

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

C.A. (Writ) Application

No: 0483/2019

A.K. Dissanayake,
Station Master (I),
Railway Station,
Ella.

PETITIONER

Vs.

1. M.J.D. Fernando,
General Manager of Railways,
Sri Lanka Railways Head Quarters,
Colombo 10.

1A. H.M.K.W. Bandara,
General Manager of Railways,
Sri Lanka Railways Head Quarters,
Colombo 10.

1B. J.I.D. Jayasundara,
General Manager of Railways,
Sri Lanka Railways Head Quarters,
Colombo 10.

- 1C. Ravindra Pathmapriya,
General Manager of Railways,
Sri Lanka Railways Head Quarters,
Colombo 10.
2. G. Gamage,
Additional General Manager of Railways,
Sri Lanka Railways Head Quarters,
Colombo 10.
- 2A. H.N.S.P.K. De Silva,
Additional General Manager of Railways,
Sri Lanka Railways Head Quarters,
Colombo 10.
3. A.D.G. Senevirathne,
Transport Operation Superintendent (Land),
Sri Lanka Railways Head Quarters,
Colombo 10.
- 3A. N.J. Indipolage,
Transport Operation Superintendent (Land),
Sri Lanka Railways Head Quarters,
Colombo 10.
4. G.W.S. Sisira Kumara,
Commercial Superintendent (Land),
Sri Lanka Railways Head Quarters,
Colombo 10.

- 4A. P.D.S. Bandara,
Commercial Superintendent (Land),
Sri Lanka Railways Head Quarters,
Colombo 10.
5. W.S. Chandana,
Deputy Commercial Superintendent (Land),
Sri Lanka Railways Head Quarters,
Colombo 10.
- 5A. W.G. Ananda Karunaratna,
Deputy Commercial Superintendent (Land),
Sri Lanka Railways Head Quarters,
Colombo 10.
6. H. Liyanagamage,
Land Officer (Way and Works),
Sri Lanka Railways Head Quarters,
Colombo 10.
- 6A. Anjana De Silva,
Land Officer (Way and Works),
Sri Lanka Railways Head Quarters,
Colombo 10.
7. W.G. Ananda Karunaratna,
Regional Superintendent of Railway,
Railway Station,
Nawalapitiya.

- 7A. K.P.N.S. Lionel Singha,
Regional Superintendent of Railway,
Railway Station,
Nawalapitiya.
8. D.W.N Amarasena,
District Engineer (Upper Division),
Railway Station,
Naanu Oya.
- 8A. D.M.P.S. Bandara,
District Engineer (Upper Division),
Railway Station,
Naanu Oya.
9. W.P.M. Fernando,
Chief Engineer (Way and Works),
Sri Lanka Railways Head Quarters,
Colombo 10.
- 9A. E.M.P.S.K. Deegala,
Chief Engineer (Way and Works),
Sri Lanka Railways Head Quarters,
Colombo 10.
10. G.D.T. Jayawardene,
Disciplinary Inquiry Officer,
No. 137/2,
Imbulgodawaththa,
Imbulgoda.

11. L.P. Jayampathy,
The Secretary,
Ministry of Transport and Civil Aviation,
7th Floor, Sethsiripaya Stage II,
Battaramulla.

11A. Ranjith Ganganath Rubasinghe,
The Secretary,
Ministry of Transport and Civil Aviation,
7th Floor, Sethsiripaya Stage II,
Battaramulla.

11B. Prof.Kapila C.K. Perera,
The Secretary,
Ministry of Transport and Civil Aviation,
7th Floor, Sethsiripaya Stage II,
Battaramulla.

RESPONDENTS

Before : Dhammika Ganepola, J.
Adithya Patabendige, J.

Counsel : Upul Jayasuriya, P.C. with Laknath Senevirathne for the Petitioner.
Prabhashanee Jayasekara, S.C. for the Respondents.

Argued on : 11.12.2025

Written Submission

Tendered on : 27.01.2026 by the Petitioner
09.03.2026 by the Respondents

Decided on : 13.03.2026

Adithya Patabendige, J.

The Petitioner was recruited as a Station Master in the Sri Lanka Railway Service in 1993, and he was serving as Station Master at Ella Railway Station when this application was filed in 2019.

Factual Background

The Petitioner states that as he did not have a permanent residence for his family, his wife entered into an agreement dated 17th April 2004, marked **P2**, with one Jayathissa Liyanarachchi to obtain possession of a land situated at No. 07B, Reservoir Road, Bandarawela.

According to the Petitioner, there was a small hut on the said land at the time of obtaining possession, and thereafter he commenced construction of a new house on the said land using his family savings.

The Petitioner received a letter dated 15th October 2007, marked **P3**, from the 1st Respondent, informing him that the said land owned by Sri Lanka Railways and directing him to vacate the premises and hand over possession.

As the Petitioner was unable to secure a favourable solution through discussions with the Respondents, the possession of the premises was handed over to the Station Master of Bandarawela, and the 1st Respondent was informed accordingly, by letter dated 02nd January 2008. Thereafter, the Administrative Officer issued a letter dated 04th November 2008 confirming that the premises had been handed over and sealed (vide **P4** and **P5**).

The Petitioner and several others who were similarly affected brought the matter to the attention of the Parliamentary Advisory Committee on Transport, which, by its decision dated 06th April 2009, marked **P6**, decided that eviction should not proceed until a policy decision was taken regarding persons occupying railway reservation lands.

Following the said decision, the General Manager of Railways issued a letter dated 03rd June 2009, marked **P7**, directing that possession of the premises be handed back to the occupants, including the Petitioner, until a common policy decision was taken regarding such occupations.

Accordingly, by letter dated 11th June 2009 marked **P8**, the Petitioner and several other occupants informed the authorities that possession had been restored to them.

The Petitioner further relies on Circular No. SP/RD/02/10 dated 03rd February 2010, issued by the Secretary to the President relating to the management of State lands, marked **P9**.

The Deputy Commercial Superintendent (Land) issued a letter dated 22nd April 2012 marked **P10**, relating to the survey and demarcation of the lands occupied by the Petitioner and other employees.

Subsequently, the Petitioner, together with four other employees, addressed a letter dated 26th March 2013 marked **P11**, requesting that the lands occupied by them be granted on lease.

The Petitioner states that the 1st Respondent made a minute on the said letter directing the relevant officer to examine the matter and report the lease amount payable.

Thereafter, the 1st Respondent appointed a committee to investigate the feasibility of granting leases of the lands occupied by the Petitioner and other similarly situated persons. The said committee submitted its report dated 07th February 2014, marked **P12**, recommending that the lands could be granted on lease.

Following the said recommendation, the 1st Respondent, by letter dated 16th June 2014, marked **P13**, forwarded the matter to the Minister of Transport seeking approval to grant the lands occupied by the Petitioner and others on lease under utility charges.

However, the Petitioner states that, while the said request was under consideration, the 1st Respondent issued a charge sheet dated 07th April 2015, marked **P14**, alleging that the Petitioner had committed an offence under Rule 9(e) of the Safety Rules of 1983 of Sri Lanka Railways by occupying railway reservation land without authority.

The said charge sheet was subsequently amended by an amended charge sheet dated 27th May 2016, marked **P17**.

The Petitioner participated in the disciplinary inquiry and submitted written submissions marked **P18**, before the inquiring officer. The Petitioner was found guilty of the charges brought against him, as shown in **P19**.

The Petitioner further relies on the Cabinet Memorandum dated 17th March 2016, marked **P15**; the Cabinet minute, marked **P15a**; the Cabinet decision dated 07th April 2016, marked

P16; and the Cabinet decision dated 15th February 2018, marked **P20**, relating to the issue of unauthorized occupation of railway reservation lands.

However, the Petitioner states that thereafter the Chief Engineer recommended that the subject land be allocated as official quarters for the Station Master Grade II by letter dated 04th October 2019, marked **P22**.

The Petitioner states that he has constructed the house on the said land using bank loans and personal savings and estimates the value of the house to be approximately Rs. 4,321,957.42.

The Petitioner therefore contends that the actions of the Respondents in proceeding with disciplinary action and allocating the subject property as official quarters are arbitrary and unreasonable and defeat the legitimate expectation created by the conduct of the authorities.

Reliefs Sought by the Petitioner

- A mandate in the nature of a *writ of certiorari* quashing **P14, P17, P19, and P22**.
- A mandate in the nature of a *writ of prohibition* preventing eviction and disciplinary action.
- A mandate in the nature of a *writ of mandamus* directing the Respondents to grant the land on lease.
- Other incidental reliefs.

Position of the Respondents

The Respondents deny that the Petitioner has any lawful right to occupy the land in question.

It is their position that the land forms part of the railway reservation belonging to the State and that the Petitioner has occupied the said land without obtaining any permit or lease from the competent authority.

The Respondents further state that disciplinary proceedings were initiated against the Petitioner for occupying railway reservation land without lawful authority.

The Respondents also state that railway authorities are entitled to allocate railway lands for official purposes and that the decision to allocate the subject property as official quarters was taken in the exercise of their administrative powers.

Issues for Determination

- Whether the Petitioner's occupation of railway reservation land was lawful.
- Whether the disciplinary proceedings marked **P14**, **P17**, and **P19** are liable to be quashed.
- Whether the decision marked **P22** allocating the property as official quarters is liable to be quashed.
- Whether the Petitioner has established a legitimate expectation to obtain a lease.
- Whether the Petitioner is entitled to *writs of certiorari, prohibition, or mandamus*.

The Petitioner's Occupation in the Disputed Land

The Petitioner admits that the land belongs to Sri Lanka Railways. On the other hand, clause no. 4 of the agreement marked **P2** clearly indicates that the land in dispute is state land.

However, the Petitioner has failed to establish that he possessed any permit, lease, or other lawful authority to occupy the said land.

It is well settled that State land cannot be occupied without lawful authority, and mere occupation for a long period cannot confer a legal right. Since the Petitioner's possession is unlawful and he is also an employee of the Sri Lanka Railways, serving charge sheets based on the illegal occupation of land owned by the Sri Lanka Railways cannot be considered whatsoever illegal, irrational, or *ultra vires*.

Writs of Certiorari and Prohibition to Quash Disciplinary Proceedings

The Petitioner seeks *writs of certiorari* and *prohibition* in respect of several impugned decisions, namely the charge sheets marked **P14** and **P17** and the disciplinary proceedings marked **P19**, which relate to disciplinary action. The disciplinary proceedings culminated in a finding of guilt against the Petitioner, as reflected in the document marked **P19** and the letter dated 04th October 2019, marked **P22**.

It is a common ground that the Petitioner is a Public Servant. Chapter IX of the Constitution of the Democratic Socialist Republic of Sri Lanka deals with the establishment of the Public Service Commission (PSC), appointment, removal, and disciplinary control of the Public Service.

Article 58 of the Constitution provides a comprehensive appellate framework for an officer aggrieved by an order relating to promotion, transfer, dismissal, or disciplinary control made under Articles 56 or 57. The PSC is vested with the authority to alter, vary, rescind, confirm, or direct further inquiry upon such appeal.

For ease of reference, Article 58 is reproduced below.

(1) Any public officer aggrieved by an order relating to a promotion, transfer, dismissal or an order on a disciplinary matter made by a Committee or any public officer under Article 56 or Article 57, in respect of the officer so aggrieved, may appeal to the Commission against such order in accordance with such rules made by the Commission from time to time, relating to the procedure to be followed in the making, hearing and determination of an appeal made to the Commission and the period fixed within which an appeal should be heard and concluded.

(2) The Commission shall have the power upon such appeal to alter, vary, rescind or confirm an order against which an appeal is made, or to give directions in relation thereto, or to order such further or other inquiry as the Commission shall seem fit.

(3) The Commission shall cause to be published in the Gazette the rules made by it under paragraph (1) of this Article.

Based on such, the learned State Counsel argued that, in terms of Article 61A of the Constitution, the jurisdiction of this Court is constitutionally ousted to entertain this application.

Article 61A of the Constitution states as follows.

Subject to the provisions of paragraphs (1), (2), (3), (4) and (5) of Article 126, no court or tribunal shall have power or jurisdiction to inquire into, or pronounce upon or in any manner call in question any order or decision made by the Commission, a Committee, or any public officer, in pursuance of any power or duty conferred or imposed on such Commission, or delegated to a Committee or public officer, under this Chapter or under any other law.

This Article was introduced to the Constitution by the 17th Amendment. The Seventeenth Amendment significantly altered the constitutional framework governing the PSC's decisions. Upon considering Article 61A, *Justice Shirani Thilakawardhane in the case of Katugampola v Commissioner General of Excise and others 2003 (3) SLR 207 held that,*

i) Article 55 (5) restricted the application to orders or decrees concerning the appointment, transfer, dismissal, or disciplinary control of a public officer. Whereas Article 61A (17th amendment) dealt with any type of decision so long as it is made pursuant to a power conferred.

(ii) 'Ouster clause' precluded the jurisdiction of the Court of Appeal and grants exclusive jurisdiction to the Supreme Court. A person aggrieved by the decision would have to invoke the jurisdiction of the Supreme Court under Article 126.

Similarly, in *Rathnasiri and others v Ellawala and Others 2004 (2) SLR 180*, **Justice Saleem Marsoof** held that Article 61A, introduced by the Seventeenth Amendment, completely ousts the jurisdiction of the Court of Appeal to review decisions made by the Public Service Commission, its committees, or any public officer acting under delegated PSC authority. **Justice Marsoof** explained that the ouster applies to all categories of decisions made under PSC powers, not merely those relating to appointments, transfers, dismissals, or disciplinary control.

Justice Marsoof further emphasized that even allegations of acting without jurisdiction, procedural defects, or errors of law cannot be reviewed by way of writs as Article 61A expressly prohibits any court or tribunal from questioning such decisions. The proper way to address any grievance of public officers is twofold;

- An Appeal to the Administrative Appeals Tribunal under Article 59, where applicable, and
- A fundamental rights application to the Supreme Court under Article 126, in appropriate circumstances.

Upon considering the legal framework of the post-Seventeenth Amendment, the court states as follows at pages 189 and 190.

“The Seventeenth Amendment to the Constitution has also introduced several other features which seek to enhance the independence of the public service while providing greater security of tenure for the public officers. Firstly, the appointment, promotion, transfer, disciplinary control, and dismissal of public officers other than Heads of Departments have been taken out of the Cabinet of Ministers and vested in the Public Service Commission. Secondly, while the Cabinet of Ministers is vested with the power of appointment and

disciplinary control of Heads of Department, it also has the power of formulating policies concerning the public service. Thirdly, the Public Service Commission, which is bound to conduct its affairs in accordance with the policy laid down by the Cabinet of Ministers, is answerable to Parliament in regard to the exercise and discharge of its powers and functions. Fourthly, the Seventeenth Amendment provides for the appointment of the members of the Public Service Commission on the recommendation of the Constitutional Council established under the said Amendment. Fifthly, while the Public Service Commission is empowered to delegate to a Committee or a public officer its powers of appointment, promotion, transfer, disciplinary control and dismissal of specified categories of public officers, it is expressly provided that any public officer aggrieved by an order made by any such Committee or public officer may appeal first to the Public Service Commission and from there to the Administrative Appeals Tribunal which is appointed by the Judicial Service Commission. All this is in addition to the beneficial jurisdiction created by Article 126 of the Constitution, which is expressly retained by Article 61A of the Constitution. These are the many pillars on which the edifice of the Public Service rests.

In view of the elaborate scheme put in place by the Seventeenth Amendment to the Constitution to resolve all matters relating to the public service, this Court would be extremely reluctant to exercise any supervisory jurisdiction in the sphere of the public service. I have no difficulty in agreeing with the submission made by the learned State Counsel that this Court has to apply the preclusive clause contained in Article 61A of the Constitution in such a manner as to ensure that the elaborate scheme formulated by the Seventeenth Amendment is given effect to the fullest extent.”

In the case of ***Dr. M.D.W. Lokuge v Vidyajothi Dr. Dayasiri Fernando, Chairman and Eleven Others C.A.(Writ) 160/2013 decided on 16/10/2015 His Lordship Justice Navaz,*** considering Article 61 A, at page 21 stated as follows;

“3). Article 61A of the Constitution which falls within the phrase “subject to the provisions of the Constitution” in Article 140 of the Constitution, would operate as a constitutional ouster to shut out the jurisdiction of this Court to judicially review decisions of the PSC.”

In light of the above constitutional provisions and judgments, it is clearly evident that the jurisdiction of the Court of Appeal regarding judicial review of PSC-related decisions has been removed.

Upon considering the decision contained in the document marked **P22**, the land and the building which is occupied by the Petitioner are owned by the Sri Lanka Railways. Therefore, as the Respondents argued, the Respondents are entitled to allocate the lands or buildings of Sri Lanka Railways for official or commercial purposes.

Hence, the decision embodied in **P22** cannot be considered illegal, irrational, or *ultra vires*.

Legitimate Expectation

The Petitioner relies on several documents, including **P6–P20**, to establish a legitimate expectation.

However, none of those documents contains a clear and unequivocal representation that the subject land would be granted to the Petitioner on lease.

At best, the documents demonstrate that the authorities had considered the possibility of regularizing certain occupations of railway reservation lands. Such administrative deliberations cannot be construed as creating a binding legal obligation.

Writ of Mandamus

The Petitioner seeks a mandate in the nature of a *writ of mandamus* directing the Respondents to implement the alleged promises relied upon by the Petitioner in documents marked **P6, P7, P8, P9, P10, P11, P12, P13, P15, P15a, P16, and P20**.

For the completeness of the judgment, it is useful to examine the above documents briefly.

P6 – minutes of the Cabinet sub-committee dated 06th April 2009,

P7 – directions of the GMR (covering) to hand over the keys to occupants, including the Petitioner,

P8 – The confirmation letter that the keys were handed over to the occupants,

P9 – the Circular dated 03rd February 2010 issued by the Secretary to the President,

P10 – the letter written by the Deputy Commercial Superintendent,

P11– the letter written by the Petitioner

P12 – report on unlawful construction in the railway reservation in Bandarawela,

P13 – the letter written by the GMR to the line minister,

P15 – Cabinet memorandum,

P15a – the letter written by Minister Nimal Siripala de Silva to the Cabinet,

P16 – Cabinet decision dated 07th April 2016,

P20 – Cabinet decision dated 15th February 2018.

A careful examination of the above documents reveals that they primarily consist of administrative correspondence, reports, recommendations, committee deliberations, and Cabinet-level policy considerations regarding the broader issue of the occupation of railway reservation lands by certain persons.

However, none of the aforesaid documents contain a clear and enforceable direction requiring the Respondents to grant a lease of the subject land to the Petitioner.

It is well settled that a *writ of mandamus* will issue only where the Petitioner establishes a clear legal right in his favour and a corresponding public duty on the part of the Respondents.

The documents relied upon by the Petitioner do not create any such legal right and/or public duty. At best, they demonstrate that the issue relating to the occupation of railway reservation lands had been considered at various administrative and policy levels, and that the Petitioner’s request had been taken into consideration by the authorities.

Such administrative correspondence, recommendations, or Cabinet-level discussions cannot be construed as creating a binding legal obligation upon the Respondents to grant a lease of State land to the Petitioner.

Accordingly, the Petitioner has failed to establish a clear legal right and/or public duty enforceable by way of a *writ of mandamus*.

Mandamus does not lie to compel the exercise of a discretionary power in a particular manner

CONCLUSION

Before concluding, it must be acknowledged that the Petitioner has served the Railway Department for a long time and has occupied the disputed land for a considerable period. However, judicial review focuses on the legality of administrative actions rather than the merits or sympathetic aspects of the case. In the absence of a clear legal right in favour of the Petitioner and a corresponding public duty on the part of the Respondents, this Court cannot compel the authorities to grant a lease of State land nor restrain them from exercising their lawful powers.

For the reasons stated above, I conclude that the Petitioner has not demonstrated any valid grounds for this Court to exercise its writ jurisdiction.

Accordingly, the application for *Writs of Certiorari, Prohibition, and Mandamus* is refused and dismissed.

In the circumstances of the case, no order is made as to costs.

JUDGE OF THE COURT OF APPEAL

Dhammika Ganepola, J

I agree.

JUDGE OF THE COURT OF APPEAL