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, Mandamus* and Prohibition in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

CA (Writ) Application No. 128/2023

Arampola Mudiyanselage Nialakshi Arampola
No. 9/6, Vidyala Mawatha,
Bandarawatta,
Gampaha.

PETITIONER

Vs.

1. State Mortgage and Investment Bank
No. 269,
Galle Road,
Colombo 03.

2. The Chairman
State Mortgage and Investment Bank
No. 269,
Galle Road,
Colombo 03.

3. I. T. Asuramanna
General Manager / Chief Executive Officer
State Mortgage and Investment Bank

No. 269,
Galle Road,
Colombo 03.

4. P. B. R. Dalpathadu
   Disciplinary Inquiry Officer,
   No. 10/111, Simphonia Watta, Kadawatha.

5. Jagath Hiripitiyage
   Covering Up Officer,
   Ceylon Bank Employees Society,
   Ceylon Bank Branch,
   12th Floor, Headquarters Building,
   Colombo 01.

6. E. M. K. Mohottala
   Disciplinary Inquiry Officer,
   No. 35/5, Samagi Mawatha, Thalahena,
   Malabe.

7. Dr. Udayasri Kariyawasam
   Former Chairman of the State Mortgage and Investment Bank,
   No. 36/6, Parakum Mawatha, Nawala Para,
   Nugegoda.

RESPONDENTS

Before : **Hon. Rohantha Abeysuriya PC, J.(P/CA)**

: **Hon. K. Priyantha Fernando, J. (CA)**

Counsel	:	Sandamal Rajapakse for the Petitioner.
		Kuvera de Zoysa, PC with Samuditha Kumarasinghe instructed by Kethakee Siriwardene for the Respondents.
Written Submissions on	:	08.05.2026 for the 1st, 3rd, 4th and 7th Respondents.
		20.05.2026 for the Petitioner.
Decided on	:	28.07.2026

K. Priyantha Fernando, J. (CA)

1. This Application was filed by the Petitioner against the Respondents inter alia praying for,

    i. A mandate in the nature of a Writ of *Certiorari* quashing the impugned disciplinary order dated 14/12/2022 signed by the 3rd Respondent (P26);
    ii. A mandate in the nature of a Writ of *Certiorari* quashing the charge sheet dated 20.11.2017 (P10);
    iii. A mandate in the nature of a Writ of *Certiorari* quashing the letter dated 28.10.2022 of the 3rd Respondent (P15).

<u>FACTUAL BACKGROUND</u>:

2. The Petitioner joined the services of the 1st Respondent Bank (State Mortgage Bank) as a Banking Assistant on 15.03.2006 and was later absorbed into the permanent cadre with effect from 13.05.2009. Thereafter, she was promoted to the position of Assistant Manager Grade IV with effect from 18.08.2014. During the period in which she functioned as Credit Manager at the Colpetty Branch, allegations were levelled against her in relation to the granting of certain loan facilities. Subsequently, a preliminary inquiry has been conducted and a disciplinary inquiry initiated against her upon a charge sheet dated 20.11.2017 containing twelve charges. The first disciplinary inquiry had been concluded in her favour. However, by letter dated

28.10.2022, the 3rd Respondent (General Manager/Chief Executive Officer) has rejected the findings of the first inquiry and directed that a fresh inquiry be held against the Petitioner. This second inquiry culminated in a guilty verdict for all charges, resulting in a surcharge of Rs. 2,120,364/- deprivation of salary increments, and a demotion to Staff Officer Grade V.

POSITION OF THE PETITIONER:

3. The Petitioner claimed that despite her repeated requests, she was never furnished with the final report of the first inquiry. She argued that the 3rd Respondent arbitrarily rejected the findings via a letter dated 28th October 2022, and directed a fresh inquiry; the Respondents acted *ultra vires,* arbitrarily, and maliciously by failing to adhere to the mandatory procedures laid down in Sections 16.3 and 16.4 of the Bank's Disciplinary Rules.

4. It was contended that Section 16.3 explicitly requires the Disciplinary Authority, designated as the General Manager to note clear reasons in the relevant file if they disagree with an Inquiry Officer's findings. However, the Petitioner stated that the only reasoning provided was a mere minute made by the AGM on the cover page of the final report, rather than in the relevant file, which vaguely cited contradictions and ambiguities compared to the decisions of other accused officers. It was argued that this minute failed to justify a second inquiry, demonstrated that the Disciplinary Authority was not the one who made the decision, and unlawfully operated on the basis that all accused officers must face an identical fate.

5. The Petitioner cited and relied upon the judgment delivered in the case of *Ridge v Baldwin* [1964] AC 40, and submitted that the failure of a statutory authority to comply with mandatory procedural safeguards renders its decisions void and unlawful. Furthermore, relying on *R v Secretary of State for the Home Department ex parte Doody* [1994] 1 AC 531, it was contended that the failure to provide reasons made it impossible for the Petitioner to understand the case against her or why the first inquiry's findings were rejected; the second disciplinary inquiry fundamentally violated the principles of natural justice and procedural fairness, specifically the right to a fair hearing (*audi alteram partem*) and the rule against bias (*nemo judex in causa sua*); she was denied reasonable time to prepare her defense or secure a protecting officer, and was deprived of the opportunity to challenge the allegations or call witnesses

6. It was the position of the Petitioner that the Respondents deliberately withheld the inquiry reports and the reasons for the adverse findings against her, which defeated the purpose of an internal appeal. The Petitioner argued that she was forced to pursue an appeal without knowing the evidentiary basis of the findings or the reasoning adopted against her, a process made further unfair because the appellate reviewing body consisted of the same officials who conducted the inquiry.

7. The Petitioner cited and relied upon the authorities of *Splendour Media (Pvt.) Limited Vs The Commissioner General of Labour and Others* (CA/WRT/102/2017 decided on 01.11.2019) and *Gamlathge Ranjith Gamlath vs Commissioner General of Excise and two others* (CA/WRT/1675/2002 decided on 28.03.2003) to emphasize that the right to be heard inherently includes the **right to know the reasons** forming the basis of an adverse determination, concluding that the Respondents' process was arbitrary, procedurally improper, and legally flawed.

8. Finally, the Petitioner argued that the precedent set in *Thalayarathne Mudalige Jagath Wickramasekara v State Mortgage and Investment Bank* (CA/WRIT/160/2022 dated 23.11.2023), heavily relied upon by the Respondents, has no application to the instant case. She contended that, unlike the Petitioner in the said case who abandoned the second inquiry, she actively participated, continuously asserted her procedural rights, and exhausted every internal avenue for fairness. The Petitioner submitted that she suffered actual prejudice because, unlike in CA/WRT/160/2022 where the individual had knowledge of the reasons for the fresh inquiry, she was expressly denied the reasons and reports. Furthermore, the Petitioner stated that while the individual in the said case had already retired, the Petitioner remains in service and continues to suffer ongoing civil consequences, including demotion and financial surcharge.

9. The Petitioner also contended that she is challenging the entirety of the disciplinary process, not just the initiation of the second inquiry, and highlighted severe institutional bias and selective prosecution, as other officers involved in the disputed transactions were never subjected to disciplinary action. Accordingly, the Petitioner argued that the Respondents' actions fall within the established grounds of judicial review, entitling her to the relief sought.

POSITION OF THE RESPONDENTS:

10. The 1st, 3rd, 4th, and 7th Respondents (hereinafter referred to as the Respondents) submitted that the instant application is identical in nature to a prior matter, CA/WRT/160/2022, which they argued interpreted the identical Disciplinary Rules of the State Mortgage & Investment Bank. The Respondents further argued that this Court had already decided CA/WRT/160/2022 in favor of the Respondent Bank via the judgment dated 23.11.2023, and it has direct and binding legal precedent for the present case has been established.

11. Regarding the factual background, the Respondents stated that the Petitioner, who has been employed since 2006 and serving as the Assistant Manager of the Credit Division since July 2015, possessed the crucial duty of authenticating loan documentation. Between September 2016 and March 2017, forty-eight fraudulent loans totaling Rs. 68,340,000/- were unlawfully released to forty-seven individuals posing as employees of two fictitious companies, Master Packaging (Pvt) Ltd. and A&D Data Solutions (Pvt) Ltd. Following internal audits, the Petitioner was identified among fifteen accused officers and was issued a twelve-charge charge sheet on 20.11.2017. These charges included severe negligence, granting loans without income inspections, and failing to identify patently forged documents such as National Identity Cards and utility bills.

12. The Respondents further submitted that the Petitioner participated in the first disciplinary inquiry between March 2018 and September 2022 without raising any objections regarding *mala fides* or *ultra vires* conduct. However, no disciplinary order was issued from this initial inquiry. Instead, the 3rd Respondent, acting as the Disciplinary Authority, lawfully exercised his discretion under Sections 16.3 and 16.4 of the Bank's Disciplinary Rules to disagree with the Inquiry Officer's findings.

13. It was contended that the 3rd Respondent strictly adhered to procedural requirements by noting the clear reasons for this disagreement in the relevant file, specifically citing contradictions and ambiguities among the final decisions of other accused officers facing identical charges and subsequently ordered a fresh, second disciplinary inquiry. This decision to initiate a fresh inquiry was also discussed and approved by the Board of Directors on 28th November 2022.

14. In response to the Petitioner's assertion that she was not provided with the final inquiry reports or the reasons for initiating the second inquiry, the Respondents submitted that their actions were entirely lawful and procedurally sound.

15. Relying heavily on the judicial precedent set in CA/WRT/160/2022, the Respondents contended that Sections 16.3 and 16.4 of the Disciplinary Rules only mandate the Disciplinary Authority to note the reasons for a fresh inquiry in the relevant file, which was duly done. The Respondents stated that the Rules do not impose a duty to communicate these recorded reasons to the Petitioner. As affirmed by the Court in CA/WRT/160/2022, the Respondents argued that the failure to communicate such reasons does not constitute a breach of natural justice, nor does it render the decision to hold a fresh inquiry unreasonable, irrational, or *ultra vires*.

16. Finally, the Respondents contended that the Petitioner is barred from challenging the outcome of the proceedings due to the principles of acquiescence and waiver. The Respondents stated that the Petitioner was duly informed of the second disciplinary inquiry and, alongside her Covering Up Officer, fully participated in all six sessions commencing on 9th November 2022. The Respondents emphasized that the Petitioner did not raise any objections regarding arbitrary or *ultra vires* conduct during these proceedings. Based on the findings of this second inquiry, the Petitioner was found guilty of all twelve charges on 14th December 2022 a decision that was later affirmed by the 2nd Respondent on 31st October 2023.

17. The Respondents citing the Supreme Court authority of *N. K. Dona Lalitha Padmini vs. N. K. D. P. Nishanthi Kumari* (SC/HC/LA/134/2016 decided on 07.09.2018), argued that by voluntarily participating in the entirety of the second inquiry without protest, the Petitioner waived her right to object and is now estopped in law from challenging the validity or findings of the inquiry after its conclusion.

EVALUATION OF FACTS AND LAW:

18. It was the main contention of the Petitioner that the decision of the 3rd Respondent, communicated by letter dated 28.10.2022 to reject the findings and/or recommendations of the first disciplinary inquiry and to direct a second disciplinary inquiry on the very same charges,

is illegal, *ultra vires*, arbitrary and contrary to the principles governing the exercise of statutory and disciplinary powers.

19. Section 16.3 and 16.4 of the disciplinary code governing the 1st Respondent Bank expressly requires the disciplinary authority:

    a. To state reasons where the findings of the inquiry officer are not accepted; and
    b. To provide reasons when directing that a fresh inquiry be held.

20. It was submitted that the impugned letter dated 28.10.2022 contains no reasons and the only indication that there were reasons was that one office minute made on the cover of the final report of the first inquiry hence, the Respondents have acted in violation of the mandatory provisions of their own disciplinary framework.

21. Upon perusal, the "Cover Page" of the 1st Disciplinary Inquiry Report marked as 'R9', it is seen that following reasons were recorded: "*There were certain contradictions and ambiguities amongst the final decisions of the inquiry report of other accused offices who had same charges and therefore it is proposed to initiate a fresh inquiry*".

22. At the meeting of the Board of Directors of the Respondent Bank held on 28.11.2022 (vide R10) the reasons for initiating a fresh inquiry had once again been discussed and approved. The Petitioner was informed by letters dated 02.11.2022 (R11) and 04.11.2022 (R12) that a second disciplinary inquiry has been initiated, and that it shall be concluded within one month.

23. It is important to note that the Disciplinary Rules of the Respondent Bank marked 'R2' do not provide the Petitioner to be notified of the reasons for calling a fresh inquiry and the only requirement is that the said reasons be noted in the relevant file.

    Rule 16.3 provides as follows: "*When the Disciplinary Authority receives the report of the Inquiry Officer, the former should himself analyse and study the contents of the report. Thereafter, the Disciplinary Authority can either agree or disagree with any decision or finding of the Inquiry Officer in respect of any charge or charges and accept or reject or revise any or all of the findings of the Inquiry Officer. Where he disagrees, clear reasons for such disagreement must be noted down in the relevant file*"

Rule 16.4: "If *the Disciplinary Authority requires further clarification on any point, he may refer the matter back to the Inquiry Officer for report or further inquiry as necessary. If circumstances justify it, the Disciplinary Authority may also quash any inquiry proceedings and order a fresh inquiry, indicating in the relevant file the reason for such action*".

24. Furthermore, it was revealed that as there were contradictions and ambiguities amongst the final decisions of the other accused officers who had the same charges as the Petitioner, the 3rd Respondent acting squarely within the powers conferred to him under Rules 16.3 and 16.4 had disagreed with the findings of the inquiring officer and ordered a fresh inquiry.

25. The 4th Respondent had been appointed as the inquiry officer for the 2nd Disciplinary Inquiry and the Petitioner was informed by letter dated 02.11.2022 of the same. Further the Petitioner was informed by letter dated 04.11.2022 that the 2nd Disciplinary Inquiry will commence on 09.11.2022 at 9.00. a.m. (vide R11 and R12). even though the Petitioner had requested for extra time to find a Covering Up Officer, she and her Covering Up Officer had been present at the second Disciplinary Inquiry on 09.11.2022 at 9.00 am and she had participated in the 2nd Disciplinary Inquiry without raising any objections as to any form of *mala fides* or *ultra vires* conduct of the Respondents.

26. Based on the findings of the second Disciplinary Inquiry, the Petitioner was issued with a Disciplinary Order dated 14.12.2022 (vide R15) in terms of Sections 16 and 17 of the Disciplinary Code finding the Petitioner guilty of all twelve charges for the violation of the disciplinary Code of the Disciplinary Code of the SMIB. The Petitioner made an appeal to the Appellate Authority on 09.01.2023 in terms of Section 18 of the Disciplinary Rules. The 2nd Respondent (Chairman of the Bank) being the Appellate Authority in terms of the Disciplinary Rules after having considered the appeal, by decision dated 31.10.2023 dismissed the appeal and affirmed the disciplinary order dated 14.12.2022. (vide R15).

27. In the case of *Thalayaratne Mudalige Jagath Wickremasekera vs. State Mortgage Bank* (CA/WRT/160/2022 decided on 23.11.2023) it was held by His Lordship Sobhitha Rajakaruna J., as follows:

"***Now I need to examine the relevant provisions of the said Rules of the SMIB with respect to the power of the Disciplinary Authority in reference to the orders of the disciplinary inquiries***.

16.3 - When the Disciplinary Authority receives the report of the Inquiry Officer, the former should himself analyse and study the contents of the report. ***Thereafter, the Disciplinary Authority can either agree or disagree with any decision or finding of the Inquiry Officer in respect of any charge or charges and accept or reject or revise any or all of the findings of the Inquiry Officer. Where he disagrees, clear reasons for such disagreement must be noted in the relevant file***.

16.4 - *If the Disciplinary Authority requires further clarifications on any point, he may refer the matter back to the Inquiry Officer for report or further inquiry as necessary. If circumstances justify it,* ***the Disciplinary Authority may also quash any inquiry proceedings and order a fresh inquiry, indicating in the relevant file the reasons for such action***.

In terms of the above provisions, the Disciplinary Authority has the discretion either to agree or disagree with any final decision or finding of an Inquiry Officer. If the Disciplinary Authority disagrees with any such finding, he must note down the clear reasons for such disagreement in the relevant file. Further, the Disciplinary Authority is empowered either to refer the matter back to the Inquiry Officer or to quash the inquiry proceedings and order a fresh inquiry. The mandatory requirement therein is to note down the reasons for such a decision in the relevant file. The Petitioner having limited the reliefs to paragraph 'C' of his prayer asserts that the reasons in regard to the decision to conduct a fresh inquiry have not been communicated to him and accordingly, the said decision to conduct a fresh inquiry have not been communicated to him and accordingly, the said decision to hold a fresh inquiry is unreasonable, irrational and ultra vires. Thus, a reasonable question arises at this stage whether the Disciplinary Authority while recording the reasons in the relevant file is bound to communicate such reasons to the Petitioner.

…

There cannot be any ambiguity on the point that the Disciplinary Authority has in fact formulated specific reasons for his decision to conduct a fresh inquiry against

***the Petitioner**. This is clearly evinced in the said letter marked 'R9', though that document is not a copy of the minute sheets or other pages of whatever the file maintained by the SMIB dealing with the affairs of the first disciplinary inquiry. **It is important to note that there are no expressed provisions in the 'Rules' that the Disciplinary Authority is duty-bound to communicate his decisions that are recorded in the relevant file**. Anyhow, I must draw my attention to the aspect of whether there is any breach of the Rules of Natural Justice by the SMIB for not communicating such reasons in a specific communique to the Petitioner.*

…

***No evidence is available to form an opinion that the SMIB has suppressed the reasons to call for a fresh inquiry. The Petitioner has not denied having knowledge of issuing the above-mentioned letter marked 'R9' but has only attempted to elucidate the facts described therein**. In the Counter Affidavit, the Petitioner has just made a general denial upon the respective provisions in the Statement of Objections rather than expressly contesting the existence of the aforementioned document 'R9'. **The respondents contend that there is no specific necessity to record reasons on the face of the document containing the findings of the Inquiry Officer. Nevertheless, the Disciplinary Authority has seemingly taken much effort to elaborate on such reasons in the said letter R9. Similarly, the Petitioner has failed to establish any inordinate or unreasonable delay on the part of the SMIB in forwarding the report of the first disciplinary inquiry**. As observed earlier, the Inquiry Officer has taken more than ten months to forward his final report to SMIB after the conclusion of the proceedings.*

***Based on the facts and overall circumstances of this case, I am not convinced that the Petitioner was prejudiced by any conduct of the relevant authorities, in failing to make the Petitioner aware of the reasons recorded by the Disciplinary Authority to hold a fresh disciplinary inquiry**. Thus, I am not inclined to consider the relief prayed for in paragraph 'C' of the prayer merely based on the proposition of the Petitioner that the reason to summon a fresh inquiry have not been communicated to him.*

…

Further, I take the view that the Petitioner has failed to satisfy Court that the author of the impugned document 'P19' has acted beyond his jurisdiction and contrary to

principles of Natural Justice or pronounces a decision which is eminently irrational or unreasonable. *"* (the emphasis was added).

28. **<u>In the instant case</u>**, the main contention of the Petitioner is that the conduct of the Respondents is *ultra vires* and arbitrary as they initiated a second disciplinary inquiry in contravention of the Disciplinary Rules of SMIB. As provided for in 16.3 and 16.4 of the Rules and as held by the dicta in the above quoted CA/WRT/160/2022 the mandatory requirement when exercising ordering a fresh inquiry is that the reasons have to be noted in the relevant file. The 3rd Respondent being the Disciplinary Authority has duly acted under 16.3 and 16.4 correctly noted down the reasons in the relevant file. It is evident from the 'Cover Page' of the 1st Disciplinary Inquiry Report marked 'R9'. The reasons were recorded as follows: *"There were certain contradictions and ambiguities amongst the final decisions of the inquiry report of other officers who had same charges and therefore it is proposed to initiate a fresh inquiry"* - Signed by the 3rd Respondent 07.10.2022.

29. In the instant case, the Respondents have acted in full compliance of the Disciplinary Rules (R2) and noted the reasons in the relevant file (R9) and duly without delay informed the Petitioner of the commencement of the 2nd disciplinary inquiry by letters R11 and R12.

30. Unlike in the CA/WRT/160/2022 application, the Petitioner in this instant application fully participated in the second Disciplinary Inquiry without raising any objections as to any form of *mala fides* or *ultra vires* conduct of the Respondents. Thus, the Petitioner is guilty of acquiescence and waiver and is estopped in law from challenging the findings of the inquiry after its conclusion.

31. This type of situation arose in the case of <u>*N.K. Dona Lalitha Padmini vs. N.K.D.P. Nishantha Kumari*</u> (SC/HC/LA/134/2016 decided on 07.09.2018), where His Lordship Priyantha Jayawardena P.C. held:

> "*Spencer Bower at page 308 of his work Estoppel by Representation 1966 (2nd Edition) says that:*
>
> > *'So too when a party litigant, being in a position to object that the matter in difference is outside the local, pecuniary or other limits of jurisdiction of the*

tribunal to which his adversary has resorted, ***deliberately elects to waive the objection, and to proceed to the end as if no such objection existed, in the expectation of obtaining a decision in his favour, he cannot be allowed, when this expectation is not realized, to set up that the tribunal has no jurisdiction over the cause or parties****, except in that class of case, already noticed, where the allowance of the estoppel would result in totally new jurisdiction being created.* ***The like estoppel is raised by a party's attendance at the hearing and taking part in the proceeding without raising any objection to the personal disqualification of a member of the tribunal, or to the non-compliance of any notice, summons, or service of the process, with statutory requirements or rules of court, or to the informality of a writ****."*' (the emphasis was added)

32. It is seen that per the proceedings of the six sessions of the second inquiry (marked 'R14(a)' to 'R14(f)'), the Petitioner was present with her covering up officer and fully participated and without raising any objections or concerns of alleged *ultra vires* or arbitrary conduct of the Respondents.

33. The charge sheet issued to the Petitioner dated 20.11.2017 marked as 'R6' inter alia includes:

i. The granting of personal loans without conducting the appropriate income inspection of the fraudulent individual loan applicants;

ii. The failure to identify the fraudulent or forged documents such as the National Identity Cards, Bank Passbooks, Utility Bills, Deed Copies and Salary Slips which could be identified as fraudulent or forged documents on the face of it;

iii. The failure to certify the photocopies of the National Identity Cards, Bank Passbooks, and other relevant documentation as true copies of the originals and failure to certify that the originals have been seen;

iv. The failure to complete the mandatory segments and/or the entirety of the Security Documents and the failure to duly investigate as to why the said Security Documents were not completed;

v. The failure to abide by the Disciplinary Code, the relevant Handbook and/or the Rules and regulations put forward from time to time in granting the said personal loans;

vi. The failure to carry out duties and responsibilities with due diligence, and the negligent conduct in granting the said personal loans.

34. It is evident that the Respondents have acted in accordance with the provisions of the Disciplinary Rules marked as 'R2', and therefore the conduct of the Respondents is not *ultra vires.*

UTMOST CONFIDENCE EXPECTED FROM AN OFFICER IN A BANK:

35. This Court drew its attention to the following case law when deciding the instant matter:

(1) *D.M. Ranbanda vs. People's Bank* - SC Appeal 36/2015 decided on 22.07.2019, where His Lordship S. Thurairaja PC, J. held:

"*The workman, Dasanayake Mudiyanselage Ranbanda, the Employee Appellant was an employee of the Peoples' Bank, the Employer Respondent from 16.10.1972 as a clerk. The Employee Appellant gradually rose in rank and was appointed as Manager of Grade 3(1) of Thambuththegama Branch of the Respondent Bank on 01/06/1996, in the material time relevant to this application. Applicant worked as the Manager of the Thambuththegama Branch and is charged for violating instructions of Circular No. 388/84 with regard to granting of TODs (Temporary Over Drafts) and several other charges as demonstrated below.*

…

The Employee-Appellant was served with a charge sheet dated 20/09/2001 Marked as 'X 10'. Consequently, a domestic inquiry was conducted by the Respondent bank against the Employee-Appellant and was found guilty of misconduct for all the charges.

…

At page 8: *I am of the view that, Employee Appellant, as the Branch Manager of a Bank is responsible for the discipline and management of the entire branch of the Bank. The Employee Appellant is the enforcer of discipline and the supervising authority of the activities within the branch to ensure the compliance with the rules and regulations. If he is blatantly disregarding strict circular instructions in favour of third parties and grant TODs at his will over and above the authorised limits in a breach of trust and confidence placed on him by the bank.* ***It is observed that, the irresponsible conduct of the Employee Appellant exposed the Bank to very heavy losses****"* (the emphasis was added)

(2) . In Sithamparanathan v Peoples Bank [1986] 1 Sri LR 411, Siva Selliah J., observed as follows: "*It is needless to emphasize* ***that the utmost confidence is expected of any officer employed in a Bank****. He owes a duty both to the Bank to preserve its fair name and integrity and to the customer whose money lies in deposit with the Bank. Integrity and confidence thus are indispensable and where an officer has forfeited such confidence has been shown up as being involved in any fraudulent or questionable transaction, both public interest and the interest of the Bank demands that he should be removed from such confidence*". (the emphasis was added)

(3) In Manager, Nakiyadeniya Group vs The Lanka Estate Workers Union [1969] 77 CLW 52, De Krester, J. held as follows: "*In the making of a just and equitable order, one must consider not only the interests of the employee but also the interests of the employers and the wider interest of the country for the object of social legislation is to have not only contended employees but also contended employers*.

36. Thus, it is clear that our Courts have dealt with matters of this nature by considering not only the interests of the employee but of the employer by taking into account failures or negligent conduct in relation to carrying out the duties and responsibilities given to an employee.

37. In conclusion, considering that the Respondents have followed the stipulated regulations in relation to the inquiries held against the Petitioner, I am of the view that their conduct cannot be considered *ultra vires.*

38. For the foregoing reasons, the application is dismissed without costs.

Judge of the Court of Appeal

Hon. Rohantha Abeysuriya PC, J.(P/CA)

I agree.

President of the Court of Appeal