

**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 in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.*

CA (Writ) Application No.517/2023

B. Rasika Priyangani  
No. 173/B, Weerahena,  
Nattandiya.

**PETITIONER**

Vs.

1. The Land Reform Commission  
No.475,  
Kaduwela Road,  
Battaramulla.
2. Nilantha Wijesinghe  
Chairman,  
No. 475, Kaduwela Road,  
Battaramulla.
- 2a. R.K. Nihal  
Chairman,  
No. 475, Kaduwela Road,  
Battaramulla.
3. P. Malathi  
Member.  
No. 475, Kaduwela Road,  
Battaramulla.
- 3a. W.A.R.T. Wickramaarachchi,  
Member.  
No. 475, Kaduwela Road,  
Battaramulla.
4. A.H.M.L. Abeyrathne  
Member.

No. 475, Kaduwela Road,  
Battaramulla.

- 4a. U.B. Rohana Rajapakshe  
Member.  
No. 475, Kaduwela Road,  
Battaramulla.
- 5. K.D. Bandula Jayasinghe  
Member.  
No. 475, Kaduwela Road,  
Battaramulla.
- 5a. R.A.C. Ranaweera  
Member.  
No. 475, Kaduwela Road,  
Battaramulla.
- 6. S.A. Batagoda  
Member.  
No. 475, Kaduwela Road,  
Battaramulla.
- 6a. T.M.D.P. Thennakoon  
Member.  
No. 475, Kaduwela Road,  
Battaramulla.
- 7. D.C. Jayadewa  
Member.  
No. 475, Kaduwela Road,  
Battaramulla.
- 7a. S.S. Mudalige  
Member.  
No. 475, Kaduwela Road,  
Battaramulla.
- 8. K.S. Wijeekeerthi  
Member.  
No. 475, Kaduwela Road,  
Battaramulla.

- 8a. D.D.K. Wickramaarachchi  
Member.  
No. 475, Kaduwela Road,  
Battaramulla.
9. Pandukabaya Harsha Keerthinanda  
Member.  
No. 475, Kaduwela Road,  
Battaramulla.
- 9a. A.A. Dharmasiri  
Member.  
No. 475, Kaduwela Road,  
Battaramulla.
10. Kusum Herath  
Board Secretary/ Director-Administration  
No. 475, Kaduwela Road,  
Battaramulla.
11. Pathmasiri Liyanage  
Director General,  
No. 475, Kaduwela Road,  
Battaramulla.
12. S. Priyani Malkanti Merthinu  
Director,  
Land Reform Commission Office,  
Puttalam.
13. H.R.L. Sugathadasa  
Member of the Arbitral Tribunal,  
Industrial Court,  
Department of Labour,  
Narahenpita.
14. Hon. Attorney General  
Attorney General's Department,  
Colombo 12.

**RESPONDENTS**

**Before:** Mayadunne Corea, J.  
Mahen Gopallawa, J.

**Counsel:** Rushdhe Habib with Ms. Amrah Minzar instructed by Aravinda N. Manathunga Arachchi for the Petitioner.

Ms. Zuhri Zain Fuard, Deputy Solicitor General for the 1<sup>st</sup> to 11<sup>th</sup> and 14<sup>th</sup> Respondents.

**Supported on:** 27.04.2026

**Decided on:** 27.05.2026

**Mahen Gopallawa, J.**

### **Introduction**

The Petitioner is presently employed as a Staff Assistant (Grade V) at the Land Reform Commission (1<sup>st</sup> Respondent) and has invoked the jurisdiction of this Court regarding the denial of promotions due to her. The substantive reliefs sought by the Petitioner in the prayer to the petition may be summarized as follows;

- b) a writ of Mandamus directing the 1<sup>st</sup>, 2<sup>nd</sup> and or any other Respondents to promote the Petitioner to the post of Assistant Director (Grade IV) of the Land Reform Commission, with effect from 2003 or the date that the Court may deem fit in line with P9, P30 and P32;
- c) a writ of Mandamus directing the 1<sup>st</sup>, 2<sup>nd</sup> and or any other Respondents to promote the Petitioner to the post of Deputy Director (Grade III) of the Land Reform Commission, with effect from 2006 or the date that the Court may deem fit in line with P9, P30 and P32;
- d) a writ of Certiorari quashing the decision of the 2<sup>nd</sup> Respondent to appoint the 12<sup>th</sup> Respondent to the post of Director of the Puttalam District Land Reform Commission Office in terms of the letter dated 27.07.2023 (P30);
- e) a writ of Certiorari quashing the decision of the 1<sup>st</sup>, 2<sup>nd</sup> and or any other Respondents to degrade the Petitioner in terms of the letter dated 07.08.2023 (P41);
- f) a writ of Mandamus directing the 1<sup>st</sup>, 2<sup>nd</sup> and or any other Respondents to promote the Petitioner to the post of Director of the Puttalam District Land Reform Office;
- g) grant all back wages and promotion-related facilities and amenities;

h) grant cost and compensation in such amounts deemed just and equitable to this Court for the violation of the aforementioned rights.

When the application was taken up for support on 27.04.2026, the learned Deputy Solicitor General, who represented the 1<sup>st</sup> to 11<sup>th</sup> and 14<sup>th</sup> Respondents, objected to the grant of the aforementioned reliefs sought by the Petitioner. The 12<sup>th</sup> Respondent has not participated in these proceedings.

### **Factual Background**

The Petitioner had joined the 1<sup>st</sup> Respondent (LRC) as a Clerk-Grade VII with effect from 01.12.1995 (P2) and, had thereafter been promoted to the post of Staff Assistant-Grade V with effect from 01.10.2001 (P3), after having passed a competitive examination. She had been appointed to cover up duties in the post of Director in the Puttalam District Office on 17.07.2018 (P6) and had served in such capacity until 03.08.2023 (P33), when the 12<sup>th</sup> Respondent was appointed to the said station. It is the Petitioner's position that although had been granted such covering-up appointment, she has not received any promotions from her substantive post of Staff Assistant-Grade V. She has stated that, although she had applied for the post of Assistant Director-Grade IV in 2007 and 2009, she had not been appointed, and that the several appeals (P14, P16, 19<sup>1</sup>) submitted by her too had been unsuccessful.

The petition also discloses that there had been change in the schemes of recruitment and promotion in respect of all posts in LRC in 2012, with new schemes of recruitments having being approved by the Director General of Management Services on 14.09.2012. The said schemes of recruitment introduced in 2012 ("the 2012 SOR") have been consolidated and annexed to the petition marked P8. The 2012 SOR replaced the schemes of recruitment that had been in effect since 1979 ("the 1979 SOR"), a consolidated copy of which has also been annexed to the petition marked P9.

The Petitioner contends that she has been subjected to unequal treatment by virtue of the appointment granted to the 12<sup>th</sup> Respondent to the post of Assistant Director with effect from 03.10.2012 by letter dated 27.07.2023 (P30), disregarding her seniority, experience and qualifications.<sup>2</sup> She further contends that, by appointing her to the Puttalam District Office in which the Petitioner was covering up duties as Director, the Petitioner had been unfairly, illegally and arbitrarily degraded.<sup>3</sup> She has alleged that the main reason for her removal from such post

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<sup>1</sup> It is observed that the copy of the document marked P19 tendered with the petition is incomplete and also does not bear a signature

<sup>2</sup> vide paragraph 18 of the petition

<sup>3</sup> vide paragraph 32 of the petition

was because she had not fulfilled the instructions given by the 2<sup>nd</sup> Respondent to act in a wrongful manner in relation to a land.<sup>4</sup>

The learned Deputy Solicitor General for the Respondents rejected such allegations made by the Petitioner and submitted that the 12<sup>th</sup> Respondent has been appointed to the post of Assistant Director in compliance with the award made by the 13<sup>th</sup> Respondent dated 16.06.2022 (P32) in the Industrial Court in Case No. A/123/2019. The said proceedings had been conducted under the Industrial Disputes Act No. 43 of 1950 (as amended) upon a complaint made by the said 12<sup>th</sup> Respondent. She further submitted that the Petitioner was not entitled to be appointed to the post of Assistant Director in terms of the 2012 SOR, which is presently in effect and governs appointments and promotions in the LRC. Such positions will be examined in greater detail when the grounds of review urged by the Petitioner are considered.

The Petitioner has also disclosed that she had lodged a complaint at the District Labour Office-Colombo East under reference No. COM/2023/10876, although a copy of same has not been attached to the petition or its outcome indicated to this Court.

### **Grounds of Review and Analysis**

In the petition and in the submissions made by learned Counsel for the Petitioner the following grounds of review were urged;

- a. that the fundamental rights of the Petitioner guaranteed under Articles 12(1) and 14(1)(g) of the Constitution have been violated by the Respondents;<sup>5</sup>
- b. that the conduct of the Respondents has violated the Petitioner's legitimate expectations;<sup>6</sup> and
- c. that the appointment of the 12<sup>th</sup> Respondent to the post of Assistant Director (erroneously referred to as appointment to the post of Director in the prayer to the petition) (P30) was invalid.<sup>7</sup>

I intend to examine the aforementioned grounds with recourse to the positions taken up by the parties and relevant judicial decisions.

#### **a. Violation of the Fundamental Rights of the Petitioner**

The Petitioner has pleaded that her fundamental rights of the Petitioner guaranteed under Articles 12(1) and 14(1)(g) of the Constitution have been violated by the conduct of the Respondents.<sup>8</sup> The said Articles 12 (1) and 14(1)(g) provide as follows;

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<sup>4</sup> vide paragraph 33 of the petition

<sup>5</sup> vide paragraph 50 of the petition

<sup>6</sup> vide paragraph 49 of the petition

<sup>7</sup> vide paragraph 18 and paragraph (d) of the prayer of the petition

<sup>8</sup> vide paragraph 48 of the petition

*12. (1) All persons are equal before the law and are entitled to the equal protection of the law.*

*14. (1) Every citizen is entitled to –*

*.....*

*(g) the freedom to engage by himself or in association with others in any lawful occupation, profession, trade, business or enterprise;...*

The principal submission made by the learned Counsel for the Petitioner was that the Petitioner had been subject to unequal and discriminatory treatment vis-à-vis the 12<sup>th</sup> Respondent in that the said Respondent had been appointed to the post of Assistant Director, disregarding the Petitioner's seniority, experience and qualifications. Furthermore, the said 12<sup>th</sup> Respondent had been assigned to the Puttalam District Office in which the Petitioner she was covering up duties as Director. The learned Counsel submitted that the Petitioner had been "degraded" by such conduct, which also constituted a violation of the freedom to engage in her lawful occupation as contemplated in Article 14(1)(g) of the Constitution.

The learned Deputy Solicitor General on behalf of the Respondents raised a preliminary objection to the maintainability of this ground, contending that the sole and exclusive jurisdiction to determine violations of fundamental rights is vested in the Supreme Court in terms of Article 17 read with Article 126 read with Article 17 of the Constitution. As such, she contended that this Court did not have jurisdiction to inquire into and pronounce upon any alleged infringement or imminent infringement of fundamental rights.

Article 126(1) of the Constitution reads as follows;

*126. (1) The Supreme Court shall have sole and exclusive jurisdiction to hear and determine any question relating to the infringement or imminent infringement by executive or administrative action of any fundamental right or language right declared and recognized by Chapter III or Chapter IV.*

Article 17 of the Constitution reads as follows;

*17. Every person shall be entitled to apply to the Supreme Court, as provided by Article 126, in respect of the infringement or imminent infringement, by executive or administrative action, of a fundamental right to which such person is entitled under the provisions of this Chapter.*

The status of the law where violations of fundamental rights are alleged in writ applications has been clarified by the Supreme Court in ***Shanthi Chandrasekaram v. D. B. Wijethunga and others***,<sup>9</sup> in which three *habeas corpus* applications were referred to the Supreme Court by the Court of Appeal under Article 126(3) of the Constitution, and the Court held as follows (per Mark Fernando J);

Article 126(1) confers sole and exclusive jurisdiction in respect of infringements of fundamental rights, and Article 126(2) prescribes how that jurisdiction may be invoked. Article 126(3) is not an extension of or exception to those provisions; if a person who alleges that his fundamental rights have been violated fails to comply with them, he cannot smuggle that question into a writ application in which relief is claimed on different facts and grounds, and thereby seek a decision from this Court. On the other hand, there could be transactions or situations in which, on virtually the same facts and grounds, a person appears entitled to claim relief from the Court of Appeal through a writ application under Article 140 or 141, and from this Court by a fundamental rights application under Article 126. Since those provisions do not permit the joinder of such claims, the aggrieved party would have to institute two different proceedings, in two different courts, in respect of virtually identical "causes of action" arising from the same transaction, unless there is express provision permitting joinder. The prevention, in such circumstances, of a multiplicity of suits (with their known concomitants) is the object of Article 126(3).<sup>10</sup> (emphasis added)

Such decision has also been cited with approval by this Court in ***Viyanralalage Seaman Nishantha Udaya Kumara and others v Secretary, Ministry of Education and Local Government, Uva Provincial Council, and others***<sup>11</sup> and ***Nigamuni Piyuji Rasanja Mendis v University of Kelaniya and others***.<sup>12</sup>

It is observed that, in the petition in instant application, the Petitioner has invited this Court to determine that the Petitioner's fundamental rights under Article 12(1) and 14(1)(g) have been infringed, which only the Supreme Court is mandated to do in the light of the aforementioned constitutional provisions and judicial pronouncement. In such circumstances, I am inclined to uphold the preliminary objection raised by the Respondents and conclude that this Court does not have jurisdiction to determine the issue whether the fundamental rights of the Petitioner has been infringed by the conduct of the Respondents, as pleaded in the petition.

**b. Denial of the Petitioner's Legitimate Expectation**

The learned Counsel for the Petitioner contended that the acceptance of and acquiescence in the award in favour of the 12<sup>th</sup> Respondent (P32) created an obligation on the part of the LRC to treat

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<sup>9</sup> [1992] 2 Sri L. R 293

<sup>10</sup> Ibid, p 297

<sup>11</sup> CA Writ Application No. 974/2007, decided on 26/05.2020

<sup>12</sup> CA Writ Application No. 90/2021 with CA Writ Application No. 101/2021, decided on 02.08.2023

those similarly circumstanced, including the Petitioner, in the same manner. Accordingly, he contended that the Petitioner had a legitimate expectation to be promoted to the post of Assistant Director. Since the 12<sup>th</sup> Respondent's entitlement to promotions in the aforementioned award had been determined under the 1979 SOR by the arbitrator, the learned Counsel submitted that the Petitioner's entitlement to promotion to the post of Assistant Director too should be determined in accordance with the eligibility criteria set out in the said 1979 SOR.

The learned Deputy Solicitor General for the Respondents sought to reject the Petitioner's contention on two main bases; firstly, she submitted that the award was only applicable to the 12<sup>th</sup> Respondent and that the Petitioner was not entitled to rely upon same; and secondly, that the entitlement of the Petitioner to promotion should be determined in accordance with the 2012 SOR, which is in effect, and that the Petitioner does not satisfy the eligibility criteria set out therein to the promoted to the post of Assistant Director.

I will now proceed to examine the aforementioned arguments presented by the parties. On the issue of the applicability of the arbitral award, it is evident from the award itself that what has been determined therein is an industrial dispute between the 12<sup>th</sup> Respondent and the 1<sup>st</sup> Respondent LRC referred to arbitration in terms of section 4(1) of the Industrial Disputes Act. Furthermore, the reliefs therein too have been granted exclusively to the 12<sup>th</sup> Respondent and no reference has been made their applicable to any other third party. Thus, I am inclined to accept the argument presented by the learned Deputy Solicitor General that the award (P32) was only applicable to the 12<sup>th</sup> Respondent and that the Petitioner is not entitled to rely on same as she was not a party in such arbitral proceedings.

However, the learned Counsel sought to extend the application of such award (P32) by submitting that acceptance and acquiescence of same on the part of the LRC created an obligation to treat other employees similarly circumstanced in the same manner. As pleaded in the petition and submitted by learned Counsel, it is observed that such argument is premised on the principle of equality before the law and the entitlement to equal protection of the law contemplated in Article 12(1) of the Constitution. If this Court were to make a determination on same, it would amount to a determination on a violation of a fundamental right, which this Court is not empowered to do. Hence, it appears that the Petitioner has sought to "smuggle" in a question relating to the violation of a fundamental right into a writ application, as observed in ***Shanthi Chandrasekaram's Case (supra)***, which a petitioner is not entitled to do.

Without prejudice to the above, as submitted by the learned Deputy Solicitor General, the Petitioner had failed to adduce any evidence to establish that any policy decision had been taken by the LRC to extend the benefit of the award to similarly circumstanced employees, as alleged by her.

The learned Counsel for the Petitioner also submitted that the Petitioner's entitlement to promotion should be determined in accordance with the 1979 SOR. He sought to justify such position on the basis that the promotion entitlements of the 12<sup>th</sup> Respondent had been determined in accordance with the said 1979 SOR even after the 2012 SOR had been introduced.

However, as submitted by learned Deputy Solicitor General, there is no material placed before this Court by the Petitioner indicating that such a policy decision had been taken by the LRC. In fact, a perusal of the award (P32) too does not indicate that such a decision exists. In so far as the findings of the arbitrator on the issue are concerned, *ex facie* the arbitrator does not appear to have addressed the objections raised by the LRC in detail, although I do not wish to delve into the merits of the award. Although it cannot be definitively determined due to the paucity of material, it also appears that the 12<sup>th</sup> Respondent may have lodged the complaint upon which the arbitration was held whilst the 1979 SOR was in effect, unlike in the instant case where the application has been lodged definitely after 2012 SOR came into effect. In such circumstances, I am not inclined to accept the position that the Petitioner's entitlement to promotion should be determined in terms of the 1979 SOR.

A perusal of the 2012 SOR (P8) indicates that the schemes of recruitment and promotions for distinct posts contained therein have all been formulated by the LRC and submitted for approval by its Chairman on 28.05.2012, recommended by the Secretary of the Line Ministry on 05.06.2012 and approved by the Director General of Management Services on 14.09.2012. In the absence of any decision to the contrary, there is no reason for this Court to doubt the validity of the said schemes of recruitment and the position taken up by the Respondents that the said 2012 SOR has come into effect from 14.09.2012 and applies to all recruitments and promotions thereafter.

At this juncture, it would be useful to make a comparison of the eligibility criteria for promotion to the post of Assistant Director under the 1979 and 2012 schemes of recruitment. As per the 1979 SOR (P9), the eligibility criteria applicable for internal applicants are as follows;

(II) අභ්‍යන්තරව බඳවා ගැනීම

(අ) කොමිෂන් සභා සේවයේ V ශ්‍රේණියේ තනතුරක වර්ෂ දෙකක සේවා කාලයක් සපුරා තිබීම හෝ කොමිෂන් සභා සේවයේ දෙවර්ෂයක සේවා කාලයක් සපුරා ඇති පිළිගත් විශ්ව විද්‍යාලයක උපාධිධරයකු වීම.

(ආ) සම්මුඛ පරීක්ෂණයකින් සුදුසුකම් ලැබිය යුතුයි.<sup>13</sup>

The relevant post has been identified as Assistant Director (Zones) in the “manager” service category in the 2012 SOR (P8) and the eligibility criteria for the said post are set out in clause 5.1.5 as follows;<sup>14</sup>

සහකාර අධ්‍යක්ෂ (කලාප)

බාහිර අයදුම්කරුවන් :-

විශ්වවිද්‍යාල ප්‍රතිපාදන කොමිෂන් සභාව විසින් පිළිගත් විශ්වවිද්‍යාලයකින් ලබාගත් ශාස්ත්‍රවේදී උපාධිය, කළමනාකරණය, විද්‍යාව, කෘෂි විද්‍යාව, නීතිය, පරිපාලනය පිළිබඳ ලබාගත් ප්‍රථම උපාධිය

<sup>13</sup> vide page 13 of P9

<sup>14</sup> vide page 18 of P8

උපාධි සුදුසුකම් ලබා ගැනීමෙන් පසු රජයේ හෝ රාජ්‍ය ආයතනයක හෝ පිළිගත් පෞද්ගලික ආයතනයක ඉඩම් විෂය ක්ෂේත්‍රයේ වසර තුන (3) ක පළපුරුද්ද

The aforementioned provisions indicate that the eligibility criteria for promotion for the said post have been significantly enhanced in the 2012 SOR and that the distinction between external and internal applicants has been removed. There is also no material before this Court to indicate that the Petitioner had sought to challenge the provisions contained in the said 2012 SOR at any time prior to the institution of these proceedings.

It is trite law that an appointing authority in a public institution is obliged to comply with its own schemes of recruitment and that appointments made in violation thereof are liable to be invalidated by Court, vide *Jayawickrema v Lakshman*,<sup>15</sup> *De Silva v Peiris*<sup>16</sup> and *K.W.S.P. Jayawadhana and others v Gotabhaya Jayaratne and others*.<sup>17</sup>

In such context, the learned Deputy Solicitor General for the Respondents submitted that the Petitioner was not able to satisfy the eligibility criteria required for promotion set out in the 2012 SOR, which is currently in effect. Such position was not contested by the learned Counsel for the Petitioner. In particular, it is significant that the Petitioner has not stated in the petition that she possessed any graduate and/or postgraduate qualifications. Neither has it been pleaded in the petition that the Petitioner was entitled to be promoted in accordance with the provisions of the 2012 SOR. In such circumstances, I am compelled to arrive at the conclusion that the Petitioner was not eligible to be promoted to the post of Assistant Director in terms of the 2012 SOR. Consequently, not being able to meet the threshold requirements for the initial post that she has sought promotion, she would invariably not be eligible to be promoted to the higher posts of Deputy Director and Director.

The doctrine of legitimate expectation both in its substantive and procedural form as a ground of review of administrative or executive action of public authorities has been recognized and given effect to by our Superior Courts including *M.R.C.C. Ariyaratne and others v N.K. Illangakoon, Inspector General of Police and others*<sup>18</sup> and *Vavuniya Solar Power (Private) Limited v Ceylon Electricity Board and others*,<sup>19</sup> wherein the Supreme Court has proceeded to make a detailed analysis of the doctrine and its application.

Since the Petitioner is claiming an entitlement to promotion, such expectation can be characterized a substantive expectation. In the aforementioned *Vavuniya Solar Power (Private) Limited Case (supra)*, the Supreme Court set out the parameters in which a claim of substantive legitimate expectation may arise in the following terms (per Kodagoda J);

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<sup>15</sup> [1998] 2 Sri L.R 235

<sup>16</sup> SC FR Application No.219/1998, SCM 22.07.1999

<sup>17</sup> SC FR Application 338/2012, SC Minutes 07.09.2018

<sup>18</sup> SC FR Application No. 444/2012, SC Minutes 30.07.2019

<sup>19</sup> SC FR Application No. 172/2017, SCM 20.09.2023

*The sub-doctrine of substantive legitimate expectations arises in the following two situations:*

- (i) A person who had been enjoying a benefit or advantage over a period of time, claims that such advantage or benefit had been withdrawn in frustration of his substantive legitimate expectation that the advantage or benefit will continue. In this instance, the recognition of the substantive legitimate expectation will preclude the decision-maker from exercising discretionary authority and changing the outcome legitimately expected by the party which entertained the expectation.*
- (ii) A person who is not presently enjoying a particular benefit or an advantage, claims that while he rightfully expected such benefit or advantage to be granted, in frustration of his expectation, the benefit or advantage he had applied for has been denied. In this instance too, the recognition of the substantive legitimate expectation will force the decision-maker to grant the particular benefit or advantage that was rightfully expected by such party.*

However, as set out above, the conduct of the LRC based on the material available to Court, does not disclose a definite and unequivocal representation or holding out on its part that promotions prayed for by the Petitioner would be made in terms of the 1979 SOR even after the 2012 SOR has come into effect. In fact, to do so would constitute an *ultra vires* act on the part of the LRC. In such circumstances, the Petitioner cannot rightfully expect to benefit or gain any advantage by such an act, as contemplated under the second situation set out in the **Vavuniya Solar Power (Private) Limited Case (supra)** and the argument based on legitimate expectation should fail.

c. Validity of the 12<sup>th</sup> Respondent's Appointment to the post of Assistant Director

Although the Petitioner has sought to quash the appointment of the 12<sup>th</sup> Respondent to the post of Assistant Director (P30), it is observed that the Petitioner has neither specifically cited any reasons as to why the said Respondent was not entitled to be appointed to the said post nor had she objected to the said appointment at the time it was made. In fact, in the other grounds pleaded by the Petitioner, the position taken up by her is that she was similarly circumstanced as the 12<sup>th</sup> Respondent, and, as such, should be treated equally and accorded the same benefits. Thus, there appears to be an inconsistency in the grounds of review pleaded by the Petitioner.

In any event, as already discussed herein, the promotions of the 12<sup>th</sup> Respondent, including to the post of Assistant Director, have been granted in compliance with the award (P32). Such fact is clearly reflected in the impugned letter (P30). Since the material before this Court indicates that the LRC had accepted the said award and has not sought reconsideration of same in terms of section 27 of the Industrial Disputes Act, the LRC was obliged to give effect to the award in terms of section 26 of the Act. In such circumstances, I am unable to find any illegality or irregularity in the appointment of the 12<sup>th</sup> Respondent to the post of Assistant Director.

I further observe that, upon being so promoted, the 12<sup>th</sup> Respondent has been assigned to the Puttalam District Office of the LRC. A necessary consequence of such act was that the Petitioner, who was covering up duties in the post of Director in the said station, had to relinquish such duties. In such context, I observe that the 12<sup>th</sup> Respondent was entitled to be assigned such duties by virtue of her substantive appointment and to take the place of the Petitioner, who held inferior rank and was covering-up duties in the said post. I further observe that a covering-up appointment does not accord substantive rights to the holder in the public service, and, as such, the Petitioner was not entitled to continue to cover-up duties once a permanent appointment had been made. Thus, I hold that the Petitioner's argument that she had been degraded by the letter (P41) is misconceived and devoid of merit.

### **Conclusions and Orders of Court**

For the reasons set out above, I hold that the Petitioner has failed to establish a *prima facie* case for the issuance of notice. Therefore, I decline to issue formal notice and proceed to dismiss the Petitioner's application.

However, I wish to clarify that this order should not be considered as a bar for the Petitioner to pursue her complaint made to the Department of Labour or to seek relief in any other forum. No costs.

*Application dismissed.*

**Judge of the Court of Appeal**

**Mayadunne Corea J.**

I agree.

**Judge of the Court of Appeal**