

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

Court of Appeal Case No:
CA(PHC) 0146/2020

Case No: 06/2020 WRIT

In the matter of an application for Orders in the nature of Writs of *Certiorari* and *Mandamus* under and in terms of Article 154 (P) of the Constitution of the Democratic Socialist Republic of Sri Lanka read together with Section 07 of The Provincial High Courts (Special Provisions) Act No. 19 of 1990.

1. **R.M.B Maharoo**,
No 44, Elamaldeniya,
Muruthagahamula.
2. **G.G.P.K Aberathna**,
NO 416/1, Kehelwala,
Kiribathkumbura.
3. **E.M.M.B Ekanayaka**,
No 230, Nilawala Road,
Ududeniya, Marassana.
4. **S.M.M.C.K Samarathunga**,
No 258/6 A, Ranawana Road,
Katugasthota.
5. **Priyanka Lakmali Hewaheta**,
No 248, Edanduwawa,
Peradeniya.

6. **P.L.B.R Dilrukshi,**
No 107, Kalandurukotuwa Road,
Iluk waththa, Pilimathalawa.
7. **M. M. Dananjani Kumari**
Marasinha,
No. 111/E/03, Pothgul Vihara Mw,
Angunawala, Peradeniaya
8. **D.A.R. Disanayaka,**
216 A, Galkotuwa,
Werapitiya, Theldeniya.
9. **R.M.M. Wijekoon,**
Ethipola West,
Dullawa, Mathale.
10. **H.M. Praba Kumari Herath,**
105J, Galapitawaththa, Temple Road,
Kehelwala, Kiribathkumbura.
11. **H.H.R.N Hettige,**
1/210, Sooriya Garden,
Bulumulla, Muruthalawa.
12. **D.M. Chandrawathi,**
138, Owala,
Kaikawala.
13. **W.M.M. Wanasinghe,**
No 73, Wawul Ambe,

Ethabandiwewa.

14. **T.M.J. Thennakoon,**
Thennakoon Sewana,
Kaikawala, Mathale.

15. **A.M.K.P.K Senawirathna,**
No 49, Irrigation Office Road,
Mathale.

16. **D.P.H Rajapaksha,**
No 100/B/1, Godagandeniya,
Peradeniya.

17. **P.V.G.K Pushpalatha,**
No 61, Boyagama Road,
Peradeniya.

Petitioners

Vs

1. **Central Provincial Council,**
Kandy

2. **Lalith U. Gamage,**
The Governor,
Central Provincial Council,
Kandy.

3. **A.G.A. Thilakarathne,**
Governor's Secretary,
Central Provincial Council,
Kandy.

4. **K.P Gamini Rajarathne,**
Chief Secretary,
Central Provincial Council,
Kandy.

5. **A.R.G.P.K Nandana,**
Secretary, the Chief Ministry,
New Provincial Council Complex,
Pallekele.

6. **Madhupani Piyasena,**
The Secretary, Ministry of Industries, Youth
Affairs, Rural Development, Women's Affairs
& Cooperative,
The Central Province,
Gatambe Peradeniya.

7. **B.H.M. Jayawickrama,**
The Secretary, Ministry of Health, Indigenous
Medicine, Social welfare, Probations & Child
Care Service,
The Central Province, Kandy.

8. **L.A. Sujatha Wijesinghe,**
The Secretary, Ministry of Agriculture,
Irrigation, Cultural Affairs, Estate
Infrastructure and Environment,
The Central Province, Gatambe, Peradeniya.

9. **Wickramarathne,**
The Secretary, Ministry of Highways, Power &
Energy,
The Central Province, Kandy.

10. **B. Haridranath Dunuwila,**
President,
Provincial Public Service Commission,
No 244, Katugasthota Road, Kandy.

11. **P. Dayananda,**
Secretary, Provincial Public Service
Commission,
No 244, Katugasthota Road, Kandy.

12. **T.M Gunapala,**
Member, Provincial Public Service
Commission, No 244, Katugasthota Road,
Kandy.

13. **W.M.S.D Weerakoon,**
Member, Provincial Public Service
Commission,
No 244, Katugasthota Road, Kandy.

14. **A.M. U Waiz,**

Member, Provincial Public Service
Commission, No 244, Katugasthota Road,
Kandy.

15. **Rohitha Thennakoon,**

Member, Provincial Public Service
Commission, No 244, Katugasthota Road,
Kandy.

16. **N.D.K Piyumsiri,**

Member, Provincial Public Service
Commission,
No 244, Katugasthota Road, Kandy.

17. **Y. Krisna Rajasundaram,**

Member, Provincial Public Service
Commission, No 244, Katugasthota Road,
Kandy.

18. **H.M.D.R Herath,**

Member, Provincial Public Service
Commission, No 244, Katugasthota Road,
Kandy.

Respondents

NOW BETWEEN

1. **R.M.B Maharroof,**
No 44, Elamaldeniya,
Muruthagahamula.
2. **G.G.P.K Aberathna,**
NO 416/1, Kehelwala,
Kiribathkumbura.
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Bulumulla, Muruthalawa.

12. **D.M. Chandrawathi,**
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13. **W.M.M. Wanasinghe,**
No 73, Wawul Ambe,
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14. **T.M.J. Thennakoon,**
Thennakoon Sewana,
Kaikawala, Mathale.

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No 49, Irrigation Office Road,

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No 100/B/1, Godagandeniya,
Peradeniya.

17. **P.V.G.K Pushpalatha,**
No 61, Boyagama Road,
Peradeniya.

Petitioners-Appellants

Vs

1. **Central Provincial Council,**
Kandy

2. **Lalith U. Gamage,**
The Governor,
Central Provincial Council,
Kandy.

3. **A.G.A. Thilakarathne,**
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The Secretary, Ministry of Industries, Youth
Affairs, Rural Development, Women's Affairs
& Cooperative,
The Central Province,
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7. **B.H.M. Jayawickrama,**

The Secretary, Ministry of Health, Indigenous
Medicine, Social welfare. Probations & Child
Care Service,
The Central Province, Kandy.

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The Secretary, Ministry of Agriculture,
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Infrastructure and Environment,
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16. **N.D.K Piyumsiri,**

Member, Provincial Public Service
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17. **Y. Krisna Rajasundaram,**

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Commission, No 244, Katugasthota Road,
Kandy.

18. **H.M.D.R Herath,**

Member, Provincial Public Service
Commission, No 244, Katugasthota Road,
Kandy.

Respondent-Respondents

Before : **D. THOTAWATTA, J.**
K. M. S. DISSANAYAKE, J.

Counsel : A. R. P. Bandara with R. Herath instructed
by Ruwan Kasthuriaratne for the
Petitioners-Appellant.

Abigal Sooriyakumar Jayakody, SC
Respondent-Respondents.

Argued on : 28.07.2025

Written Submissions
of the
Petitioners-Appellants

tendered on : 26.02.2024

Written Submissions
of the
Respondent-Respondents

tendered on : 26.07.2024

Decided on : 30.01.2026

K. M. S. DISSANAYAKE, J.

The instant appeal arises from an order of the learned High Court Judge of the Central Province holden at Kandy dated 15.07.2020 made by him in the case bearing No. 06/2020 WRIT (hereinafter called and referred to as ‘the order’) wherein, the learned High Court Judge of Kandy had refused to entertain a writ application preferred to it by the Petitioners-Appellants (hereinafter called and referred to as ‘the Appellants) praying for a mandate in the nature of writ of *mandamus* against the Respondent-Respondents (hereinafter called and referred to as ‘the Respondents’) directing them to place the Appellants in the salary scale of MN 7(2006)A in terms of the directions given by the Hon. Governor of the Central Province.

The facts and circumstances which according to the Appellants, led to the institution of the writ application bearing No. 06/2020 WRIT in the High Court of the Central Province holden at Kandy as averred by the Appellants in paragraph 4 (a) to (i) of their petition of appeal may be set out as follows;

“The Appellants are provincial public servant of the Central Province governed by the code of Combined Provincial Public Graduate Administrative

Assistants service of the central Province (constitution for recruitment) approved by the Governor of the Central Province; that they were not promoted to the Class 1 in terms of the Code of Combined Provincial Public Graduate Administrative Assistants service of the central Province despite all qualifications in terms of the said recruitment constitution; that ultimately they were compelled to go for litigation to obtain their duly entitled promotion and they were promoted to the class 1 in terms of the code of Combine Provincial Public Graduate Administrative Assistant Service by the Order of the Case bearing No Writ 33/2012; that in the said case bearing No Writ 33/2012, it has not been prayed for a salary increments since there was no specific salary scale for the 1st class officers at the time of filing of the said case; that even though the Appellants were promoted to the Class 1 in terms of the Combined Provincial Public Graduate Administrative Assistants service of the central Province, there was no specific salary scale of the said constitution (constitution for recruitment) at the time of the Order was given by the Learned High Court in case No Writ 33/2012; that however, there were instances where some employee of the public service of the Central Province get higher salary than the Appellants and the said facts were brought to the notice of the Honorable Governors of the Central Province; that as a result, all Governors of the Central Province directed to place the Appellants in MN 07 (2006) A salary scale in terms of the documents marked as P-11, P-12, P12(1), P-13, P-14; that however, the Public Service Commission of the Central Province has maliciously neglected to place the Appellants in MN 07 (2006)A salary scale despite the direction given by Honorable Governors of the Central Province; that the Appellants further informed Court that the Respondents are duty bound to give effect to the said directions in terms of section 32(3) of the Provincial Council Act No. 42 of 1987.

Hence, the pivotal basis of the writ application bearing No. 06/2020 WRIT, as is discernible from the matters so averred by the Appellants in their petition of appeal filed before this Court, as well as in paragraphs 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 24, 25 and 26 of the petition filed before the High Court of

Kandy and prayer 'අ' thereto and documents annexed thereto marked as ෧෧10, ෧෧10(1), ෧෧10(2), ෧෧11, ෧෧12, ෧෧12(1), ෧෧13 and ෧෧14 being that even though, the Appellants had been promoted to the Class 1 in terms of the Combined Provincial Public Graduate Administrative Assistants Service of the Central Province, by virtue of the order of the High Court of the Central Province holden at Kandy made in the case bearing No. Writ 33/2012, there was no specific salary scale for the 1st Class officers stipulated in the Code of Combined Provincial Public Graduate Administrative Assistants Service of the Central Province (Constitution for Recruitment) approved by the Governor of the Central Province at the time of the filing of the said writ application, namely; Writ 33/2012, and in consequence, Governor of the Central Province had by the letters marked P11, P12, P12(1), P13 and P14, directed the Public Service Commission of the Central Province to place the Appellants in the salary scale of MN 07(2006)A but, however, the Public Service Commission of the Central Province had maliciously, neglected to place them in the said salary scale despite the direction of the Hon. Governor of the Central Province notwithstanding Respondents are duty bound to give effect to said the direction of the Hon. Governor of the Central Province in terms of section 32(3) of the Provincial Council Act No. 42 of 1987 and in the circumstances, the Appellants in the writ application bearing No. 06/2020 WRIT are entitled to a writ of *mandamus* to compel the Respondents to place them in the said salary scale applicable to Class 1 of the said service as per the direction of the Hon. Governor of the Central Province.

On the other hand, the principle relief sought in the said writ application bearing No. Writ 33/2012 (෧෧6) by the Appellants against the Respondents thereof being a writ of *mandamus* directing the Respondent to promote the Petitioners to the Class 1 in terms of the Combined Provincial Public Graduate Administrative Assistants Service of the Central Province (Constitution for recruitment) only, as clearly, manifest upon a careful reading of the order dated 11.09.2015 made by the learned High Court Judge of Kandy and not to compel the Respondents to

place them in the said salary scale applicable to Class 1 of the said service as per the direction of the Hon. Governor of the Central Province .

Hence, the relief sought by the Appellants against the Respondents in the writ application bearing No. 06/2020 WRIT is totally, different to that of the one sought by the Appellants against the Respondents in the writ application bearing No. WRIT 33/2012 and therefore, it cannot in any manner, be said that the same relief as sought in writ application bearing No. 06/2020 WRIT, namely; a writ of *mandamus* to compel the Respondents to place them in the said salary scale applicable to Class 1 of the said service, had been sought by the Appellants against the Respondents in the former writ application bearing No. WRIT 33/2012 too, as erroneously, held by the learned High Court Judge of Kandy in the latter writ application bearing No. 06/2020 WRIT which led him to have refused to entertain the same.

Hence, it clearly, appears that the learned High Court Judge of Kandy had proceeded to refuse to entertain the latter writ application bearing No. 06/2020 WRIT due to his total failure to appreciate the real distinction between the former writ application and the latter with regard to the nature and the scope thereof, and therefore, on a total misapprehension and/or total misconception that in the event if the Respondents failed to comply with the order given in the former writ application bearing No. WRIT 33/2012, that order could be executed against the Respondents by way of contempt of court, and not by way of a fresh writ application being instituted before the High Court of Kandy as done by the Appellants in the instant writ application.

In view of the foregoing, I would hold that the order of the learned High Court Judge of Kandy which is the subject of the instant appeal, cannot sustain both in fact and law and as such, it ought not to be permitted to stand both in fact and law and therefore, it ought to be set aside *in limine*.

In the result, I would proceed to set aside the order under appeal.

I would thus, direct the learned High Court Judge of the Central Province holden at Kandy to hear and determine afresh and anew, the threshold issue, namely; as to whether notice of the instant application should be granted or not on its merits, and conclude it as expeditiously, as possible and then, proceed any further if the circumstances do warrant such a cause, in accordance with the law.

In the circumstances, I would allow the appeal subject however, without costs taking into my consideration all the facts and circumstances of the instant appeal.

JUDGE OF THE COURT OF APPEAL

D. THOTAWATTA, J.

I agree.

JUDGE OF THE COURT OF APPEAL