

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

*In the matter of an Application for
Orders in the nature of Writs of
Certiorari, Prohibition and Mandamus
under Article 140 of the Constitution of
the Democratic Socialist Republic of Sri
Lanka.*

The Sri Lanka Transport Board,
No. 200, Kirula Road,
Narahenpita,
Colombo 05.

CA (Writ) App. No. 0181/2023

PETITIONER

Vs.

1. Mr. Suneth Lokubogahawatta,
The Arbitrator,
No. 89/F, Kumudu Mawatha,
Nampamunuwa, Piliyandala.
2. Mr. D.M. Chandrasena,
"Rangawasa"
D 02, Hobariyawa,
Girandurukotte.
3. Mr. A. Wimalaweera,
Acting Commissioner General of
Labour,
Department of Labour,
Colombo 05.
- 3A. Mr. H.K.K.A. Jayasundara,
Commissioner General of Labour,

Department of Labour,
Colombo 05.

4. Hon. W.D.J. Seneviratne,
Minister of Labour,
Department of Labour,
Colombo 05.

AND NOW

Hon. Manusha Nanayakkara,
Minister of Labour & Foreign
Employment.

- 4A. Hon. Prof. Anil Jayantha Fernando,
Minister of Labour,
Department of Labour,
Colombo 05.

5. Hon. Attorney General,
Attorney General's Department,
Colombo 12.

RESPONDENTS

Before: Dr. D. F. H. Gunawardhana, J.

Counsel:

D.I.R. Ranawaka instructed by Kosala Perera for the Petitioner.

Shemanthi Dunuwila, S.C. for the 3rd, 4th and 5th Respondents.

Supported on: 10.10.2025

Order delivered on: 11.12.2025

Dr. D. F. H. Gunawardhana, J.

Order

Introduction

The Petitioner is the Transport Board of Sri Lanka, which is a body incorporated under a special Act and capable of suing and being sued in its corporate name. The 2nd Respondent was employed as an Assistant Manager of Finance attached to the Mahiyangana Depot of the Petitioner, and there had been certain allegations against the 2nd Respondent of financial misconduct, which resulted in an internal disciplinary inquiry, upon being charge sheeted. Although the 2nd Respondent was absent at the inquiry, he was found guilty of two of the charges among several charges.

Thereafter, his appeal was also dismissed by the Appeal Board; thereafter, at his request, the dispute between the parties was referred to arbitration by the 4th Respondent, the Minister. After the arbitration inquiry, the 1st Respondent, the arbitrator, has awarded the relief sought by the 2nd Respondent. Being aggrieved by the said arbitral award, the Petitioner has come before this Court to quash the same by way of a *Writ of Certiorari*.

This was supported on 10.10.2025, and the following arguments were advanced by the Counsel.

Arguments

The thrust of Mr. Ranawaka's main argument is that the arbitrator has not considered the evidence presented before the inquiring officer in arriving at the final conclusion before awarding the arbitral award. Therefore, the arbitral award is not tenable in law.

On the other hand, Ms. Dunuwila argued that since the appeal and inquiry were not conducted in accordance with the rules of natural justice, the arbitrator granted the award in favour of the 2nd

Respondent. Ms. Dunuwila further argued that both the domestic inquiry and the subsequent appeal were conducted by officers attached to the statutory body corporate, making them appear biased. Therefore, the arbitrator examined all aspects and based the arbitral award on accepted legal principles.

Factual matrix

On a perusal of the record, I found that the arbitral award is marked as **P7(a)**; in addition to that, the entire arbitration proceedings are also marked and annexed to the Petition. According to the said arbitration proceedings, the 2nd Respondent has given evidence and, according to him, he had worked under the Petitioner attached to the Mahiyangana Depot as an Assistant Manager of Finance from May 2004 to September 2007. According to him, there had been allegations against him for financial misconduct during that time.

The alleged financial misconduct was based on the encashment of certain cheques for the vouchers submitted for payment. According to him, the process of approving a cheque is a process which requires the participation of seven people and upon verification, approval of such a cheque requires the signatures of two signatories; the 2nd Respondent and the Depot Manager were the authorised two signatories. After the cheque was issued, it was encashed through the shroff. However, it is his position that he was singled out for the charges, and accordingly, there was a disciplinary inquiry against him.

It was also his position that at the inquiry before the inquiring officer, there was a charge sheet served on him before the disciplinary inquiry had commenced. Though it was dated 22.06.2011, it was served on him in September 2011, after 3 months. Therefore, it is his position that the procedure adopted is flawed according to the Disciplinary Rules applicable to the inquiring officers.

Further he objected to the said appointment of the inquiring officer before the disciplinary inquiry had commenced; however, that was ignored and the inquiry had been conducted without him on the said charge sheet, and the decision had been taken based on an investigating report submitted to the inquiring officer in December of 2011 after the inquiry had commenced.

Therefore, it is his position that the said decision to convict him on two charges based on the said report submitted after the inquiry was conducted, is erroneous. The witnesses who gave evidence on behalf of the Petitioner did not contradict that position.

In those circumstances, the arbitrator has held that the Petitioner (Sri Lanka Transport Board), having appointed an inquiring officer who had some animosity with the 2nd Respondent, had flouted the rules of natural justice.

The next matter is that without the 2nd Respondent's participation as the Respondent, the said inquiring officer had conducted the inquiry. Therefore, the second limb of the rules of natural justice was also flouted.

The third matter is that the decision of the inquiring officer was based on a report submitted subsequent to the commencement of the inquiry; therefore, the said decision of the inquiring officer was based on a doctored document. Therefore, the conviction on the said two charges cannot stand.

Although, the 2nd Respondent appealed to the Appeal Board, where the Chairman of the Sri Lanka Transport Board was a member together with two other members, had turned down the said appeal. Then a dispute arose, and the matter was referred to arbitration.

The decision of the inquiring officer is marked as **A3 (P3)** annexed to the Petition, and based on that, it is the finding of the arbitrator that the 2nd Respondent had not been given an opportunity to

explain his defence as to why he is not guilty; in addition to that, the preliminary objections raised against the inquiring officer was ignored, who, due to his personal animosity, had convicted him on two charges. Based on these matters, *inter alia*, the arbitral award has been given.

After the conviction, he had been demoted from functioning as the Assistant Manager of Finance attached to the Mahiyangana Depot as a Class III A officer to a Class III B. Further, he was denied certain salary and perks of the position. Based on those matters, an award was made by the arbitrator.

In those circumstances, it is my view that the arbitrator, having considered the evidence addressed before him by the 2nd Respondent and the Petitioner, has come to the correct conclusion. Therefore, the said arbitrator's award is justified in so far as the 2nd Respondent has established that the first inquiry was held *ex parte* against him, and secondly, the inquiring officer continued to function as the inquiring officer despite the objections raised by the Petitioner, and thirdly, to support his findings at the end of the inquiry he had made use of a report submitted to him after the commencement of the inquiry. In addition to that, the arbitrator has observed that the appeal was also refused for flimsy reasons. Therefore, it is the view of the arbitrator that the punishment given to the 2nd Respondent, demoting him from the position that he held as a Class III A Officer, is erroneous; accordingly, he had awarded his back wages as well as his placement in due order of the seniority.

Conclusion

As such, I see no reason to interfere with the arbitral award; accordingly, leave is refused and this Application is dismissed *in limine*.

JUDGE OF THE COURT OF APPEAL