

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

In the matter of an appeal in terms of Article 128(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka read with Paragraph 3(b) of Article 154(P) of the Constitution and Section 3 of the High Court of the Provinces (Special Provisions) Act, No. 19 of 1990

SC Appeal No: 144/2025

HC Gampaha No. AP No. 32/2021

LT Case No: 24/605/2019

Duman Koralalage Vijitha Swarnasiri,
No. 247/31/1, Suriyapaluwa, Kadawatha.

APPLICANT

Vs.

Vendol Lanka (Private) Limited,
No. 102, Kandy Road, Wewaldeniya

RESPONDENT

And between

Vendol Lanka (Private) Limited,
No. 102, Kandy Road, Wewaldeniya

RESPONDENT – APPELLANT

Vs.

Duman Koralalage Vijitha Swarnasiri,
No. 247/31/1, Suriyapaluwa, Kadawatha.

APPLICANT – RESPONDENT

And now between

Duman Korallalage Vijitha Swarnasiri,
No. 247/31/1, Suriyapaluwa, Kadawatha.

APPLICANT – RESPONDENT – APPELLANT

Vs.

Vendol Lanka (Private) Limited,
No. 102, Kandy Road, Wewaldeniya

RESPONDENT – APPELLANT – RESPONDENT

Before: A.L. Shiran Gooneratne, J
Achala Wengappuli, J
Arjuna Obeyesekere, J

Counsel: Ranga Dayananda for the Applicant – Respondent – Appellant
Dr. Sunil Cooray for the Respondent – Appellant – Respondent

Argued on: 3rd March 2026

Written Submissions: Tendered by the Applicant – Respondent – Appellant on 17th March 2026

Decided on: 30th April 2026

Obeyesekere, J

- (1) The Applicant – Respondent – Appellant [the Applicant] states that he was employed as an electrician at the Respondent – Appellant – Respondent [the Employer] since 9th August 2015. He states that on 1st August 2018, when he was leaving the premises of the Employer, he had been informed that he should not report for duty any further until he is notified to do so by the Employer. The Applicant states further that he inquired from the Employer thereafter on several occasions over the telephone and even by letter dated 16th January 2019 as to when he could report for duty, but that he did not receive any response from the Employer.

- (2) On 29th January 2019, the Applicant filed an application in the Labour Tribunal of Gampaha [the Labour Tribunal] complaining that his services have been terminated unfairly. In its answer, the Employer only admitted that the Applicant was employed for a period of one year from 1st August 2017 and stated that the performance of the Applicant was unsatisfactory and that in any event, the Applicant did not report for duty after 1st June 2018.
- (3) After inquiry, the Labour Tribunal held by its Order dated 15th November 2021 that the services of the Applicant had been terminated unfairly and awarded the Applicant compensation in a sum of Rs. 270,000, being the equivalent of six months salary. Aggrieved, the Employer invoked the jurisdiction of the High Court of the Western Province holden in Gampaha [the High Court]. Having heard both parties, the High Court set aside the Order of the Labour Tribunal by its judgment delivered on 11th January 2024.
- (4) This appeal arises from the said judgment of the High Court. On 29th July 2025, leave to appeal was granted on the following three questions of law:
 - (a) Did the High Court err in law when it failed to consider that the Employer's appeal should have been dismissed *in limine* as the Employer had failed to deposit the compensation awarded before filing the appeal in the High Court?
 - (b) Did the High Court err in law by setting aside the award made by the Labour Tribunal without properly evaluating the evidence led in the Labour Tribunal?
 - (c) Did the High Court err in law by holding that the contents of the letter dated 16th January 2019 cannot be accepted as evidence in the absence of corroborative evidence?
- (5) When this matter was taken up for hearing, the learned Counsel for the Applicant submitted that the 1st question of law relates to the jurisdiction of the High Court to have entertained the appeal filed by the Employer, and that even though he took up the said objection in the written submissions filed before the High Court, the High Court has not addressed the said objection in its judgment.

(6) Section 31D(3) of the Industrial Disputes Act, as amended [the Act] provides that a workman, a trade union which makes an application to a Labour Tribunal, or the employer to whom that application relates and who is dissatisfied with the order of the Labour Tribunal may appeal from that order on a question of law to the High Court established under Article 154P of the Constitution.

(7) Section 31D(4)(a)(i) provides as follows:

“Every employer who –

(a) appeals to a High Court established under Article 154P of the Constitution, against an order of a labour tribunal or makes an application in revision against any such order; or

(b) ...

shall furnish to such labour tribunal, security in cash -

(i) in any case where the order which is the subject of such appeal or application directs only the payment of a sum of money to the workman, of an amount equal to such sum; ...”

(8) Section 31D(6) provides further as follows:

“Every petition of appeal to a High Court established under Article 154P of the Constitution shall bear uncanceled stamps to the value of five rupees and in every case where the applicant is required to furnish security, be accompanied by a certificate issued under the hand of the President of the Labour Tribunal to the effect that the appellant has furnished such security. ...”

(9) It was the contention of the learned Counsel for the Applicant that it was mandatory for the Employer to have deposited a sum of Rs. 270,000 with the Labour Tribunal within the period of appeal and thereafter to have annexed to the petition of appeal a certificate issued under the hand of the President of the Labour Tribunal confirming that the said sum has been deposited. The learned Counsel for the Applicant submitted further that the Employer has failed to comply with such mandatory requirement and hence the High Court had no jurisdiction to have entertained and/or heard the appeal filed by the Employer. He cited the judgment of this Court in

Wimalasiri Perera and others v Lakmali Enterprises Diesel and Petrol Motor Engineers and others [(2003) 1 Sri LR 62] where Mark Fernando, J confirmed that the requirement to deposit security is mandatory.

- (10) I have examined the case record of the Labour Tribunal. The journal does not indicate that the Employer has deposited the said sum of Rs. 270,000 with the Labour Tribunal or that the President of the Labour Tribunal has issued a certificate to that effect, nor has the Employer annexed a certificate to its petition of appeal as required by Section 31D(6).
- (11) The learned Counsel for the Employer did not contradict the submission of the learned Counsel for the Applicant nor did he provide any evidence to this Court that the Employer has complied with the aforementioned requirement.
- (12) I am in agreement with the submission of the learned Counsel for the Applicant that it is mandatory for an employer who wishes to appeal against an order of a Labour Tribunal that has ordered the payment of a specified sum of money to an employee to deposit such sum in cash prior to filing an appeal. Doing so is a condition precedent to an employer exercising its right of appeal.
- (13) The failure to comply with Section 31D(4)(a)(i) of the Act amounts to there being no properly constituted appeal before the High Court and is fatal to the maintainability of an appeal filed by an employer in the High Court. Thus, the petition of appeal filed by the Employer against the final order of the Labour Tribunal must stand dismissed, without any further consideration by the High Court of the merits of such appeal.
- (14) A similar requirement by way of Section 31DD(1A) with regard to the filing of an appeal to the Supreme Court by an employer who is dissatisfied by a judgment of the High Court was introduced by the Industrial Disputes (Amendment) Act, No. 22 of 2022. This provision was considered by this Court in **Duro Pipe Industrial (Pvt) Ltd v Hettige Pradeep Silva** [SC Appeal No. 111/2022; SC minutes of 2nd December 2024] where Samayawardhena, J held that the depositing of security is mandatory and that the Supreme Court shall not have jurisdiction to entertain such appeal if there is no compliance with such requirement.

(15) There is one matter that I wish to advert to prior to concluding. The learned Counsel for the Applicant has moved in the written submissions tendered post hearing that the quantum of compensation be increased since the Applicant has lost the benefit of interest on the compensation ordered as a result of the failure of the Employer to deposit the money prior to the filing of the appeal. While I am not inclined to do so, I hold that the Applicant shall be entitled to a sum of Rs. 270,000 together with legal interest on such sum from the date of the Order of the Labour Tribunal until payment is made in full.

(16) In the above circumstances, I answer the first question of law in the affirmative. The necessity to answer the second and third questions of law does not arise. The judgment of the High Court is set aside, the order of the Labour Tribunal is affirmed and this appeal is allowed, with costs fixed at Rs. 100,000.

JUDGE OF THE SUPREME COURT

A.L. Shiran Gooneratne, J

I agree

JUDGE OF THE SUPREME COURT

Achala Wengappuli, J

I agree.

JUDGE OF THE SUPREME COURT