

**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/or Writs of Mandamus  
under and in the terms of Article 140 of the  
Constitution.

**TELGE NADHEEKA KAUMUDHI PEIRIS**

No.1 A,  
Walana Road,  
Panadura.

**PETITIONER**

**Application No.  
CA/WRIT/0401/2022**

**Vs.**

1. **JUSTICE ANIL GOONERATNE**  
Chairman,  
Administrative Appeals Tribunal,  
No. 35, Silva Lane,  
Dharmapala Place,  
Rajagiriya.
  
2. **MR. G.P. ABEYKEERTHI**  
Member,  
Administrative Appeals Tribunal,  
No. 35, Silva Lane,  
Dharmapala Place,  
Rajagiriya.
  
3. **MR. A. GNANATHASAN**  
Member,  
Administrative Appeals Tribunal,  
No. 35, Silva Lane,  
Dharmapala Place,  
Rajagiriya.

4. **THE SECRETARY**  
Administrative Appeals Tribunal,  
No. 35, Silva Lane,  
Dharmapala Place,  
Rajagiriya.
  
5. **THE SECRETARY**  
Public Service Commission,  
No.1200/9, Rajamalwatta Road,  
Battaramulla.
  
6. **THE SECRETARY**  
The Ministry of Education, Cultural and  
Arts, Sports and Youth Affairs and  
Information,  
Technology – Western Province,  
2<sup>nd</sup> Floor,  
New Provincial Office Complex,  
204, Denzil Kobbekaduwa Mawatha,  
Battaramulla.

**RESPONDENTS**

**Before:** **R. Gurusinghe J.**

**&**

**Dr. Sumudu Premachandra J.**

**Counsel:** Eraj De Silva, PC with Janagan Sundramoorthy and  
Naveed Ahamed for the Petitioner instructed by  
Jagath Talgaswattage.

Vikum De Abrew, PC, A.S.G with Abigail Jayakody for  
the Respondents.

**Written Submissions:** By the Petitioner filed on 28/04/2026.  
By the Respondents filed on 05/05/2026.

**Argued On :** 25/02/2026.

**Judgement On** : 15/05/2026.

**Dr. Sumudu Premachandra J.**

1] The Petitioner is a career educator who joined the Department of Education in the year 1996 and, through merit and success at competitive examinations, advanced to become one of the youngest officers appointed to the Sri Lanka Education Administrative Service (SLEAS) as a school Principal. Her professional achievements and service record are evidenced by the appointment letters and recruitment records annexed marked P1(a) to P1(h), together with publications and appeals relating to school development projects annexed marked P2(a) to P2(b). However, beginning in or around the year 2009, the Petitioner became the subject of what she describes as malicious and false allegations of bribery and corruption, which severely disrupted her career and reputation.

2] The said allegations ultimately resulted in her conviction before the High Court by Judgement dated 29/08/2017 marked P7(e), following disciplinary proceedings reflected in the purported Charge Sheets annexed marked P4(a) to P4(c), the Disciplinary Order dated 29/12/2015 marked P5, and related proceedings before the Public Service Commission and the Administrative Appeals Tribunal annexed marked P6 and P6(a) to P6(d). Nevertheless, by Judgement dated 17/12/2021 in Court of Appeal Case Record No. CA/HCC/280/2017 annexed marked P3 and P3(a), the Court of Appeal set aside the said conviction in its entirety, thereby fully exonerating the Petitioner of all charges levelled against her.

3] Subsequent to her acquittal, the Petitioner states that the Respondents, including the Public Service Commission (PSC) and the Administrative Appeals Tribunal (AAT), failed and/or neglected to fully restore her legal and financial

rights arising from her public service employment. Although the AAT, by its Order dated 04/08/2022 annexed marked P9, set aside the Petitioner's termination from service and recognized her reinstatement, the Tribunal expressly denied her entitlement to back wages and salary arrears for the period during which she remained interdicted and unlawfully terminated from service. The Petitioner avers that such refusal is arbitrary, unreasonable, ultra vires, and contrary to the principles of natural justice, particularly in light of her complete exoneration by the Court of Appeal. The termination letter dated 15/09/2017 and subsequent appeal records annexed marked P7(a) to P7(d), together with the reinstatement letters and correspondence with the PSC annexed marked P8(a) to P8(d), demonstrate the prolonged period during which the Petitioner remained deprived of her salary and employment benefits from approximately 2013 to 2022. The Impugned AAT Order is annexed, marked P9(a).

4] Accordingly, the Petitioner has invoked the jurisdiction of this Court under Article 140 of the Constitution, seeking appropriate relief against the unlawful and unreasonable actions and omissions of the Respondents. The Petitioner contends that the refusal of the AAT and PSC to grant her full financial restoration despite her complete acquittal amounts to a continuing miscarriage of justice and an ongoing violation of her legal and constitutional rights.

5] The Petitioner further states that the Respondents have failed in their duty to act fairly, reasonably, and judicially, thereby causing her severe financial prejudice, professional hardship, and reputational damage over several years.

6] In the circumstances, the Petitioner prays that this Court be pleased to;

A) Issue Notice on the above-named Respondents;

- B) Grant a mandate in the nature of Writ of Certiorari quashing the part of the Order which holds that the Petitioner is not entitled to back wages reflected in the document marked P9 in the Order of the Administrative Appeals Tribunal dated 04/08/2022;
- C) Grant a mandate in the nature of Writ of Mandamus on the Administrative Appeals Tribunal, directing the said Administrative Appeals Tribunal to hold that the back wages are payable and/or directing the relevant authority to pay back wages;
- D) In the alternative, grant a mandate in the nature of a Writ of Mandamus on any one or more of the Respondents to pay back wages to the Petitioner;
- E) For costs, and
- F) For such other and further relief as Your Lordships' Court shall seem meet.

7] The Petition was supported on 18/11/2022, and Formal Notices were issued on the Respondents. In the statement of objections filed on 26/05/2023, the Public Service Commission and the Ministry of Education (Western Province) categorically deny any illegal or malicious conduct, asserting that they have acted in good faith and in accordance with the law at all times. They raise a preliminary objection citing Article 61A of the Constitution, arguing that the Petition is misconceived in law and should be dismissed in limine.

8] I would address this preliminary objection first. Article 61A of the Constitution of Sri Lanka acts as a strict "ouster clause," prohibiting lower courts and tribunals from questioning decisions or orders made by the Public Service Commission (PSC), its committees, or officers exercising delegated authority. Exclusive jurisdiction to review these decisions belongs to the Supreme Court, primarily through fundamental rights applications, often limiting the Court of Appeal's Writ jurisdiction. Article 61A is reproduced for clarity.

“61A. 43[Subject to the provisions of Article 59<sup>1</sup> and of Article 126<sup>2</sup>], **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.**” [Emphasis is added]

9] This ouster clause has been considered in a plethora of judgements in the apex courts previously.

10] In ***Migultenna v The Attorney General*** [1996] 1 Sri L.R. 408, the Petitioner filed an action before the District Court, challenging his dismissal on the basis of mala fide on the part of the defendants, who functioned as members of the PSC. In appeal, it was contended on his behalf before this Court that Section 106(5) of the Constitution (1972) and Article 55(5) of the present Constitution should be harmoniously construed to give effect to both, thereby justifying the action instituted before the District Court.

11] In that, His Lordship Mark Fernando J, who delivered the judgement was not impressed with that contention and held (at p.419) that “... *the comparison with Article 55(5) is not valid, because that Article expressly preserves a significant area of judicial review through the fundamental rights jurisdiction, from the fact that Article 55(5) permits review, in the exercise of that jurisdiction by the highest Court, it does not follow that Section 106(5) permits review by way of a declaration in the District Court.*”

12] In ***Katugampola v. Commissioner-General of Excise*** [2003] 1 SLR 37, it was held that Article 61A precludes lower courts from reviewing PSC decisions

---

<sup>1</sup> Appeals to Administrative Appeals Tribunal under Article 59.

<sup>2</sup> Fundamental rights jurisdiction

and grants exclusive jurisdiction to the Supreme Court. Her Ladyship SHIRANEE TILAKAWARDANE, J., (P/CA) noted;

- (i) *Art 55 (5) restricted the application to orders or decrees concerning 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) **The only ground** upon which the **writ jurisdiction could be sought** under circumstances where a challenge was being made regarding the promotion and/or appointment, transfer etc., was where the person who made the impugned decision, **did not have any legal authority to make such a decision.** No claim has been made that the person who make the promotion had no legal authority to make such decision.
- (iii) **'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." [Emphasis is added]

13] In **Ratnasiri and Others v. Ellawala and Others** [2004] 2 Sri LR 180, Justice Marsoof emphasized that Article 61A only shuts out judicial review for decisions made in the proper exercise of delegated power by the PSC; it does not protect acts by public officers lacking delegated authority. His Lordship Marsoof J, P/CA concluded that;

*"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."*

14] In **Ratnayake v Administrative Appeals Tribunal and Others** [2013] 1 Sri L.R. 331, His Lordship Marsoof J again used the more elaborate term “Constitutional ouster of jurisdiction” in making a reference to Article 61A. His Lordship stated (at p.333) as follows:

*“... the above provision of the Constitution, which constitutes a Constitutional ouster of jurisdiction, does not apply to the impugned decision of AAT, it being specifically confined in its application to the orders or decisions of the Public Service Commission, ...”.*

15] Further, in **Peiris and Others Vs. Commissioner General Of Excise And Others** [2020] 1 SLR 135, clarified the situation that Article 61A does not apply if the decision is a "nullity"—meaning it was made by a committee that had no power or authority to act in the first place, thus making the decision ultra vires.

16] In that, His Lordship SAMAYAWARDHENA, J. considered the following guidelines;

*“1. The 1st respondent, to whom the power to transfer has been delegated by the Public Service Commission, abdicated his statutory duty. The impugned decisions of transfer taken by the Annual Transfer Committee are ultra vires and therefore a nullity.*

*2. An ouster clause-be it statutory or constitutional-which takes away the rights of citizens to come before court against wrongful administrative decisions shall be liberally not literally interpreted to protect such rights and not deny them.*

*3. The constitutional ouster clause contained in Article 61A of the Constitution can be invoked only when a decision has been taken by the Public Service Commission or by a committee/public officer to whom the Public Service Commission has delegated its power.*

*4. A decision that is a nullity cannot be given validity by subsequent ratification of the Public Service Commission. If the decision is a nullity, there is nothing to ratify. Article 61A does not arise for consideration.*

5. *Futility as a ground for dismissal of the application is unsustainable. Firstly, the rights of the parties shall be decided at the time the action is instituted. Secondly, court does not act in vain by formally quashing the said decisions by certiorari to impress upon the 1st respondent and other public bodies how they ought to act in the future.*”

17] In ***P.S. Weeraratne v. Administrative Appeals Tribunal and Others*** (CA Writ Application No. 410/2009), [2021] 1 SLR 444, the Court of Appeal discussed the limitations of reviewing PSC decisions after they have been considered by the Administrative Appeals Tribunal, in light of Article 61A.

18] In that, His Lordship OBEYESEKERE, J. (P/CA) held;

*“1. Any public officer aggrieved by a decision of the Public Service Commission or a committee or public officer to whom the powers of the Public Service Commission have been delegated could challenge such decision either by way of a fundamental rights application in terms of Article 126 of the Constitution or by preferring an appeal to the Administrative Appeals Tribunal in terms of Article 59 of the Constitution.*

***2. The jurisdiction of the Court of Appeal under Article 140 of the Constitution is limited to a review of the decision of the Administrative Appeals Tribunal and does not extend to quashing decisions of the Public Service Commission or of a committee or public official to whom the powers of the Public Service Commission have been delegated.***

*3. It is trite law that for a writ of mandamus to be issued, the public authority must not only be under a legal or public duty to carry out the act which the petitioner demands but must also have the power to carry out the said duty, while the petitioner in turn must have a legal right to the performance of such public duty.*

*4. The 1st respondent is only under a legal duty to implement decisions of the Administrative Appeals Tribunal with the petitioner having a*

corresponding right to have such decisions implemented.” [Emphasis is added]

19] In **Athauda Arachchige Patrine Dilrukshi Dias Wickremasinghe vs. Dr. Prathap Ramanujam and others**, S.C. Appeal No. 89/2024- DECIDED ON: 04/06/2025, The Supreme Court affirmed that Article 61A is a Constitutional ouster of jurisdiction that prevents courts from reviewing PSC decisions. His Lordship ACHALA WENGAPPULI, J., held;

*“The description attributed to the provisions of Article 61A as an ‘ouster clause’ had been consistently adopted and used in several instances, whenever Judges were called upon to deal with that Article. The judgments of Wijayananda v Post Master General and Others (2009) 2 Sri L.R. 318, Katugampola v Commissioner General of Excise and Others (2003) 3 Sri L.R. 207, Gunaratne and Others v IGP and Others (2012) 1 Sri L.R. 185, Weeraratne v Chairman, Public Service Commission and Others ( CA Writ application No. 410/2009 – decided on 03.05.2019), Peiris and Others v Commissioner General of Excise and Others (2020) 1 Sri L.R. 135, Dharmasiri v Weerasinghe, Commissioner General of Agrarian Development and Others ( CA Writ application No. 322/2014 – decided on 28.01.2019), Lokuge v Dr. Dayasiri Fernando and Others ( CA Writ application No. 160/2013 – decided on 16.10.2015), Ovitigama v Inspector General of Police and Others ( CA Writ application No. 1009/2008 – decided on 05.03.2019) described Article 61A as a “ouster clause” and not a provision that conferred immunity on the PSC.”*

20] In **Nadarajah Sushatharan vs Mrs. K. H. A. Meegasmulla, Commissioner General of Excise** [CA (Writ) 413/2017 - Decided On: 29/05/2020, His Lordship Janak De Silva J., reinforced that if a decision maker was not exercising the delegated PSC power properly, the ouster clause in Article 61A does not apply. Thus, to entertain this application, the Petitioner must show that the PSC and the Administrative Tribunal have acted without power.

21] With the above backdrop, I now elaborate on the facts. The documents detail a lengthy history of disciplinary actions against the Petitioner, beginning with a 2012 charge sheet containing 14 counts following a preliminary investigation. While the Petitioner was initially found guilty of 10 charges in 2015 and reinstated, a parallel criminal case led by the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) resulted in a High Court conviction in 2017. Following this conviction, the Petitioner was dismissed from service with immediate effect; however, this conviction was later overturned by the Court of Appeal because the prosecution failed to prove its case beyond a reasonable doubt.

22], It is seen that the Respondents have followed proper procedures and that the Public Service Commission (PSC) has considered all material facts, and they are in ultra vires. The dispute involves a long-standing disciplinary process against the Petitioner that intersected with a criminal case. The Petitioner was originally indicted by the Commission to Investigate Allegations of Bribery or Corruption (CIABOC), leading to a conviction in 2017 that was later overturned on appeal due to a failure to prove the case beyond a reasonable doubt. In parallel, a Formal Disciplinary Inquiry (FDI) was initiated in 2012, involving 14 charges. While the Petitioner was initially reinstated in 2015, they were later dismissed with immediate effect in September 2017 following the criminal conviction in the High Court. Thereafter, the Petitioner appealed to the Public Service Commission (PSC) and the Administrative Appeals Tribunal (AAT). Following the Petitioner's dismissal, multiple appeals were filed to challenge the disciplinary orders. In August 2022, the AAT delivered a final Order that mitigated the original punishments but still found the Petitioner guilty of 7 out of 14 disciplinary charges. It is evident that the Respondents have complied with the AAT's directives to implement these Orders. Thus, the Respondents had followed the procedural fairness.

23] The Petitioner was suspended and dismissed after the High Court Conviction and reinstated by the acquittal of the Court of Appeal. Following the overturned conviction, the petitioner was eventually reinstated to service in October 2022.

The Respondent highlights in the submission that, although he was acquitted of the criminal charges, the AAT found the Petitioner guilty of 7 out of the 14 original disciplinary charges in an August 2022 Order. While the Petitioner is back in service and receiving a salary, the AAT ruled the Petitioner is not entitled to back wages for the period of her interdiction.

24] The Petitioner's challenge is strictly limited to the AAT's refusal to grant back wages, as they do not contest the decision regarding reinstatement. The AAT's order on 04/08/2022 included a "one-line finding" stating that the "**Appellant would not be entitled to back wages**," provided without any supporting reasoning. It is seen following interdiction; the Respondents had only allowed for half of the back wages during the interdiction period (28/03/2013 to 29/12/2015).

25] The Petitioner contends that the AAT's "one-line" denial is ex-facie irrational, arbitrary, and a breach of the principles of natural justice, specifically the right to be heard (*audi alteram partem*). Citing the case of **Siriya Vs. Amalee et al** 60 NLR 269,<sup>3</sup> Weerasooriya J held that an omission to give a party an opportunity to be heard is a fundamental matter contrary to natural justice. Further, the Petitioner says the AAT acted ultra vires by failing to consider that the original interdiction and termination were based on a conviction that has since been set aside by the Court of Appeal.

26] To support the necessity of reasoned administrative decisions, the Petitioner relies on **Choolanie Vs. People's Bank and Others** [2008] 2 SLR 93, where Dr. Shirani Bandaranayake J held that a statement of reasons is a "necessary requirement" for procedural fairness. Her Ladyship held;

---

<sup>3</sup> Held; "*The omission to give the appellant an opportunity of being heard was not merely an omission of procedure but was a far more fundamental matter in that it was contrary to the rule of natural justice embodied in the maxim audi alteram partem*"

*“..... giving reasons to an administrative decision is an important feature in today’s context, which cannot be lightly disregarded. Furthermore, in a situation, where giving reasons have been ignored, such a body would run the risk of having acted arbitrarily in coming to their conclusion.” “In general terms legitimate expectation was based on the principle of procedural fairness and was closely related to hearings in conjunction with the rules of natural justice. A promise or a regular procedure could give rise to a legitimate expectation. The doctrine of legitimate expectation has been developed both in the context of reasonableness and in the context of natural justice.”*

*“The equal protection to all persons guaranteed by means of constitutional provisions, ensures that there would not be any discrimination between any two persons, who are similarly situated. However, there could be classifications among a group of people where such classification is reasonable and is not based on an arbitrary decision.”*

27] Considering the above situation, the decision of AAT is partly challenged by the Petitioner. If the Petitioner admits the rest of the part, she cannot say that the impugned decision is ultra vires. The Petitioner cannot take a double standard in the decision part that is against her and admit the part which is not against her (the Petitioner). That is similar to approbation and reprobation some parts in the impugned decision. (Vide **Ranasinghe v. Premadharm and Others** [1985] 1 Sri LR 63).

28] The Petitioner seeks a Writ of Certiorari to quash a portion of the AAT Order dated 04/08/2022, which determined she was not entitled to back wages from the date of her interdiction in 2013 until her reinstatement in 2015. The acquittal of criminal charges cannot be placed in line with disciplinary inquiry as the burden of proof in criminal matters is beyond reasonable doubt, which is a much higher burden than the latter. At the inquiry, after the AAT decision, the Petitioner was found guilty of 7 out of 14 disciplinary charges. It stands still.

29] I am of the view that the Petitioner was not entitled to back wages because she remained guilty of 7 charges under the disciplinary inquiry conducted by the Disciplinary Authority. Since the Petitioner remains guilty of these charges, the AAT's refusal to grant back wages is neither arbitrary nor ultra vires.

30] I now consider whether the Petitioner is entitled to have back wages. Normally back wages are not given for a period of non-service, unless service was prevented by a suspension or dismissal and later that suspension or dismissal was completely exonerated by the competent tribunal. If partly convicted in the Departmental Inquiry, if it is not related to a criminal charge, back wages maybe considered considering the Convicted Charges. The Criminal Trial and the Departmental Inquiry should be considered distinctly in this matter.

31] it is to be noted in the Indian jurisdiction, in the case of **Raj Narain vs. Union of India-** (2019) 5 SCC 809, 2019 SC 155, (<https://indiankanoon.org/doc/91061060/>) , it was held that the Petitioner would not be entitled for any back wages from the period of his dismissal till his acquittal on 05/02/2014 but would be entitled for back wages subsequent to the date of acquittal till he was actually reinstated.

32] Further, in **Union Of India And Ors vs Jaipal Singh** on 03/11/2003, AIR 2004 SUPREME COURT 1005, 2004 (1) SCC 121, (<https://indiankanoon.org/doc/853155/>) Doraiswamy Raju, Arijit Pasayat JJ, held;

*“On a careful consideration of the matter and the materials on record, including the judgment and orders brought to our notice, we are of the view that it is well accepted that an order rejecting a special leave petition at the*

threshold without detailed reasons therefore does not constitute any declaration of law by this Court or constitute a binding precedent. Per contra, the decision relied upon for the appellant is one on merits and for reasons specifically recorded therefore and operates as a binding precedent as well. On going through the same, we are in respectful agreement with the view taken in [1996] 11 SCC 603 (*supra*). **If prosecution, which ultimately resulted in acquittal of the person concerned was at the behest or by department itself, perhaps different considerations may arise.** On the other hand, **if as a citizen the employee or a public servant got involved in a criminal case and it after initial conviction by the trial court, he gets acquittal on appeal subsequently, the department cannot in any manner be found fault with for having kept him out of service, since the law obliges, a person convicted of an offence to be so kept out and not to be retained in service.** Consequently, the reasons given in the decision relied upon, for the appellants are not only convincing but are in consonance with reasonableness as well. Though exception taken to that part of the order directing re-instatement cannot be sustained and the respondent has to be re-instated, in service, for the reason that the earlier discharge was on account of those criminal proceedings and conviction only, **the appellants are well within their rights to deny back wages to the respondent for the period he was not in service. The appellants cannot be made liable to pay for the period for which they could not avail of the services of the respondent.** The High Court, in our view, committed a grave error, in allowing back wages also, without adverting to all such relevant aspects and considerations. Consequently, the order of the High Court in so far as it directed payment of back wages are liable to be and is hereby set aside.” [Emphasis is added]

33] Thus, an acquittal in a criminal case does not automatically entitle an employee to back wages for the suspension or dismissal period, as entitlements depend on the nature of the acquittal and applicable service rules, whether he/she was convicted in a departmental inquiry or not. In the case at hand, the

AAT tribunal has convicted 4 out of 14 charges after the acquittal. It is our view that if the suspension or dismissal had been done without any reasonable ground, the back wages should have been granted; however, at the departmental inquiry, the Petitioner was found guilty of 7 counts out of 14. Since the Petitioner's conviction remains for 7 counts in the departmental inquiry, we are of the view that the Petitioner is not entitled to get back wages.

34] In view of the above, the application is dismissed. However, no costs.

JUDGE OF THE COURT OF APPEAL

R. GURUSINGHE J.

I agree

JUDGE OF THE COURT OF APPEAL