

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

*In the matter of an application for Writ of
Certiorari and Mandamus under and in terms
of Article 140 & 141 of the Constitution of the
Democratic Socialist Republic of Sri Lanka.*

Court Of Appeal Writ Application No:
CA (WRIT) 442/2023

Anthonimuthu David Egwin,
No. 395, / 47A, Joseph Vaz Lane,
Rambaikulam,
Vavuniya.

PETITIONER

Vs.

1. Road Development Authority,
“Maganeguma Mahamedura”,
No. 216, Denzil Kobbekaduwa Mawatha,
Koswatte, Battaramulle.
2. C. P. Athuluwage,
Chairman,
Road Development Authority,
No. 216, Denzil Kobbekaduwa Mawatha,
Koswatte, Battaramulle.
3. L. V. S. Weerakon,
Director General,
Road Development Authority,
No. 216, Denzil Kobbekaduwa Mawatha,
Koswatte, Battaramulle.

4. Mrs. B. Sandamali,
Director Internal Audit,
Road Development Authority,
No. 216, Denzil Kobbekaduwa Mawatha,
Koswatte, Battaramulle.
5. Keerthi Damboragama,
Former Internal Auditor,
Road Development Authority,
No. 216, Denzil Kobbekaduwa Mawatha,
Koswatte, Battaramulle.
6. Ranjith Premasiri,
Former Secretary,
Ministry of Highways and Transport,
No. 216, Denzil Kobbekaduwa Mawatha,
Koswatte, Battaramulle.
7. M. M. P. K. Mayadunna
Secretary, Ministry of Highways and Transport,
No. 216, Denzil Kobbekaduwa Mawatha,
Koswatte, Battaramulle.
8. N. Sooriyakumar,
Director Administration,
Road Development Authority,
No. 216, Denzil Kobbekaduwa Mawatha,
Koswatte, Battaramulle.
9. Gunasekeram Joyce Delphin Cross,
Provincial Director,
Northern Province,
Road Development Authority,
Kandy Road, Vavuniya.

10. Chandrasoma Perera,
Preliminary Inquiry Officer,
Road Development Authority,
No. 216, Denzil Kobbekaduwa Mawatha,
Koswatte, Battaramulle.
11. H. L. Tissera,
Disciplinary Inquiry Officer / Sole Person
Tribunal,
No. 110 / 19, 16th Lane,
Wickramasinghepura,
Battaramulla.
12. Kirupakaran Nirthika,
Clerk,
Executive Engineer's Office,
Road Development Authority,
Thalaimannar Road, Mannar and also of
No. 17, Kathiresu Road,
Vavuniya.
13. Nagamany Kirupakaran,
No. 17, Kathiresu Road, Vavuniya.
14. S. M. N. Samanlatha,
Management Assistant, Provincial Director
Office,
Northern Province,
Road Development Authority,
Kandy Road, Vavuniya.
15. Ramu Kanakaraj,
Office Assistant, Chief Engineer's Office,
Road Development Authority,

Kandy Road, Vavuniya.

16. Premakumaran Robin Gerard,
Management Assistant,
Executive Engineer's Office of Mullaitivu,
Road Development Authority,
Mankulam.
17. S. Neelamehan,
Clerk,
Executive Engineer's Office of Vavuniya,
Road Development Authority,
Kandy Road, Vavuniya.
18. Rajendran Dishanthan,
Management Assistant, Provincial Director
Office,
Northern Province,
Road Development Authority Office,
Kandy Road, Vavuniya.
19. Sokkalingam Kulenthiran,
Office Assistant, Provincial Director's Office,
Road Development Authority,
Kandy Road, Vavuniya.
20. Shanmukanathan Vinothan,
Management Assistant,
Provincial Director's Office,
Road Development Authority,
Kandy Road, Vavuniya.
21. A. L. A. Hubail,
Office of the Director Administration,

Road Development Authority,
No. 216, Denzil Kobbekaduwa Mawatha,
Koswatte, Battaramulle.

RESPONDENTS

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

Counsel : K. Raveendran, AAL for the Petitioner.

Dilantha Sampath, SC for the Respondents.

Written Submissions on : 30.03.2026 for the Petitioner.
26.05.2026 for the 1st – 5th, 8th & 9th Respondents

Supported on : 10.02.2026

Decided on : 17.07.2026

K. Priyantha Fernando, J. (CA)

1. The Petitioner invoked the jurisdiction of this Court under and in terms Article 140 of the Constitution seeking *inter alia* for Writs of *Certiorari* to quash the defective charge sheet, the arbitrary findings of the 11th Respondent, and the disciplinary decisions and punishments enforced by the 1st, 2nd, and 3rd Respondents.

POSITION OF THE PETITIONER:

2. The Petitioner contended that he has been a duly appointed employee of the 1st Respondent, the Road Development Authority, having joined as a Clerk Grade IV in 2007 and subsequently earning promotions up to Grade I. The Petitioner stated that the genesis of the dispute arose when the 5th Respondent, acting as the Director of Internal Auditing, conducted an internal inquiry into allegations of office misbehavior and harassment leveled by the 12th Respondent.
3. The Petitioner argued that he was expressly discharged from these allegations after the 5th Respondent concluded there was no evidence of harassment. To further substantiate this, the Petitioner highlighted that the 12th Respondent herself provided a statement to the Vavuniya Police explicitly affirming that neither she nor any other female officers had ever been subjected to sexual or other forms of harassment at the workplace.
4. The Petitioner submitted that, despite this exoneration, the 3rd Respondent (Deputy Vice Chancellor) improperly appointed the 10th Respondent (Dean of the Faculty of Medicine) to conduct a second preliminary investigation into the same allegations.
5. The Petitioner argued that this inquiry was fundamentally flawed and contravened **Clauses 5.2 and 13.3 of the Establishment Code**, as the 10th Respondent had never been employed by the Road Development Authority or any authorized institution. Furthermore, the Petitioner contended that the subsequent charge sheet issued against him, detailing four charges of serious misconduct, causing mental pressure to the 12th Respondent, disturbing her duties, creating staff conflict, and breaching organizational trust was **vague and legally defective**. The Petitioner further averred that his bonuses were unlawfully withheld prior to the issuance of this charge sheet, which constitutes a direct **violation of Section 14.12 of the Establishment Code**.
6. The Petitioner argued that during the formal inquiry conducted by the 11th Respondent, a complete absence of evidentiary support for the charges was exposed. The Petitioner pointed out that every staff witness called, testified that they had never seen or heard of the Petitioner engaging in any misconduct or misbehavior toward the 12th Respondent. Most notably, the Petitioner stated that witness Robin Jerad stated that the 12th Respondent had actively requested him to falsely claim he had witnessed the Petitioner misbehaving.

7. Additionally, the Petitioner highlighted that the 12th Respondent's husband, who had no firsthand knowledge of the workplace dynamics, admitted during cross-examination that his wife never sought medical attention or consulted a doctor for the alleged "mental pressure". Thus, the Petitioner contended that the 11th Respondent's ultimate decision to find him guilty of the first and fourth charges was arbitrary, *mala fide*, and wholly unsubstantiated by the evidence presented.
8. It was argued that the 11th Respondent improperly formulated the first charge based solely on the complainant's testimony rather than the original charge sheet, while paradoxically admitting in his findings that the complainant's working capacity and performance were never actually impaired. Furthermore, the Petitioner stated that the 11th Respondent baselessly speculated that the witnesses who testified favorably for the Petitioner had been forced to do so, using this unfounded assumption to disregard their exculpatory evidence entirely. The Petitioner also submitted that finding him guilty of the fourth charge (breach of trust) solely because it was linked to the unsupported first charge was legally unsustainable.
9. Finally, the Petitioner submitted that the Respondents acted in a *mala fide* and arbitrary manner by deliberately withholding the inquiry officer's findings, forcing the Petitioner to appeal to the Right to Information Commission before the documents were finally released in November 2023. As a result of these baseless findings, the Petitioner argued he was subjected to unjust and punitive disciplinary actions, including an unwarranted punitive transfer from Vavuniya to Kilinochchi, the suspension of his 2021 annual increment for one year, a five-year ban on sitting for promotional exams or interviews, and the withholding of bonus payments.

POSITION OF THE RESPONDENTS:

10. The Respondents argued that the allegations faced by the Petitioner were corroborated by statements from the 12th Respondent's husband and her colleagues, whom she had informed about the harassment. Consequently, it is the Respondents position that a charge sheet was lawfully issued against the Petitioner, outlining the four charges of committing serious misconduct by causing mental pressure, causing disturbances to duties, making conflict among staff, and breaching organizational trust. During the formal disciplinary inquiry, it was noted

that the 12th Respondent clarified she avoided making a police complaint simply to prevent disrespect to her husband's family. The Respondents emphasized that while the Petitioner pleaded not guilty, he completely refrained from giving evidence or calling any witnesses on his behalf.

11. The Respondents contended that it was only after following an analysis of the evidence, that the Formal Inquiry Officer rightfully concluded that the Petitioner had committed 'verbal sexual harassment' resulting in 'mental pressure', finding him guilty of the first and fourth charges. Based on these findings, the Respondents stated that the 3rd Respondent issued a valid disciplinary order. As such, the Respondents argued that the entire procedure, from the preliminary inquiry to the formal disciplinary inquiry and final order was meticulously followed. It is the contention of the Respondents that there was no procedural irregularity, impropriety, irrationality, or illegality in the steps adopted to discipline the Petitioner.
12. In support of the arguments, the Respondents contended that the Petitioner's writ application is a mechanism for judicial review, not an appeal and cited the judgment delivered in CA/WRT/0380/2020 decided on 05.09.2023 (R.D Aluthgamage Vs. Retired Justice N.E Dissanayaka), in which it was held that judicial review focuses strictly on procedural impropriety and illegality, rather than re-evaluating the evidence or the substantive correctness of the conclusion.
13. The Respondents also argued, citing the judgment delivered in the case of SC/Appeal/60/2018 decided on 05.05.2022 (Brandix Apparel Solutions Limited v. Fernando), that employers have an absolute duty to provide a safe, harassment-free environment to maintain employee morale and productivity. In reinforcement of the said arguments, the Respondents contended that under Article 14(1)(g) of the Sri Lankan Constitution and international obligations such as the CEDAW, (as highlighted in SC/FR/81/2021 decided on 05.08.2026 [Dr. W.A.M Udari L. Abeysinghe Vs. Prof. W.M Thilakarathne]) a citizen's fundamental right to occupation is dependent on a workplace free from gender specific violence and discrimination.
14. In order to examine whether any clause of the Establishment Code is violated by the Respondents, it is necessary to analyse the said provisions. I reproduce the applicable clauses as follows:

“ESTABLISHMENTS CODE SECTION 14

14. Issuing a Charge Sheet to an Accused Officer

14:1 The charge need not take a legalistic form. However, it should be a clear and simple statement or statements of any acts of misconduct or lapses committed or believed to have been committed by the accused officer that call for a formal disciplinary inquiry against him.

14:2 The charge sheet should essentially contain the following recitals:

14:2:1 Under which Chapter, Section or Sections of this Code the Charge Sheet against the officer is issued.

14:2:2 Under which schedule of this Code do the charges preferred fall.

14:2:3 The time limit allowed for the accused officer to submit his answers to the Charge Sheet.

14:2:4 To whom should the answers to the Charge Sheet be submitted.

14:2:5 The Charges preferred.

14:2:6 The names, posts and present places of work of witnesses who are expected to be summoned for the formal disciplinary inquiry to substantiate the charges.

14:2:7 Statements of witnesses and documents that would be used to substantiate the charges at the formal disciplinary inquiry.

14:2:8 In whose custody are the documents that constitute evidence, and how and where they could be examined by the accused officer himself or with his representative.

14:2:9 That the accused officer has the right to appoint an officer to represent him.

14:2:10 Action that would be taken if answers to the Charge Sheet are not received within the stipulated period.

14:3 Whenever a charge sheet is issued against an accused officer by a Disciplinary Authority or by any other Authority duly authorized by the former, it should be in the form as given in the specimen in Appendix 5 or 6, as the case may be.

14:4 A Disciplinary Authority may amend a charge sheet at any time between its hand-over to the accused officer and the commencement of the formal disciplinary inquiry.

14:5 Whenever a charge sheet is amended in terms of sub-section 14:4 above, the Disciplinary Authority should give sufficient time to the accused officer to submit his explanations to the amended charge sheet or to examine the documents.

14:6 Where an officer presenting the case for the prosecution considers in the course of a disciplinary inquiry, but before leading evidence for the prosecution is over, that the charge sheet should be amended, and where such amendments relate to the charges preferred, he should forward the proposed amendments in writing to the appropriate Disciplinary Authority. In such an instance, the Tribunal should adjourn the inquiry until such amendments are approved or not approved by the Disciplinary Authority. It will be the responsibility of the Disciplinary Authority to make available his decision expeditiously to enable the inquiry to be held continuously.

14:7 The number of occasions that a charge sheet could be amended in terms of sub-section 14:6 above is limited to two.

14:8 When the officer presenting the case for the prosecution makes a request, after the commencement of the disciplinary inquiry, to amend the list of documents or the list of names of witnesses mentioned in the charge sheet, the Tribunal may take a decision on such request as is necessary. The number of occasions that a list of documents or list of witnesses could be so amended is limited to two.

14:9 It will be the responsibility of the Disciplinary Authority or any other officer mentioned in the charge sheet as the officer in whose charge the documents are kept to provide the opportunity to the accused officer or to the officer duly appointed to represent him to examine statements and documents in so far as they relate to the documentary evidence mentioned in the charge sheet against the officer.

14:10 It will be the responsibility of the officer in charge of the documents to ensure their absolute security during such examination as referred to in sub-section 14:9 above.

14:11 On the request made by the accused officer or the officer appearing for him, photocopies of relevant statements and documents may, at the discretion of the officer in charge of the documents, be made available. Action should be taken to recover a specified fee for the State when making available such photocopies.

14:12 When a formal charge sheet has been issued against an officer for disciplinary action against him, granting him salary increments, promotions, foreign trips and scholarship, study leave with pay, loans and advances, no-pay leave locally and abroad and secondments should forth-with be suspended until the final outcome of the inquiry. (Amendment to Sub Section 14:12 PA Circular 30/2019)

14:13 If it becomes necessary for an accused officer to proceed abroad to get treatment for an illness on the recommendation of a Medical specialist permission should be obtained from the Disciplinary Authority.”

15. Although it was contended by the Petitioner that suspending of bonuses is a violation of the clause 14.12 of the Establishment Code, it is clearly provided in the said clause that such benefits can be suspended until the final determination of the inquiry.
16. In the instant case, it is revealed that the Petitioner who is a Grade 1 Clerk attached to the Provincial Director's Office of RDA at Vavuniya has been subjected to a preliminary inquiry upon a complaint by the 12th Respondent, one Neerthika, a colleague of the Petitioner of the same work place in respect of sexual harassment. It has been referred to the 2nd Respondent - Chairman of the RDA by the 12th respondent on 12.06.2012.
17. It is important to note that the 12th Respondent in her statement dated 17.10.2020 (vide at pages 1-5 of P24) has explained in detail the manner in which the Petitioner abused her verbally at the work place. The statement of her husband (vide at pages 7-9 of P24) corroborates the stance of the 12th Respondent. Further, two colleagues of the 12th Respondent namely Robin Gerad

and Ramu Kanagarajah have also affirmed her statement. In the circumstances, the Petitioner was served with the charge sheet dated 18.03.2021 (P16).

18. It is revealed in the proceedings of the Formal Inquiry dated 23.02.2023 (vide P28) that the 12th Respondent while denying the suggestion made on behalf of the Petitioner that the incident was false/fabricated, clarified that she refrained from making a formal complaint to any law enforcement authority as such act would bring disrespect to her husband's family. Considering the strict Hindu culture which she is subjected to, it is not surprising and quite plausible the way 12th Respondent has acted. Thus, the credibility of her complaint against the Petitioner is strengthened.

19. It is revealed to this Court that at all times material to the issuance of the disciplinary order, the proper procedure has been followed and that there is no procedural irregularity, impropriety or illegality in the procedure adopted.

20. This Court also take cognizance of the following judgments delivered by the Apex Court of the Country:

(i) Manohari Pelaketiya v. H.M. Gunasekera, Secretary, Ministry of Education and Others [SC/FR/76/2012, S.C. minutes 28.09.2016] – The impact of continuous mental abuse has been emphasized by His Lordship Justice Anil Gooneratne as follows:

“I observe that continuous abuse and sexual harassment over a period of time would cause physical and mental damage to any human being. It is not possible for a female to resist such abuses unless she is a strong personality who could react and retort to such abuses and harassment and make the abuser to shamelessly withdraw, being exposed to the public at large of his indecency. Continuous threats and abuses could also make a person unwell both physically and mentally. My views expressed on the aspect of abuses would be endorsed by any law-abiding citizen and it should be so”

(ii) Brandix Apparel Solutions Limited v. Fernando [SC/Appeal/60/2018, S.C. minutes 05.05.2022] His Lordship Justice Janak De Silva held that:

*“It should be noted that it is the duty of an employer to provide a safe and supportive work environment for its employees. The productivity of the employee and the company will not increase unless such an environment exists. **Sexual harassment in any form should be dealt with severely because it will otherwise pollute the working environment and affect employee morale**” (the emphasis was added)*

(iii) In a most recent judgment of Dr. W.A.M. Udari L. Abeysinghe vs. Professor W.M. Thilakaratne and Others [SC/FR/81/2021 S.C. minutes 08.05.2026] - His Lordship Justice Janak de Silva observed that:

“It is important to observe that Article 11(1) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which Sri Lanka has signed and ratified without any reservation, requires State Parties to take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on basis of equality of men and women, the same rights including the right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

*The CEDAW General Recommendations No. 19: Violence against Women, in its recommendation on April 11, states that equality in employment can be seriously impaired when women are subjected to gender-specific violence, such as sexual harassment in the workplace. **Sexual harassment includes such unwelcome** sexually determined behaviour as physical contact and advances, **sexually coloured remarks**, showing pornography and sexual demands, **whether by words or actions**. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the women has reasonable ground to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment.*

Article 14(1) (g) of the Constitution recognizes that a citizen has the freedom to engage by himself or in association with others in any lawful occupation, profession, trade, business or enterprise. The fundamental right to engage in a lawful occupation, profession, trade, business or enterprise is dependent on the creation of an environment free from sexual harassment” (the emphasis was added)

21. In the circumstances, I find no reason to grant any relief prayed for in the Petition. Accordingly, the application is dismissed with costs.

Judge of the Court of Appeal

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

I agree.

President of the Court of Appeal