

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

CA Writ App. No. 142/2016

Brigadier W.M.R.B. Walisundara
No. 87/A, Kehelwala, Kiribathkumbura,
Kandy.

PETITIONER

VS.

1. Lt. Gen. A.W.J.C. De Silva
Commander of the Sri Lanka Army, Army
Headquarters, Colombo 03.

2. Maj. Gen. Bonifus Perera
Colonel of the Regiment, Regimental Headquarters
Sinha Regiment, Army Camp, Ambepussa.

3. Maj. Gen. Channa Gunathiiake
Commandant-Sri Lanka Army Volunteer Force,
Volunteer Force Headquarters, Salawa, Kosgama.

4. Maj. Gen. Janaka Walgama
Military Secretary, Military Secretary's Branch, Army
Headquarters, Colombo 03.

5. Karunasena Hettiarachchi
Secretary, Ministry of Defence, No 15/5,
Baladaksha Mawatha, Colombo 03.

6. Maj. Gen. Milinda Peiris
Chief of Staff, Army Headquarters, Colombo 03.

7. Maj Gen Sumedha Perera
Deputy Chief of Staff, Army Headquarters, Colombo 03.

8. Maj. Gen. B.A. Perera
Director General, General Staff, Army Headquarters,
Colombo 03.

9. Maj. Gen. Nandana Udawattha
Adjutant General, Army Headquarters,
Colombo 03.

10. Maj. Gen. Kamal Gunarathne
Master General Ordinance, Army Headquarters,
Colombo 03.

11. Maj. Gen. Rathnasingham
Quarter Master General, Army Headquarters,
Colombo 03.

12. Maj. Gen. R. V. Udawatta
Director General Finance, Army Headquarters,
Colombo 03.

13. Maj. Gen. Piyal Wickremarathne

14. Maj. Gen. Kumudu Perera

15. Maj. Gen. Dushan Rajaguru

16. Brig. Anura Perera

17. Brig. Manoj Mudannayake

18. Brig. Rajeev Wickremasinghe

19. Brig. Hemantha Kulatunga

20. Brig. Athula Hannadige

21. Brig. B.A.L. Rathnayake

13th to 21st all at Regimental Headquarters-Sinha Regiment,
Army Camp, Ambepussa.

RESPONDENTS

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Before : Vijith K. Malalgoda, PC, J(P/CA)
S. Thurairaja, PC, J

Counsel : J. C. Weliamuna with Pasindu Silva for the Petitioner
Vikum de Abrew D.S.G for A.G.

Argued &

Decided : 02.02.2017

Vijith K. Malalgoda, PC, J(P/CA)

According to the petitioner, the petitioner has now been sent on retirement with effect from 30.06.2016, after promoting him to the rank of Brigadier with effect from the same date. Therefore it is clear that His Excellency the President has confirmed his retirement as well as his promotion. As observed by us what is challenge before this court by the petitioner is the recommendation of the commander sent to His Excellency the President to send the petitioner on retirement and the petitioner's complaint before this court was that the said recommendation was sent in violation of the service provisions. However, as per the document X1 we observe that, His Excellency the President when sending the petitioner on retirement has confirmed him in the rank of Brigadier. In these circumstances, we observe that the proper recommendation went before His Excellency the President is not before this court and therefore without knowing the exact

recommendation we are not in a position to ascertain whether in fact any violation had been taken place in the said recommendation. In these circumstances, we are not inclined to interfere with the recommendation send to His Excellency the President and therefore, we refuse notices in this application.

Application is therefore refused.

President of the Court of Appeal

S. Thurairaja, PC, J

I agree

Judge of the Court of Appeal

Na/-