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.

CA/WRT/0022/2025

Wanigasuriya Arachchige Charunda Prasad,
No 1086, Ja Ela Waththa,
Maeliya, Ja Ela.

PETITONER

Vs.

1. Consumer Affairs Authority,
   1st and 2nd Floor,
   C.W.E. Secretariat Building,
   No: 27, Vauxhall Street,
   Colombo 02.

2. Mr. Hemantha Samarakoon,
   Chairman,
   Consumer Affairs Authority,
   1st and 2nd Floor,
   C.W.E. Secretariat Building,
   No: 27, Vauxhall Street,
   Colombo 02.

3. Mr. J.M. Thilakarathna Banda,
Director General,
Consumer Affairs Authority,
1st and 2nd Floor,
C.W.E. Secretariat Building,
No: 27, Vauxhall Street,
Colombo 02.

3A. Mrs. M.M.S.K. Karunarathne,
Director General (Acting),
Consumer Affairs Authority,
1st and 2nd Floor,
C.W.E. Secretariat Building,
No: 27, Vauxhall Street,
Colombo 02.

4. Mr. K.A.R. Sampath Angulugaha,
Director (Administration & Human Resources),
Consumer Affairs Authority,
1st and 2nd Floor,
C.W.E. Secretariat Building,
No: 27, Vauxhall Street,
Colombo 02.

4A. Mrs. D.N. Rupasinghe,
Director (Administration & Human Resources)
(Acting),
Consumer Affairs Authority,
1st and 2nd Floor,
C.W.E. Secretariat Building,
No: 27, Vauxhall Street,
Colombo 02.

5. Mr. W.M. Priyantha,
Director (Finance),
Consumer Affairs Authority,
1st and 2nd Floor,
C.W.E. Secretariat Building,
No: 27, Vauxhall Street,
Colombo 02.

5A. Mr. A.W.A.Y.G. Abeysekara,
Director (Finance) (Attending to the duties),
Consumer Affairs Authority,
1st and 2nd Floor,
C.W.E. Secretariat Building,
No: 27, Vauxhall Street,
Colombo 02.

6. Mr. K.M. Mahinda Siriwardana,
Secretary to the Treasury and the Secretary to the Ministry of Finance,
Ministry of Finance,
The Secretariat,
Colombo 01.

7. Hon. Attorney General,
Attorney Generals' Department,
Colombo 12.

RESPONDENTS

Before : B. Sasi Mahendran, J.
Adithya Patabendige, J.

Counsel : Thanuka Nandasiri with Wasala Bandara instructed by Wasala Bandara for the Petitioner.
Jayakith Mathuratne, SC for the State.

Argued on : 24.08.2026

Written Submission

Tendered on : 06.10.2026 by the Petitioner
07.10.2026 by the Respondents

Decided on : 30.10.2026

Adithya Patabendige, J.

Introduction

The Petitioner, Wanigasuriya Arachchige Charunda Prasad, has invoked the writ jurisdiction of this Court under Article 140 of the Constitution, seeking, *inter alia, writs of certiorari* and *mandamus* in respect of the refusal of the Consumer Affairs Authority (hereinafter referred to as the CAA), the 1st Respondent, to pay salary and other emoluments withheld during the period of his compulsory leave and interdiction, and its failure to grant annual salary increments.

The application arises from the Petitioner's employment with the CAA, his arrest and interdiction following allegations of bribery, his subsequent acquittal by the High Court of Colombo, and his reinstatement to service.

The principal question for determination is whether the Respondents were entitled to continue withholding the Petitioner's salary after his acquittal and reinstatement, despite the absence of a concluded disciplinary inquiry and the Hon. Attorney-General's advice recommending payment of salary arrears.

The application also raises questions concerning the Petitioner's entitlement to annual salary increments, the effect of his subsequent resignation, and the circumstances in which this Court may exercise its discretionary writ jurisdiction to grant the relief sought.

Factual Background

The Petitioner joined the CAA as an Investigation Officer with effect from 01st January 2009. His letter of appointment dated 23rd December 2008 has been produced, marked **P1**.

On 01st September 2016, while serving at the Gampaha District Office of the CAA, the Petitioner and three other officers were arrested by officers of the Commission to Investigate Allegations of Bribery or Corruption in connection with allegations of soliciting and accepting a bribe of Rs. 125,000.

Following their arrest, they were produced before the Chief Magistrate's Court in proceedings bearing Case No. B 59432/1/2016 and remanded.

Consequent to his arrest and remand, the Petitioner was placed on compulsory leave with effect from 01st September 2016 under Paragraph 27:7 of Chapter XLVIII of the Establishments Code, Volume II. The letter dated 09th September 2016 communicating this decision has been produced, marked **P2**.

Thereafter, by letter dated 03rd October 2016, marked **P3**, the Petitioner was informed that the Board of Directors of the CAA, at its meeting held on 30th September 2016, had decided to take action under Paragraphs 27:9 and 31:1:10 of Chapter XLVIII of the Establishments Code. The letter also communicated the Board's decision to initiate disciplinary action against him.

Subsequently, an indictment containing eleven charges relating to allegations of soliciting and accepting bribery was filed against the Petitioner and the other accused before the High Court of Colombo in Case No. HCB 94/2021. The indictment dated 02nd March 2021 has been produced, marked **P4**.

On 18th May 2023, the learned High Court Judge of Colombo, acting under Section 200(1) of the Code of Criminal Procedure Act, acquitted the Petitioner and the other accused of all charges without calling defence. A copy of the judgement has been produced and marked as **P5**.

Following his acquittal, the Petitioner made representations seeking reinstatement in service.

By letter dated 28th July 2023, marked **P6**, the Petitioner was informed that the Board of Directors, at its meeting held on 28th June 2023, had decided to reinstate him in service with effect from 01st August 2023.

The Petitioner was initially attached to the Monaragala District Office. Subsequently, following an appeal made to the 2nd Respondent, he was transferred to the Head Office with effect from 23rd November 2023. The relevant letter has been produced and marked as **P7**.

The Petitioner continued in service until his resignation on 24th July 2024. He states that his resignation was necessitated by his mother's illness. His resignation letter has been produced and marked as **P8**.

The Petitioner states that, notwithstanding his acquittal and subsequent reinstatement, the CAA failed to pay the salary and other emoluments withheld during the period commencing on 01st September 2016 and ending upon his reinstatement.

He further complains that the CAA did not grant annual salary increments for the period commencing on 01st September 2016 and ending on 24th July 2024.

The Petitioner also maintains that his gratuity should be calculated after taking into account the salary increments to which he claims entitlement.

The Petitioner refers to a complaint made by another officer involved in the same incident, namely Nambukara Appu Kapuge Harshana Kumara, to the Commissioner-General of Labour on 06th September 2023.

The documents related to that complaint have been produced and marked as **P9(a)** to **P9(c)**.

Of particular significance is the letter dated 17th October 2023, marked **P9(b)**, addressed by the Chairman of the CAA to the Labour Officer, Colombo South.

In that letter, the Chairman stated that the officers, including the Petitioner concerned, had not performed their duties from 01st September 2016 to 31st July 2023 and that the CAA therefore decided not to pay remuneration for that period. For ease of reference, attention is drawn to paragraph 7 of the letter marked **P9(b).**

> *"7. ඉහත මහාධිකරණ නඩු තීන්දුව අධිකාරිය විසින් කිසිදු ආකාරයකින් අභියෝගයට ලක් නොකරන අතර, ඔවුන්ව වැඩ තහනමට ලක්ව සිටි 2016.09.01 දින සිට 2023.07.31 දින දක්වා කාලය සඳහා ඔවුන් සේවයට පැමිණ වැටුප් උපයා ගැනීම සිදුකර නොමැති බැවින්ද,*

*එම කාලයට අදාළව වැටුප් වර්ධක උපයා ගෙන නොමැති බැවින් ද එම සේවය නොකල කාලය සඳහා <u>**වැටුප් නොගෙවීමට අධිකාරිය ගෙන තිබූ තීරණය**</u> සම්බන්ධයෙන් නීතිපති දෙපාර්තමේන්තුව වෙත අධිකාරියේ සභාපති ශ්‍රේෂ්ඨාධිකරණයේ නීතිඥ ශාන්ත නිරිඇල්ල මහතා විසින් නීතිමය උපදෙස් ලබාගැනීමට යොමුකර ඇති අතර නීතිපති උපදෙස් අනුව ඉදිරි කටයුතු සිදු කරනු ඇත. එම ලිපියේ පිටපතක් මේ සමඟ අමුණා ඇත (<u>ඇමුණුම 03</u>).''*

The letter further stated that the CAA had sought advice from the Hon. Attorney-General on the matter.

The Petitioner also refers to a complaint made by the said officer to the Human Rights Commission of Sri Lanka, bearing No. HRC/HO/3532/23, marked **P10**.

The Attorney-General's advice dated 06th December 2024 has been produced by the Respondents, marked **R1**.

According to **R1**, the Hon. Attorney-General advised that, since the High Court acquitted the Petitioner, the Disciplinary Authority reinstated him in service, and no appeal had been preferred against the acquittal, arrears of salary should be paid for the period from 01st September 2016 to 01st August 2023. Attention is drawn to the last paragraph of the letter marked **R1**.

*''ඒ අනුව අදාල නිලධාරීන් අංක HCB/94/2021 දරන මහාධිකරණ නඩු තීන්දුවෙන් නිදොස් කොට නිදහස් කිරීම, එකී නඩු තීන්දුවට එරෙහිව අභියාවනයක් නොකිරීමට සහ විනය බලධරයා එකී නිලධාරීන් නැවත සේවයේ පිහිටුවීමට දැනටමත් කටයුතු කිරීම යන කරුණ මත <u>**2016.09.01 දින සිට 2023.08.01 දින දක්වා හිඟ වැටුප් ගෙවිය යුතු බවට මාගේ මතය වේ**</u>.''*

The Petitioner further states that, at a meeting held on 26th December 2024, the 3rd Respondent informed the officers concerned that the Attorney-General's advice had been submitted to the Board of Directors and that the Board had decided to conduct a preliminary inquiry concerning the incident.

According to the Petitioner, although the CAA communicated its intention to initiate disciplinary proceedings as far back as October 2016, it did not conclude any disciplinary inquiry before his resignation in July 2024.

The Petitioner also relies upon the letter dated 06th July 2020, marked **P12,** alleging that the CAA had adopted a different approach in comparable circumstances.

By letter dated 07th January 2025, marked **P11**, the Petitioner and other officers again requested the CAA to resolve their grievances.

The Petitioner complains that no satisfactory response was received.

In these circumstances, he seeks *writs of certiorari* to quash the decisions refusing payment of withheld remuneration and annual salary increments, and *writs of mandamus* directing payment of salary arrears, the grant of increments, and the consequential calculation of gratuity.

Position of the Respondents

The Respondents resist the application. Their principal contention is that the Petitioner's acquittal in criminal proceedings does not automatically entitle him to payment of the salary and other emoluments withheld during interdiction.

It is submitted that criminal proceedings and departmental disciplinary proceedings are distinct and that an acquittal by a criminal court does not necessarily amount to exoneration for disciplinary purposes.

The Respondents further maintain that the Petitioner did not perform duties during the period of compulsory leave and interdiction and was therefore not entitled to remuneration for that period.

It is also contended that annual salary increments are not automatic entitlements but are subject to the applicable conditions of service.

The Respondents raise a preliminary objection that the Petitioner has failed to identify with sufficient certainty the administrative decisions sought to be quashed by *writs of certiorari*. They further submit that the Petitioner has failed to establish a clear legal right and a corresponding public duty sufficient to justify the issuance of *writs of mandamus.*

Issues for Determination

Having considered the pleadings, documents and submissions, the principal issues to be determined are;

- whether the decisions sought to be quashed have been sufficiently identified;

- whether the Petitioner's acquittal and reinstatement confer an entitlement to the withheld salary;
- whether the failure to conclude disciplinary proceedings affects the legality of the continued non-payment; and what significance should be attached to the Attorney-General's advice, marked **R1**.

It is also necessary to determine whether the Petitioner is entitled to annual salary increments, whether his subsequent resignation affects any accrued financial rights, and whether the circumstances justify the issuance of the writs sought.

Preliminary Objection

Learned State Counsel submits that the application is not maintainable because the Petitioner has failed to identify the administrative decisions sought to be quashed.

It is contended that prayers (e) and (f) refer generally to decisions refusing payment of back wages and annual salary increments without identifying the dates of those decisions or the persons responsible for making them.

Ordinarily, a *writ of certiorari* is directed against an identifiable administrative decision. The Court must be able to identify the challenged decision and the grounds on which its validity is questioned.

However, the absence of a formal decision addressed directly to an applicant does not necessarily establish that no administrative decision was made.

In the present application, **P9(b)** expressly records that the CAA had decided not to pay remuneration for the relevant period because the officers concerned had not performed duties.

Although **P9(b)** was addressed to the Labour Officer in connection with another officer's complaint, it discloses the position adopted by the CAA concerning the financial claims arising from the same incident.

The Petitioner has also specifically complained of the continued refusal to pay his salary and grant annual increments.

Furthermore, the Respondents have produced the Attorney-General's advice marked **R1**, which directly concerns the question of payment of salary arrears.

In these circumstances, I cannot accept the contention that the application must fail merely because the Petitioner has not produced a formal letter addressed to him communicating the refusal.

The material before this Court sufficiently discloses an administrative position concerning non-payment which is capable of judicial examination.

Nevertheless, the distinction between the refusal of salary arrears and the alleged refusal of increments must be maintained, as the evidentiary foundation for the two claims is not identical.

Accordingly, I reject the preliminary objection insofar as it seeks to dismiss the entire application without considering the merits.

The Relevant Provisions of the Establishments Code

The letters marked **P2** and **P3** expressly refer to Chapter XLVIII of the Establishments Code.

The Respondents have also relied upon the provisions of that Chapter in justifying the decisions concerning the Petitioner.

It is therefore necessary to examine the relevant provisions, while recognising that the CAA is a statutory authority and that the precise applicability of the Establishments Code must be determined in the light of the governing conditions of service.

Paragraph 31:10 provides that the non-payment of emoluments or payment of one-half of the emoluments of an officer under interdiction is to be decided by the Disciplinary Authority.

Paragraph 31:11 identifies circumstances in which an interdicted officer should not receive emoluments during interdiction.

Paragraph 31:11:1 specifically refers to circumstances where legal proceedings have been initiated for an offence of bribery or corruption.

The allegations against the Petitioner concerned bribery. Accordingly, if these provisions apply, the initial withholding of emoluments during interdiction cannot be regarded as unlawful merely because the Petitioner was subsequently acquitted.

However, the authority to withhold emoluments during interdiction must be distinguished from the ultimate determination of whether those emoluments should remain unpaid after the conclusion of the relevant proceedings.

Paragraph 31:14 provides that where a formal disciplinary inquiry results in the imposition of a punishment less than dismissal, the Disciplinary Authority should decide whether the full emoluments withheld, or a percentage thereof, should be paid. Such determination forms part of the disciplinary order.

Paragraph 31:15 defines the expression "emoluments" by reference to the emoluments of the officer's substantive post. It excludes allowances in the nature of duty allowances and reimbursements of expenditure incurred in the performance of official duties, including travel, transport, and combined allowances.

Paragraph 31:17 recognises that reinstatement of an officer who has not been found guilty, following interdiction without sufficient cause, may result in payment of emoluments for a period during which no work was performed. The provision therefore requires the appropriate authority to satisfy itself before interdicting an officer.

These provisions demonstrate that the initial withholding of emoluments and their ultimate payment are distinct matters.

Paragraph 31:11:1 cannot, by itself, be interpreted as authorising the permanent forfeiture of salary following acquittal and reinstatement, irrespective of the subsequent conduct of the Disciplinary Authority.

Equally, Paragraph 31:17 does not establish that every criminal acquittal automatically entitles an officer to full back wages.

The ultimate entitlement must be determined upon the applicable legal provisions and the particular circumstances of the case.

Effect of Criminal Acquittal and Reinstatement

The High Court acquitted the Petitioner on 18th May 2023 under Section 200(1) of the Code of Criminal Procedure Act, without calling the defence. That acquittal ended the criminal proceedings. Nevertheless, an acquittal in criminal proceedings does not necessarily prevent a disciplinary authority from conducting an independent inquiry into the same conduct.

The purposes and standards of proof applicable to criminal and disciplinary proceedings are different. Therefore, I do not accept the proposition that the Petitioner's criminal acquittal, considered in isolation, automatically entitled him to recover the entirety of the salary withheld during interdiction.

However, the present case does not concern criminal acquittal alone. The CAA subsequently decided to reinstate the Petitioner with effect from 01st August 2023. There is no material establishing that the reinstatement was made subject to a concluded finding of a disciplinary action or that the CAA had imposed any disciplinary order upon the Petitioner. More importantly, this Court has not been presented with any concluded disciplinary inquiry or final disciplinary order.

The legal effect of these circumstances must therefore be examined together, not separately.

The Decision in *Nandadasa v M.S. Jayasinghe*

In ***Nandadasa v. M. S. Jayasinghe, Secretary, Ministry of Justice and Constitutional Affairs and Others (2001) 1 SLR 14,*** the Supreme Court considered the legality of a disciplinary authority's decision to withhold permanently the salary of a public officer who had been interdicted following allegations of bribery.

The petitioner in that case was prosecuted for bribery and subsequently acquitted. Following his acquittal, he was reinstated subject to a disciplinary inquiry. The inquiring officer exonerated him of all charges. However, the disciplinary authority rejected those findings, found him guilty and directed that the salary withheld during interdiction should not be paid. The only other punishment imposed was a warning.

Justice Mark Fernando, examining the relevant provisions of Chapter XLVIII of the Establishments Code, drew a distinction between withholding salary during interdiction and subsequently deciding that the withheld salary should not be paid.

Justice Fernando observed at page 24 as:

> *"The initial withholding of salary during interdiction is not a punishment. It cannot be a punishment, because it is an order made before there is any finding of guilt."*

The Supreme Court then examined whether the subsequent non-payment could lawfully be imposed independently of a disciplinary punishment.

Under the provisions then applicable, the Court held that the order concerning withheld salary was a consequence of punishment and that, since the disciplinary authority had imposed only a warning, which was expressly excluded from the category of punishments, the order directing non-payment lacked the necessary legal foundation. The Supreme Court also found serious violations of natural justice in the manner in which the disciplinary authority rejected the inquiring officer's findings and in the subsequent consideration of the petitioner's appeal.

The Supreme Court quashed the impugned orders and held the petitioner entitled to the salary withheld during interdiction, together with interest.

The importance of the reasoning of ***Nandadasa*** lies in the distinction between provisional withholding of emoluments during interdiction and their ultimate deprivation.

The former does not necessarily establish the legality of the latter. However, a factual distinction exists between the ***Nandadasa*** judgement and the present application.

In ***Nandadasa,*** a disciplinary inquiry had been conducted and a final disciplinary order made, although that order was subsequently found to be unlawful.

In the present application, no concluded disciplinary inquiry or final disciplinary order has been established.

Nevertheless, the underlying principle remains relevant. The ultimate refusal to pay withheld emoluments must be supported by the applicable legal provisions and cannot be justified solely by reference to the original interdiction.

The Supreme Court also emphasised the importance of disclosing findings and reasons to an officer affected by an adverse disciplinary decision.

The Decision in *Don Karunasena Athukorala*

In ***Don Karunasena Athukorala v. H. M. Gunasekera and Others (2016) 1 Sri LR 286,*** the Supreme Court considered the withholding of emoluments during interdiction and the financial consequences of disciplinary proceedings against a public officer.

The petitioner, a school principal, had been interdicted following allegations of bribery and was subsequently acquitted in criminal proceedings.

However, an independent disciplinary inquiry was conducted, and he was found guilty of nine charges of misconduct.

The disciplinary authority thereafter determined that half wages should be paid during the period of interdiction.

Justice Prasanna Jayawardena, examining the relevant provisions of Chapter XLVIII of the Establishments Code, upheld the decision concerning payment of half wages.

The Supreme Court also considered the legality of deductions from the petitioner's pension and gratuity and set aside the pension deduction because the prescribed procedural requirements had not been complied with. The decision confirms that criminal acquittal does not automatically invalidate an earlier interdiction or establish an unconditional entitlement to full emoluments.

It also demonstrates that the financial consequences of disciplinary proceedings must be determined in accordance with the applicable legal provisions.

The distinction between that case and the present application is significant.

In ***Athukorala***, disciplinary proceedings had been concluded, and findings of misconduct had been made.

In the present application, the CAA communicated its intention to initiate disciplinary proceedings in October 2016 but did not establish that any disciplinary inquiry had been concluded before the Petitioner's resignation.

Accordingly, ***Athukorala*** supports the Respondents' contention that criminal acquittal does not automatically entitle an employee to back wages.

However, it does not resolve the separate question whether the CAA may continue to deny payment indefinitely without concluding disciplinary proceedings or making a lawful determination concerning the withheld salary.

The Decision in *Rannulu Sugath Mohana Mendis*

In ***Rannulu Sugath Mohana Mendis v. D. K. A. Sanath Kumara and Others, SC/FR/100/2022, decided on 06th October 2023***, the Supreme Court considered the prolonged interdiction of a police officer without the conduct of a preliminary investigation as required by the applicable provisions of Chapter XLVIII of the Establishments Code.

The petitioner in that case had been interdicted without pay following his arrest in connection with alleged criminal offences.

Although the relevant authority possessed the power to interdict him, no preliminary investigation had been conducted for more than two years.

Justice Thurairaja, examined Paragraphs 31:3, 31:4, 31:5:3, 31:7 and 27:10 of the Establishments Code and emphasised the duty of the disciplinary authority to comply with the prescribed procedural requirements.

Of particular relevance is the Supreme Court's consideration of Paragraph 27:10, as amended by Public Administration Circular No. 06/2004 dated 15th December 2004.

The provision required a preliminary investigation to be conducted within two months in the circumstances contemplated therein.

The Supreme Court also considered Paragraph 27:10:1, which permits the disciplinary authority, in the circumstances specified by that provision, to authorise payment of salary not exceeding one-half where the criminal proceedings remain unresolved beyond one year.

The Supreme Court strongly criticised the failure to commence a preliminary investigation even after the lapse of two years.

The petitioner was subsequently reinstated during the pendency of the fundamental rights application, and arrears of salary were paid.

The Supreme Court held that the petitioner's fundamental rights under Articles 12(1) and 14(1)(g) of the Constitution were violated.

Significantly, the Court directed the retrospective grant of salary increments, benefits and promotions, in addition to awarding compensation.

The decision demonstrates that the exercise of disciplinary powers is subject to the procedural safeguards prescribed by law and that prolonged administrative inaction may have consequences affecting an officer's financial entitlements.

It must nevertheless be recognised that ***Rannulu Sugath Mohana Mendis*** arose in the exercise of the Supreme Court's fundamental rights jurisdiction and concerned facts materially different from those in the present application.

Furthermore, the applicability of the precise procedural requirements considered in that case to employees of the CAA depends upon the governing service rules.

Nevertheless, the broader principle is relevant. A disciplinary authority must exercise its powers within the framework prescribed by law and cannot leave an employee's disciplinary position unresolved indefinitely.

Failure to Conduct Disciplinary Proceedings

The Petitioner was informed in October 2016 that the Board of Directors had decided to initiate disciplinary proceedings against him. The criminal proceedings were concluded on 18th May 2023. Thereafter, the CAA reinstated him in service with effect from 01st August 2023. He continued in service until his resignation on 24th July 2024.

Thus, nearly eight years elapsed between the CAA's decision to initiate disciplinary action and the Petitioner's resignation.

During that period, no concluded disciplinary inquiry or final disciplinary determination has been established before this Court.

The Respondents have not satisfactorily explained why the proposed disciplinary proceedings remained unresolved for such a prolonged period.

The failure assumes particular significance because the CAA reinstated the Petitioner following his acquittal and permitted him to resume his duties.

If the CAA considered that the Petitioner's conduct nevertheless warranted disciplinary action, it was incumbent upon the competent authority to address that matter in accordance with the applicable disciplinary rules.

The CAA cannot rely upon its own failure to conclude disciplinary proceedings as a complete justification for the permanent deprivation of the Petitioner's financial benefits.

To accept such a proposition would permit an administrative authority to leave an employee's financial position unresolved indefinitely and thereafter rely upon that very uncertainty to defeat his claim.

Such an approach would be inconsistent with the requirements of fairness and reasonableness governing the exercise of administrative powers.

The present case is not one in which the CAA concluded a disciplinary inquiry and imposed a punishment affecting the Petitioner's entitlement to salary.

Nor has any final disciplinary determination been established declaring that the Petitioner was guilty of misconduct warranting permanent non-payment of the withheld emoluments.

The prolonged failure to conduct disciplinary proceedings must therefore be considered together with the acquittal, reinstatement and subsequent advice of the Attorney-General.

The Failure to Communicate Reasons

There is another significant aspect of the CAA's conduct.

Although the CAA had decided not to pay the withheld remuneration, no reasoned decision explaining the legal basis for such non-payment appears to have been communicated to the Petitioner.

The letter marked **P9(b),** addressed to the Labour Officer in connection with another officer's complaint, states that the CAA had decided not to pay remuneration because the officers concerned had not performed duties during the relevant period. However, that letter was not addressed to the Petitioner. Nor does it disclose any determination of his entitlement under the applicable provisions of the Establishments Code. It is particularly significant that the CAA had reinstated the Petitioner following his acquittal without having concluded disciplinary proceedings against him. In these circumstances, the CAA was required to address his claim in accordance with the applicable legal provisions and communicate a decision supported by lawful reasons.

The failure to communicate such a decision assumes greater significance when considered alongside the prolonged failure to conduct disciplinary proceedings.

The Petitioner was left without a determination of his disciplinary responsibility and without an adequate explanation of the legal basis upon which his financial claims were being denied.

An administrative authority cannot merely withhold financial benefits and leave the affected person to ascertain the reasons for that decision from correspondence addressed to another institution concerning another employee.

The importance of communicating findings and reasons was emphasised by ***Fernando J.*** in ***Nandadasa,*** although the particular statutory context of that case differed from the present application.

In ***Rannulu Sugath Mohana Mendis***, the Supreme Court likewise emphasised that administrative decisions must be supported by material capable of justifying them when challenged before a court.

In the present case, the failure to communicate a reasoned decision is a material consideration in determining whether the CAA acted lawfully and reasonably.

Legal Effect of the Attorney-General's Advice Marked R1

A further matter of considerable significance is the advice furnished by the Hon. Attorney-General dated 06th December 2024, which has been produced by the Respondents marked **R1**.

According to **R1**, the Attorney-General advised that, since the Petitioner had been acquitted by the High Court, the Disciplinary Authority had reinstated him in service, and no appeal had been preferred against the acquittal, arrears of salary should be paid for the period commencing on 01st September 2016 and ending on 01st August 2023.

Thus, the precise question concerning the payment of salary withheld during the period of compulsory leave and interdiction was considered by the Attorney-General.

The advice was not confined to a general observation concerning the Petitioner's acquittal. It addressed the financial consequences of the acquittal and reinstatement and identified the period for which salary arrears should be paid.

It is necessary to emphasise that advice furnished by the Attorney-General does not, by itself, constitute a binding administrative determination requiring payment.

The responsibility for making the relevant administrative decision remains with the authority upon which the law confers that power.

Nevertheless, advice furnished by the Attorney-General on a question of law is plainly a material consideration in determining whether the subsequent conduct of the Authority was lawful and reasonable.

The CAA was not entitled to disregard that advice arbitrarily.

If the CAA considered that the advice should not be followed, it was incumbent upon the competent decision-making body to identify a lawful basis for adopting a different position.

In the present application, the Respondents have not demonstrated that a reasoned determination rejecting the Petitioner's claim, notwithstanding the advice contained in **R1**, was communicated to him.

The explanation appearing in **P9(b)**, namely that the officers concerned had not performed duties during the relevant period, does not satisfactorily answer the question.

The Petitioner's absence from service resulted from compulsory leave and interdiction imposed upon him by the CAA itself.

Moreover, the Establishments Code expressly contemplates circumstances in which emoluments withheld during interdiction may subsequently become payable.

The mere fact that an officer did not perform duties during interdiction cannot therefore be treated as an absolute bar to the subsequent payment of withheld salary.

The significance of **R1** is further reinforced by the absence of a concluded disciplinary inquiry or an adverse disciplinary order.

The CAA had decided to initiate disciplinary proceedings in October 2016 but failed to bring those proceedings to a conclusion before the Petitioner's resignation.

The Attorney-General's advice must therefore be considered together with the Petitioner's acquittal, reinstatement, the absence of an adverse disciplinary determination and the CAA's prolonged failure to conclude disciplinary proceedings.

In these circumstances, I am of the view that the continued refusal to pay the Petitioner's salary arrears, without identifying a lawful basis for departing from the advice contained in **R1**, cannot be justified merely upon the ground that he did not perform duties during the period of interdiction.

Effect of the Petitioner's Resignation

The Respondents have also relied upon the Petitioner's resignation on 24th July 2024. In my view, resignation does not, merely by itself, extinguish financial rights which may have accrued during employment.

The Petitioner's entitlement to withheld salary and eligible increments must therefore be determined by reference to the applicable legal provisions and the circumstances giving rise to those claims. The CAA cannot rely upon the Petitioner's resignation as an explanation for

its failure to conclude disciplinary proceedings during the preceding years. It is also significant that the Petitioner continued in service for nearly one year after reinstatement. During that period, the CAA had the opportunity to take appropriate disciplinary action, if such action was considered necessary and permissible.

The Petitioner's subsequent resignation cannot retrospectively justify the prolonged failure to conduct disciplinary proceedings or the refusal to determine his financial entitlements.

Violation of Principles of Natural Justice

Having regard to the cumulative effect of these circumstances, I am satisfied that the Petitioner has established the unreasonableness and procedural impropriety of the CAA warranting judicial intervention regarding the withheld salary of the Petitioner. Further, I am satisfied that the CAA failed to give reasons for withholding the arrears of salary during the period of interdiction, which violates the Principles of Natural Justice.

Accordingly, I am of the view that the CAA's continued refusal to pay the salary arrears cannot be sustained.

Meaning of Emoluments Under Section 31:15

It is necessary to clarify the scope of the financial entitlement claimed by the Petitioner. Paragraph 31:15 of Chapter XLVIII defines the expression "emoluments" as the emoluments attached to an officer's substantive post. The provision expressly excludes allowances in the nature of duty allowances and reimbursements of expenditure incurred in the performance of official duties, including travel, transport and combined allowances.

Accordingly, an entitlement to recover withheld emoluments does not necessarily extend to allowances payable only upon the actual performance of official duties or the incurring of expenditure in connection with those duties.

Any amount payable to the Petitioner must therefore be calculated based on the salary and other emoluments lawfully attached to his substantive post, subject to the exclusions prescribed by the applicable provisions.

The Petitioner cannot claim reimbursement of expenses which were never incurred merely because he is entitled to recover salary withheld during interdiction.

Annual Salary Increments

The Petitioner also seeks *writs of certiorari* and *mandamus* in respect of annual salary increments for the period commencing on 01st September 2016 and ending on 24th July 2024.

This claim requires separate consideration.

An annual salary increment is not necessarily an unconditional entitlement arising merely from the passage of time. Ordinarily, the grant of an increment depends upon the applicable conditions of service, satisfactory performance and eligibility under the relevant salary scheme. An employee claiming increments must therefore establish that the conditions governing their grant have been satisfied.

However, Paragraphs 24:6 and 24:7 of Chapter XLVIII of the Establishments Code make specific provision concerning salary increments in the context of disciplinary proceedings. Paragraph 24:6 provides that where deferment, reduction or stoppage of a salary increment is ordered as part of a disciplinary order, the order should be implemented with reference to the salary step last received by the officer. The provision further contemplates the grant of subsequent increments even where the officer was not in service. Paragraph 24:7 provides that where an order not to pay arrears of salary during interdiction forms part of a disciplinary order, the officer will not be entitled to arrears of salary increments for which he would otherwise have been eligible. However, the provision expressly requires that the officer be placed on the appropriate step of the salary scale, taking into account the increments for which he would have been eligible, notwithstanding the fact that he was not in service. These provisions demonstrate that the non-payment of salary arrears during interdiction does not necessarily justify the permanent denial of salary progression. It is important to distinguish between the actual payment of arrears of increments and the recognition of eligible increments for determining the appropriate salary step.

In the present application, no concluded disciplinary inquiry or final disciplinary order imposing stoppage, deferment or reduction of increments has been established.

The Petitioner was reinstated with effect from 01st August 2023 and thereafter continued in service until 24th July 2024.

The CAA cannot therefore rely merely upon his absence from service during interdiction as a sufficient basis for refusing to recognise increments for which he was otherwise eligible.

However, it does not follow that the Petitioner is automatically entitled to every increment claimed. The Petitioner must establish his eligibility under the applicable service rules. The position relating to the period following reinstatement is particularly significant. The Petitioner actually performed duties from 01st August 2023 until his resignation.

If his salary upon reinstatement was fixed at an incorrect step because otherwise eligible increments had not been recognised, that error may have affected the salary payable during the subsequent period of actual service. It may also have affected the computation of gratuity and other terminal benefits.

The decision in ***Rannulu Sugath Mohana Mendis*** is relevant in this context.

The Supreme Court directed the retrospective grant of salary increments, benefits and promotions upon finding that the relevant authorities had violated the petitioner's fundamental rights.

Nevertheless, that decision does not dispense with the requirement to establish eligibility under the governing service rules in every case.

Accordingly, I am of the view that the Petitioner is entitled to have his eligibility for annual increments determined in accordance with the applicable conditions of service and, where such eligibility is established, to have those increments recognised for the purpose of determining his appropriate salary step.

Any consequential arrears arising from an incorrect salary placement following reinstatement must also be addressed in accordance with law.

Gratuity

The Petitioner also seeks a *writ of mandamus* directing the Respondents to calculate his gratuity after granting the annual salary increments to which he claims entitlement.

The claim for gratuity is consequential upon the determination of the Petitioner's correct salary.

If the salary payable to him upon reinstatement was incorrectly calculated by reason of the failure to recognise eligible increments, the appropriate salary for the purpose of computing gratuity may require reconsideration.

However, the calculation of gratuity must be made in accordance with the applicable statutory provisions and conditions of service.

Accordingly, any correction of the Petitioner's salary should be reflected in the calculation of gratuity to the extent required by law.

PAYE Tax

The Petitioner also seeks a direction that PAYE tax should not be deducted from any lump-sum payment of salary arrears. I am unable to accept this claim as an unconditional entitlement. Any salary arrears or other remuneration payable to the Petitioner must be dealt with in accordance with the applicable provisions of the Inland Revenue Act and the statutory requirements governing deductions of income tax. The fact that remuneration is paid in a lump sum following a period of withholding does not, by itself, establish an exemption from taxation.

Accordingly, any payment made pursuant to this judgement shall be subject to such deductions as are required by law.

Conclusion

The final question is whether the circumstances of this application justify the issuance of the *writs of certiorari* and *mandamus* sought by the Petitioner. A *writ of certiorari* is directed towards quashing an administrative decision which is unlawful or otherwise amenable to judicial review, whereas a *writ of mandamus* ordinarily requires the existence of an enforceable legal right and a corresponding public duty.

The writ jurisdiction cannot be exercised merely because an applicant considers an administrative decision unfair or because the Court considers that a different decision would have been preferable.

However, where a public authority fails to discharge a duty imposed by law, acts upon an irrelevant consideration, or refuses to exercise its powers in accordance with the applicable legal framework, the Court may intervene.

In the present application, the Petitioner has established circumstances which, considered cumulatively, justify judicial intervention. The criminal proceedings against him were concluded by an acquittal. The CAA subsequently reinstated him. No concluded disciplinary

inquiry or adverse disciplinary order has been established. The Attorney-General expressly advised payment of salary arrears for the relevant period.

The CAA nevertheless continued to refuse payment without communicating a reasoned determination establishing the legal basis for departing from that advice.

The explanation disclosed in **P9(b)**, namely that the officers concerned did not perform duties during the period of interdiction, is insufficient by itself to justify permanent non-payment.

The Respondents have not demonstrated a lawful basis for treating the original withholding of salary as an unconditional and permanent deprivation of the amounts withheld.

In these circumstances, I am satisfied that the continued refusal to pay the Petitioner's salary arrears is legally unsustainable.

The decision of the CAA refusing payment of the withheld remuneration, as disclosed in the letter dated 17th October 2023, marked **P9(b),** expressly concerns the Petitioner and the other three officers involved in the same incident. The reason advanced for that decision was that the officers had not performed duties during the period of interdiction. For the reasons discussed above, that consideration alone cannot justify the permanent deprivation of the Petitioner's withheld remuneration in the circumstances of this case. Furthermore, notwithstanding the Hon. Attorney-General's subsequent advice recommending payment, the CAA continued to maintain its earlier position without demonstrating a lawful basis for doing so. I am therefore satisfied that the decision disclosed in **P9(b),** insofar as it relates to the refusal to pay the Petitioner's withheld remuneration, is liable to be quashed by a *writ of certiorari.*

The claim for annual salary increments stands on a different footing.

The Petitioner has not established an unconditional entitlement to every increment claimed merely by relying upon his acquittal and reinstatement.

Nevertheless, the CAA must determine his eligibility in accordance with the applicable service rules and recognise any increments for which he was eligible when fixing his salary upon reinstatement.

The consequential calculation of gratuity must likewise be made in accordance with law.

Order

For the foregoing reasons, I am of the view that the Petitioner has established sufficient grounds for the exercise of the discretionary writ jurisdiction of this Court.

Accordingly, the application is allowed in part.

A writ of certiorari is issued quashing the decision of the CAA refusing payment of the Petitioner's salary arrears for the period commencing on 01st September 2016 and ending upon his reinstatement with effect from 01st August 2023, insofar as that refusal is founded upon the ground that the Petitioner did not perform duties during the relevant period.

A writ of mandamus is issued directing the CAA to calculate and pay the salary arrears lawfully due to the Petitioner for the said period, having regard to the applicable conditions of service and the advice of the Hon. Attorney-General dated 06th December 2024, marked **R1**.

In calculating the amount payable, the Respondents shall distinguish the salary and emoluments attached to the Petitioner's substantive post from duty-related allowances and reimbursements excluded under Paragraph 31:15 of Chapter XLVIII of the Establishments Code, insofar as that provision governs his employment.

In respect of annual salary increments, the CAA is directed to determine the increments for which the Petitioner was eligible under the applicable service rules during the period commencing on 01st September 2016 and ending on 24th July 2024.

In making that determination, the CAA shall distinguish between the payment of arrears of increments during interdiction and the recognition of eligible increments for the purpose of determining the appropriate salary step upon reinstatement.

Any increments for which the Petitioner was lawfully eligible shall be recognised in fixing his salary, and any consequential arrears arising from an incorrect salary placement following reinstatement shall be calculated and paid in accordance with law.

The Respondents shall also reconsider the computation of the Petitioner's gratuity and make any consequential adjustment required by the applicable legal provisions.

The prayer seeking a direction prohibiting PAYE tax deductions is refused. Any payments made pursuant to this judgement shall remain subject to the applicable tax laws.

The Respondents shall take the necessary steps to give effect to the foregoing directions within three months from the date of this judgement.

The application is accordingly allowed in part.

Considering all the circumstances of this Application, I make no Order as to costs.

JUDGE OF THE COURT OF APPEAL

B. Sasi Mahendran, J

I agree.

JUDGE OF THE COURT OF APPEAL