

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

In the matter of an application in terms of  
Article 126 read with Article 17 of the  
Constitution of the Democratic Socialist  
Republic of Sri Lanka.

Ravivathani Thuraisingam  
18, Mathvady Lane,  
Thirunelvely,  
Jaffna.

**Petitioner**

**SC (FR) Application No: 180/2014**

**-VS-**

1. University of Jaffna,  
Thirunelvely, Jaffna.
2. Prof. (Miss) V. Arasaratnam,  
Vice Chancellor.
3. Mr. K.K. Arulvel.
4. Prof. S.Sathiaseelan.
5. Prof. V.P. Sivanathan.
6. Dr. (Mrs.) S. Sichandran.
7. Dr. S. Balakumar.
8. Prof. T. Velnampy.
9. Dr. A. Pushpanathan.
10. Mr. S. Kuganesan.

11. Prof. S. Sirsatkunarajah.
  12. Dr. A. Atputharajah.
  13. Prof. R. Vigneswaran.
  14. Dr. S. Sivanandarajah.
  15. Rev. Fr. Dr. Justin B. Gnanapragasam.
  16. Mr. M. Balasubramanium.
  17. Mr. M. Sripathy.
  18. Mr. P. Thiyagarajah.
  19. Mr. T. Rajaratnam.
  20. Prof. P. Balasundarampillai.
  21. Eng. M. Ramathanan.
  22. Mr. K. Theventhiran.
  23. Mr. D. Rengan.
  24. Ms. S. Sarangapani.
  25. Mr. K. Kesavan.
  26. Dr. S. Raviraj.
  27. Mr. E. Annalingam.
  28. Ms. Sherine Xavier
- All members of the  
Governing Council*
29. Mr. V. Kandeepan,  
Registrar.
  30. Mr. V.A. Subramaniam.
  31. Mr. S. Balaputhiran

*All of,  
The University of Jaffna,  
Thirunelvely,  
Jaffna.*

32. University Grants Commission -Sri Lanka,  
UGC Secretariat,  
20, Ward, Place,  
Colombo 07.
33. Ms. Tharshiga Murugesu,  
Thiruppathy, Neervely North,  
Neervely, Jaffna.
34. Mrs. Thushyanthi Rajakumaran  
Amman Road,  
Thirunelvely, Jaffna.
35. Mrs. Sangeetha Mahinthan,  
385/20, Mudamavady Junction,  
Temple Road, Jaffna.
36. Mrs. Sentheeswary Senuthuran,  
214/12, Sir P. Ramanathan Road,  
Thirunelvely, Jaffna.
37. Ms. Hanitha Vijeyaratnam,  
Dutch Road  
Alavaddy West,  
Alavaddy.
38. Mr. k. Piratheepan,  
241, Periyamathavady,  
Udduvil East,  
Chunnakam, Jaffna.
39. Mr. N. Sivathaasan,  
74/12,  
Aththisoody Lane,  
Thirunelvely, Jaffna.
40. Hon. Attorney General,  
Attorney General's Department,  
Hulftsdorp,  
Colombo 12.

**Respondents**

Before: B. P Aluwihare, PC. J.,  
Murdu N.B.Fernando, PC. J. and  
S.Thurairaja PC. J.

Counsel: Viran Corea with Ms. Sarita de Fonseka for the Petitioner.  
S. Barrie SSC for 1<sup>st</sup> to 32<sup>nd</sup> and 40<sup>th</sup> Respondents.  
V. Puvitharan PC with Anuya Rasanyakkam for the 33<sup>rd</sup> Respondent.

Argued on: 06-05-2019 and 30-05-2019

Decided on: 29-03- 2021

**Murdu N.B Fernando, PC J.**

The Petitioner came before this Court seeking inter-alia a declaration that the Respondents have violated the fundamental rights of the Petitioner guaranteed under Article 12(1) of the Constitution. Leave to Proceed was granted to the Petitioner by this Court on 27.04.2014.

The Petitioners case as referred to in the petition, *albeit* brief is as follows:

1. The 1<sup>st</sup> Respondent University advertised the **Post of Lecturer (Probationary)** in the Faculty of Management Studies and Commerce in November 2013 and called for applications from suitable candidates.
2. The Petitioner a holder of a Bachelor of Business Administration Degree (1<sup>st</sup> class) specializing in Finance Management applied for the said post. The Petitioner graduated from the 1<sup>st</sup> Respondent University with a GPA score of 3.63 in the year 2012 and at the time of tendering of the application was a

temporary lecturer attached to the 1<sup>st</sup> Respondent University and reading for a Master's Degree in Business Administration at the Faculty of Management and Finance of the University of Colombo.

3. In March 2014, interviews for the said post were conducted by a six-member selection committee headed by the 2<sup>nd</sup> Respondent, the Vice chancellor of the 1<sup>st</sup> Respondent University. The other members were the 8<sup>th</sup>, 16<sup>th</sup>, 19<sup>th</sup>, 30<sup>th</sup> and 31<sup>st</sup> Respondents.
4. In May 2014, the Governing Council of the 1<sup>st</sup> Respondent University (2<sup>nd</sup> to 28<sup>th</sup> Respondents) approved the recommendation of the selection committee and appointed the 33<sup>rd</sup> Respondent to the said post.
5. The grievance of the Petitioner is that the said appointment is *ad hoc*, arbitrary, unfair and completely unlawful and violated the Petitioner's fundamental rights for the reasons inter-alia;
  - that the Petitioner had a higher GPA score and possesses more teaching experience than the 33<sup>rd</sup> Respondent;
  - that the 33<sup>rd</sup> Respondent has given false and incorrect information pertaining to work experience;
  - that the primary criterion for recruitment is academic excellence and the Petitioner is the most suitable candidate and should have been appointed; and
  - that extraneous factors have been considered by the Governing Council in the appointment of the 33<sup>rd</sup> Respondent to the post advertised.
6. The Petitioner also alleged that the recommendation of the selection committee submitted to the Government Council was signed by the 2<sup>nd</sup> Respondent who was not even present throughout the Petitioner's interview and that the

Petitioner brought such fact to the attention of the Governing Council with the hope that it would objectively view the recommendation, but to no avail.

7. Thus, the Petitioner seeks a declaration from this Court that the Petitioners fundamental rights have been infringed and also moves for a declaration that the selection and/or appointment of the 33<sup>rd</sup> Respondent is null and void and for a direction that the Petitioner be appointed to the said post.

The case of the 1<sup>st</sup> to 32<sup>nd</sup> Respondents (“the Respondents”) is that the 1<sup>st</sup> Respondent University at all times acted in accordance with the relevant Circulars pertaining to the procedure for appointment of the selection committee and the Scheme of Recruitment of Academic Staff issued by the University Grants Commission (32<sup>nd</sup> Respondent), the University Establishment Code and the approved marking scheme applicable for the relevant faculty. The Respondents also averred that by unanimous decision the selection committee recommended the 33<sup>rd</sup> Respondent to the post advertised and the General Council also unanimously approved the said recommendation. Thus, the Respondents aver that the Respondents have not violated the fundamental rights of the Petitioner.

The case presented by the 33<sup>rd</sup> Respondent is that she too is a graduate of the 1<sup>st</sup> Respondent University with a 1<sup>st</sup> class in Financial Management and denies that she misled or misdirected the selection committee as averred to by the Petitioner.

Having referred to the main arguments relied upon by the parties, I would now move on to consider and examine the said positions in detail in order to determine whether the Petitioners fundamental rights secured and guaranteed by Article 12(1) of the Constitution have been infringed by the 1<sup>st</sup> to 32<sup>nd</sup> Respondents, by the non-appointment of the Petitioner to the post of Lecturer (Probationary) at the 1<sup>st</sup> Respondent University.

Article 12(1) of the Constitution reads thus:

**“all persons are equal before the law and are entitled to the equal protection of the law.”**

This Article has been meticulously analyzed, examined and developed by this Court in a plethora of judgements during the last four decades.

In one of the first cases decided by this Court, **Rienzie Perera and another V University Grants Commission and another [1978 – 79- 80] 1 SLR 128**, Sharavananda J., at page 137 observed as follows:

“Equality of opportunity is only an instance of the application of the general rule of equality laid down in Article 12. Equal protection of the law postulates an equal protection of all alike in the same situations and under like circumstances. There should be no discrimination among equals, either in the privileges conferred or on the liabilities imposed.”

In **Perera and Nine Others V Monetary Board of the Central Bank of Sri Lanka and twenty-two others [ 1994] 1 SLR 152**, Amersinghe J., at page 166 referring to promotions in the public service and the legitimacy and rationality of the marking schemes adopted at interviews, explained as follows:

“Transparency in recruitment proceedings would go a long way in achieving public expectations of equal treatment. The selection of a person must be viewed as a serious matter requiring a thorough going consideration of the need for the services of an officer, and a clear formulation of both the basic qualities and qualifications necessary to perform the services, and the way in which such qualities and qualifications are to be established.”

Thus, it is trite law that in achieving public expectations of equal treatment, **transparency in the recruitment process is a key element.**

The 1<sup>st</sup> Respondent University together with other State Universities provide tertiary education and comes under the purview of the University Grants Commission (“UGC”) established under the provisions of the Universities Act No 16 of 1978 as amended. The appointment of academic staff of Universities is governed by Circulars issued by the UGC.

In the instant case the selection process began by calling for applications for the post of Lecturer (Probationary) – Non medical/ dental category in terms of Circular bearing no 721 dated 21-11-1997 (R1) as amended by Circular bearing no 08/2005 dated 11-08-2005 (R4). The applicability of the said Circulars to the post advertised is not in issue between the parties. The 1<sup>st</sup> Respondent University empaneled a selection committee in terms of the relevant Circular (R1) to conduct interviews. The selection committee comprised of six members headed by the 2<sup>nd</sup> Respondent Vice Chancellor. The other members were the 8<sup>th</sup> Respondent Dean of the Faculty of Management and Commerce, 16<sup>th</sup> and 19<sup>th</sup> Respondents being nominees of the Governing Council, the 30<sup>th</sup> and 31<sup>st</sup> Respondents head of the Department of Finance and Management and nominee of the Senate. The empaneling of the selection committee is also not in issue between the parties.

The bone of contention of the parties is the recommendation of the selection committee. The selection committee interviewed eight applicants (33<sup>rd</sup> to 39<sup>th</sup> Respondents and the Petitioner) and recommended the 33<sup>rd</sup> Respondent to the post advertised and the Petitioner was named as the reserve (R12).

The Petitioners’ contention is that the said recommendation of the selection committee is flawed for the following reasons.

*Firstly*, the Petitioner has a higher GPA score of 3.63 in comparison to the GPA score of 3.43 of the 33<sup>rd</sup> Respondent;

*Secondly*, the Petitioner possess more teaching experience compared to the 33<sup>rd</sup> Respondent and the Petitioner demonstrated the ability to teach, having been appointed to a post of temporary lecturer at the 1<sup>st</sup> Respondent University in November 2012. The Petitioner also contended that the 33<sup>rd</sup> Respondent began her teaching career at the 1<sup>st</sup> Respondent University only in May 2013, although she adverts to the date as April 2012 in the curriculum vitae tendered to the University. Thus, the Petitioner alleges that the 33<sup>rd</sup> Respondent has given false information and upon the said ground adverts that the 33<sup>rd</sup> Respondent misled the selection committee.

In response to the said facts the Respondents aver that the GPA score and teaching experience do not accrue any advantage to a candidate since marks are not given for same at the interview and with regard to the erroneous date of appointment as a temporary lecturer referred to in the curriculum vitae the explanation of the 33<sup>rd</sup> Respondent that it was an oversight, was accepted by the selection committee.

*Thirdly*, the Petitioner also challenged the marking scheme as well as the ensuring selection committee recommendation upon the ground that it is based on collateral considerations and thus arbitrary.

With regard to the marking scheme, the Respondents contention is that it is in use at the 1<sup>st</sup> Respondent University since 2010, on seven of its faculties and has proved to be a suitable basis of assessment of a candidate at an interview.

Having referred to the focal points of the Petitioners case, let me move on to consider the 1<sup>st</sup> and 2<sup>nd</sup> points of challenge viz-a-viz the Scheme of Recruitment adopted by the 1<sup>st</sup> Respondent University.

The Scheme of Recruitment which is UGC Circular no 721 (R2) issued in 1997, required one years' teaching experience as a pre- qualification to apply for the post of Lecturer (Probationary). In 2010, the said provision was relaxed and amended by UGC Circular no 935 (R4). It introduced a new provision **for a candidate to make a presentation before the selection committee in order for the selection committee to assess the 'teaching ability' of**

**a candidate and did away with the requirement of one years' teaching experience.** The rationale of such decision of the UGC made in the year 2010 that a lecturer should have the ability to teach has not been challenged before any forum.

The Respondents advert that in view of the above said provisions the requirement of one years' teaching experience is not a mandatory factor and at the 1<sup>st</sup> Respondent University marks are not awarded for teaching experience. The 'ability to teach' is the main criterion to be decided at the interview and the Respondents submit that it is a subjective analysis and is based upon the marking scheme (R5) approved by the 1<sup>st</sup> Respondent University.

Thus, it is observed under the prevailing Scheme of Recruitment, **'teaching experience' is no longer a threshold requirement** to be considered for recruitment for the post of Lecturer (Probationary). Hence, the Petitioners grievance that she possesses more teaching experience as well as a higher GPA score viz-a-viz the 33<sup>rd</sup> Respondent and upon the said ground and the said ground alone that the Petitioner should have been appointed to the post of Lecturer (Probationary) and not the 33<sup>rd</sup> Respondent, in my view, has no basis nor merit in law.

The Petitioners next point of challenge was the **marking scheme**. Initially, the Petitioner did not challenge or refer to a marking scheme in its petition. When the approved marking scheme (R5), the assessment sheet (R11) and the recommendation of the selection committee (R12) were tendered to Court by the 1<sup>st</sup> Respondent University together with its statement of objections, the Petitioner contended that the marking scheme was not duly authorized by the 1<sup>st</sup> Respondent University. Thus, the Petitioner challenged the vires of the marking scheme.

However, it is observed that the Petitioner failed to substantiate its argument by placing any material or evidence before Court, to negate the proposition of the Respondents that the marking scheme (R5) was in use at the 1<sup>st</sup> Respondent University since 2010 i.e. 3 years precedent to the date of the interview and it was formulated consequent to the issuance of UGC Circular no 935 (R4), which introduced the concept of making presentations to assess the teaching ability of a candidate for recruitment as a member of the academic staff. The post

of Lecturer (Probationary) is one such post in the academia. Hence, it is too late in the day for the Petitioner to challenge the veracity or vires of the marking scheme (R5) before this Court and for the said reason I see no merit in the said objection either.

The Petitioner also challenged the recommendation of the selection committee upon the ground of consideration of extraneous and collateral factors by the selection committee. In response, the Respondents denied the said allegation and contended that the candidates were assessed not on extraneous or collateral considerations, but based upon the approved marking scheme (R5) only.

Hence, I would pause at this moment to examine the marking scheme R5. The marking scheme clearly envisage that 50% of the marks are to be awarded **for academic excellence** and out of the balance 50%, 20 marks **for presentation skills and subject knowledge** and the rest of the 30 marks **for vision, creativity, research interest and overall performance of a candidate** at the interview.

The Respondents submitted that the Petitioner and the 33<sup>rd</sup> Respondents were both awarded the maximum 50 marks for academic excellence since both candidates possess 1<sup>st</sup> classes. However, for the presentation, the selection committee awarded variant marks under the respective heads for the Petitioner and the 33<sup>rd</sup> Respondent. The marks awarded and tabulated in the assessment sheet R11 is reflected below.

		Petitioner	33 <sup>rd</sup> Respondent
(1)	For presentation and subject knowledge	12	15
(2)	For creativity, vision, research interest and overall performance	15	25
(3)	For Degree	50	50
	Total	77	90

The above table clearly shows that the 33<sup>rd</sup> Respondent obtained more marks than the Petitioner. Thus, the Respondents contend that the 33<sup>rd</sup> Respondent was selected for the post advertised through **a transparent recruitment process devoid of any collateral or extraneous considerations.**

Hence, upon perusal of the documents before Court i.e R2 and R4 Scheme of Recruitment, R5 the marking scheme and R11 the assessment sheet, I see no reason to doubt that the candidates were assessed by the selection committee based on a clear formulation of qualities and qualifications necessary to perform the functions of office stipulated by the UGC and the 1<sup>st</sup> Respondent University.

Thus, the *transparency in recruitment process* advocated in **Perera v Monetary Board case** (supra) in my view has been adhered to by the Respondents.

However, at the hearing the Learned Counsel for the Petitioner emphasized that **norms of justice and fairness were completely violated in the selection process** and that the Petitioner's outstanding performance throughout her university career, her high GPA score, her unparalleled teaching experience has not been considered by the selection committee. Moreover, the highlight of the Petitioner's case was that the 2<sup>nd</sup> Respondent Vice Chancellor was not even present at the interview when the Petitioner made her presentation. Thus, the learned Counsel strenuously contended that extraneous factors have been the consideration for the selection and relied very much on the fact that the 2<sup>nd</sup> Respondent, Vice Chancellor who was said to be not present at the interview, had signed the assessment sheet (R11) and forwarded the recommendation of the selection committee (R12) to the General Council. Hence, I would now move on to examine the said proposition of the Petitioner.

*Firstly*, the assertion pertaining to the absence of the 2<sup>nd</sup> Respondent, the Vice Chancellor of the 1<sup>st</sup> Respondent University at the interview.

It is observed that both the assessment sheet (R 11) and the recommendation of the selection committee (R12) have been signed, not only by the 2<sup>nd</sup> Respondent but by all six members of the selection committee. Furthermore, responding to the aforesaid contention of the Petitioner, the 2<sup>nd</sup> Respondent has tendered an affidavit to this Court, stating that she was present at the interview, listened to the presentations and asked questions from the candidates based on the presentations, but that during the presentation of the Petitioner, she was urgently called to answer an important telephone call and was not available for a brief moment. The said position is supported by two other affidavits filed of record together with the statement of objections of the Respondents. The said two affidavits were affirmed to by two other members of the selection committee. i.e the 8<sup>th</sup> and 16<sup>th</sup> Respondents.

Hence, upon consideration of the said material before this Court, I do not consider the allegation of the Petitioner with regard to the 2<sup>nd</sup> Respondents brief absence to be a gross violation of the selection process, as the decision of the selection committee should be considered as a composite decision and not merely as an individual decision. The decision of the six-member selection committee was a unanimous decision and all six members have concurred with the said decision and the signatures in the assessment sheet (R11) and the recommendation made to the Governing Council (R12) establishes beyond doubt that it was a composite decision.

Thus, in my view, the brief absence of the 2<sup>nd</sup> Respondent will not cause any prejudice to the Petitioner. In any event, the Petitioner brought such fact of the absence of the 2<sup>nd</sup> Respondent Vice Chancellor to the notice of the appointing authority, the Governing Council prior to the Governing Council considering and evaluating the recommendation of the selection committee. Nevertheless, the Governing Council consisting of 27 members, being satisfied with the recommendation of the selection committee unanimously approved the appointment of the 33<sup>rd</sup> Respondent to the post of Lecturer (Probationary).

At this juncture, I wish to refer to the observations of this Court in the case of,

**Abeykoon v National Water Supply and Drainage Board SC FR 127/2014 SC minutes 09.05.2016.**

In the said case the Petitioners main grievance was that he was interviewed by a panel of three members whereas the selected candidate was interviewed by a panel of four members and the Court observed,

*“Whether the Petitioner was interviewed by a panel of three members or a panel of four members, the interview board has followed the marking scheme which has already been adopted [] Therefore, one cannot argue that the Petitioner was placed at a disadvantage... the Petitioner has failed to satisfy this Court as to how any prejudice was caused to him when he was interviewed by a panel of three members....”*

Hence, I see no merit in the assertion of the Petitioner, that the absence of the 2<sup>nd</sup> Respondent for a fleeting moment had any prejudicial impact on the Petitioner.

Let me now examine, the **Petitioners unparalleled teaching experience and high GPA score**, two other factors repeatedly emphasized by the Petitioner before this Court, to be instances of gross violations of the selection process.

It is not in dispute that according to the Scheme of Recruitment (R2), **Lecturer (Probationary) is the lowest rung in the academic staff of the University structure**. It is the recruitment step in the hierarchical structure and it leads up to Senior Lecturer Grade II, I etc. The Scheme of Recruitment (R2) i.e. Circular no 721, clearly indicates the **post of Lecturer (Probationary) is filled by ‘open examination’**.

It is common knowledge that the reference to *tutor, mentor, demonstrator, instructor and temporary lecturer* in universities are ad-hoc appointments given for short durations and are not governed by the said Scheme of Recruitment (R2). Thus, appointments for the said posts especially to the post of ‘temporary lecturer’ is not by open examination. It could be walk-in interviews or by invitation and necessarily does not follow the recruitment process referred to in UGC Circulars R2 and R4 which essentially introduced the mechanism of

assessing the teaching ability of a candidate by way of a presentation made before a selection committee.

The case of the Petitioner is that in the years 2012 and 2013, the very same University appointed the Petitioner as a ‘temporary lecturer’ after an interview process and hence the experience gained by the Petitioner during such period should be reckoned with regard to her ‘teaching experience’. The Petitioner goes on to assert in 2012 the Petitioner was appointed as a temporary lecturer, whereas the 33<sup>rd</sup> Respondent who too was interviewed, was neither selected nor recommended. Thus, the Petitioner contends that the Petitioner is better suited for the post advertised since she has already been evaluated by an interview panel and has extra months of teaching experience compared to the 33<sup>rd</sup> Respondent. Moreover, the Petitioner contends that the 33<sup>rd</sup> Respondents performance cannot be improved so quickly and dramatically during such a short time and upon the said basis justifies that she should be chosen, and not the 33<sup>rd</sup> Respondent to the post of Lecturer (Probationary).

It is observed that in 2012 (R6), the Petitioner was recommended and appointed for the post of temporary lecturer at a walk – in interview for a period of 2 months and in 2013 (R7), the Petitioner as well as the 33<sup>rd</sup> Respondent were both recommended and appointed as temporary lecturers for a period of nine months by the 1<sup>st</sup> Respondent University. Thus, at the time of the interview, the Petitioner as well as 33<sup>rd</sup> Respondent were both serving the 1<sup>st</sup> Respondent University as ‘temporary lecturers’, Petitioner being employed ahead of the 33<sup>rd</sup> Respondent.

Hence, employing the Petitioner as a ‘temporary lecturer’, which is not in the hierarchical structure of the academic staff of the University, in my view does not give the Petitioner an additional benefit, a free ticket or free entry to be recruited to the academic staff of the 1<sup>st</sup> Respondent University *ipso facto*. The plain reading of the word denotes it is a temporary appointment. **Thus, there is no automatic promotion from the post of temporary lecturer to the post of Lecturer (Probationary).**

The post of Lecturer (Probationary) is a new appointment, for which the procedure laid down should be strictly followed. The qualifications to be appointed as a Lecturer

(Probationary) is distinct, clear and precise in the Scheme of Recruitment (R2 and R4). The threshold requirement is academic qualification. Thereafter, the presentation before a selection committee, to assess the teaching ability. If a candidate could pass the said hurdle then based on the assessment made in line with the marking scheme, a 'recommendation' is made by the selection committee to the Governing Council. **The appointment to the post of Lecturer (Probationary) is finally in the hands of the Governing Council.** It is noteworthy to observe, that the Petitioner does not allege any wrong doing of the Governing Council, excepting the same grounds alleged against the selection committee.

Thus, in my view the contention of the Petitioner, that on the strength of the temporary lectureship that the Petitioner ought to have been appointed to the post advertised has no basis nor merit. Similarly, the contention of the Petitioner that the appointment of the 33<sup>rd</sup> Respondent was based on extraneous and collateral considerations is also frivolous. As seen from the marks obtained, the 33<sup>rd</sup> Respondent has fared better than the Petitioner at the presentation and had the highest mark among all the candidates interviewed. Hence in my view the Petitioner has failed to establish before this Court, that she has an *'unparalleled teaching experience'* or that *'collateral and extraneous factors'* have been the consideration in the instant selection process.

The learned Counsel for the Petitioner in order to satisfy this Court that the Petitioner is better suited for the post advertised, finally and vehemently relied upon the Petitioner's GPA score. According to the Petitioner the primary and only criteria of appointment, irrespective of what is in the Scheme of Recruitment, should only be academic excellence. The Petitioner contends that she has a higher GPA score in comparison to the 33<sup>rd</sup> Respondent and her academic excellence is unquestionably the best among the candidates.

However, the resume of qualifications of candidates annexed to the assessment sheet (R11) shows that out of the twelve candidates short listed for the interview, only seven candidates had GPA scores. Interestingly, all of them have passed out during the years 2010 to 2013. The other five candidates who have passed out prior to 2010 did not have a GPA score. Assessing the graduates on a GPA or the Overall Grade Point Average, is a relatively new phenomenon which is computed and given by only certain Universities. It is not a pre-

condition in the Scheme of Recruitment (R2 and R4) and the marking scheme (R5) and thus, in my view GPA cannot be the only consideration to be reckoned with or relied upon at an interview. It will only be one factor, among many others that the selection committee would consider with regard to assessing the subject knowledge of a candidate at an interview.

It is also observed that there is one candidate who graduated in 2013 with a GPA of 3.66 which is higher than the Petitioners GPA of 3.63. It is further observed that the said candidates' overall performance at the interview has not been that great in comparison to the rest of the candidates.

The aforesaid factors denote, that the GPA score which only some candidates have, cannot be used as a yardstick or a standard measure or a unique factor in assessing a candidate at an interview of this nature where applicants face an open competitive examination.

Thus, in my view, the contention of the Petitioner that she has a 'higher GPA' and possesses 'more teaching experience' in comparison to the 33<sup>rd</sup> Respondent and is better suited and qualified and thus should have been appointed to the post of Lecturer (Probationary) is devoid of merit.

Similarly, the Petitioners submission that all norms of justice and fairness were completely violated in the selection process and extraneous and collateral factors were the consideration for selection by the selection committee in my view too has no basis nor merit. A level playing field was laid for candidates who were similarly circumstanced and only one winner could emerge.

Furthermore, the decision to appoint the 33<sup>rd</sup> Respondent to the post advertised was taken unanimously by the General Council of the 1<sup>st</sup> Respondent University which consists of 27 members (the 2<sup>nd</sup> to 28<sup>th</sup> Respondents) who are eminent persons and whose versatility and integrity has not been challenged in this application. Hence, the appointment of the 33<sup>rd</sup> Respondent to the post of Lecturer (Probationary) by the General Council of the 1<sup>st</sup> Respondent University, in my view is neither arbitrary nor unlawful as contended by the Petitioner.

Thus, for the reasons adumbrated in this judgement, I hold that the Petitioner has not been successful in establishing that the fundamental rights of the Petitioner guaranteed in terms of Article 12 (1) have been violated by the 1<sup>st</sup> to 32<sup>nd</sup> Respondents. This application is accordingly dismissed. I make no order as to costs.

The application is dismissed.

**Judge of the Supreme Court**

**B. P Aluwihare PC, J.**

I agree.

**Judge of the Supreme Court**

**S.Thurairaja PC, J.**

I agree.

**Judge of the Supreme Court**