

REDDIAR  
v.  
VAN HOUTEN AND OTHERS

SUPREME COURT:  
ATUKORALE, J., TAMBIAH, J.  
AND H. A. G. DE SILVA, J.  
S.C. APPLICATION No. 70/87.  
MARCH 4 AND 29, 1988.

*Fundamental Rights—Articles 12 and 14 of the Constitution—Decision to retire 'English typist'—Age of retirement.*

Where the alleged infringement of Article 12(1) was based on the allegation that the respondents have acted in breach of circulars B of 29.05.1984 and C of 6.2.1985 firstly by not recommending an extension of service after reaching the age of 55 years and secondly by not obtaining the approval of His Excellency the President for retiring him from service at the age of 55 years, the petitioner, being an English Typist employed in an office outside estates cannot claim the benefit of these circulars. These circulars apply to non-executive staff employed on estates and not in outside offices.

Yet circular R 1 of 17.3.1978 as amended by Circular R 2 of 12.6.1981 is applicable to the petitioner and accordingly the 1st respondent should have forwarded the petitioner's application for an extension of service to the General Manger (Administration) to enable him to refer it to the Secretary, Ministry of State Plantations for necessary action. Hence the Board's refusal to extend the period of service of the petitioner is in breach of circulars R 1 and R 2. But to succeed in establishing an infringement of Article 12(1) it is obligatory on the petitioner to prove that he has been treated differently from others similarly circumstanced as himself. But the petitioner cited no such instance nor even averred such treatment.

The allegation that the petitioner has been discriminated on the ground of his political opinion in violation of Article 12(2) is not substantiated in the light of the letter to the President alleging that the petitioner has been forced to retire at the age of 55 without the prior approval of the Presidential Secretariat.

The allegation based on Article 14(1) (c) and (h) (freedom of association and the freedom of movement and of choosing his residence within Sri Lanka respectively) rests on letter marked L of 8.5.1987. The present petition being filed on 17.6.1987 the claim for redress is time-barred. The allegation that the 1st respondent was motivated by reason of petitioner's trade union activities is not borne out by the petitioner's own letter in response to the letter barring the petitioner from entering the office. The Board office is not a public place like a public park. The freedom of association spelt out in Article 14(1) (c) is the freedom to form or join associations and not the freedom to enter any place at any time for any purpose. The freedom of movement guaranteed by Article 14(1) (h) is the freedom to move about in Sri Lanka and to choose a place of residence any where in Sri Lanka and has no relevance to petitioner's case.

#### Cases referred to:

1. *Elmore Perera v. Jayawickrema* [1985] 1 Sri LR 340.
2. *Roberts v. Ratnayake* [1986] 2 Sri LR 36.

APPLICATION for infringements of fundamental rights

*D. W. Abeykoon with Nimal Punchihewa and M. A. Piyatilleke for the petitioner.*

*S. L. Gunasekera with Mrs. M. Aluwihare for the 1st and 2nd respondents.*

*Cur. adv. vult.*

June 9, 1980.

#### ATUKORALE, J.

This is an application under Article 126 of the Constitution seeking redress in respect of alleged infringements of the fundamental rights enshrined in Articles 12 and 14 of the Constitution. The petitioner is an English copy typist attached to the office at Norwood of the Sri Lanka State Plantations Corporation No. 1 which is a corporation established under the State Agricultural Corporations Act, No. 11 of 1972 and of which the 1st respondent is the Chairman. The 2nd respondent is the Chairman of the Sri Lanka State Plantations Corporation established under the Ceylon State Plantations Corporation Act, No. 4 of 1958. The aforesaid Corporation No. 1 (commonly called and hereinafter referred to as the Board) manages all estates belonging to the latter Corporation (hereinafter referred to as the Corporation) in the Hatton Region for and on behalf of the Corporation. The Board having been duly authorised by the Corporation to, inter alia, appoint, retire, dismiss and to exercise disciplinary control over certain categories of

its employees employed in the office of the Board and on its estates in the Hatton Region, appointed the petitioner as an English typist in the service of the Corporation by letter dated 5.11.1980—vide 'P'.

On 3.1.1987 the 1st respondent by his letter 'A' informed the petitioner that he would be reaching the age of retirement on 15.7.1987 (his 55th year) and that his services will not be required as from 16.7.1987. The petitioner by his reply 'E' of 6.1.1987 addressed to the 1st respondent alleged that his decision to retire him on completion of his 55th year was arbitrary and mala fide and was in violation of Circular instructions in respect of retirement. He also enclosed therein an application for an extension of service in duplicate and claimed that his services should be extended as done in the case of other employees of the Corporation. On 2.3.1987 the 1st respondent wrote letter 'H' to the petitioner requesting him to go on leave with immediate effect in view of the 14 days unavailed vacation leave lying to his credit. He was further informed that, as his services were not required, he would continue to be on leave with pay until 15.7.1987 when his retirement would take effect. The 1st respondent set out no reasons in the letter for this course of action. On 8.5.1987 the 1st respondent addressed letter 'L' to the petitioner in which he stated that there was reliable information in regard to his career record in the Sri Lanka Railways to show that he was a dismissed employee of that department but that subsequently on an appeal made by him to the Public Service Commission the order of dismissal had been converted to one of compulsory retirement as a merciful alternative to dismissal. The letter then proceeds to state thus:

"We therefore confirm our decision conveyed to you earlier retiring you on 15th July 1987 and in view of the past career record in the Sri Lanka Railways, you should not visit this Office premises in future as it could have an adverse effect on the rest of the staff.

Therefore, it has been decided to pay the full salary to cover your emoluments up to the 15th July, 1987. In addition to this, it has also been decided not to permit you to enter this office premises unless with the specific approval of the undersigned."

In reply the petitioner by his letter 'N' of 15.5.1987 sent to the 1st respondent, whilst expressing surprise that the 1st respondent should have chosen fit to bring up this 'superfluous' and 'irrelevant' matter of

his past record in the Railway Department for the purpose of retiring him from service, states that he sought an extension of service in terms of the Presidential directive, the provisions of which should not be violated in granting him an extension as done in the case of other colleagues of his in the Corporation. He points out that he has still not been informed of the position in regard to his application for an extension of service. By his reply 'O' dated 21.5.1987 the 1st respondent affirms that his letter 'L' did not in any way affect the decision to retire the petitioner from service in the Corporation which was communicated by letter 'A' stating further that the petitioner's application for an extension of service has been rejected, he forwards to the petitioner a cheque for a sum of Rs. 4851.52 cts. in full and final settlement of all dues owing to the petitioner. The above is the entirety of the direct correspondence exchanged between the petitioner and the 1st respondent which has been produced for our consideration.

Quite apart from this certain other correspondence has also been placed before us. On 25.2.1987 the General Secretary of the Ceylon Mercantile, Industrial and General Workers' Union, on behalf of the petitioner, wrote letter 'G' to the 2nd respondent drawing his attention to Circular B of 29.5.1984 sent by the General Manager of the Corporation to the Chairman of Regional Boards I/II/III/IV according to which the Presidential Secretariat had directed that "no members of the staff on plantations, who wish to continue in employment, should be retired before reaching the retiring age of 60 years without the prior approval of the Presidential Secretariat." Pointing out that this Circular made it clear that the retiring age was 60 years and that an employee could be retired before that age only upon intimation of reasons and according to the procedure set out therein, the General Secretary requested that letter 'A' issued to the petitioner be cancelled and that he be retained in employment up to the retiring age of 60 years. On 10.3.1987 the petitioner himself by his letter 'I' addressed to the 2nd respondent complained about his arbitrary retirement without having regard to "various binding circulars" according to which he could not be retired in such a fashion. He referred to Circular C of 6.2.1985 according to the contents of which, he contended, no member of the staff should be retired before his 60th year without the approval of the Presidential Secretariat and that in the event of an extension to staff not being recommended reasons therefor should be communicated to the staff member. On 27.3.1987 the President of the United Plantation Services Employees' Union, on behalf of the petitioner,

wrote letter 'J' to His Excellency the President protesting against the forced retirement of the petitioner at the age of 55 without the prior approval of the Presidential Secretariat and requested His Excellency to inquire into the matter. On 19.5.1987 the Presidential Secretariat, by its letter 'K', replied to this as well as to an earlier letter of 14.5.1987 (also sent by the Union on behalf of the petitioner) stating that the matter is receiving attention of the Presidential Secretariat.

On 17.6.1987 the petitioner filed the present application seeking redress from this court. He avers that letter 'A' sent to him by the 1st respondent retiring him from 16.7.1987 is not in conformity with the procedure laid down in regard to retirement of employees in the Corporation. Apart from relying on Circular B aforementioned, he has, in his application, placed reliance on Circular C of 6.2.1985 sent by the 2nd respondent, the Chairman of the Corporation, to all Superintendents regarding the age of retirement. The Circular states that it has been decided to give 6 months' notice to any member of the estate sub-staff who will be retired on completion of 55 years of age or thereafter if his services are not to be extended annually. It further stipulates that if the extension of service is not recommended by the Superintendent reasons therefor should be intimated in writing to the employee simultaneously with the notice of retirement and the application for extension should be submitted for consideration to the Central Board (the Corporation Board) through the Regional Chairman (the Chairman of the Regional Board). This period of 6 months' notice was to enable the employee to make arrangements for his retirement well in advance and to hand over the estate quarters/bungalow on the date of his retirement to the Superintendent. The Circular further states that it is not to affect the requirement of the approval of His Excellency for retiring members of the sub-staff before the completion of 60 years nor the necessity of obtaining the approval of the Secretary, Ministry of State Plantations, for granting an extension of service to any member of the sub-staff beyond 55 years. All applications for extensions have to be submitted well in advance through the Regional Chairman to the Assistant Personnel Manager (Estate), Central Board, who would communicate the decision direct to the Superintendent with a copy to the Regional Chairman. The petitioner has also invoked in his favour document D dated 13.11.1987. This document, however, is only a reproduction of an extract of Circular C relevant to the retirement of non-executive estate staff - same estate sub-staff and as such, not being a separate

circular by itself, needs no further reconsideration. The petitioner further avers that owing to his trade union activities formerly as Assistant Secretary of the Branch Union of the Ceylon Mercantile Union and latterly in the United Plantation Service Employees' Union the 1st respondent was biased against him and was endeavouring not only to retire him but also to prevent him from entering the Office premises. He states that the decision to retire him and the rejection of his application for an extension of service are arbitrary and in non-compliance with Circulars B, C and D and constitute an infringement of Article 12(1) of the Constitution and is also violative of Article 12(2) as being discriminatory on grounds of political opinion for being an active trade unionist. He states that the decision not to permit him to enter the Office premises of the Board except with the specific approval of the 1st respondent affects his freedom of movement and the freedom of association and thus infringes Articles 14(1) (c) and 14(1) (h). Upon this footing he seeks certain relief from this Court.

As pointed out by learned counsel for the 1st and 2nd respondents (hereinafter referred to as the respondents) at the hearing and in his written submissions filed in the Registry of this Court on 14.04.1988, the foundation of the petitioner's application, in so far as the alleged infringement of Article 12 (1) is concerned, rests upon the allegation that the respondents have acted in breach of Circulars B and C in that, firstly, the reasons for not recommending an extension of service to him were not communicated to him and, secondly, the approval of His Excellency the President was not obtained for retiring him from service at the age of 55 years. This position becomes manifest upon a perusal of the relevant paragraphs of the petitioner's application and of the written submissions tendered therewith as well as upon a consideration of the opening submissions of his counsel at the hearing. Under normal circumstances, therefore, the petitioner, in so far as the alleged violation of Article 12(1) is concerned, has to stand or fall upon the allegation that the respondents have acted in breach of Circulars D and C. The contention advanced on behalf of the respondents is that the two Circulars have no application whatsoever to the post held by the petitioner. It was submitted by their counsel that the Circulars applied only to non-executive (or sub-staff) employed on *estates* and not to non-executive staff employed in *offices outside estates*. It was urged that the petitioner, being a non-executive staff member employed in the office of the Board,

belonged to the class or category of employees constituting the non-executive staff employed in offices outside estates—a category of employees separate and distinct from the non-executive staff employed on estates. I am inclined to agree with this submission of learned counsel for the respondents. The language in which the two Circulars are couched makes it abundantly clear that they apply only to non-executive staff employed on estates. The title of Circular B is "Retirement of Non-Executive Estate Staff." It states that the Presidential Secretariat has enjoined that no member of "the staff on Plantations" should be retired before reaching the retiring age of 60 without the prior approval of the Presidential Secretariat. It then prescribes the procedure to be adopted in the case of estate staff where the Superintendents are not in favour of granting an extension of service at any stage between the age of 55-60 years. This Circular which is addressed to Chairman of Boards I/II/III/IV/V contains a request that its contents be brought to the notice of all Superintendents of Plantations in their respective Regions for compliance. It has reference to a Circular dated 15.03.1983 which has been produced as R3 which confirms the issue of a presidential directive on 21.09.1982 to the effect that "the staff on the plantations" be allowed to continue in service till they complete the age of 60 years. Similarly Circular C which is titled 'Age of Retirement' and addressed to all Superintendents embodies a decision to give 6 months' notice to any member of "the estate sub-staff" who will be retired on completion of 55 years of age or thereafter if his services are not to be extended annually. It requires Superintendents to adduce reasons to be communicated to the employee along with the notice of retirement in the event of the extension of service not being recommended by him. The existence of these two categories of employees in the Corporation cannot be seriously controverted by the petitioner in view of the correspondence Q, T and U produced by him with his counter-affidavit. The last letter U dated 18.09.1986 sent on his behalf by his trade union to the 2nd respondent states, inter alia, as follows:

"We have also to point out that estate staff of the Corporation are transferable between Estate Offices and may be transferred to Regional Offices or Head Office only if there are vacancies in those offices, with their consent; as their terms and conditions of employment are different from those of the staff of the Head Office and Regional Offices."

In fact, on the Circulars placed before us for our consideration, such a distinction between the two categories of employees, in relation to the age of retirement, appears to have originated with the issue of Circular R1 of 17.3.1978 which supercedes all previous circular instructions issued on the subject. Schedule 1 of this Circular specifies the appropriate authority for granting of extensions of service to the various categories of employees of the Corporation and the officer through whom such applications for extensions should be submitted. It enumerates, amongst others, the following 3 categories of employees, namely, Regional Office Non-Executives, Head Office Non-Executives and Estate Sub-Staff. On a careful scrutiny of all the above facts and circumstances it appears to me that the Circulars relied upon by the petitioner have no application, in so far as retirement is concerned, to non-executive staff employees working in the offices outside the estates. Their application must be confined to non-executive staff (or sub-staff) employed on the estates and estate offices only. It would therefore follow that the petitioner's claim for relief on the basis of the averments set out in his application to this Court must fail.

In the special circumstances of this case, however, the matter cannot, in my view, be permitted to rest there. The respondents have maintained that Circular R1 is the only Circular pertaining to retirement that is applicable to the petitioner and that Circulars B and C as well as Circulars R2 (which amended R1) and R3 were inapplicable to him. I think it is essential that we should examine this contention of the respondents for a proper and effectual determination of the issue before us. The contention is one that has been raised directly by the respondents themselves both in their respective affidavits and at the hearing in answer to the petitioner's claim. All the material relevant to a consideration of this contention has been placed before us and we have been invited by the parties to adjudicate on their respective claims. Moreover this is an important application invoking the special jurisdiction of this court alleging a violation of fundamental rights. For these reasons I am unable to agree with learned counsel for the respondents that the question whether there has or has not been compliance with Circulars R1 and/or R2 is not a matter that arises for our decision in this case. Being so trivial and technical in nature, it is not an objection which, in my view, can be sustained.

Circular R1 prescribes that the age of retirement of all grades of employees of the Corporation is 55 years. The Corporation has



reserved to itself the right to extend the services of an employee on a yearly basis up to the age of 58 years. Schedule 1 sets out the appropriate authority for granting of such extensions and the officer through whom such applications have to be submitted. For this purpose all employees of the Corporation have been classified into 7 categories. Group D deals with the non-executives of the Regional Office, the appropriate authority for granting their extensions of service being the General Manager (Administration) and the officer through whom their applications have to be submitted being the Regional Manager. Group F deals with Estate Sub-staff, the appropriate authority for granting extensions being the Regional Manager and the officer through whom the applications should be made being the Superintendent. The Circular further states that employees of the Corporation who wish to apply for such extensions should apply to the appropriate authority through the officer concerned at least 3 months before they reach the age of 55 years. Circular R2 of 12.6.1981 deals with the age of retirement and is an amendment to Circular R1. After setting out several amendments in regard to the age of retirement of non-executive estate staff on State Plantations, the notices of retirement which should be given to them and their applications for extension of services, the Circular in paragraph 11 states:

"11. The extension of the service of those in labour grade which has been referred to as minor grades in our Circular No. 55 of 17.3.78 will be authorised by the Superintendent as done hitherto and in the case of members of the non-executive and minor staff attached to the Regional Boards, applications for extensions should be forwarded in the same manner to the General Manager (Administration) who would refer such applications for necessary action to the Secretary, Ministry of State Plantations."

There is reference in this paragraph to members of the non-executive staff attached to Regional Boards: The petitioner being admittedly one of such members, this provision would have application to him. The respondents concede that Circular R1 applies to the petitioner. If so, Circular R2 which is an amendment to Circular R1 making specific provision in paragraph 11 to Board office non-executive staff must necessarily apply to him. Circular R1 read with Circular R2 thus made it incumbent on the 1st respondent to forward the petitioner's application for an extension of service to the General Manager

(Administration) to enable him to refer the same to the Secretary, Ministry of State Plantations for necessary action. I therefore hold that the Board's refusal to extend the period of service of the petitioner has been in breach of Circulars R1 and R2.

Learned Counsel for the respondents submitted that even if there had been non-compliance of Circular R2, the petitioner cannot succeed in his claim for relief under Article 12(1) for the reason that he has failed to aver and/or establish that other persons similarly circumstanced as the petitioner have been differentially treated. The proposition that without such proof a petitioner cannot succeed, in making out a case of discrimination under Article 12(1) has been finally settled by the judgment of this Court in *Elmore Perera v. Jayawickrema* (1). The dissenting judgments delivered in that case cannot be of any assistance to the petitioner. The majority decision which laid down the above proposition must be deemed to be the decision in the case. It is binding on this Court. Hence to succeed, in establishing an infringement of Article 12(1) it is obligatory on the petitioner to prove that he has been treated differentially from others similarly circumstanced as himself. Far from citing in his application or any of his counter-affidavits a single instance of such differential treatment, the petitioner has not even averred that he has been so treated. At the hearing his counsel in an endeavour to show such differential treatment referred us to letter 'T' dated 27.2.1986 addressed by the petitioner's trade union to the 1st respondent and invited us to infer that one Thiyagarajah, a Store-Keeper/Clerk in the Board Office, had been given an extension even beyond his 60th year. This letter has been produced together with several other letters along with the first counter-affidavit of the petitioner. The petitioner has specified therein the purpose of producing these letters as being to show his trade union activities and also the attitude of the Board towards trade unionists. Thus the petitioner himself did not intend to establish discrimination by producing letter 'T'. It contains a statement alleged to have been made by the Manager of the Board to the Secretary of the Union admitting over the telephone that Thiyagarajah, who was over 60 years of age, should not have been retained in employment, according to the order given by the 1st respondent. This alleged statement is not supported by an affidavit and constitutes hearsay evidence. Even assuming that its contents are true, there is no material placed before us to show the circumstances under which Thiyagarajah's extension of service beyond even the 60th year came

to be effected. In the absence of such proof the fact that Thiyagarajah is still in service even after his 60th year cannot be of any assistance to the petitioner for the purpose of establishing discrimination. Hence I uphold the submission of learned counsel for the respondents that the petitioner has failed to establish that he has been subjected to unequal treatment in terms of Article 12(1).

Learned Counsel for the respondents went further and urged that to succeed in obtaining redress for a violation of the fundamental right guaranteed by Article 12(1), a petitioner must establish that he has been subjected to unequal treatment *before the law*. Contrasting the two sub-Articles of Article 12, he contended that the difference between them is that whilst discrimination envisaged under sub-Article (1) must be in reference to the application of a 'law' and a 'law' alone, the discrimination contemplated in sub-Article (2) must arise out of one or more of the grounds set out therein, whether in reference to the application of a law or not. He drew our attention to Article 170 which defines, inter alia, the word 'law' in the Constitution to mean any Act of Parliament, and any law enacted by any legislature at any time prior to the commencement of the Constitution and includes an Order-in-Council. In the light of this definition he argued that the relevant circulars did not constitute 'law' and that therefore even if there had been unequal treatment in the application of the Circulars, such unequal treatment would not amount to unequal treatment before the law. In support of this submission learned counsel relied on the judgment of Ranasinghe, J. (as he then was) in *Roberts v. Ratnayake* (2). However attractive this submission may appear to be, I do not think it necessary for me to consider its validity here in view of my finding that the petitioner has failed to aver and/or establish unequal treatment.

Learned Counsel for the petitioner next submitted that the petitioner has been discriminated on the ground of his political opinion in violation of Article 12(2). To substantiate this allegation he placed reliance solely on document 'J'. It is a letter addressed to His Excellency the President by Dr. Wickramabahu Karunaratne, the President of the United Plantation Services Union on behalf of the petitioner. It states that the petitioner has been forced to retire at the age of 55 without the prior approval of the Presidential Secretariat and requests His Excellency to look into the grave injustice done to the petitioner which, it is said, has aroused the entire membership of the Union. There is absolutely nothing in this document to warrant the

inference that the petitioner's retirement was in consequence of the political opinion held by him. The petitioner's allegation of discrimination on this ground is without any foundation and must be rejected.

The only other matter that remains for consideration is the complaint of the petitioner of alleged violations of Article 14(1)(c) and (d), namely, the freedom of association and the freedom of movement and of choosing his residence within Sri Lanka respectively. The petitioner's case in respect of these infringements rest on letter 'L' dated 8.5.1987 by which the 1st respondent directed him not to visit or enter the office premises of the Board except with his specific approval. The petitioner's reply to this letter is dated 15.5.1987 by which date, no doubt, he became aware of the prohibition that was imposed on him by letter 'L'. The present application has been filed in this Court by the petitioner on 17.6.1987. Prima facie, therefore, the claim for redress for the alleged infringements of Article 14(1) (c) and (h) is time-barred, a period of more than one month having lapsed between the date of communicating the order of the 1st respondent and the date of filing the present application. Confronted with this situation, learned counsel for the petitioner submitted that the order contained in letter 'L' is so tied up with the ultimate refusal to grant an extension of service embodied in letter 'O' dated 21.5.1987 that they could not be separated and that, therefore, the period of one month must be reckoned as from 21.5.1987. There is, in my view, hardly any merit in this submission of learned counsel for the petitioner. The order forbidding the petitioner to enter the office premises without the permission of the 1st respondent is quite distinct and separate from the order of refusal to grant an extension of service. They are two orders made at different times affecting the rights of the petitioner in separate ways. They were separable and distinct orders effective on different dates. Each order, according to the petitioner's own showing, resulted in violations of different fundamental rights of his. Thus each order may well have been the subject matter of a separate application under Article 126. I am therefore inclined to uphold the objection of learned counsel for the respondents that the petitioner's claim for relief in respect of the alleged violations of Articles 14(1) (c) and (h) is prescribed. Be that as it may, I will proceed to consider the substance of the petitioner's complaint in regard to the above infringements alleged by him. His position is that he was placed on compulsory leave and was asked not to enter or visit the office

premises of the Board with a view to obstructing and preventing him in the pursuit of his legitimate trade union activities which the 1st respondent disapproved of. There is, however, nothing to substantiate this allegation. Neither in letter 'I' which the petitioner sent to the 2nd respondent when he was placed on compulsory leave nor in letter 'N' which he sent to the 1st respondent when he was forbidden to enter the office premises has the petitioner urged that the 1st respondent was motivated by reason of his trade union activities. In fact in letter 'I' the petitioner states that he has been placed on compulsory leave because he wrote to the 2nd respondent with regard to a false complaint made against him by the Manager of the Board to the Norwood Police. I, therefore, reject the allegation levelled against the 1st respondent as baseless. It was submitted on behalf of the petitioner that the Board office is a public place and that as such the 1st respondent had no authority to prevent the petitioner, a member of the public, from entering the premises. I find it difficult to agree with this submission. The Board office is certainly not a public office or place as, for instance, a public park where any member of the public has access. Although the Board is a public institution in the sense that it is a public corporation established under the State Agricultural Corporation Act, No. 11 of 1972, for the primary purpose of the management and development of agricultural and estate lands vested in or transferred to it by the Government and is funded by public funds, yet no member of the public has free and unrestricted right of access to its premises. The petitioner was, rightly or wrongly, placed on compulsory leave until retirement. He had thus no duties or functions to perform in the office. The 1st respondent as the chief executive officer of the Board was entrusted with the duty of ensuring proper and due supervision, control and administration of the affairs and business of the office. He appears to have, in good faith, formed the opinion that the petitioner's presence in the office with no duties to attend to may have impeded the efficient and proper administration of the office. He may have done so in the light of the past record of the petitioner in the Sri Lanka Railways as stated by him in his letter 'L' honestly believing that the petitioner may disrupt the due and proper administration of the office by creating disaffection against the Management among the employees of the office which, according to his affidavit, the petitioner attempted to do. It is not the petitioner's case that he sought the 1st respondent's permission to enter the office on any occasion for any purpose and that he was refused permission. On the contrary the petitioner placed his case on the very

high and broad basis that the office, being a public place, the 1st respondent cannot prevent him the right of access. The petitioner can have no such absolute right. The freedom of association spelt out in Article 14(1) (c) is the freedom to form or join associations and not the freedom to enter any place at any time for any purpose. The freedom of movement guaranteed by Article 14(1) (h) is the freedom to move about in Sri Lanka and to choose a place of residence anywhere in Sri Lanka and can have no relevance to the facts and circumstances of this case. The petitioner's complaint of violations of Articles 14(1) (c) and (h) also thus fails. Accordingly the application is dismissed with costs fixed at Rs. 525 payable to the 1st and 2nd respondents for and on behalf of the Sri Lanka State Plantations Corporation.

**THAMBIAH, J.** — I agree.

**H: A. G. DE SILVA, J.** — I agree.

*Application dismissed.*

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