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

In the matter of an application for Special Leave to Appeal from the order dated 14.11.2014, of the Court of Appeal in Case No. C.A. (PHC) APN 184/2013.

SC/APPEAL/164/2015
C.A. Application No. 184/2013
WP/HCCA/KAN 42/2012 (Writ)

**AND NOW BETWEEN**

1. D.M.H. Abeykulawardena
   No. 05, Vihara Mawatha,
   Daluwalatenna, Lunuketiyamaditta,
   Menikhinna.

2. K. G. Samaranayake
   No. 29, Pahala Gonagama,
   Udagama, Menikhinna.

**Petitioner- Petitioner Petitioners**

**Vs.**

1. T.B. Harindranath Dunuwila
   President
2. L.A. Sujatha Wijesinghe
   Secretary

3. A. M. Waiz
   Member
4. Dr. Krishan Rajasundaram
   Member
5. Gunapala Thennakoon
   Member
6. W.M.S.D. Weerakoon
   Member
7. N.D. Kamal Piyumsiri
   Member
8. A.M.R.B. Tennakoon
   Member

   All of Central Provincial Public Service Commission,
   Mahaiyawa, Katugasthota,
   Kandy.

9. Gamini Rajaratne
   Chief Secretary
   Chief Ministers' Office,
   Pallekela, Kundasale,
10. Maithree Gunaratne
    The Governor,
    Provincial Governor's Office, Kandy.

**Respondent-Respondent-Respondents**

Before : Arjuna Obeyesekere, J.
Sobhitha Rajakaruna, J.
Menaka Wijesundera, J.

Counsel : Prinath Fernando for the Petitioner-Petitioner-Appellants.
Dr. Avanthi Perera, DSG instructed by Asanka Samarasinghe for the Respondent-Respondent-Respondents.

Written Submissions : Written submissions on behalf of the Petitioner-Petitioner-Appellants on 4th of November, 2015.
Written submissions on behalf of the Respondent-Respondent-Respondents on 11th of March, 2016.

Argued on : 16.09.2025

Decided on : 19.12.2025

**MENAKA WIJESUNDERA J.**

The instant appeal has been filed to set aside the judgement dated 14.11.2014 of the Court of Appeal.

The petitioners in the instant matter have filed an application to the Civil Appellate High Court of Kandy for the issuance of a writ of Certiorari and a writ of Mandamus against the respondents.

The grouse of the petitioners had been that they had applied for the post of Grama Niladhari Grade II and had sat for a written exam and although they claim that they had obtained high marks, they have not been recruited.

The incident had taken place in 1990, which is twenty-five years ago.

The said post had been advertised by the Provincial Public Service in accordance with the relevant provisions of the Establishment Code.

The learned High Court Judges had refused to issue notice and the applications have been dismissed.

Anyhow, in the High Court, although the petitioners had asked for writs of certiorari and mandamus both, later it had been amended only for a writ of mandamus, as the learned judges had pointed out to the petitioners that relief prayed for were from Ministers of the Central Government and the learned judges of the High Court had no jurisdiction over matters of the Central Government.

Thereafter, on the remaining relief also notices have been refused because they had held that the impugned document remaining to be quashed does not contain an administrative act (marked as P21b).

Thereafter, the petitioners had filed an application of revision in the Court of Appeal and the said Court also have dismissed the applications against which the instant appeal has been filed.

The petitioners had prayed that the judgement made by the Court of Appeal dated 14.11.2014 be set aside.

As such, having considered the submissions of both parties orally and written, I observe that the petitioners in the instant matter had applied for the post of Grama Niladhari Grade II, which had been advertised by the appointing authority which in the instant matter is the Provincial Public Service as per Clause 5(ii) of the gazette dated 12.10.1990.

Clause 5(ii) reads as follows,

"තෝරා ගැනීම සඳහා විභාග දෙපාර්තමේන්තුව මගින් ලිඛිත තරඟ විභාගයක් පවත්වනු ලබන අතර, තෝරා ගනු ලබන්නේ ලිඛිත තරග විභාගයේ ප්‍රතිඵල මත පැවැත්වෙන සම්මුඛ පරීක්ෂණයක් අනුවය. මෙම විභාගයේ විෂය නිර්දේශය 'අ' පරිශිෂ්ඨයේ දැක්වෙයි. මෙහි විභාග ගාස්තු වශයෙන් රු. 50ක මුදලක් මධ්‍යම පලාත් සභාවට ගෙවිය යුතුවේ (මෙම මුදල ආපසු ගෙවනු නොලැබේ)".

The grievance of the petitioners had been that although they have sat for an exam as per the regulations in the above-mentioned gazette and having obtained the highest marks that they were not recruited to the above-mentioned posts.

On being aggrieved by the said judgement, the petitioners had filed a revision application in the Court of Appeal and in the Court of Appeal they had only canvassed for a writ of mandamus against the respondents.

The Court of Appeal by their above-mentioned judgement had affirmed the order of the learned High Court Judge on the dismissal of the application upon analyzing Clause 5(ii) of the gazette notification and furthermore, had stated that the Petitioners had not placed any material to conclude that the other

appointments have been made and as such, had concluded that there is no ground to issue a writ of mandamus.

**When the matter was supported on 23.09.2015, leave had been granted on the following questions of law,**

**(a) The judgement of the Court of Appeal is contrary to law and evidence,**
**(b) The learned Judges of the Court of Appeal have erred in holding that 'P1' was only intended to call them for an interview after the examination,**
**(c) The Learned Judges of the Court of Appeal have erred in basing their reasoning on the lines of the Learned High Court Judge that nothing in the gazette notification 'P1' ensures that the person who scored the highest marks would be appointed,**
**(d) The judgement of the Learned Judges of the Court of Appeal is contrary to Section 5(3) of Chapter II of the Establishment Code.**

The main question in this matter, which this Court has to consider is clause 5(ii) in the Gazette notification, which has been marked and produced as P1 and whether it provides a provision for the recruitment for the above mentioned post or whether it only provides a provision for the eligibility to qualify for the job interview.

According to the said clause, obtaining high marks at the written exam only qualifies the petitioners to be called for an interview to be recruited to the above mentioned post. The said marks are not a qualification for recruitment.

Admittedly, the two petitioners had been called for an interview as per the letter marked as P4(a) and P4(b) at pages 137 and 139. Therefore, the respondents have fulfilled their obligations as per Clause II of the Gazette notification, cited by the petitioners. Therefore, the conclusions by the learned High Court Judge and the Court of Appeal are in accordance with the material submissions of the respondents.

The respondents in the written submissions filed on record has cited clause 5:3:1 of the Establishment Code which reads as follows;

> *'On receipt of the recommendation of the Selection Board, the appointing authority will have the order of merit ascertained according to the marks obtained by the candidates at the written examination and at the interview'*

As per the above provisions of the Establishment Code, which is relevant to the instant application, the appointing authority has to consider the marks obtained by the candidate at the written examinations and the interview.

Therefore, the marks obtained at the written examination is not a stand-alone qualification for the petitioners to have been selected for the above-mentioned job vacancies.

In the instant matter, the petitioners had pleaded for a writ of mandamus from the High Court, which had been refused.

The concept of writs originates in English law, where various judicial remedies were developed and issued in the name of the sovereign issued by a court of law. Among these, a distinct category known as prerogative writs emerged, being closely associated with the authority of the Crown. While many such writs have fallen into disuse over time, several have survived into the modern legal era. These include the writs of certiorari, prohibition, mandamus, quo warranto, and habeas corpus.

**M. P. Jain and S. N. Jain** (in 'Principles of Administrative Law', 9th Edition (2022), LexisNexis, at p.2440) observe that

> "Mandamus means a command; Mandamus is used to enforce the performance of public duties by public authorities; The essence of mandamus is that it is a command by the court ordering the performance of a public legal duty."

In the case ***CA/WRIT/45/2019,*** at p.10 Justice Sobhitha Rajakaruna observed referring to the said case that;

> *H. W. R. Wade in* ***'Administrative Law', 4th Edition (1977), Clarendon Press Oxford,*** *has stated that the essence of Mandamus is that it is a royal command, issued in the name of the Crown from the court of King's Bench (now the Queen's Bench Division of the High Court), ordering the performance of a public legal duty. In the* ***5th Edition (1982)*** *and as well as in the* ***6th Edition (1988)*** *of the said* ***'Administrative Law'*** *the same sentence appears therein. However, the said sentence is reflected in the* ***11th Edition (2014) of the above 'Administrative Law', p.520*** *using the words 'mandatory order' instead of 'writ of Mandamus'. This may be due to the amendments in reference to the judicial review procedures in English law introduced to the Supreme Court Act 1981 (now known as the Senior Courts Act 1981).*

*The Clause 3(a) of the Civil Procedure (Modification of Supreme Court Act 1981) Order 2004 No.1033, which came into effect on 1st May 2004 provides that the "orders of mandamus, prohibition and certiorari" described in Section 29 of the said Supreme Court Act shall be known instead as "mandatory, prohibiting and quashing orders" respectively.*

As such, in the instant matter, the Court of Appeal had been correct in affirming the decision of the High Court in their refusal to grant the relief prayed for by the petitioners because there was no illegal act committed by the respondents and neither a refusal to do a lawful act.

Furthermore, the Court of Appeal had observed that despite the petitioners claims that some applicants had been appointed to the vacancies that they were seeking to be appointed to, they were unable to support that contention with documents.

Therefore, the learned Judges of Court of Appeal had concluded that the High Court was not furnished with the appropriate and relevant material by the petitioners, hence, the judgement of the High Court is correct.

As such, we see no merit in the instant appeal and I answer the questions of law from (a) to (d) in the negative.

The instant appeal is dismissed without costs.

**JUDGE OF THE SUPREME COURT**

**Arjuna Obeyesekere, J**
I agree.

**JUDGE OF THE SUPREME COURT**

**Dr. Sobhitha Rajakaruna, J**
I agree.

**JUDGE OF THE SUPREME COURT**