

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

In the matter of an application under Article 140 of the Constitution for mandates in the nature of Writes of Mandamus

1.Gannoruwe Gamini Sirisena,

No.298, Gannoruwa,

Peradeniya.

2.Parakrama Hetti Gamage,

2/2,D.J. Wijesiriwardhana Road,

Mount Lavina.

Petitioners

C.A.(Writ) Application No.248/08

Vs.

1. Director-General of Establishment,

Ministry of Public Administration,

Independence-Square,

Colombo 07.

2. Secretary,

Ministry of Livestock and Rural

Community Development,

No.45, St. Michael's Raod,

Colombo 03.

3. Secretary,

Human Rights Commission of Sri Lanka

36, Kynsey Road,

Colombo 08.

4. Hon, Attorney-General

Attorney-General's Department

Colombo 12.

Respondents.

Case No: CA (Writ) Application No.248/08.

Counsel: Dr. Jayampathy Wickramaratne with

Pubudini Wickramaratne for the Petitioners.

Nayomi Kahawatte for the Respondents.

Arguments: 24-01-2012

Written Submissions: 30-03-2012 and 15-11-2012 for the Petitioners

02-04-2012 for the Respondents

Before: Rohini Marasinghe J.

Judgment: 18-01-2013.

The petitioners have filed this application seeking a writ of mandamus to have the recommendation of the Human Rights Commission (HRC) which is marked as P5 implemented.

According to the petitioners they have been initially employed as Extension workers under the Agriculture Department. Thereafter, subsequent to the

establishment of the Animal Production and Health Department the names of the posts had changed to Livestock Resource Project Employees, Livestock Extension Workers and Livestock Development Technicians.

The 1<sup>st</sup> respondent is the Director of Ministry of Public Administration. The 2<sup>nd</sup> Respondent is the Secretary to the Ministry Estate Infrastructure and Livestock Development. The 3<sup>rd</sup> Respondent is the Secretary to the HRC, and 4<sup>th</sup> Respondent is the Attorney General.

With the establishment of the aforementioned Department, the Director had taken steps to absorb the post of Livestock Extension Workers to the post of Livestock Development Technicians from the date of 20-03-1986. But the Petitioners averred that the absorbing to the new scheme should be back dated to the date of 01-05-1977 as per circulars 397 and 296. In short this was the grievance of the petitioners. The petitioners had filed an application to the HRC. Pursuant to the inquiry of the HRC, the HRC recommended that the 1<sup>st</sup> and 2<sup>nd</sup> respondent back date the date of absorption of the Livestock Development Technicians to 01-05- 1977. The petitioners have filed this application to have that recommendation implemented by a writ compelling the 1<sup>st</sup> and 2<sup>nd</sup> respondents to comply with the recommendation.

In denying the application of the petitioners, the court informs the petitioners that they have no legal right to have this recommendation implemented in this manner. However, the petitioners are not without any remedy. They are entitled to go before the HRC and inform the HRC that the recommendation of the HRC had not been complied with, and seek relief from that tribunal.

The application of the petitioner as prayed in the petition is dismissed.

Rohini Marasinghe J.

Judge of the Court of Appeal.