

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

In the matter of an application in terms of Article 126 (2) read with Article 17 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

SC (FR) Application No: 274/2016

Dodangoda Arachchige Nirusha
Nalani Padma Kumari,

49 A,

Bandanagoda,

Beruwala.

PETITIONER.

-Vs-

1. O.T.M.S.E. Premarathne,

Regional Superintendent of Posts,

Office of the Regional
Superintendent of Posts,

Kalutara.
2. Nishantha V. Lenarol,

Assistant Superintendent of Posts

(Investigations),

Office of the Regional
Superintendent of Posts,
Kalutara.

3. Postmaster General,
Postal Headquarters,
No. 310,
D.R. Wijewardane Mawatha,
Colombo 10.
4. Attorney General,
Attorney General's Department,
Colombo 12.

RESPONDENTS.

BEFORE : **P. PADMAN SURASENA J**

KUMUDINI WICKREMASINGHE J

MAHINDA SAMAYAWARDHENA J

COUNSEL : Shantha Jayawrdhena with Chamara Nanayakkarawasam and Dinesh de
Silva for the Petitioner.

Sureka Ahmed, SC for the Respondents.

ARGUED &

DECIDED ON : 28-11-2023.

P. PADMAN SURASENA J,

Court heard the submissions of the learned Counsel for the Petitioner as well as the submissions of the learned State Counsel who appeared for the Respondents and concluded the argument.

The Petitioner was a Sub Postmistress who had obtained maternity leave subsequent to a child birth. After the period of paid maternity leave granted to her, she had continued to be on leave on medical grounds on the basis of 'no pay leave' for another eighty-four days.

The primary purpose as to why the Petitioner has filed this petition is to get the document produced marked **P11** quashed. The said document (**P11**) has been written by Regional Superintendent of Posts - Kalutara, addressed to the Petitioner, to inform her that it is the Petitioner's responsibility to appoint a substitute at her expense, to cover up her duties as the Sub Postmistress as per the conditions in the letter of appointment issued to the Petitioner.

The letter of appointment dated 13-09-2007 issued by the Department of Posts, to the Petitioner, has been produced marked **P1**. According to Clause 15 of the said letter of appointment, it is the responsibility of the Petitioner to select a substitute, train such person and register that person in order to be employed whenever necessary, to cover the duties of the Petitioner (when Petitioner obtains leave).

The complaint made by the learned Counsel for the Petitioner is that it is unreasonable to impose upon the Petitioner, the responsibility of making payments to the substitute who would cover her duties when the Petitioner is on no pay leave.

Learned State Counsel drew the attention of Court to Clause 9(2) ii of the Sri Lanka Sub Postmaster Service Code produced marked **1R3** in which there is a specific provision with regard to the procedure through which a Sub Postmistress could obtain maternity leave. The said provision shows that it is the same procedure (as in normal leave) that should be adopted when such officer obtains maternity leave.

We observe that the prayer (g) of the petition dated 17-08-2016 is a prayer for a direction on the 3rd Respondent (Postmaster General) not to require Sub Postmistresses to pay salaries to

such substitutes employed at their respective sub post offices while they are on maternity leave.

Therefore, it is clear that the Petitioner through this petition is primarily challenging the aforesaid Sri Lanka Postmasters Service Code which has been in force with effect from 1st January 1996 (Clause 2). Therefore, as submitted by the learned State Counsel, the Petitioner's application is time barred. This is because the Petitioner has filed this petition on 18-8-2016.

Learned State Counsel appearing for the Respondents, also brought to the notice of Court that the Petitioner has now retired from service on medical grounds. She also brought to the notice of this court that the employment of Sub Postmasters under the aforesaid code is a specific arrangement which is only relevant to that service. We also observe that it is so because this service is not transferable in terms of clauses mentioned in that code.

Moreover, we observe that according to the letter dated 12th July 2016 written by the Petitioner produced marked **P14**, addressed to the Regional Superintendent of Posts Kalutara, the Petitioner had specifically given her consent to make the payments to the substitute during the period in question although the Petitioner has now chosen to challenge the very arrangement that was made with her consent.

For the above reasons, we see no merits in this petition. We proceed to refuse this petition and proceed to dismiss this petition without costs.

JUDGE OF THE SUPREME COURT

KUMUDINI WICKREMASINGHE J

I agree,

JUDGE OF THE SUPREME COURT

MAHINDA SAMAYAWARDHENA J

I agree,

JUDGE OF THE SUPREME COURT

AG/-