

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

In the matter of an Appeal from the
Judgement of Their Lordships of
the Court of Appeal delivered on
17.10.2016 in the C.A Writ
Application No. 176/2014.

RUPASINGHE
ARACHCHIGE DON
DAYASIRI RUPASINGHE,
No: 336, Jaltara, Ranala.

Petitioner

**SC/Appeal No. 40/2021
SC / SPL / LA 249 /2016
CA (Writ) Application No. 176/2014**

V.

1. SRI LANKA STANDARD
INSTITUTION
No: 17, Victoria Place,
Elvitigala Mawatha,
Colombo 8.
2. KITHSIRI
DISSANAYAKE,
Chairman of both Sri
Lanka Standards
Institution and the
Council of the Sri
Lanka Standards
Institution and
Member of the
Interview Panel Sri
Lanka Standard
Institution,
No: 17, Victoria Place,
Elvitigala Mawatha,
Colombo 8.

2A. M.S. ANEEZ,
Chairman of both Sri
Lanka Standards
Institution and the
Council of the Sri
Lanka Standards
Institution and
Member of the
Interview Panel Sri
Lanka Standard
Institution,
No: 17, Victoria Place,
Elvitigala Mawatha,
Colombo 8.

2AA. PRADEEP GUNAWARDANE.
Chairman of both Sri
Lanka Standards
Institution, and the
Council Sri Lanka
Standards Institution,
No: 17, Victoria Place,
Elvitigala Mawatha,
Colombo 8.

2AAA. H.M.B.C. HERATH,
Acting Chairman both
Sri Lanka Standards
Institution and the
Council of the Sri
Lanka Standards
Institution,
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2AAAA. M.F. JEHAN CASSIM, PC,
Chairman both Sri
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2AAAAAA. PROF. ABEYARATHNE BANDARA
Chairman of both Sri
Lanka Standards
Institution and the
Council of the Sri
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2AAAAAAA. KANTHI GUNAWARDANE
Chairperson of both Sri
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2AAAAAAAAA. PROF. THEEKSHANA SURAWEERA
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3. DR. L.N. SENAWEERA
Director General and a
Member of the
Interview, Panel of the
Sri Lanka Standard
Institution,
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3A. T.D.G. DHARMAWARDENA
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3AA. W.N.N. SATHARASINGHE,
Director General of the Sri
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3AAA. DR. SIDDHIKA
G. SENARATNE,

Director General of the
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4. B.N.I.F.A.
WICKREMASOORIYA,
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4A. R. JAYATILAKE,
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11AAA. DR. A.M. MUBARAK,
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12. E.P.A. DAYARATNE,
Member of the Council
of the Sri Lanka
Standards Institution
and a Member of the
Interview Panel, No:
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12.A. M.A ALLAM,
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12AAAAAAA. NELUKA PATABENDIGE
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13. RENUKA EKANAYAKE,
Additional Secretary
(Administration &
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of Technology &
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representative of the
Secretary of the Ministry
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Interview Panel, Ministry
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14. D.V. BANDULASENA,
Additional Director
General, Sri Lanka
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Member of the
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No: 17, Victoria Place,
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Colombo 8.
15. E.G. SOMAPALA,
Former Government
Analyst and a Member
of the Interview Panel,
No: 93/40,
Gemunupura,
Palanwatta,
Pannipitiya
16. H.L.R.W. MADANAYAKE,
Former Director of
Measurement Unit,
Standard & Services
Department and a
Member of the
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17. L.P.L. CHITRAGE,
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18. H.G.S. SOORIYAARACHCHI,
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19. S. UDAKARA,
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20. M.I.S. JAYASEKERA,
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21. T.S. SENARATHNE,
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22. M.B.D. NEELAKANTHI,
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23. No Respondent named
24. T. UTHAYAKUMAR,
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25. M.H.G. WEERASINGHE,
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26. M.S.S. FERNANDO,
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27. K.S. ABEYGUNAWARDANA,
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28. B.S.P. PERERA,
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29. L.H. KARALLIYADDA,
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30. A.S. DEWAGE,
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31. M.S.M. ALIYAR,
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RESPONDENTS

AND NOW BETWEEN

SRI LANKA STANDARD
INSTITUTION
No: 17, Victoria Place,
Elvitigala Mawatha,

Colombo 8.

1ST RESPONDENT-APPELLANT

PROF. THEEKSHANA
SURAWEEERA

Chairman of both Sri
Lanka Standards
Institution and the
Council of the Sri
Lanka Standards
Institution,
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**2AAAAAAA
RESPONDENT-
APPELLANT**

DR. SIDDHIKA G.
SENRATNE,
Director General of the
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**3AAA RESPONDENT-
APPELLANT**

PROF. HEMA M K K
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**4AAAAAAA
RESPONDENT-
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**5AAAAAA
RESPONDENT-
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**7A RESPONDENT-
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KEERTHI GUNA
WARDANE,
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**8AA RESPONDENT-
APPELLANT**

PROF. CHANDANA
PERERA,
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**9AAAAAA
RESPONDENT-
APPELLANT**

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**10AAAA
RESPONDENT-
APPELLANT**

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**11AAA RESPONDENT-
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**12AAAAAAA
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17th RESPONDENT-APPELLANT

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18th RESPONDENT-APPELLANT

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19th RESPONDENT-APPELLANT

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20th RESPONDENT-APPELLANT

-VS-

RUPASINGHE
ARACHCHIGE DON
DAYASIRI
RUPASINGHE,
No: 336, Jaltara.
Ranala.

PETITIONER-RESPONDENT

AND

RENUKA EKANAYAKE,
Additional Secretary

(Administration & Finance) of the Ministry of Technology & Research and a representative of the Secretary of the Ministry of Technology & Research in the Interview Panel, Presently, Secretary, Ministry of Rural Economy CWE Secretariat Building, No: 27, Vauxhall Street, Colombo 2.

13th RESPONDENT-RESPONDENT

D.V. BANDULASENA, Additional Director General, Sri Lanka Institute of Development Administration and a Member of the Interview Panel, Presently, Secretary, State Ministry of Agriculture No: 80/5, Govijana Mandiraya. Rajamalwatte Road, Battaramulla.

14th RESPONDENT-RESPONDENT

E.G. SOMAPALA, Former Government Analyst and a Member of the Interview Panel, No: 93/40, Gemunupura. Palanwatta, Pannipitiya.

15th RESPONDENT-RESPONDENT

H.L.R.W.
MADANAYAKE,
Former Director of
Measurement Unit,
Standard & Services
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Member of the
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16th RESPONDENT-RESPONDENT

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21st RESPONDENT-RESPONDENT

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22nd RESPONDENT-RESPONDENT

T. UTHAYAKUMAR,
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24th RESPONDENT-RESPONDENT

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26th RESPONDENT-RESPONDENT

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27th RESPONDENT-RESPONDENT

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28th RESPONDENT-RESPONDENT

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29th RESPONDENT-RESPONDENT

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30th RESPONDENT-RESPONDENT

M.S.M. ALIYAR,

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31st RESPONDENT-RESPONDENT

Before : Yasantha Kodagoda, PC, J
A. L. Shiran Gooneratne, J
K. Priyantha Fernando, J

Counsel : Kushan D' Alwis, PC with Prasanna De Silva, Gihini Yapa and Linuri Munasinghe instructed by W.A.Y.K. Weerasinghe for the 1st, 12th and 17th - 20th Respondent- Appellants.

Saliya Peiris, PC with Thanuka Nandasiri instructed by Manjula Balasooriya for the Petitioner- Respondent.

Rajitha Perara, DSG instructed by Chaminda De Silva for the 13th Respondent- Respondent.

Argued on : 23.09.2025

Decided on : 16.01.2026

K. PRIYANTHA FERNANDO, J

1. The Respondents-Petitioners-Appellants (hereinafter referred to as Appellants) instituted this application against the Petitioner-Respondent (hereinafter referred to as Respondent) and sought to set aside the Judgment of their Lordships of the Court of Appeal dated 17.10.2016, bearing case No. CA (Writ) 176/2014 which was given in favour of the Respondent.

2. The Respondent instituted the application CA (Writ) 176/2014 before their Lordships in the Court of Appeal against the Appellants and sought the following :
 - a) Grant and issue a Mandate in the nature of Writ of Certiorari quashing the decision of the one or more or all of the 1st to 16th Respondents to select and promote the 17 Respondent to the post of Director (Laboratory Services Division), the 18th Respondent to the post of Director (Product Clarification), the 19th Respondent to the post of Director (Metrology), the 20th Respondent to the post of Director (Scientific Standardization Division).
 - b) Grant and issue a mandate in the nature of a Writ of Mandamus directing one or more of the 1st to 16th Respondents to promote the Appellant to one of the three following posts in the 15th Respondent viz. Director (Laboratory Services Division), Director (Product Clarification), Director (Metrology), Director (Scientific Standardization Division).
3. The said application was taken up for argument whereupon the parties made oral applications and thereafter were given the opportunity to tender written submissions. Subsequently, their Lordships of the Court of Appeal delivered the Judgement dated 17.10.2016 granting the Writs of Certiorari as prayed for in the petition, whilst refusing the Writ of Mandamus prayed by the Respondent in his petition.
4. Aggrieved by the said Judgment of their Lordships of the Court of Appeal, the Appellants sought special leave from this Court, and

leave was granted for the question of law in paragraph 25 (b) of the Petition dated 24.11.2016.

Question of Law

b) "Have Their Lordships of the Court of Appeal erred in law in issuing Writs of Certiorari as prayed for in prayer (c), (d), (e) and (f) of the prayer to the Petition marked X1 by inter-alia failing to take into consideration:

- (i) The M.Sc. Degree in Analytical Chemistry of the Petitioner-Respondent had already been considered as a pre-requisite/entry qualification for the Petitioner-Respondent to join the 1 Respondent-Petitioner; and*
- (ii) The said M.Sc. Degree qualification of the Petitioner-Respondent could not be considered again as an additional qualification for the application of the Petitioner-Respondent for the posts of Director (Technical) of the 1st Respondent-Petitioner."*

Facts of the Matter

5. The Respondent joined the 1st appellant institution on 02.11.1987 as a Standards/Testing officer, Executive Grade VI and was later placed in the Consulting and Training Division. At the time of recruitment the Respondent held a B.Sc. degree in Chemistry, Pure and Applied Mathematics and an M.Sc in Analytical Chemistry. The Respondents' service of confirmation was received on 12.02.1991 and subsequently he was promoted as Standards/Testing officer, Executive Grade III with effect from 02.11.1991, Assistant Director (Food testing) Executive Grade II with effect from 15.04.1998, Assistant Director (Food testing) Executive Grade I with effect from 28.10.2007 and finally as

Senior Deputy Director HM 1-1 with effect from 26.10.2009.
(Designation of the Respondent at present).

6. In the last quarter of the year 2013, applications were called from eligible candidates for the positions of Director (Laboratory), Director (Metrology) and Director (Product Clarification) under two circulars. The Respondent applied after the second circular dated 2013-12-30 (marked and produced as P13B) was issued. After the interviews for the aforesaid positions were held, the position for Director (Scientific Standardization Division) also fell vacant and thereafter final appointments were made for that post too. The Respondents' interview was on 28.02.2014 and it was submitted by the Respondent that on 27.02.2014, which is a day prior to the Respondents' interview, the marking scheme was changed without any explanation. Thereafter, the interview of the Respondent has been held as scheduled.
7. Accordingly, with effect from 28.03.2014, the 17th Appellant was made Director (Laboratory Services Division), the 18th Appellant was made Director (Product Clarification), the 19th Appellant was made Director (Metrology) and the 20th Appellant was made the Director (Scientific Standardization Division) respectively.

Submissions of the parties

8. The learned Presidents' Counsel for the Respondent submitted that, although 20 marks had been allocated for the M.Sc/MBA degree in both marking criteria (P-14B and P-14C) the Respondent was not awarded a single mark for his M.Sc in

Analytical Chemistry but in contrast, other candidates were awarded the full 20 marks. The Counsel further submitted that the said Master's degree had been awarded to him prior to his recruitment on 2nd November 1987 as a Standards/Testing Officer. Executive Grade VI, and therefore the position taken by the appellants for not allocating marks is that the M.Sc of the Respondent was considered as the Respondents' recruitment qualification and therefore no marks can be given for the same. The Presidents' Counsel argued that the Scheme of Recruitment does not have any provision preventing the allocation of marks in instances where the Master's Degree was a recruitment qualification.

9. Furthermore, the learned Presidents' Counsel for the Respondent submitted that the Master's degree is not a recruitment qualification for the Standards/Testing Officer in the existing Scheme of Promotion and Recruitments and that a Master's degree was only an entry qualification for the post of Standards/ Testing Officer in the previous Scheme of Promotion and Recruitments and therefore in the circumstances, the non-allocation of a single mark for the Respondents' M.Sc was unreasonable.
10. At the hearing, the learned President's Counsel for the Respondent contended that the Court of Appeal has correctly held that the marking scheme does not shed any light on the term "entry" contemplate and that it is not clear whether or not the term "Entry" speaks about the relevant post or the entry to the institution.

11. On the other hand, the learned Presidents' Counsel for the Appellants submitted that, the reason for the failure of the Respondent to be selected and be promoted to the post of Director (Technical) is because admittedly during the interview and selection process the Respondent did not receive any marks for additional professional qualification, even though the respondent had the M.Sc.
12. The learned Presidents' Counsel for the Appellants submitted that, the reason for the Respondent to not receive any marks for the M.Sc. Degree as an additional professional qualification was because the Respondent had already utilised the M.Sc. degree as an entry qualification that was required by the Respondent to initially join the 1st Appellant institution.
13. The learned Presidents' Counsel for the Appellants further submitted that, at the time of entry to the 1st Appellant institution, the 17th to 20th appellants had B.Sc. Special degrees in Science and had joined the 1st appellant by 'only' using their respective degree as their entry qualification. On the other hand, the Counsel contended that as the Respondent at the time of joining the 1st appellant institution only had a General degree in B.Sc. which was neither a special degree nor a general degree with a Class, the Respondent had no choice but to utilize both his B.Sc. in Science General degree and M.Sc. degree to satisfy the an entry requirement to join the 1st Appellant as an employee.
14. The learned Presidents' Counsel for the Appellants contended that the 17th to 20th Appellants during the course of their employment obtained M.Sc. Degrees and therefore was able to

utilize that as an additional qualification at the time of interview. The Counsel further submitted that, the Respondent on the other hand, after having joined the 1st Appellant institution did not obtain any other further qualification thereafter and as such did not have any additional qualification that could be used by the Respondent at the time of interview.

15. At the hearing, the learned Presidents' Counsel for the Appellants also stated that, Their Lordships of the Court of Appeal have erred in holding that the note in Guideline for Allocation of Marks which states that, "marks should be given only for additional higher qualifications other than entry qualification" does not shed light as to, what "entry" it contemplates. The Counsel contended that the entry referred to in Guideline for Allocation of Marks is in fact the first entry of the Respondent and the 17th to 20th Appellants to the 1st Appellant institution.

16. Addressing the alteration in the guidelines governing the allocation of marks, the learned Presidents' Counsel for the Appellants submitted that although the original Guideline for Allocation of Marks dated 21.02.2014 (at page 74 of the Brief) was subsequently revised by the Guideline dated 27.02.2014 (at page 73 of the Brief), such modification does not in any manner affect the applicability or relevance of the Respondent's M.Sc. qualification

17. In light of that, the principal issue that arises for consideration here is whether the complaint raised by the Respondent, that is the non-awarding of the 20 marks to the Respondent for the M.Sc. qualification held by him at the time of

the interview for the post of Director (Technical) in the 1st Appellant institution was unreasonable, arbitrary, or otherwise contrary to law.

18. As per page 26 of the brief, and documents marked R1 and R1A, at the time of recruitment, the qualifications for the Respondent and the 17th to 20th Appellant to join as standard testing officers (Grade VI) were as follows:

- a. *B Sc. Special degree in Science or,*
- b. *B Sc. General degree in Science with a class or,*
- c. *B Sc. General degree in Science and Post Graduate Qualification,*

19. Upon perusal of the documentary evidence, it is clear that at the time of entry to the institution, the 17th - 20th Appellants had B.Sc. Special degrees in Science, whilst the Respondent had a B.Sc. General degree in Science without a class and a M.Sc. Degree in Analytical Chemistry and based on those qualifications they were selected to be employed in the 1st Appellant institution. Thereafter, in the Course of their employment it is observed that the 17th to 20th Appellants have obtained M.Sc. Degrees in various fields such as Operations Research, Microbiology, Food Science, Technology etc. At the same time it is also observed that the Respondent did not obtain any other further qualification in the course of his employment.

20. As previously discussed, the Respondent did not possess either a Special Degree in Science or a General Degree in Science with a class. Consequently, he was compelled to select Option C at the

time of joining the 1st Appellant institution, namely, the General B.Sc. degree in Science together with a postgraduate qualification. In these circumstances, it becomes evident that the reason the Respondent was not entitled to receive additional marks for the M.Sc. degree as a further professional qualification, is because the said M.Sc. degree had already been utilised by him as the requisite entry qualification for admission to the 1st Appellant institution.

21. Upon examination of the document marked P14C, it is evident that the respondent has not been awarded any marks under the heading “Additional Qualifications.” However, before determining whether the respondents’ M.Sc qualification in question falls within that category, it is necessary to consider the notation appearing at the foot of that column, on documents marked P14C which provides that “marks should be given only for additional higher qualifications other than the entry qualification.” In my view, this note makes it abundantly clear that a qualification previously relied upon as an entry requirement cannot again be taken into account for the purpose of allocating marks for the promotion under consideration.
22. Their Lordships of the Court of Appeal, in their judgment, has taken the view that the term “entry” as used in the marking scheme P14C is ambiguous, such that it is unclear whether it refers to entry to the advertised post or entry to the employee’s initial post. With respect, this Court is unable to agree with that conclusion. The term “entry,” when read in its proper context, can only sensibly refer to entry into the 1st Appellant institution. If “entry” were intended to mean entry into the particular post in question, the inclusion of such a note in the guideline would serve

no purpose and would be redundant. Accordingly, the learned Judges of the Court of Appeal have, in this regard, erred in stating so.

23. Furthermore, although the learned Presidents' Counsel for the Respondent has submitted that the overnight alteration of the mark sheets in documents P14B and P14C raises suspicion, such a contention does not affect the Respondents' eligibility. A review of both the original and updated Guidelines for allocating marks shows that the Respondents' marks for the M.Sc. degree remains unchanged. The only difference between the two versions is a clearer notation stating that marks are granted only for qualifications obtained beyond the entry qualification. As the Respondent used the M.Sc. degree as the entry qualification when joining the institution, he is not eligible for any additional marks for it under either guideline.
24. Accordingly, this Court is of the view that Their Lordships of the Court of Appeal erred in law in issuing Writs of Certiorari quashing the decision of the 15th to 16th Appellants to select and promote the 17th, 18th, 19th, and 20th Appellants to the respective posts of Director (Laboratory Services Division), Director (Product Clarification), Director (Metrology), and Director (Scientific Standardization Division). In doing so, the Court of Appeal, *inter alia*, failed to take into account that the Respondents' M.Sc. Degree in Analytical Chemistry had already been treated as a prerequisite or entry qualification for the Respondents' appointment to the 1st Appellant institution, and therefore could not be considered once again for the purpose of awarding marks for promotion.

25. For the foregoing reasons, this Court orders that the Judgment of the Court of Appeal dated 17.10.2016 in Case No. CA (Writ) 176/2014 be set aside. The question of law is accordingly answered in the affirmative.

The Appeal is allowed.

JUDGE OF THE SUPREME COURT

JUSTICE YASANTHA KODAGODA, PC

I agree

JUDGE OF THE SUPREME COURT

JUSTICE A. L. SHIRAN GOONERATNE

I agree

JUDGE OF THE SUPREME COURT