

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

C.A. (Writ) Application

No: 0836/2024

H S P Mendis now residing at Puistokatu 2 A 12, 78200, Varkaus, Finland appearing by her Power of Attorney Holder Jayaweera Kankanamgey Samankumara of No. 572/4 Halgahadeniya Road, Rajagiriya

PETITIONER

Vs.

1. People's Bank,
No. 75, Sir Chittampalam A. Gardiner Mawatha,
Colombo 02.

2. Prof. Narada Fernando,
Chairman,
People's Bank,
No. 75, Sir Chittampalam A. Gardiner Mawatha,
Colombo 02.

3. Isuru Balapatabendi,
Director,
People's Bank,
No. 75, Sir Chittampalam A. Gardiner Mawatha,
Colombo 02.

- 3A. Jayantha Thilakaratne,
Director,
People's Bank,
No. 75, Sir Chittapalam A. Gardiner Mawatha,
Colombo 02.
4. Visakha Amarasekere,
Director,
People's Bank,
No. 75, Sir Chittampalam A. Gardiner Mawatha,
Colombo 02.
- 4A. Bradley Emerson,
Director,
People's Bank,
No. 75, Sir Chittampalam A. Gardiner Mawatha,
Colombo 02.
5. Dushmantha Thotawatte,
Director,
People's Bank,
No. 75, Sir Chittampalam A. Gardiner Mawatha,
Colombo 02.
- 5A. Dr. Ahilan Kadiragamar,
Director,
People's Bank,
No. 75, Sir Chittampalam A. Gardiner Mawatha,
Colombo 02.

6. Udeni Samararatne,
Director,
People's Bank,
No. 75, Sir Chittampalam A. Gardiner Mawatha,
Colombo 02.

6A. Vimalenthiraja,
Director,
People's Bank,
No. 75, Sir Chittampalam A. Gardiner Mawatha,
Colombo 02.

7. Dushan Soza,
Director,
People's Bank,
No. 75, Sir Chittampalam A. Gardiner Mawatha,
Colombo 02.

8. Clive Fonseka,
General Manager,
People's Bank,
No. 75, Sir Chittampalam A. Gardiner Mawatha,
Colombo 02.

9. G. A. A. Ranasinghe,
Chief Manager Human Resources,
People's Bank,
No. 75, Sir Chittapalam A. Gardiner Mawatha,
Colombo 02.

10. D. M. M. Dissanayake,
Deputy General Manager,
Human Resources,
People's Bank,
No. 75, Sir Chittapalam A. Gardiner Mawatha,
Colombo 02.

RESPONDENTS

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

Counsel : Yuwin Matugama with Tharushi Bethmage instructed by Neethika Partners
for the Petitioner
I.Randeny S.C. for the 1st – 10th Respondents

Argued on : 12.01.2026

Written Submission

Tendered on : 05.02.2026 by the Respondent

Decided on : 10.03.2026

Adithya Patabendige, J.

The Petitioner is an Assistant Manager in the IT Department of the 1st Respondent, Peoples Bank (hereinafter referred to as the Bank). She joined the Bank on or around 2nd May 1995, and her employment was made permanent on 30th May 1996. During her employment with the Bank, she received several promotions, and she completed 29 years of service on 5th November 2023.

FACTUAL BACKGROUND

The Bank issued a Staff Circular No.325/2002, dated 01st January 2002, marked **B1**, which permitted permanent employees who had completed 20 years in the permanent cadre as at 1st January 2002 to apply for early release from service. It is to be noted that the said circular was subsequently amended on several occasions (vide, documents marked **B2** and **B3**).

The Petitioner submitted an application dated 3rd May 2024, marked **B4**, as per the said circular, to the Bank for approval of early release from service, which was recommended by the Head of the Department, subject to immediate replacement.

The Petitioner states that she was informed by the 9th Respondent, the Chief Manager, Human Resources, through a letter dated 21st May 2024, marked **B5**, that the operation of the circular marked **B1** had been temporarily suspended, and therefore, the Petitioner's application could not be processed further. Circular No. 325/2002(3) dated 10th May 2024, marked **B6**, suspended the operation of the circular marked **B1**.

Thereafter, the Petitioner made several appeals, marked **B7**, **B8**, and **B9**, to the 7th and 9th Respondents, requesting that she be allowed to retire under **B1**, as she had submitted the application before its operation was suspended. Further appeals, dated 7th June 2024 and 29th July 2024, marked **B10** and **B11**, respectively, were forwarded to the Secretary to the Ministry of Finance. The Petitioner alleged that the Secretary of the Ministry of Finance had not responded. However, the Petitioner, referring to the contents of the letter dated 26th August 2024, marked **B12**, avers that the 10th Respondent rejected her application for early retirement on the same reasoning as in **B5**. As per the document marked **P12**, one of the reasons for the refusal of the Petitioner's application was that, since her application had been recommended subject to the availability of a replacement, the prevailing practice of the Bank is not to release an employee in such circumstances.

The Petitioner contends that the Bank's refusal of her application for early retirement is *ultra vires*, illegal, irrational, and violative of her legitimate expectations.

Thereafter, the Petitioner has filed the instant writ application before this Court, seeking, inter alia,

- a mandate in the nature of a *writ of certiorari* to quash the notice/the decision dated 21st May 2024, marked **B5**;

- a mandate in the nature of a *writ of certiorari* to quash the notice/the decision dated 26th August 2024, marked **B12**;
- a mandate in the nature of a *writ of mandamus* compelling the 1st to 10th Respondents to grant the benefits and privileges under staff circular marked **B1**.
- and to grant interim and other incidental reliefs.

THE POSITION OF THE RESPONDENTS

Respondents, in their Statement of Objections, state that the main objective of circular **B1** was to help employees who met the requirements of the said circular to obtain early retirement. However, the Respondents assert that the management of the Bank decided to cancel the aforesaid circular in view of the large number of employees leaving the Bank during 2023 and 2024, which had begun to negatively impact the functioning of the institution (vide. Paragraph 2 of the Statement of Objections).

The Respondents further state that the acceptance of the early release as per the circular **B1** is discretionary and entirely within the purview of management, and therefore, no legal right has accrued to the Petitioner to demand the early release from the service of the Bank as a matter of right.

The Respondents informed the Court that the Petitioner left the country without obtaining leave, and this fact has been suppressed in the Petition.

ISSUES FOR DETERMINATION

Upon considering the above factual matrix, the gravamen of this application is whether the Petitioner acquired a legally enforceable right or a legitimate expectation to obtain early retirement under Staff Circular No. 325/2002 (**B1**) prior to the suspension of the said circular by Circular No. 325/2002(3) dated 10th May 2024 (**B6**).

NATURE OF THE SCHEME INTRODUCED BY CIRCULAR B1

At the outset, it is necessary to examine the nature and legal effect of the circular marked **B1**. A careful examination of the said Staff Circular reveals that the scheme was introduced primarily in response to requests by employees seeking premature retirement from the Bank's service for various personal reasons, such as higher education, migration, or a change of career. The circular itself makes it clear that the objective of the scheme was to provide an opportunity for employees who had completed a specified period of service to apply for early release, while ensuring the Bank's operational efficiency.

The scheme, therefore, does not confer an automatic right to retirement upon employees.

INDIAN JUDGEMENTS ON VOLUNTARY RETIREMENT SCHEMES

The Supreme Court of India considered similar Voluntary Retirement Schemes in *Bank of India and Others v. O.P. Swarnakar (2003) 2 SCC 721*. In that case, the court examined the legal character of Voluntary Retirement Schemes introduced by Nationalized Banks in India and the State Bank of India, and held that such schemes are essentially contractual in nature.

The court, after examining the relevant Clauses of the scheme, summarized the legal position in paragraph 22 of the judgment and deduced the following principles.

- i) The banks treated the application from the employees as an offer which could be accepted or rejected.
- ii) Acceptance of such an offer is required to be communicated in writing.
- iii) The decision-making process involved application of mind on the part of several authorities.
- iv) The decision-making process was to be formed at various levels.
- v) The process of acceptance of an offer made by an employee was in the discretion of competent authority
- vi) The request of voluntary retirement would not take effect *in praesenti* but in future.
- vii) The bank reserved its right to alter/ rescind the conditions of the scheme.

The aforesaid principle clearly demonstrates that schemes of this nature do not automatically grant an employee a vested right to retire from service simply by submitting an application. The application submitted by the employee is considered only as an offer, which the employer may accept or reject at its discretion.

Considering the aforementioned principles of the above judgement, the Indian Supreme Court in the case of *State Bank of Patiala v Ramesh Chandra Kanoji and others, decided on 21st February 2004*, reiterated that the issuance of a Voluntary Retirement Scheme is an **invitation to offer**, while the employee's application constitutes the **offer**.

SRI LANKAN JUDGEMENTS ON VOLUNTARY RETIREMENT SCHEMES

As pointed out in the written submissions of the Respondents, a similar issue related to a Voluntary Retirement Scheme was considered by the *Supreme Court in Ceylon Petroleum Corporation and others v Kaluarachchi and others (2019) 1 SLR 406*. In that case, the employees of the Ceylon Petroleum Corporation were permitted to apply for the above scheme.

The Supreme Court examined the nature of such schemes and observed that a Voluntary Retirement Scheme does not automatically confer a vested right upon an employee to obtain retirement or the benefits claimed thereunder. The court emphasized that the implementation of such schemes is subject to the conditions set out in the scheme itself and to the employer's discretion, particularly where the scheme requires approval by the competent authority.

In this judgement, *Justice Murdu N.B. Fernando*, in page 10, states as follows.

“There was no material placed before this Court to substantiate that the VRS was approved by the Cabinet of Ministers on the request of the Minister, as stated in the Judgment. The circular P5 by which the VRS was offered, issued under the hand of the Chairman/Managing Director of CPC, clearly stated that the VRS is offered by the Management with the concurrence of the General Treasury in view of the award of financial emoluments. Therefore, the attempt to sanctify the circular P5 to the level of a statutory duty of CPC, in my view, has no merit and is erroneous. Similarly, circular P6, which covered incidental matters too, was not issued as an exercise of power under Section 7(1) of the CPC Act. The terms and conditions in the said circular do not have a statutory flavor or a

statutory underpinning as stated in the Judgment, and on that ground too, the Judgment is erroneous.

P5 is simply a circular issued in the course of contract of employment, by the employer offering a voluntarily retirement. The employees were free to accept or reject the VRS. P5 circular dated 15-10-2002 clearly spelt out the termination package, compensation to be calculated at two months' salary for each year of service and one-month salary for balance years of service until the age of retirement and emoluments to be calculated upon the last drawn salary, i.e. salary of December 2002. This is the offer that was accepted by the 1500 employees as a full and final settlement and emoluments based on the last drawn salary. Vide 1 R5 to 1 R8 the respondents voluntarily accepted the compensation as a full and final settlement based upon the last drawn salary and terminated their contracts of employment and retired from service. Any dispute pertaining to the terms of VRS is contractual and does not fall within the scope of writ application. Thus, no relief can be granted by a writ Court based upon legitimate expectation or otherwise."

The reasoning adopted by the Supreme Court in the aforesaid case clearly supports the view that the schemes of voluntary retirement or early release introduced by public institutions do not create an enforceable right merely upon the submission of an application, especially where the scheme itself is within the discretion of management.

In the present application, Clause 8 of Circular **B1** expressly stipulates that the acceptance of the application will be at the sole discretion of the management. This provision clearly demonstrates that the circular merely provides an opportunity for eligible employees to apply for early release from service while reserving to the management the authority to determine whether such requests should be accepted.

SUSPENSION OF CIRCULAR

Before any decision had been taken on the Petitioner's application, the management of the Bank suspended the operation of the said scheme by Circular number 325/2002 (3), dated 10th May 2024, marked **B6**. The Respondents state that this decision was taken in view of the large number of employees leaving the Bank during 2023 and 2024, which had begun to adversely affect the functioning and operational efficiency of the institution.

LEGITIMATE EXPECTATION

The principal argument advanced on behalf of the Petitioner is that, since the application had been submitted prior to the suspension of the circular, the Petitioner had acquired a legitimate expectation that the request for early retirement would be processed and granted in terms of the said scheme. However, the doctrine of legitimate expectation arises only where a public authority has made a clear and unambiguous representation that a particular benefit will be granted or that a particular course of conduct will be followed.

In the present case, the circular expressly stipulates that the acceptance of applications is at the sole discretion of the management. In such circumstances, it cannot be said that the Petitioner had been given any assurance or representation that the request for early retirement would necessarily be granted. Consequently, the Petitioner cannot claim that any legally enforceable legitimate expectation arose in her favour.

EFFECT OF THE DISCRETION CLAUSE

Significantly, Clause 8 of the said circular explicitly states that **“the acceptance of the application will be at the sole discretion of the management.”** This Clause clearly shows that submitting an application by an employee under the scheme does not automatically guarantee that the employee will be released from service. The management of the Bank retains the authority to decide whether to grant a request for early release, considering operational needs and administrative interests.

Accordingly, acceptance of applications for early release will be at the sole discretion of the management.

Consequently, the circular does not confer an enforceable right to early retirement, and the Petitioner cannot claim that the suspension of the circular has deprived her of a vested legal right.

Furthermore, the suspension of the circular occurred before any decision had been taken on the Petitioner's application. In circumstances where the scheme itself reserves to the management the discretion to accept or reject applications, the Petitioner cannot claim that any right had accrued merely upon submitting the application.

CONCLUSION

Accordingly, the Petitioner has failed to establish that the Bank acted beyond its powers, irrationally, or in any way violated a legally enforceable legitimate expectation that would justify interference by this Court in exercising its writ jurisdiction.

For the foregoing reasons, the Application is dismissed. In the circumstances of this case, I make no order as to costs.

JUDGE OF THE COURT OF APPEAL

Dhammika Ganepola, J

I agree.

JUDGE OF THE COURT OF APPEAL