

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 Articles 138,139 and 140
of the Constitution of the Democratic Socialist
Republic of Sri Lanka.

C.A. (Writ) Application
No.0743 / 24

1. Hewa Wedage Prasanna Kumara
76/2/B, Mahindapura, Pannagamuwa,
Weerawila,
And 146 other Petitioners

PETITIONERS

Vs.

1. Sri Lanka Ports Authority
No.19, Chaithya Road,
Colombo 01.
2. Magampura Port Management Company (Pvt) Ltd
10th Floor Sayurupaya,
Mirijjawila,
Hambanthota.
3. Labour Minister,
Labour Department,
Colombo 05.
4. Commissioner General of Labour
Labour Department,
Colombo 05.

5. Ravi Jayawickreme,
Harbour Master and Chief Officer,
Sri Lanka Ports Authority
Magampura Port Management Company (Pvt) Ltd
10th Floor, Sayurupaya,
Mirijjawila,
Hambantota.
6. Wanniarachchi kankanamage Sameera Malinga
No. 668/1, Senapura,
Tissamaharama.
7. Urapola Pathiranege Diluka Gayaran
No. 226/6, School Road,
Galwewa, Beliaththa
8. Hettiarachchi Prasad Nuwan Karunaratne
No. 173, Mahagama Janapadhaya,
Sevanagala.
9. Nakulugamuwe Gamage Chamal Madusankha
Ogarihena, Aranwela,
Beliaththa.
10. Samarawickrema Ekanayake Kithruwan
Kapukinissa Yaya, Mahagalwewa,
Suriyawawa.
11. Ruwan Pathiranage Nadun Prasanna
182/B, Thalunna,
Ranna

12. Siddhihaluge Mahesh Priyankara
Sri Lanka Ports Authority,
No. 19, Chaithya Road,
Colombo 01
13. Meegasdeniya Kankanamge Vidura Niroshan
"Jayasiri", Kambussawala, Beliaththa
14. Hiribure Gamage Anil Kumara
No. 1, Morayaya South,
Wakadawala
15. Bhagya Shalikala Dadallage
"William's Estate", Dehigahalanda,
Ambalantota
16. Nishadi Madushanki Weerasooriya
No. 75/1, Walasmulla Road,
Beliaththa
17. Suresh Manojeeva Gurusinghe
No. 598/A, Karyalwila Estate,
Kiripitiya, Urubokke
18. Vidana Gamage Amila Priyankara
No. 319/A, Pitadeniya, Welandawa,
Welpala, Imaduwa
19. Wijenayake Kankanamge Kapila Lasantha
Sirisevana, Agiliyawela,
Pallegama, Kolawenigama
Deniyaya

20. Upul Chaminda

Sri Lanka Ports Authority,
No. 19, Chaithya Road,
Colombo 01

21. L. A. Priyantha

Sri Lanka Ports Authority,
No. 19, Chaithya Road,
Colombo 01

22. K. Samaranayake

Sri Lanka Ports Authority
No. 19, Chaithya Road,
Colombo 01

23. A. D. Shantha

Sri Lanka Ports Authority
No. 19, Chaithya Road,
Colombo 01

24. P. C. Nanayakkara

Sri Lanka Ports Authority
No. 19, Chaithya Road,
Colombo 01

25. K. Ajith Sri Lanka Ports Authority

No. 19, Chaithya Road,
Colombo 01

26. Hambantota International Port Group

Sayurupaya, Mirijjawila,
Hambantota

27. Hambantota International Port Services

Sayurupaya, Mirijjawila, Hambantota.

28. Kankanamge Ruvinda Udaya Jayalath
Attorney - at - Law,
No. 152/B - 7, Hulftsdorp Street,
Colombo 12.

29. The Hon. Attorney General
Attorney General's Department,
Colombo 12

RESPONDENTS

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

Counsel : W. Dayarathne, P.C with Ranjika Jayawardena, Dishan Dharamasena,
R. Bandara for the Petitioners.
Abigail Jayakody S.C. for the 1st, 3rd, 4th, 7th and 28th Respondents.
Avindra Rodrigo, P.C with R. De Alwis and Amen Bandara instructed
by FJ & G de Saram for the 5th, 26th and 27th Respondents.

Supported on : 08.09.2025.

Decided on : 16.10.2025.

Adithya Patabendige, J.

The Petitioners have invoked the jurisdiction of this court seeking, *inter alia*,

- a) a mandate in the nature of a *writ of certiorari* to quash the “**blacklist**,” allegedly maintained in the computer systems of the 1st to 5th Respondents and 26th and 27th Respondents;

- b) a mandate in the nature of *writ of mandamus* compelling the above Respondents to implement the arbitral award published in the Gazette Notification marked as “පැ2”, and to grant the Petitioners the salaries, increments, and other attendant benefits arising therefrom.

When this application was taken up for support of the issuance of formal notices, oral submissions were advanced on behalf of the Petitioners and the 1st, 3rd, 4th, 5th, and 26th to 28th Respondents.

The Petitioners stated that they were employees of the 1st and the 2nd Respondents. However, the 1st Respondent denied that the Petitioners were employees of the 1st Respondent Authority and contended that the Petitioners were, in fact, employees of the 2nd Respondent Company with whom the 1st Respondent had entered into a service agreement. Upon considering the documents marked පැ1 to පැ146 along with the petition, it is apparent that the letters of appointment of the Petitioners had been issued by the 2nd Respondent and not by the 1st Respondent.

According to the Petitioners, consequent upon the administration of the Hambantota Harbour being assigned to the Chinese Government and the Chinese Companies, their employment came to an end. As a result, 458 employees lodged a complaint with the Labour Office at Hambantota. Thereafter, the dispute was referred to arbitration by the subject Minister and the matter was subsequently settled among parties, pursuant to which the award of the Arbitrator was published in the Gazette Extraordinary No. 2018/16 dated 24th of April 2018, marked as පැ2 and same was marked as 1R1 by the 1st Respondent in its limited objections.

In terms of the arbitral award, parties agreed to *inter alia*, to the following terms,

- 1) That the 458 employees, who represented the 1st party to the arbitration proceedings, agreed to a **“voluntary resignation proposal”**.
- 2) That the 1st Respondent Authority **agreed to absorb 135 employees** out of the said 458, who resigned from the 2nd Respondent Company, into the service of the 1st Respondent Authority, subject to the applicable service requirements, policies, and other regulations.
- 3) That only those employees who **fulfilled** the approved recruitment procedure to the satisfaction of the 1st Respondent Authority were **absorbed into its service**.

- 4) That the employees willing to apply for recruitment to the 1st Respondent Authority were required to **submit their written consent letters**.
- 5) That the employees who are not willing to apply were entitled to **Rs. 1000000 as compensation** under the award.
- 6) That upon the implementation of the arbitral award, all the employees of the 2nd Respondent Company **shall be deemed to have voluntarily resigned and shall not be entitled to any right** relating to their previous employment or to any other consequential benefits.
- 7) That any employee of the 2nd Respondent Company who was awarded **Rs. 1000000** shall not be subject to any prohibition or ineligibility in applying for employment in the **Hambantota International Port Group (Pvt) Ltd** (26th Respondent) or any other company **providing services to the said company**.
- 8) That in any recruitment process conducted by the **Hambantota International Port Group (Pvt) Ltd** (26th Respondent) or any other company providing services to the said company, **preference shall be given to the employees who resigned from the 2nd Respondent Company**.

The **Learned President's counsel** who appeared for the Petitioners while reiterating the contents of the **petition dated 19th of November 2024**, drew the attention of this court to the following facts in support of this application.

- 1) That the 6th to 19th Respondents who had been compensated in terms of the arbitral award, were subsequently recruited on a permanent basis to the 1st Respondent Authority, contrary to the terms of the said award.
- 2) That the 1st Respondent failed to provide any explanation as to why the 6th to 19th Respondents were recruited on a permanent basis and has further failed to explain why the Petitioners were not recruited in terms of the arbitral award.
- 3) That the 1st to 5th Respondents have failed to offer any satisfactory explanation for maintaining a **“blacklist”** containing the names of the Petitioners.

As the petition and affidavit pertaining to this application were originally drafted in **Sinhala language**, the prayer of the petition of the Petitioners, is translated (translation prepared by Court for reference) below for the purpose of this order.

- a) Grant permission for the instant application,
- b) Formal notices to the Respondents,
- c) An order in favour of the Petitioners, on the basis that the 1st to 5th and 26th and 27th Respondents have acted contrary to the **Arbitral Award No. IR/COM/05/2016/165 dated 24th April 2018**,
- d) A mandate in the nature of *writ of mandamus*, compelling the 1st to 5th and 26th and 27th Respondents to grant the Petitioners their entitlements to employment opportunities, salaries, increments and other attending benefits in accordance with the aforesaid arbitral award,
- e) A mandate in the nature of *writ of certiorari* by prohibiting the 1st to 5th ,26th and 27th Respondents, from maintaining, in an unlawful manner, any “**blacklist**” in their computer systems,
- f) An order and/or direction that the Respondents pay to the Petitioners by way of indemnity for the damage caused through the unlawful maintenance of a “**blacklist**”,
- g) A mandate in the nature of *writ of mandamus*, compelling the 3rd and 4th Respondents to implement the arbitral award dated 26th March 2018,
- h) An appropriate order against the 28th Respondent for his negligent conduct in failing to institute the instant application in timely manner,
- i) Cost,
- j) Grant such other and further reliefs as this Court may deem meet.

This is an application for judicial review. Upon considering the paragraphs (c), (f) and (h) of the prayer, it is apparent that the reliefs sought therein fall outside the scope of judicial review. Accordingly, it is my considered view that this Court has no jurisdiction to grant the aforesaid reliefs.

Though the Petitioners have referred to a so called “**blacklist**”, there is no iota of evidence to establish that the 1st to 5th and 26th and 27th Respondents have maintained such a “**blacklist**” in their computer systems. The entire application of the Petitioners appears to have been premised upon this so-called “**blacklist**”. It is observed that the Petitioners have failed to produce the alleged “**blacklist**” as evidence before this court in the instant application. In the case of **Vasana Trading Lanka (PVT) LTD. v. Minister of Finance and Planning and Others (2005) 2 SLR 290**, it was held that a *writ of certiorari* cannot be issued to quash a document that is not placed before court.

On the other hand, the Petitioners seek a *writ of mandamus* compelling the 1st to 5th and 26th and 27th Respondents to implement the arbitral award by extending employment opportunities, salaries, increments and other attendant benefits. However, according to the said arbitral award, the employees who resigned from the 2nd Respondent Company are eligible to be recruited to any of the Respondents’ Institutions only if they fulfil the required qualifications. The said arbitral award does not impose any mandatory obligation upon the 1st to 5th, 26th and 27th Respondents or their respective institutions to recruit or absorb the employees who resigned from the 2nd Respondent Company. Recruitment solely depends on the applicable criteria and the eligibility of the applicants, including those employees who resigned from the 2nd Respondent Company. Therefore, the Petitioners have no legal entitlement to be compulsorily absorbed any of the institutions administered by the said Respondents.

In view of the foregoing reasons, it is my considered view that the Petitioners have failed to establish a *prima facie* case to justify the issuance of formal notices on the Respondents in this application. Accordingly, I proceed to dismiss the application of the Petitioners. I make no order as to costs.

JUDGE OF THE COURT OF APPEAL

Dhammika Ganepola, J

I agree.

JUDGE OF THE COURT OF APPEAL