

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

SC (FR) Nos. 345/2016 with 346/2016, 347/2016 & 348/2016

In the matter of an application under
and in terms of Articles 12(1) read with
Article 126 of the Constitution of the
Democratic Socialist Republic of Sri
Lanka.

1. L.G.L. Sumithra Menike,
No. 43, Viharagama Janapadaya,
Pahala Owala, Kaikawala
2. R.P. Aruna Malini,
No. 185/1,
Neluwa Kanda,
Alwatte, Matale.
3. Subadra Wijekanthi,
Wijaya Sevana, Kambi Adiya,
Kaikawala, Matale.
4. P. G. Dharmaratne,
Maussagolla, Rattota.
5. I. G. Sumanasena, No. 132,
Neluwa Kanda,
Alwatte, Matale
6. D.G. Indrani Swarnalatha
No. 5, Walathalawa, Rattota.
7. H.M. Kumudini Herath,
No. 193/6, Palleweragama,
Kaikawala.

8. W.P.M. Sandmal De Silva
103/6A, Kuruwawa, Rattota.

PETITIONERS

Vs.

1. Commissioner of
Local Government-Central Province,
Office of the Commissioner of Local
Government – Central Province.
2. Secretary,
Rattota Pradeshiya Sabha,
Rattota.
3. Director General of
Establishments, Ministry of Public
Administration, Local Government and
Democratic Governance,
Independence Square,
Colombo 7.
4. Rattota Pradeshiya Sabha,
Rattota.
5. Hon. Attorney General
Attorney General's Department,
Colombo 12

RESPONDENTS

BEFORE:

S.E. Wanasundera P.C., J
Priyantha Jayawardena P.C., J.
Anil Gooneratne J

COUNSEL: J.C. Weliamuna P.C. with Senura Abeywardena
for the Petitioners

Yuresha de Silva S.S.C. for the 1st, 3rd & 5th Respondents

Ranga Dayananda for the 2nd & 4th Respondents

ARGUED ON: 02.06.2017

DECIDED ON: 20.06.2017

GOONERATNE J.

The above applications which are similar in nature were taken up together for hearing. The 8 Petitioners in Application No. 345/2016 were serving the Rattota Pradeshiya Sabha in Rattota served in different capacities and positions. These Petitioners impugn the purported decision marked P7A – P7H read with P8 to temporarily cancel permanent appointments granted to the Petitioners. Paragraph 7 of the petition which is a table prepared for the purpose gives details of permanent positions. By Public Administration Circular P3 employees who are on a temporary, casual or relief basis are to be given permanent appointments. Petitioners were placed on a permanent basis. By letter of 01.12.2014 with effect from 24.10.2014. (P5A – P5H). As described in paragraph 9 of the petition, to the surprise of the said Petitioners the 2nd

Respondent revoked their letters of appointment by letter of 09.11.2014. (as in 'a', 'b' & 'c' as of paragraph 9. Representations were made to 2nd Respondent.

Petitioners plead that decision of the 2nd Respondent referred to in documents P7A – P7H read with document P8 violated Article 12(1) of the Constitution.

The Petitioner in Application No. 346/16 was serving the Yatawatta Pradeshiya Sabha. The Petitioner impugn the purported decisions mark P7 read with P8 as in the above application. Petitioner was made permanent as from 24.10.2014 as a Labourer (P1). By P2 Petitioner was appointed Labourer maintaining Street Lamps within the Yatawatta Pradeshiya Sabha limits. (P2) In the same way as above (P3) all temporary, casual etc. were made permanent. Accordingly Petitioner was also given a permanent appointment (P5) as from 24.10.2014. However the 2nd Respondent as above revoked the Petitioner's appointment by P7 dated 04.12.2015. P7 read with P8 is violative of Article 12(1) of the Constitution. As such this petitioner seek a declaration that the Respondents have violated the fundamental rights of the Petitioners under Article 12(1) of the Constitution. In the same way seeks to declare that P7 and P8 are illegal and null and void, and to declare that the Petitioners are entitled to be appointed to the post in document P5.

S.C. Application No. 347/2016 facts are similar to above. So is Application No. 348/2016. All the Petitioners in these Fundamental Rights Applications have suffered the same fate. The Respondents did not seriously object to granting of relief to the several Petitioners in the aforesaid applications, when the applications were taken up for hearing. Most of the petitioners serve as Library Assistants or minor employees. Their employment was terminated on a wrong interpretation given to a Public Administration Circular. Circular P3 grants permanent appointments to those holding temporary, or casual employment in the named Pradeshiya Sabha.

Petitioners in all these applications are entitled to relief sought as in their prayers to the petition. As such this court allow these applications with costs, relief granted as per subparagraphs 'b', 'c' & 'd' of the several prayers to the respective petitions, filed of record.

Applications allowed with costs.

JUDGE OF THE SUPREME COURT

S. E. Wanasundera P.C., J.

I agree.

JUDGE OF THE SUPREME COURT

Priyantha Jayawardena P.C., J.

I agree.

JUDGE OF THE SUPREME COURT