

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

In the matter of an application under and in terms of Article 126 of the Constitution of the Democratic Socialist Republic of Sri Lanka

SC (FR) Application No. 568/2012

- 1) Ceylon Electricity Board Independent Engineers Association,
Ceylon Electricity Board,
Kolonnawa.
- 2) Kalubowilage Kingsley Bernard Perera,
71A, Vikshopa Devamatha Road,
Manaweriya.
- 3) Nihal Thasmantha Atapattu,
“Hemantha”,
Koramburuwana,
Ransegoda, Matara.
- 4) S.S.M. Indika Seneviratne,
570, Nedumgamuwa,
Gampaha.

PETITIONERS

- Vs -

- 1) Ceylon Electricity Board,
PO Box 540,
Sir Chittampalam A Gardiner Mawatha,
Colombo 2.
- 2) W.B. Ganegoda
- 2A) W.D.A.S. Wijayapala
- 2B) M.M.C Ferdinand
- 2C) N.S. Illangakoon
- 2D) Dr. Tilak Siyambalapitiya

2 – 2D Respondents are Chairmen of the Ceylon Electricity Board.

- 3) T.M. Herath.
- 3A) W.A. Gamini Wannisekera
- 3B) N.S. Illangakoon
- 3C) Abey Ranaweera
- 3D) D.K.P.U. Gunathilake

3 – 3D Respondents are Chairmen of the Ceylon Electricity Board.

- 4) K.I.D.P. Kularatne,
Working Director.
- 5) R.A.A.K. Ranawaka
- 6) W.D. Jayasinghe
- 7) Dr. B.M.S. Batagoda
- 8) D.R. Wirithamulla
- 8A) K.P.D.J.G. Kariyawasam
- 8B) M.R.V.R. Meepura,

2nd – 8th Respondents are members of the Board of Directors of the Ceylon Electricity Board.

- 9) B.N.I.F.A. Wickremasuriya,
General Manager, Ceylon Electricity Board
- 9A) A.K. Samarasinghe,
- 9B) Eng. M.R. Ranatunga
- 9C) Eng. (Dr.)D.C.R. Abeysekera
- 9D) Dr. Narendra De Silva

9E) Eng. K.G.R.F. Comester

10) K.L.D.M.A Halpe,
Deputy General Manager (Personnel)

10A) Eng.P.A.J.P.K. Perera,

10B) Eng. S.A.D.A. Peiris

11) M.C. Wickremasekara,
Additional General Manager (Generation)

11A) Eng. A.R. Navamani

11B) Eng. N.S. Wettasinghe

9th – 11B Respondents at
Ceylon Electricity Board,
PO Box 540, Sir Chittampalam A Gardiner
Mawatha, Colombo 2.

12) Hon. Attorney General,
Attorney General's Department,
Colombo 12.

13) P.I.A.S. Perera,
Chief Engineer,
Kukuleganga Power Station, Kukuleganga.

14) U.R.S.S. Senadhiratne,
Chief Engineer,
Ukuwela Power Station,
Ukuwela.

15) Mahesh Abeysekara,
Member, Board of Directors of the Ceylon
Electricity Board,
P.O.Box 540, Sir Chittampalam A. Gardiner
Mawatha, Colombo 2.

RESPONDENTS

Before: **Kumudini Wickremasinghe, J**
Arjuna Obeyesekere, J
Sampath B. Abayakoon, J

Counsel: Shantha Jayawardena with Thilini Vidanagamage for the Petitioners
Fazly Razik, Deputy Solicitor General for the 1st – 11th Respondents
Sugath Caldera for the 13th and 14th Respondents

Argued on: 6th June 2025

Written Submissions: Tendered by the Petitioners on 13th February 2020, 21st June 2021 and 23rd June 2025
Tendered by the 1st – 11th Respondents on 30th November 2021 and 24th June 2024
Tendered by the 13th and 14th Respondents on 23rd June 2025

Decided on: 18th July 2025

Obeyesekere, J

The 2nd Petitioner is a Class II Grade I Civil Engineer employed at the 1st Respondent, Ceylon Electricity Board [the 1st Respondent]. The 3rd and 4th Petitioners are Class II Grade I Mechanical Engineers, also employed at the 1st Respondent. The 1st Petitioner is a trade union whose membership consists of Mechanical and Civil Engineers employed at the 1st Respondent.

The issues that arise in this case are twofold. The first is whether the Board of Directors of the 1st Respondent have taken a decision to appoint Mechanical and Civil Engineers employed at the 1st Respondent to the post of Chief Engineer at the Ukuwela and Kukule Ganga Power Stations. The second issue, dependant on the first, is whether the 9th Respondent, the General Manager of the 1st Respondent [the 9th Respondent] acted contrary to such decision when he called for applications to fill the said posts by specifying that only Electrical Engineers are eligible to apply for the said posts.

The case for the Petitioners

The Petitioners state that by a Circular issued on 2nd December 2010 [P3], the Additional General Manager (Generation) of the 1st Respondent called for applications for the post of Chief Engineer at the Kukule Ganga Power Station but had restricted applications to Electrical Engineers [Class II Grade I] working at the 1st Respondent. The Petitioners state that restricting applications to Electrical Engineers working at the 1st Respondent is unreasonable and unfair.

The Petitioners state that on or about 16th December 2010 [P4], the 1st Petitioner made representations to the 1st Respondent to rectify this alleged anomaly. P4 refers to two posts in the 1st Respondent. The first is the post of Chief Engineer at Kukule Ganga Power Station where the request of the 1st Petitioner was to permit Mechanical Engineers to apply for such post. The second post is that of Chief Engineer [Business and Operational Strategy] for which the 1st Petitioner had requested that Mechanical and Civil Engineers be permitted to apply.

The Petitioners had claimed in P4 that a committee chaired by a former Additional General Manager of the 1st Respondent had in fact recommended that Mechanical Engineers be allowed to apply for the post of Chief Engineer, Kukule Ganga Power Station. While the report of the said committee has not been placed before this Court, the 1st Respondent has denied the existence of such a committee.

The position as at 4th January 2011 was that only Electrical Engineers were eligible to apply for the above two positions. Accordingly, by a further Circular issued on 4th January 2011 [P5], the 9th Respondent had called for applications *inter alia* for the posts of (a) Chief Engineer, Kukule Ganga Power Station, and (b) Chief Engineer, Business and Operational Strategy, from Electrical Engineers.

The Petitioners claim that by letter dated 17th January, 2011 titled “*Internal advertisement for the posts of Chief Engineer (Kukule Ganga Power Station) and Chief Engineer (Business and Operational Strategy)*” [P6], the Chairman of the 1st Respondent had informed the 9th Respondent as follows:

"A letter submitted by the [1st Petitioner] was taken up for discussion at the Board meeting held on January 13, 2011.

The Board decided that the said posts must be re-advertised providing the opportunity for Civil and Mechanical Engineers also to apply.

Hence, please take action accordingly and present the copy of the advertisement at the next Board Meeting."

Although on the face of it, P6 has been copied to the 1st Petitioner, the 1st Respondent has denied the existence of P6, and states that it is a forged document for the reason that the signature that appears on P6 as being the signature of the Chairman is not that of the Chairman. Be that as it may, the minutes of the meeting held on 13th January 2011 have been tendered to this Court marked **P6a**. While I shall refer to P6a later in this judgment, I must perhaps state that even if P6 is a genuine document, P6 cannot be read in isolation but must be read in conjunction with what is recorded in P6a.

The Petitioners state that notwithstanding P6, the 9th Respondent had not only failed to call for applications afresh by re-advertising the said posts and thereby providing the opportunity for Civil and Mechanical Engineers to apply, the 9th Respondent had proceeded to appoint an Electrical Engineer to the post of Chief Engineer at the Kukule Ganga Power Station. The Petitioners claim that the failure of the 9th Respondent to comply with the Board decision referred to in P6 was brought to the attention of the Chairman of the 1st Respondent, and that at a meeting of the Board of Directors held on 29th June 2011, the Board had reiterated the decision taken on 13th January 2011. The minutes of the meeting held on 29th June 2011 have been annexed to the petition marked **P7**.

The complaint of the Petitioners is that notwithstanding the aforementioned decisions of the Board of Directors of the 1st Respondent said to be set out in P6a and P7, the 9th Respondent proceeded to issue a Circular on 30th August 2012 [**P8**] calling for applications only from Electrical Engineers for the posts of Chief Engineer at the Kukule Ganga and Ukuwela Power stations. The Petitioners claim that having made representations and having been informed by P6 that the Board of Directors had decided to accede to their

request, the Petitioners and all other Mechanical and Civil Engineers at the 1st Respondent had a legitimate expectation that all future applications for the post of Chief Engineer at the Kukule Ganga and Ukuwela Power stations will be open for Mechanical and Civil Engineers employed at the 1st Respondent. The Petitioners claim that in these circumstances, the decision of the 9th Respondent to issue P8 is not only arbitrary but is violative of their legitimate expectations and amounts to an infringement of the fundamental right of the 2nd – 4th Petitioners to the equal protection of the law guaranteed by Article 12(1) of the Constitution. The Petitioners have accordingly moved that P8 be quashed and that fresh applications be called for the said posts from Electrical, Mechanical and Civil engineers.

This being the case for the Petitioners, I shall now consider the case for the Respondents.

The version of the Respondents

The learned Deputy Solicitor General appearing for the 1st Respondent submitted that the Board of Directors of the 1st Respondent has not taken any decision permitting Mechanical and Civil Engineers to apply for the post of Chief Engineer, either at the Kukule Ganga Power Station or at the Ukuwela Power Station and that the Petitioners have misrepresented facts by claiming that such a decision had been taken.

In considering the submissions of the learned Deputy Solicitor General, I must bear in mind that (a) by P4 dated 16th December 2010, the Petitioners made representations in respect of two posts, that of Chief Engineer, Kukule Ganga Power Station and Chief Engineer, Business and Operational Strategy, and (b) the Circular P5 issued on 4th January 2011 too referred to these two posts.

Paragraph 11.01.21.08 of the minutes of the meeting held on 13th January 2011 [P6a] reads as follows:

"Chief Engineer vacancies in the Corporate Strategy Division of the CEB

The letter dated December 16, 2010 addressed to the General Manager, CEB, by the Ceylon Electricity Board Independent Engineers Association, with a copy to the Chairman, CEB was tabled.

The Board decided that the said posts must be re-advertised providing the opportunity for Civil and Mechanical Engineers to apply for the said post. General Manager was directed to take action accordingly and present the copy of the amended advertisement at the next Board meeting."

While the reference in P6a is to P4, it is clear from the heading of Paragraph No. 11.01.21.08 that the above decision relates only to the post of **Chief Engineer in the Corporate Strategy Division of the 1st Respondent** and not to the post of Chief Engineer, either at the Kukule Ganga or Ukuwela Power Stations. Thus, P6a does not support the version of the Petitioners that the Board of Directors of the 1st Respondent took a decision to open the post of Chief Engineer, either at the Kukule Ganga or Ukuwela Power Stations to Mechanical and/or Civil Engineers.

Paragraph 11.01.21.09 of P6a reads as follows:

"Discrimination of Mechanical and Civil Engineers in the CEB

*The letter dated December 16, 2010 addressed to the General Manager, CEB by Ceylon Electricity Board Independent Engineers Association with a copy to the Chairman, CEB was **tabled and noted by the Board.**"*

Thus, what the Board of Directors of the 1st Respondent had decided at their meeting held on 13th January 2011 is to permit Mechanical and Civil Engineers to apply for the post of Chief Engineer in the Corporate Strategy Division. The Board of Directors have not decided at the said meeting held on 13th January 2011 to permit Mechanical and Civil Engineers of the 1st Respondent to apply for the post of Chief Engineer at the Kukule Ganga or Ukuwela Power Stations, as the learned Counsel for the Petitioners made it out to be. Therefore, even if the authenticity of P6 is accepted, P6 cannot be construed as giving rise to a legitimate expectation on the part of the Petitioners that Mechanical and Civil Engineers of the 1st Respondent can apply for the post of Chief Engineer, either at the Kukule Ganga or Ukuwela Power Stations.

Even though the Petitioners claimed that P7 reaffirmed the decision in P6, a closer examination of P7 would demonstrate that it is not so. The learned Deputy Solicitor General drew the attention of this Court to Item 11.13.183.10 [P7a] which is re-produced below:

"Appointment of Chief Engineer Kukule Ganga Hydro Power Station

The letter dated May 04, 2011 addressed to the General Manager, CEB with a copy to the Chairman, CEB by the Joint Secretary, Ceylon Electricity Board Independent Engineers Association, was tabled.

*The Board noted the decision taken under minute number **11.01.21.08** of the Board Meeting held on January 13, 2011 i.e. "the said posts must be re-advertised providing the opportunity for Civil and Mechanical Engineers to apply for the said post. General Manager was directed to take action accordingly and present the copy of the amended advertisement at the next Board meeting" has not been carried out.*

General Manager was requested to take necessary action accordingly to carry out the Board decision taken."

It must be noted that letter dated 4th May 2011 sent by the 1st Petitioner has not been tendered by the Petitioners.

Thus, P7a is referable to the post of Chief Engineer in the Corporate Strategy Division. The reference to paragraph 11.01.21.08 in P6a which only dealt with Chief Engineer, Corporate Strategy does not support the version of the Petitioners that the Board of Directors of the 1st Respondent had decided to permit Mechanical and Civil Engineers of the 1st Respondent to apply for the posts of Chief Engineer at the Kukule Ganga or Ukuwela Power Stations. P7a however goes to support what is recorded in P6a, that being to permit Mechanical and Civil Engineers to apply for the post of Chief Engineer in the Corporate Strategy Division of the 1st Respondent.

In these circumstances, I am of the view that (a) limiting applications to the post of Chief Engineer at the Kukule Ganga or Ukuwela Power Stations to Electrical Engineers is not in contravention of the decision of the Board of Directors of the 1st Respondent as set out in

P6a or P7, and (b) P8 is therefore not arbitrary and is not violative of the fundamental rights of the 2nd – 4th Petitioners guaranteed by Article 12(1).

There is one other matter that I wish to advert to, prior to concluding.

Decision of the 1st Respondent - 2012

The learned Deputy Solicitor General submitted that all hydropower plants require the services of electrical engineers, mechanical engineers and civil engineers for the smooth functioning and operation of its activities. However, he submitted that these categories of Engineers constitute a distinct and separate class in view of their distinct qualifications, their expertise and the functions they perform in the 1st Respondent. He submitted further that in view of the highly technical nature of the role of Chief Engineer of hydropower stations and the specific expertise required to manage such high risk power stations, the 1st Respondent has consistently limited the aforesaid posts to Electrical Engineers considering their particular knowledge and expertise in operating and managing the critical components of these power stations.

Pursuant to the filing of this application the 1st Respondent had appointed a committee consisting of an Attorney-at-law, an Electrical Engineer who was at that time the Dean, Faculty of Engineering at the Kotelawela Defense University, and a Professor attached to the Department of Mechanical Engineering, University of Moratuwa to revisit the question of whether mechanical and civil engineers can be allowed to apply for the post of Chief Engineer of a hydropower station. In their report [2R2], the Committee has concluded that "*the opening up of the Chief Engineer-in-Charge of the Kukuleganga and Ukuwela Hydro Power projects for mechanical and civil engineers would be detrimental to the effective functioning of these power stations.*" The learned Deputy Solicitor General submitted that the said report was tabled before the Board of Directors of the 1st Respondent on 12th March, 2014 and has been duly approved. It was therefore his position that the current decision of the Board of Directors of the 1st Respondent is that it is only Electrical Engineers who are eligible to apply for the post of Chief Engineer of a hydro power station.

Conclusion

In the above circumstances, this application is dismissed, without costs.

JUDGE OF THE SUPREME COURT

Kumudini Wickremasinghe, J

I agree.

JUDGE OF THE SUPREME COURT

Sampath B. Abayakoon, J

I agree.

JUDGE OF THE SUPREME COURT