

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

In the matter of an application for Writs in the nature of Writ of Certiorari and Mandamus in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Dr. G.G.N.A. Abeykoon,
354, Harischandra Mawatha,
1st Lane,
Anuradhapura.

Petitioner

Vs.

01. The Administrative Appeals Tribunal,
35, Silva Lane,
Dharmaraja Place,
Rajagiriya.

02. Justice N.E. Dissanayake,
Chairman,
The Administrative Appeals Tribunal,
35, Silva Lane,
Dharmaraja Place,
Rajagiriya.

And others

C.A. 160/2018 Writ Application

Before : **P.Padman Surasena,J. (P/CA) &
Arjuna Obeyesekere,J.**

Counsel : Shayamal A. Collure with A.P. Jayaweera for the
Petitioner.

Supported &

Decided on : 17.05.2018

P.Padman Surasena,J. (P/CA)

The Petitioner in this application seeks,

- i. a writ of certiorari to quash the order dated 23.11.2017 in the appeal bearing No: AAT/22/2016 (PHC) marked **Z** of the administrative appeals tribunal and,
- ii. a writ of mandamus directing the 1st - 4th respondents to re-hear the petitioner's appeal above mentioned.

The Petitioner had been promoted to Class 2 Grade 1 of the Sri Lanka Animal Production and Health Service with effect from 01.11.1994. His grievance is that he should have been promoted to Class 1 of the SLAP and HS (Sri Lanka Animal Production and Health Services).

It is the submission of the learned Counsel for the Petitioner that the Petitioner has had a satisfactory service period of 5 years which is a pre-requisite to the promotion claimed by him.

It is common ground that the said period of 5 years must be calculated from 01.11.1994 onwards. The Petitioner does not dispute the fact that he had been dealt with, in a disciplinary proceedings in respect of a misconduct which he had committed on 08.10.1999. The said misconduct had taken place within the required satisfactory period of 5 years.

However, it is the argument of the learned Counsel for the Petitioner that the petitioner has had a satisfactory period of 5 years of service on the basis that the punishment was imposed on the petitioner on a date after that period.

It is clear that the requirement for the promotion is a satisfactory service period of 05 years. When an officer had committed a misconduct on a date which is within that period, this Court is unable to accept such an officer as an officer who has had a satisfactory period of 05 years on the basis that punishment was imposed on him for that offence only on a subsequent date.

For the foregoing reasons, this Court has no legal basis to issue notices on the respondents. Therefore, this Court decides to refuse to issue notices on the respondents, and proceeds to dismiss this application without costs.

Petition is dismissed without costs.

PRESEDENT OF THE COURT OF APPEAL

Arjuna Obeyesekere,J.

I agree.

JUDGE OF THE COURT OF APPEAL

Jmr/-