

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

In the matter of an application for Special
Leave to Appeal under and in terms of
Article 128 of the Constitution of the
Democratic Socialist Republic of Sri Lanka

Dr. S. W. M. N. P. Karunarathna,
No.27/13, Adhagalawaththa,
Wellawa Road, Kurunegala

**SC Appeal No. 160/2025
SC/SPL/LA/64/2024
CA (Writ) 467/2021**

Appellant

Vs.

Rajarata University of Sri Lanka,
Mihintale.

And 25 others

Respondent

AND NOW BETWEEN

Dr. S. W. M. N. P. Karunarathna
No.27/13, Adhagalawaththa,
Wellawa Road, Kurunegala.

Appellant- Appellant

Vs.

1. Rajarata University of Sri Lanka,
Mihintale.

2. Dr. B. A. Karunarathne,
Vice-Chancellor.
3. Prof. A. M. J. B. Adikari,
Dean, Faculty of Agriculture,
Rajarata University of Sri Lanka.
4. Prof. E. M. K. R. B. Edirisinghe,
Dean, Faculty of Applied Sciences.
5. Prof. W. P. Wijewardhna,
Dean, Faculty of Management Studies.
6. Dr. S. D. Pilapitiya,
Dean, Faculty of Medicine & Allied,
Sciences.
7. Prof. C. Withanachchi,
Dean, Faculty of Social Sciences &
Humanities.
8. Dr. K. G. P. B. Jayathilake,
Dean Faculty of Technology.
9. Prof. T. Mendis,
Senate Nomine.
10. Dr. R. G. P. T. Jayasooriya,
Senate Nomine.
11. Ven. P. N. P. Pangnanda Thero,
UGC Appointed Council Member.
12. Mr. R. M. Wanninayake,
UGC Appointed Council Member.
13. Mr. M. Senevirathn,
UGC Appointed Council Member.
14. Mr. S. P. K. Gunarthne,

UGC Appointed Council Member.

15. Eng. P. Nanayakkara,
UGC Appointed Council Member.

16. Mr. H. M. K. Herath,
UGC Appointed Council Member.

17. Mr. R. G. Jayasena,
UGC Appointed Council Member.

18. Prof. W. W. D. A. Gunawardena,
UGC Appointed Council Member

19. Mr. S. S. K. Mohotti,
UGC Appointed Council Member

20. Mr. A. G. Karunaratna,
UGC Appointed Council Member

21. Mr. I. R. G. D. J. K Ihalagedara,
Head, Department of Humanities

*The 2nd to 21st Respondents of Rajarata
University of Sri Lanka, Mihinthale.*

22. Prof. K. M. P. Kulasekara,
78, Ramasinha Mawatha, Kiribathgoda.

23. Mr. N. C. S. Senaka,
Deputy Registrar,
Rajarata University of Sri Lanka,
Mihinthale.

24. Mr. D. M. T. U. K. Dissanayake,
192, Koratiya, Ruwanwela, Dabagalla,
Monaragala.

25. Mrs. W. A. L. P. Dilhara,

312/A. Abey Mawatha, Ihala
Walahapitiya, Naththandiya.

26. University Grant Commission,
No. 70, Ward Place, Colombo 07.

Respondents-Respondents

Before : Mahinda Samayawardhena, J.
Menaka Wijesundera, J.
Sampath B. Abayakoon, J.

Counsel : Uditha Egalahewa, PC, with Vishva Vimukthi
instructed by Ms. Nilu S. Welgama for the
Appellant-Appellant.

Ms. Yuresha De Silva, DSG, instructed by
Ms. Nimalika Wickremasinghe, SA, for the 1st - 23rd &
26th Respondents-Respondents

Written
Submissions : Written submissions filed on behalf of the Appellant-
Appellant on the 11th of November, 2025.

Further written submissions filed on behalf of the
Appellant-Appellant on the 29th of May, 2026

Written submissions on behalf of the Respondents-
Respondents not filed.

Argued on : 27.03.2026

Decided on : 02.07.2026

MENAKA WIJESUNDERA J.

The instant appeal is filed to set aside the judgement dated 17th of January, 2024, of the Court of Appeal, and for such other reliefs as prayed for in the petition.

In the instant matter, the 1st Respondent had called for applications for the posts of Lecturer (probationary), Lecturer (unconfirmed), and Senior Lecturer Grade II in the subject of history for the Department of Humanities at Rajarata University, through an open advertisement dated 28th of April 2019.

The Appellant pleads that she applied for the said posts on 15th of May 2019, and she had been requested to face an interview on 30th of December 2020. She further pleads that she had been interviewed by a panel of five members, and she had submitted her documents.

The Appellant further claims that she was the only candidate who had a PhD degree in the subject of History. Therefore, she claims that she had reasonable expectations that she would be selected, but she states that, to her dismay, she had not been selected, and under the provisions of the Right to Information Act, she had applied for the details of the selection process. Subsequently, the Appellant became aware that the 24th and 25th Respondents had been selected for appointment, as evidenced by documents marked *P14* and *P15*. She further alleged that she had not been awarded adequate marks in respect of her academic qualifications during the evaluation process.

The Appellant further averred that the interview board lacked the required number of members and that the 12th Respondent was absent when she was interviewed.

Based on the foregoing issues, the Appellant had urged the Court of Appeal to grant her writs by way of a writ of Mandamus, Certiorari and Prohibition. However, the Court of Appeal had refused to grant her relief, and against the said judgment, the instant appeal has been filed.

When this matter had been supported for leave to appeal, the following questions of law were raised, and they are as follows:

- 1) Did the Court of Appeal err in law by its failure to consider that the marks given to the Petitioner were contrary to the marking schemes marked and produced as P3, P4, and P5?*
- 2) Did the Court of Appeal err in law by wrongfully concluding that the selection process for the said posts was an academic issue?*

Hence, the main grouse of the Appellant is that she, being a PhD degree holder, was not selected for any of the three posts which were advertised.

The Respondents in their submissions averred that the selection committee appointed by the 1st Respondent had conducted the interview for the above-mentioned posts, and the suitability of each candidate had been carefully assessed, and in doing so, they had observed the following about the Appellant:

- 1) The PhD was obtained in the area of Education and History, which is not relevant to the modules of the Department of Humanities, and her qualification does not suit the requirements of the department. Furthermore, the Appellant had not been able to complete the PhD within the stipulated time frame given to her, which the Respondents state creates a doubt in her ability to deliver the required academic output for the posts advertised. As such, it had been the reason for 10 marks being awarded to her PhD.
- 2) Publications that the selection committee had observed were not published in academic journals, and even the books she had mentioned had been in the process of being published.
- 3) Work experience, which the selection committee had also evaluated, was not in the teaching capacity but in the capacity of a cultural officer.
- 4) Language skills had not been developed to the capacity of being able to communicate and teach effectively. Therefore, they concluded that she was far behind in performance compared to that of the candidates selected at the interview.

Therefore, upon the material submitted by both parties, I observe that the Appellant, although possessing the qualification of a PhD in the subjects of Education and History, the same had not been relevant to the posts advertised in the Department of Humanities and to the post of Lecturer. The Appellant is required to teach undergraduates and perform a duty where her ability to express a matter is of utmost importance. Therefore, if the interview panel had observed that she had not been able to communicate adequately at the interview, the paper qualification alone would not suffice, and additionally, her

PhD had not been obtained within the time frame given to her by the relevant authorities.

At this juncture, it is pertinent to note that the powers of appointment and the formulation of schemes of recruitment are expressly provided for under Sections 71 and 15, respectively, of the **Universities Act No. 16 of 1978**. The provisions of the said Act regulate appointments to the staff and vest the relevant authorities with the responsibility of assessing the suitability of candidates for appointment. In this regard, our judicial precedents reinforce that while paper qualifications are essential, they do not automatically guarantee selection if they do not align with the advertised discipline or if the candidate fails to demonstrate the required capabilities and competencies during the interview process. Courts have recognized that interview boards possess the discretionary authority to assess a candidate's overall suitability and competence, provided that such assessments are conducted without arbitrary bias.

Hence, the interview panel has the discretion to observe and decide on the suitability of each candidate for the post in question, which, in my opinion, plays a similar role to that of a trial judge, being the best person to judge the demeanor and the deportment of a witness, for the simple reason that they get the opportunity to observe the witness giving evidence. In this instance, the interview board has the opportunity to observe the candidate to determine whether he or she has the required skills for the relevant posts.

The following authorities, which I find to be directly relevant to the issues arising in the present case, illustrate the scope of the jurisdiction exercised by the Supreme Court of Sri Lanka and the Supreme Court of India in reviewing decisions of specialized selection bodies. These decisions emphasize the limited nature of judicial review in such matters and affirm that courts will not ordinarily interfere with the assessments and determinations of expert bodies unless the decision-making process is shown to be affected by illegality, arbitrariness, mala fides or procedural unfairness.

Dr. Karunananda v. Open University of Sri Lanka and others [2006] 3 Sri LR 225; at pages 236-237, the Supreme Court held the following;

'Therefore, although there may be cautionary remarks indicating a reluctance to enter into academic judgment, I am not in agreement with the view that academic decisions are beyond challenge. There is no necessity for the Courts to unnecessarily intervene in matters "purely of academic

nature," since such issues would be best dealt with by academics, who are "fully equipped" to consider the question in hand. However, if there are allegations against decisions of academic establishments that fall under the category stipulated in terms of Article 126 of the Constitution, there are no provisions to restrain this Court from examining an alleged violation relating to an infringement or imminent infringement irrespective of the fact that the said violation is in relation to a decision of an academic establishment."

In the case of **Dalpat Abasaheb Solunke and Others v Dr. B.S. Mahajan and Others, AIR 1990 SC 434**, the Indian Supreme Court observed the following:

".....It is needless to emphasize that it is not the function of the court to hear appeals over the decisions of the Selection Committees and to scrutinize the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The court has no such expertise. The decision of the Selection Committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the Constitution of the Committee or its procedure vitiating the selection, or proved mala fides affecting the selection etc."

Hence, in my opinion, the Appellant has failed to establish any of the recognized grounds upon which this Court may interfere with the decision of a specialized selection body. Furthermore, the Appellant's contention that she was interviewed by a panel comprising one member fewer than the prescribed number, in the absence of any evidence of prejudice, unfairness, or procedural impropriety, does not by itself render the selection process unlawful or arbitrary.

Therefore, in view of the material stated above, I find that no illegality or irregularity has been established against the Respondents. As such, I find no merit in the instant appeal, and I answer the first question and the second question of law in the negative.

The second question of law is answered in the negative for the reason that the learned Judge of the Court of Appeal did not refuse relief, in the instant matter, to the Appellant, for the reason that the matter constituted a mere academic exercise. The learned Judge of the Court of Appeal had cited both local jurisprudence, which reflects judicial restraint in interfering with the decisions of academic selection bodies and a passage from *Wade and Forsyth, Administrative Law (11th Edition, Oxford University Press, 2014, p. 537)*,

wherein it is observed that courts should exercise restraint when reviewing decisions of universities, as such institutions are generally best equipped to make determinations within their sphere of expertise. In considering the judgement of the Court of Appeal, the learned Judge directed his attention to whether the impugned decision was affected by illegality, arbitrariness and procedural impropriety. Having found no such defect in the decision-making process, the Court of Appeal declined to grant relief to the Appellant.

Therefore, I find no reason to vary the findings of the learned Judge of the Court of Appeal. As such, the judgement of the Court of Appeal is affirmed and the instant appeal is dismissed.

JUDGE OF THE SUPREME COURT

Mahinda Samayawardhena, J

I agree.

JUDGE OF THE SUPREME COURT

Sampath B. Abayakoon, J

I agree.

JUDGE OF THE SUPREME COURT