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**PREMASIRI****Vs.****MISKIN AND OTHERS**

COURT OF APPEAL  
OBEYESEKERE, J.  
CA/WRIT/52/2012  
JANUARY 21, 2019

**Writs of certiorari and mandamus—Administrative Appeals Tribunal Act, No. 4 of 2002, sections 4, 3(b) — Jurisdiction of the Administrative Appeals Tribunal—National Police Commission—Articles 59(1), 59(2), 155L, 155K(1) of the Constitution**

The petitioner was charged with six charges at a disciplinary inquiry and the inquiring officer found the petitioner guilty of charge No. 4 and he was acquitted of charge Nos. 1 to 3 and 5 and 6. Based on the inquiry report, the 1st respondent Deputy Inspector General of Police, who was the disciplinary authority, imposed punishment on the petitioner amounting to the deferment of four salary increments. The petitioner filed an appeal to the National Police Commission (NPC) and the NPC reduced the deferment of salary increments to two from four. The petitioner then made an appeal to the Administrative Appeals Tribunal (AAT). Having heard the appeal, the AAT found the petitioner guilty of all six charges. The petitioner filed an application before the Court of Appeal seeking to quash the decisions of the NPC and the AAT by writs of certiorari.

**Held:**

In terms of Articles 59(2) and 155L of the Constitution, the power of the AAT is limited to any orders or decisions made by the NPC. The findings of the inquiry officer and the Disciplinary Authority relating to charge Nos. 1- 3, 5 and 6 were not the subject matter of the appeal to the NPC. On appeal against the decision of the NPC in respect of charge No. 4, the AAT had no jurisdiction to consider the findings of the inquiry officer and the disciplinary authority relating to charge Nos. 1- 3, 5 and 6.

**Cases referred to:**

1. Council of Civil Service Unions v. Minister for the Civil Service 1985AC 374

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APPLICATION for Writs of Certiorari and Mandamus.

Eranjan Atapattu for the Petitioner.

Anusha Fernando, D. S. G., for the 1st - 18th Respondents.

*cur. adv. vult.*

April 5, 2019

**OBEYESEKERE, J.**

When this matter was taken up for argument on 19th September 2018, the learned Counsel for all parties moved that this Court pronounce its Judgment on the written submissions that would be tendered by the parties.

The Petitioner has filed this application, seeking inter alia the following relief:

- a) A Writ of Certiorari to quash the Order of the Administrative Appeals Tribunal delivered on 11th May 2011, annexed to the petition marked 'A1';
- b) A Writ of Certiorari to quash the Order of the National Police Commission dated 2nd March 2009, annexed to the petition marked 'Z1';
- c) A Writ of Mandamus directing the 13th Respondent, the Inspector General of Police to grant the promotions that the Petitioner is entitled to.

The facts of this matter very briefly are as follows.

The Petitioner was a Police Constable attached to the Police Department and was serving at the Uva Paranagama Police Station at the time that a complaint was made by Ms. Vajira Janaki Sudasinghe, the 19th Respondent of an alleged breach of promise by the Petitioner to marry the 19th Respondent after divorcing his wife. The 4th Respondent, who at that time was the Assistant Superintendent of Police, Bandarawela, acting on the said complaint, had directed that a preliminary investigation be carried out by the 3rd Respondent. Upon receipt of the report of the 3rd Respondent, the 4th Respondent had issued the Petitioner with a charge sheet dated 6th, April 2004, containing six charges.

The disciplinary inquiry against the Petitioner had been conducted by the 2nd Respondent, who was a serving Assistant Superintendent of

Police at that time. While the inquiry was proceeding, the Petitioner had been served with an amended charge sheet annexed to the petition marked ‘YI’, containing six charges. This Court has examined the said amended charge sheet and observes that all charges arise from the illicit relationship that the Petitioner is said to have had with the 19th Respondent but with each charge containing the following specific accusation, as a result of which it was alleged the Petitioner had brought the Police Department into disrepute:

**Charge 1 - 1995.02.25** වන දින වර්ජා ජානකී සුදසිංහ සමග බදුල්ල දුන්හිද දිය ඇල්ල අපලදී “උඹට මම වෙන මිනිසෙක් එක්ක යන්න දෙන්නේ නැහැ. මම උඹට වෙඬි කියලා මරා දමනවා” කියා තර්ජනය කිරීමෙන්, අනිසි ලෙස හෝ විනය පවත්වාගෙන යාමට හානි කරවිය හැකි අන්දමින් හැසිරීමෙන්.

**Charge 2 - ඇල්ල කැපපෙට්පොල පදිංචි ආර්. එච්. පියතිලක යන අයගේ නිවසට 2000.02.25** වන දින හෝ ඊට ආසන්න දිනයක ගිය විට, එම ජයතිලක යන අය මඛ විවාහකයෙකු හේද කියා ඇසූ විට විවාහකයෙකු බව ඇත්ත, තම බිරිද අතහැර සිටින බවත් ඇයගෙන් දික්කසාද වී මෙම නංගුව විවාහ කර ගන්නා බව පැවසීමෙන් ද එදින එම නිවසේ එක කාමරයක රාත්‍රිය ගතකර ඇය සමග අඹු සැමියන් වශයෙන් හැසිරීමෙන්.

**Charge 3 - 1995.02.25** වන දින වර්ජා ජානකී සුදසිංහ සමග බදුල්ල දුන්හිද දිය ඇල්ල අපලදී “උඹට මම වෙන මිනිසෙක් එක්ක යන්න දෙන්නේ නැහැ. මම උඹට වෙඬි කියලා මරා දමනවා” කියා තර්ජනය කිරීමෙන්, අනිසි ලෙස හෝ විනය පවත්වාගෙන යාමට හානි කරවිය හැකි අන්දමින් හැසිරීමෙන් මහජනයාගෙන් කෙනෙකුට අවිනිත අන්දමින් හෝ පීඩාකාරී අන්දමින් හැසිරීමෙන්.

**Charge 4 - 2000.04.25** දින බණ්ඩාරවෙල සහකාර පොලිස් අධිකාරී A. W. දයාරත්න මහතාට ප්‍රකාශයක් දෙමින් වර්ජා ජානකී සුදසිංහ සමග අනියම් සම්බන්ධතාවයක් නොපැවැත්වූ බව ප්‍රකාශ කිරීමෙන් ඔනෑකමින්ම හෝ නොසැලකිලිමත්කමින් හෝ අසත්‍ය ප්‍රකාශ කිරීමෙන්.

**Charge 5 - 1997.06.07** දින ඉඩම් ආරවුලක් මත වර්ජා ජානකී සුදසිංහ ගේ නංගියේ පුරුෂයා පහරදීමෙන් පසු ඇය වැලිමඩ රෝහලේ නැවතී ප්‍රතිකාර ගනිමින් සිටිය දී එදින සවස 4ට පමණ ඇය බැලීමට වැලිමඩ රෝහලට ගොස් ඇය සමග කථා කිරීමෙන් පසු “එම ප්‍රශ්නය අදම දෙපක්ෂය සාමදාන කරනවා” යැයි පැවසීමෙන් පොලිස් නිලධාරියෙකු තම තත්ත්වය පෞද්ගලික ප්‍රයෝජනය සඳහා යොදවා ගැනීමෙන්.

**Charge 6 - 1996.11.28** සහ 2000.03.29 දින කාලය තුලදී තමා වෙත බාරදී තිබුණු පොලිස් නිලධාරීන්ගේ නිල ඇඳුම් සඳහා යොදාගන්නා කාකිරේදී, බැනියම් 1ක් යනාදිය වර්ජා ජානකී සුදසිංහ නැමැත්තියගේ පුද්ගලික වැඩ

**කටයුතු සඳහා පාවිච්චි කිරීමට දීමෙන් තමන්ට බාරදී තිබුණු භාණ්ඩ වලට හානි කිරීමෙන්.**

After the recording of the evidence for the prosecution was concluded and having afforded the Petitioner an opportunity of leading evidence on his behalf, the Inquiry Officer had found the Petitioner not guilty of all charges except charge No. 4. This Court has examined the report of the Inquiry Officer, annexed to the petition marked ‘Y2’ and observes that the Petitioner has been found not guilty of five charges for the reason that the prosecution had failed to prove the specific accusation contained in each of the said charges, and not because of a failure by the prosecution to establish the main allegation against the Petitioner that the Petitioner had an illicit relationship with the 19th Respondent and that he had breached his promise of marriage. This is borne out by the following two paragraphs from the report ‘Y2’:

මෙම චෝදනා පත්‍රය විභාගයේ දී මූලික විමර්ශනයේ පැවති දුර්වලතාවයන් කිහිපයක් මත වූදින නිලධාරී වෙත චෝදනාවෙන් ගැලවියාමට අවස්ථාවක් උදව් ඇත. සෑම චෝදනාවක්ම චෝදනාවේ පැමිණිලිකාරියගේ මුල් පැමිණිල්ලේ කුඩා කුඩා කොටස් වෙත වෙනම දන්වා ඇති හෙයින් සාක්ෂි මගින් එය ඔප්පු කිරීමට පැමිණිල්ල මෙහෙයවන නිලධාරියා අපොහොසත් වී ඇති අතර, සිදුවීම සිදුවී අවුරුදු 4කට 5කට පසු සාක්ෂි දීම තුලින් කුඩා කුඩා තීරනාත්මක වූ කොටස් සාක්ෂිකරුවන්ට මතකයෙන් ඇත්ව ගොස් තිබුණි.

වූදින වරදකරු වූ ඇත්ත සභවා කථා කිරීම නැමති වූ චෝදනාව සම්බන්ධව දඬුවම් නියම කිරීමේ දී සැලකිල්ලට ගත යුතු විශේෂ කරුණු මෙසේය. මූලික විමර්ශනය චෝදනාපත් ලබාදීමේදී පැවති අඩුපාඩු මත වූදින නිලධාරියා චෝදනාපත්‍රයේ සඳහන් අනෙක් චෝදනා වලින් නිවැරදිකරු වුවත්, ඔහු ඇත්ත වශයෙන් පැමිණිලිකාරිය සමඟ අනියම් සම්බන්ධතාවයක් පවත්වා ඇයට තර්ජනය කරන ලද අවස්ථා ඇත. එසේ හෙයින් වූදින පොලිස් දෙපාර්තමේන්තුවේ විනය සංග්‍රහය ප්‍රකාරව දඬුවම් ලැබිය යුතු නිලධාරියෙකු වේ. වූදින වැරදිකරු වූ මෙම චෝදනාව සම්බන්ධයෙන් නිර්දේශිත දඬුවම් වන්නේ වැටුප් වර්ධක 4ක් විලම්බනය කළ යුතු බවත්ය.

The actions that the Disciplinary Authority may take on receipt of the report of the Inquiry Officer have been set out in Chapter XLVIII Section 22. 5 of the Establishments Code and reads as follows:

*A Disciplinary Authority may, after careful study of the report of a formal disciplinary inquiry forwarded to him by the Tribunal, arrive at the following decisions:*

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- 1) *Convict the officer of one or some or all of the charges.*
  - 2) *Acquit the accused officer of one or some or all of the charges.*
  - 3) *Quash the proceedings of the formal disciplinary inquiry and order a fresh disciplinary inquiry.*

Having considered the report of the Inquiry Officer marked 'Y2', the 1st Respondent, Deputy Inspector General of Police, Uva Province who was the Disciplinary Authority of the Petitioner had issued the disciplinary Order annexed to the petition marked 'Y3', agreeing with the findings of the Inquiry Officer. The 1st Respondent, while holding that the Petitioner is guilty of charge No. 4, had acquitted the Petitioner of charge Nos. 1 - 3, 5 and 6. The punishment imposed on the Petitioner by the Disciplinary Authority was the deferment of four salary increments.

Being dissatisfied with the said Order of the 1st Respondent, the Petitioner filed an appeal with the National Police Commission. The primary complaint of the Petitioner was that the Inquiry Officer had acted on the sole testimony of the 19th Respondent and that the evidence of the 19th Respondent had not been corroborated. The Petitioner had also stated that in terms of Sections 10. 3 and 10. 4 of Chapter VII of the Establishments Code, an increment can only be deferred up to a maximum of one year and therefore, the punishment imposed on the Petitioner is illegal. The National Police Commission, having considered the said grounds of appeal, had dismissed the appeal subject to a reduction of the punishment to the deferment of two salary increments. This Court must observe at this stage that the argument of the Petitioner on the provisions of Sections 10. 3 and 10. 4 of Chapter VII of the Establishments Code is misconceived for the reason that the deferment in Chapter VII is done where the quality and output of an officer's work has been below standard or inadequate, whereas the deferment of four salary increments of the Petitioner has been imposed by the Disciplinary Authority by way of a punishment, as provided in Chapter XLVIII Section 24. 3. 10 of the Establishments Code.

The Petitioner filed an appeal against the said decision of the National Police Commission with the Administrative Appeals Tribunal. Having heard the Petitioner and the National Police Commission, the Administrative Appeals Tribunal by its Order marked 'A1' held as follows:

*It appears that the prosecution had led sufficient material to establish Count No. 1- 6. Therefore, this Tribunal vacates the*

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*order of the Disciplinary Tribunal exonerating the appellant from count Nos. 1, 2, 3 and 5 and finding him guilty of only count Nos. 4 and 6. The Tribunal finds the accused officer guilty of Count Nos. 1, 2, 3, 4, 5 and 6.*

The Petitioner thereafter filed this application, invoking the Writ jurisdiction of this Court to quash the said Order of the Administrative Appeals Tribunal marked 'A1' as well as the Order of the National Police Commission marked 'ZI'.

Although in his petition to this Court, the Petitioner had challenged the aforementioned Orders of the Disciplinary Authority, the National Police Commission and the Administrative Appeals Tribunal on three grounds, in his written submissions, the Petitioner has only addressed Court with regard to the legality of the Order of the Administrative Appeals Tribunal. However, as the Petitioner has not specifically indicated in the written submissions that he has abandoned the other grounds, and for the sake of completeness, this Court would consider all three grounds pleaded in the petition.

In considering the three grounds urged by the Petitioner, it would be apt to keep in mind the following passage of Lord Diplock in *Council of Civil Service Unions v. Minister for the Civil Service*:<sup>1</sup>

*Judicial review has I think developed to a stage today when without reiterating any analysis of the steps by which the development has come about, one can conveniently classify under three heads the grounds upon which administrative action is subject to control by judicial review. The first ground I would call 'illegality', the second 'irrationality' and the third 'procedural impropriety'.*

The grounds urged on behalf of the Petitioner falls within 'illegality' which has been summed up by Lord Diplock in the following manner:

*By 'illegality' as a ground for Judicial review I mean that the decision maker must understand correctly the law that regulates his decision making power and must give effect to it. Whether he has or not is par excellence a justiciable question to be decided in the event of dispute, by those persons, the judges, by whom the judicial power of the state is exercisable.*

The first ground urged by the Petitioner is that a Superintendent of Police does not have the authority to issue a charge sheet to the Petitioner

and that a disciplinary Order cannot be issued by an officer other than a Deputy Inspector General of Police.

The Chairman of the National Police Commission has issued the following Order published in the Gazette Notification No. 1299/9 dated 30th July 2003, annexed to the petition marked 'C', which reads as follows:

ශ්‍රී ලංකා ප්‍රජාතාන්ත්‍රික සමාජවාදී ජනරජයේ ආණ්ඩුක්‍රම ව්‍යවස්ථා භාග්‍යයේ 155(උ)(1)(අ) ව්‍යවස්ථාව යටතේ ජාතික පොලිස් කොමිෂන් සභාව වෙත පැවරී තිබෙන බලතල ප්‍රකාරව එකී කොමිෂන් සභාව විසින් 155ඒ(1) ව්‍යවස්ථාවේ සඳහන් වන නියමයන්ට අනුව පොලිස්පතිවරයා විමසීමෙන් පසුව පොලිස්පතිවරයාට හා මේ යටතේ නම්කරනු ලැබ සිටින සෙසු පොලිස් නිලධාරීන්ට, මෙහි පහත දැක්වෙන බලතල මෙදින සිට ක්‍රියාත්මක වන පරිදි පවරන ලද බව මෙයින් දැනුම් දෙනු ලැබේ.

(අ) විනය පාලනය සහ සේවයෙන් නෙරපීම - පොලිස් පරීක්ෂක නිලයේ හා ඉන් පහළ නිලවල නියුක්ත නිලධාරීන්ගේ විනය පාලනය හා වැඩ කහනම් කිරීම ද ඔවුන් සේවයෙන් නෙරපීම ද පිළිබඳ බලතල මතු දැක්වෙන 'අ' උපලේඛනයෙහි නියම කොට දක්වා ඇති පරිදි සහකාර පොලිස් අධිකාරී නිලයෙහි හා ඉන් ඉහළ නිලවල නියුක්ත නිලධාරීන්ට පවරා දෙනු ලැබේ.

'අ' උපලේඛනය

	බලය/දැඩුවම	කොස්තාපල්/කොස්තාපල් රියදුරු
02	චෝදනා සැකසීම	පොලිස්පති ජ්‍යෙෂ්ඨ නියෝජ්‍ය පොලිස්පති නියෝජ්‍ය පොලිස්පති ජ්‍යෙෂ්ඨ පොලිස් අධිකාරී පොලිස් අධිකාරී සහකාර පොලිස් අධිකාරී
04	ජ්‍යෙෂ්ඨත්වයෙන් පහත දැමීම තරාතිරම පහත දැමීම වාටුල් අඩු කිරීම වාටුල් වර්ධක විලම්බනය නියමිත කාලයට උසස්වීම් විලම්බනය	පොලිස්පති ජ්‍යෙෂ්ඨ නියෝජ්‍ය පොලිස්පති නියෝජ්‍ය පොලිස්පති

In terms of the said Order 'C', an officer not below the rank of an Assistant Superintendent of Police is empowered to issue a charge sheet to a Police Constable. The charge sheet as well as the amended charge sheet have

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been served on the Petitioner by an Assistant Superintendent of Police and a Superintendent of Police, respectively. Thus, there is no merit in the argument of the Petitioner.

Furthermore, in terms of the said Order 'C', an officer not below the rank of Deputy Inspector General of Police has the power to defer salary increments of a Police Constable by way of a punishment. Accordingly, the 1st Respondent who was a Deputy Inspector General of Police at that time was empowered to impose the disciplinary Order 'Y3' on the Petitioner. Therefore, this Court does not see any merit in the first ground urged by the Petitioner.

The next ground urged on behalf of the Petitioner is that in terms of Chapter VII-Sections 10. 3 and 10. 4 of the Establishments Code, a salary increment cannot be deferred for more than one year. This Court has already held that this argument of the Petitioner is misconceived in law and that the punishment imposed on the Petitioner is within the provisions of the Establishments Code.

This Court would now deal with the final ground urged by the learned Counsel for the Petitioner, which is that the Administrative Appeals Tribunal did not have the power to find the Petitioner guilty of all charges.

The 17th amendment to the Constitution enacted in 2001 introduced provisions with regard to the Administrative Appeals Tribunal. While Article 59(1) of the Constitution specifies that, "There shall be an Administrative Appeals Tribunal appointed by the Judicial Service Commission", Article 59(2) confers the Administrative Appeals Tribunal with "the power to alter, vary or rescind any order or decision made by the (Public Service) Commission."

Article 155L of the Constitution further provides as follows:

*Any Police Officer aggrieved by any order relating to promotion, transfer, or any order on a disciplinary matter or dismissal made by the (National Police) Commission, in respect of such officer, may appeal therefrom to the Administrative Appeals Tribunal established under Article 59, which shall have the power to alter, vary, rescind or confirm any order or decision made by the Commission.*

A plain reading of the above provision indicates that while the Administrative Appeals Tribunal has the power to alter, vary or rescind

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or confirm any Order or decision, that power is limited to any Orders or decisions made by the National Police Commission.

In this regard, this Court would like to consider the Administrative Appeals Tribunal Act No. 4 of 2002, which contains provisions relating to the filing of appeals and the powers of the Administrative Appeals Tribunal to determine such appeals.

Section 4 of the Act provides as follows:

*(1) Any police officer . . . aggrieved by an order or decision made by the National Police Commission, . . . may prefer an appeal in writing to the Tribunal within four weeks from the date of receipt of such order or decision.*

*(2) An appeal preferred to the Tribunal under subsection (1), shall set out concisely and precisely the grounds on which the aggrieved . . . police officer, . . . seeks to have the order or decision against which such appeal is being preferred altered, varied or rescinded and shall be signed by such officer.*

Section 3(b) of the Act reads as follows:

*The Tribunal shall have the power to hear and determine any appeal preferred to it from any order or decision made by . . . the National Police Commission in the exercise of its powers under Chapter XVIII A of the Constitution.*

The question that this Court must consider is whether the power of the Administrative Appeals Tribunal when determining the appeal is limited to a consideration whether the decision of the National Police Commission that the Petitioner is guilty of charge No. 4 is right or wrong, or whether the Administrative Appeals Tribunal can consider the facts and circumstances relating to charge Nos. 1- 3, 5 and 6 and make a determination of guilt, although the said charges did not form part of the subject matter of the appeal that was considered by the National Police Commission and hence, did not form part of the Order or decision of the National Police Commission. In other words, whether the Administrative Appeals Tribunal can only make a determination on charge No. 4, which formed the decision of the National Police Commission, or whether the Administrative Appeals Tribunal is also entitled to make a determination in relation to charge Nos. 1- 3, 5 and 6, although the said charges did not form part of the Order or decision of the National Police Commission.

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The cumulative effect of the above provisions of the Constitution and the Administrative Appeals Tribunal Act can be summarized as follows. Under Article 155K(2) of the Constitution, a police officer who is aggrieved by the findings of an Inquiry Officer or the Disciplinary Authority may lodge an appeal with the National Police Commission. That appeal would necessarily be limited to a challenge on the finding of guilt and adverse conclusions reached by the Inquiry Officer and/or the punishment imposed by the Disciplinary Authority. Thus, the subject matter of the appeal before the National Police Commission would not cover any charges on which the said police officer had been exonerated by the Inquiry Officer, unless the Inspector General of Police, in terms of Article 155K(I) has lodged an appeal, which is not the case in this application.

The National Police Commission, in keeping with its mandate, would only consider the appeal lodged by the police officer and arrive at its decision or Order which would only deal with the issue whether the finding of guilt on a specific charge is right or wrong and whether the punishment imposed is in terms of the law and if so, whether it is reasonable or not.

In the event of the National Police Commission upholding the decision of the Inquiry Officer and the Disciplinary Authority, the police officer who is aggrieved by the Order or decision made by the National Police Commission may prefer an appeal to the Administrative Appeals Tribunal. The petition of appeal should “set out concisely and precisely the grounds on which the aggrieved police officer seeks to have the order or decision against which such appeal is being preferred altered, varied or rescinded”. Upon receipt of an appeal, the Tribunal shall notify the National Police Commission of the filing of such appeal and shall forthwith forward a copy of such appeal to the National Police Commission (Section 5(1) of the Act), who shall thereupon have the power to place before the Administrative Appeals Tribunal for its consideration, objections if any, to or against such appeal (Section 5(2) of the Act).

In terms of Section 3(b) of the Act, the Administrative Appeals Tribunal has the power to hear and determine the appeal preferred to it by the police officer and in doing so, take into consideration the grounds urged in the petition of appeal. In other words, the matters that the Administrative Appeals Tribunal can consider are the matters set out in the appeal relating to the decision of the National Police Commission. In the context of this application, the findings of the Inquiry Officer and the

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Disciplinary Authority relating to charge No. 4 was the subject matter of the appeal before the National Police Commission and hence, the Order of the National Police Commission relating to the said charge and all matters connected therewith, could be examined by the Administrative Appeals Tribunal. However, as the findings of the Inquiry Officer and the Disciplinary Authority relating to charge Nos. 1- 3, 5 and 6 were not the subject matter of the appeal to the National Police Commission, were not the subject matter of the decision or Order of the National Police Commission, and hence did not form the subject matter of the appeal to the Administrative Appeals Tribunal, the Administrative Appeals Tribunal cannot consider the findings of the Inquiry Officer and the Disciplinary Authority relating to charge Nos. 1- 3, 5 and 6.

This Court is of the view that the power that has been conferred on the Administrative Appeals Tribunal by Article 155L of the Constitution is to alter, vary, rescind or confirm any order or decision of the National Police Commission and does not extend to considering the legality of the decisions of the Inquiry Officer and the Disciplinary Authority which were not the subject matter of the inquiry before the National Police Commission and the decision of the National Police Commission.

In these circumstances, this Court is of the view that as the finding by the Inquiry Officer that the Petitioner is not guilty of charges 1- 3, 5 & 6 was not challenged before the National Police Commission and was therefore never the subject matter of an order or decision of the National Police Commission, the findings of the Inquiry Officer on the said charges cannot be reviewed by the Administrative Appeals Tribunal in the exercise of the powers conferred on it by law.

The Petitioner has not been able to establish any illegality or procedural impropriety committed by the Administrative Appeals Tribunal in relation to charge No. 4. The decision of the Administrative Appeals Tribunal to confirm the decision of the National Police Commission and thereby the finding of the Inquiry Officer in relation to charge No. 4 is rational as the finding of the Inquiry Officer is supported by the evidence that was led before him. Furthermore, the punishment imposed on the Petitioner by the National Police Commission and confirmed by the Administrative Appeals Tribunal is neither excessive nor unreasonable. The said decision of the Administrative Appeals Tribunal on charge No. 4 is a decision that a sensible person who had applied his mind to the facts led at the inquiry would have arrived at and is a reasonable decision.

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In the above circumstances, this Court issues a Writ of certiorari quashing that part of the Order of the Administrative Appeals Tribunal 'A1' where it has found the Petitioner guilty of charge Nos. 1- 3, 5 and 6. The confirmation by the Administrative Appeals Tribunal of the findings of the Inquiry Officer, the Disciplinary Authority and the decision of the National Police Commission with regard to charge No. 4 and the confirmation by the Administrative Appeals Tribunal of the punishment imposed on the Petitioner by the National Police Commission shall stand. This Court has not considered the Writ of mandamus that has been prayed for as the Petitioner has not placed any material before this Court in this regard.

This Court makes no order with regard to costs.

*Application partly allowed.*

*Judgment by: Arjuna Obeyesekere, J.*

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