

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

CA (Writ) Application No: 253/2017

Kasthuri Anuradhanayaka
Pubudupura,
Anuradhapura.

Petitioner

Vs.

1. S.G.M.C.K. Senaviratne
The Chairman,
Provincial Public Service Commission,
North Central Province,
Anuradhapura.

And 11 Others

Respondents

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

C.A.Writ Application No. 253/2017

Counsel : Shantha Jayawardanwe with Dinesh De Silva for the
Petitioner

Asthika Devendra with Dinusha Mohan on the instructions
of Manjula Balasooriya for the 7th Resppndent

Nayomi Kahawita SC for the 10th and 11th Respondents

Before : L.T.B. Dehideniya J.

: Shiran Gooneratne J.

Decided on : 11.09.2017

L.T.B.Dehideniya J.

The Petitioner being a member of the Provincial Council of North Central Province, in public interest, filed this action challenging the calling for applications for recruitment of teachers for the North Central Province. The Petitioners contention is that the method of recruitment is not in conformity with the Service Minute of Sri Lanka Teachers' Service. His argument is that the recruitment shall be on school basis according to paragraph 7.2.3. of the service minute, but the NCPC has adopted a division basis recruitment method. He moves for an interim order to restrain to the Respondents from giving appointments until final determination of this application.

The learned Counsel for the respondent submitted that the NCPC has promulgated a Service Minute for the Teachers' Service of the North Central Provincial Public Service. As per paragraph 7.2.3. the recruitment is on the basis of Educational Zone. Among other things he further submits that the Petitioner is guilty of laches.

The Service Minute for the Teachers' Service of the North Central Provincial Public Service was promulgated with the sanction of the Governor of the North Central Province on 28.11.2016. The public service Commission of the NCPC is bound to act under the said service minute. The Petitioner in this application is a councilor of the NCPC and he is the 'Monitoring Member' in respect of education in the NCPC. Therefore he is expected to know the activities of the NCPC in relation to education. He cannot say that he is unaware of the service minute of NCPC. The Petitioner in this application has not disclosed the said service minute. Further he is not making any application to annul the said service minute. Until the said service minute is in force, the public service commission of the province is bound by that and cannot deviate from it.

The Petitioner is challenging the calling for applications for recruitment. The advertisement was published in the 'Dinamina' news paper on 23rd December 2016. The Petitioner waited until the examination was conducted and the qualified candidates were called for the interview to file this application. The application was filed on 28th July 2017, after 7 months from calling for applications.

The Petitioner has come to Court on public interest. If the Court restrains the respondents from making the appointments to the teachers' service, the vacancies will remain unfilled and the children of the province will undergo the difficulties in education. The Court cannot, in

the guise of protecting public interest, defeat the interest of one sector of public (the school children) to protect another sector.

Under these circumstances we refuse to issue the interim order.

We issue notice on respondents.

President, Court of Appeal

Shiran Gooneratne J.

I agree.

Judge of the Court of Appeal