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

In the matter of an application for Orders in the nature of Writs of Certiorari, Prohibition and Mandamus under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

P.P. Weerasekara,
No. 279/2A, Hikgahawatta Road
Gonahena,
Kadawatha.

PETITIONER

C.A. Case No. WRT/0565/25

Vs.

1. Sri Lanka Bureau of Foreign Employment,
   No. 234,
   Denzil Kobbekaduwa Mawatha,
   Koswatta,
   Battaramulla.

2. Koshala Wickremasinghe,
   Chairman,
   Sri Lanka Bureau of Foreign Employment,
   No. 234,
   Denzil Kobbekaduwa Mawatha,
   Koswatta,
   Battaramulla.

3. D.D.P. Senanayake,
   General Manager,
   Sri Lanka Bureau of Foreign Employment,
   No. 234,
   Denzil Kobbekaduwa Mawatha,
   Koswatta,
   Battaramulla.

4. W.A.K. Kumari,
   Acting Deputy General Manager (Finance),
   Sri Lanka Bureau of Foreign Employment,
   No. 234,
   Denzil Kobbekaduwa Mawatha,
   Koswatta,
   Battaramulla.

4A.M.A.P. Priyadarshana,
   Acting Deputy General Manager (Finance),
   Sri Lanka Bureau of Foreign Employment,
   No. 234,
   Denzil Kobbekaduwa Mawatha,
   Koswatta,
   Battaramulla.

5. R.A.S. Chaminda,
   Acting Deputy General Manager (Internal Audit),
   Sri Lanka Bureau of Foreign Employment,
   No. 234,
   Denzil Kobbekaduwa Mawatha,
   Koswatta,
   Battaramulla.

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

RESPONDENTS

BEFORE : K.M.G.H. KULATUNGA, J

COUNSEL : Dr. Wijedasa Rajapakshe, PC, with Rohitha Rajapakshe and Harsha Liyanaguruge, instructed by Manuk Lakmal, for the Petitioner.
Sachitha Fernando, SC, for the Respondents.

SUPPORTED ON : 09.06.2025

DECIDED ON : 12.06.2025

ORDER

K. M. G. H. KULATUNGA, J.

1. This application was supported and Dr. Wijedasa Rajapakshe, PC was heard in support of the same. State Counsel Sachitha Fernando was heard on behalf of the respondents. The petitioner is seeking notice in the first instance. The substantive relief sought is a writ of certiorari to quash the Letters of Suspension P-7 and P-8. The petitioner is also seeking interim relief suspending P-7 and P-8, by which he had been interdicted without pay pending the inquiry.

2. The petitioner had been employed by the Foreign Employment Bureau for the last 19 years and was serving as Acting Director General (Foreign Affairs) as at the point of the alleged interdiction. According to P-7 dated

05.05.2025, the interdiction was in view of an Internal Audit Report in view of certain irregularities which were revealed in an Internal Audit. Accordingly, by a letter under the hand of the Chairman of the Sri Lanka Bureau of Foreign Employment (SLBFE), by virtue of Section 31 of Chapter XLVIII of the Establishment Code, the petitioner has been interdicted as aforesaid.

3. The learned President's Counsel submitted that at the first instance the Chairman was not lawfully empowered to issue the said interdiction, and that the power was vested with the Secretary of the relevant Ministry. Further, going into the merits of the alleged grounds of interdiction, it was submitted that the decision to relax certain requirements was conveyed to him by letter P-4, dated 07.06.2022 by the then Chairman, to which the petitioner has responded by P-5. By P-5, the petitioner had requested putting in place a certain procedure to be followed in considering previous experience and language skills, which, inter alia, requires such applications to be processed through the Blacklisting Division. The sum total of the submission is that the petitioner was not instrumental in changing the procedure, but he had merely followed the instructions received from the Chairman. It was also submitted that at a particular point of time, the Government had changed the policy in evaluating previous experience in order to facilitate sending persons out for employment in view of the serious foreign exchange crisis. Finally, it was argued that the petitioner is not involved in any financial embezzlement or fraud, and that he is at least entitled to half a pay pending the inquiry and investigation.

4. The learned State Counsel informed that she had very limited instructions due to short notice, however submitted that the interdiction is based on a loss caused to the State and that the interdiction without pay is lawful and justified. It was her position that this application is premature and that

there is no basis to issue notices. However, considering the relevance of the Audit Report, a copy of which the learned State Counsel was in possession, she was permitted to tender a copy of the same, by way of a motion. As submitted, the alleged loss is computed on the premise that the 35,000 persons who had been permitted to proceed for employment without the attending the two-day orientation programme which resulted in the alleged loss of revenue and taxes that may have been charged from such exempted persons if they attended the said orientation programme. It is alleged that the exemption was not regular. What is immediately relevant is that the Audit Report does not directly establish any financial embezzlement or misappropriation of funds of the SLBFE. Therefore, even if the interdiction was permissible, deprivation of half the salary cannot be prima facie justified as the alleged loss is in the nature of the possible loss of prospective income and taxes, which is contingent in nature and not any form of drawing out of funds of the SLBFE.

5. In these circumstances, there is a fit matter to be considered by this Court, and notice is issued by the respondents as prayed for by paragraph *(a)* as well as part of the interim relief as prayed in the alternative by paragraph *(d)* namely, directing the 1st respondent Bureau to pay half of the monthly salary from the date of interdiction until the conclusion of the said inquiry into the alleged charges.

6. The Registrar of this Court is directed to convey a copy of this Order by fax and telephone at the cost and expense of the petitioner. Issue notice on the respondents upon tendering.

JUDGE OF THE COURT OF APPEAL