

**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 Writs of Certiorari and of
Mandamus under and in terms of Article 140 of
the Constitution of the Democratic Socialist
Republic of Sri Lanka.

C.A (Writ) Application Bandaranayaka Rajasundara Disanayaka

No: 141/2017 Rajaguru Panditha Wasala Mudiyanse

Ralahamilage Malani Nalawansa

"Ranjana",

Imbulagoda,

Rathgama.

PETITIONER.

Vs.

1. S.P. Chandrawathie,
Zonal Director of Education,
Zonal Education Director's Office,
Ambalangoda.

And 18 others.

RESPONDENTS.

CA Writ 141/2017

**BEFORE : P.PADMAN SURASENA, J. (P/CA) &
A.L. SHIRAN GOONERATNE, J.**

COUNSEL : Shantha Jayawardena with Chamara
Nanayakkara and W. Damunupola for the
Petitioner.

Chaya Sri Nammuni S.C for the
Respondents.

**ARGUED AND
DECIDED ON : 27.03.2018**

P.PADMAN SURASENA, J. (P/CA)

Petitioner is a teacher serving in a government school. According to the averments in the petition, petitioner is married with 3 children.

In this application the Petitioner is seeking, inter alia, a mandate in the nature of Writ of Certiorari to quash the decision reflected in the document produced marked **P 36** to suspend the payment of petitioner's monthly salary.

It is the submission of the learned counsel for the Petitioner that the 1st respondent has stopped paying her salary because she had failed to tender a copy of her appointment letter to the authorities.

It is the position of the Petitioner that this copy of her appointment letter was in deed handed over to the authorities as per a request made to that effect by the relevant authority at a previous occasion. Petitioner relies on the document produced by the Respondents marked **4 R 8** to substantiate that position.

The Respondents in turn have produced a copy of the appointment letter which is in their possession marked **4 R 6.**

The concern of the Respondents according to the submissions made by the learned state counsel is to ascertain whether the Petitioner is the correct person who has been appointed as a teacher.

Respondents do not controvert following facts:-

- (1) that the relevant appointment has been made in the year 1994.
- (2) that the Petitioner has been serving in Government Schools since that time.
- (3) that the Government had been paying the Petitioner's salary up to the time it was stopped by the document marked **P 36.**
- (4) that there is no evidence what so ever for the Respondents to claim that the Petitioner is not the person who has been appointed as a teacher by the Government.

- (5) that it is the responsibility of the authorities to maintain the personal files of its employees which should have a copy of the appointment letter.

This court having considered the submissions of the learned State Counsel, was not able to gather any legal basis to justify the suspension of the payment of the Petitioner's salary. Admittedly, the petitioner is still serving the Government in the capacity of a teacher without a salary even at this moment. Further, the basis of suspension of salary (i.e. the non-tendering of the appointment letter by the Petitioner) is unlikely to be changed in the future as well, since the Petitioner has taken up the position that it has already been handed over to the respondents.

In these circumstances, this court decides to grant the relief prayed in prayer (c) of the petition and issue a writ of certiorari to quash the decision reflected in the letter produced marked **P 36** to temporary stop the payment of the Petitioner's salary.

This court also decides to issue a writ of Mandamus directing the 1st to 11th Respondents to pay the Petitioner the arrears of her salary with effect from the month of June in the year 2016.

Application is allowed.

PRESIDENT OF THE COURT OF APPEAL

A.L. SHIRAN GOONERATNE, J.

I agree.

JUDGE OF THE COURT OF APPEAL.

Vkg/-