016**

Nimesh Shanaka Mathagadheera,  
Gunathilake Mawatha,  
Weligaha Pittaniya,  
Walgama, Matara.

**Petitioner**

**Vs.**

Hon. Attorney-General  
Attorney Generals' Department,  
Colombo 12.

And others

**Respondents**

**C.A. (Writ) No.433/2016**

**Before** : Vijith K. Malalgoda, P.C. J (P/CA) &  
S.Thurairaja, P.C. J.

**Counsel** : Priyantha Alagiyawanna with Isuru  
Weerasooriya instructed by Purnima  
Gunasekera for the Petitioner.

**Decided on** : 19.01.2017

**Vijith K. Malalgoda, P.C. J (P/CA)**

Heard learned Counsel in support of this application.

The Petitioner who is <sup>a</sup> ~~the~~ Transport Assistant attached to the Sri Lanka Navy, had come before this Court against a decision to dismiss him from service after meeting with an accident. As submitted by the Petitioner the vehicle which he was driving had met with an accident on 10.03.2016 at Kosgama. The Petitioner was charged under Section 214(1) read with 149(1) of the Motor Traffic Act before the Magistrate's Court of Avissawella for failure to avoid an accident and the Petitioner has pleaded guilty and ordered state cost of Rs.1,500/= by the learned Magistrate. After the said accident the Petitioner was dealt under the Navy Act and was arrested and detained pending court of inquiry. As

observed by this Court the Petitioner has admitted that he had lied when he made the statement to the police during the court of inquiry. As observed by this Court the Petitioner was in service for only 2 ½ when he met with an accident. After facing the accident he admits making a false statement to Sri Lanka police when making the statement. As observed by us the decision of Court of inquiry was not only based on the accident committed by him but was also based on the conduct of the Petitioner when he was making the statement to the police just after 2 ½ years of his employment. In the said circumstances this Court cannot accept when the learned Counsel for the Petitioner submits that the order of the Navy was disproportionate.

When considering the said matters placed before this Court, we see no merit in the application before this Court. Therefore we are not inclined to issue notices on the Respondents. Notices are therefore refused. No cost is ordered.

PRESIDENT OF THE COURT OF APPEAL

**S. Thurairaja, P.C. J**

I agree.

JUDGE OF THE COURT OF APPEAL

Lwm/-