



JSA News Letter

PUBLISHED BY THE JUDICIAL SERVICE ASSOCIATION OF SRI LANKA



2022 VOLUME 01

web: www.jsasl.org

e-mail: secretary@jsasl.org

Executive Committee Members of the Judicial Service Association 2022

President

Mr. Prasanna Alwis
Magistrate, Nugegoda.

Vice Presidents

Mr. Ruwan Dissanayake
District Judge, Kuliyaipitiya.

Mr. Chandima Edirimanna
District Judge, Galle.

Secretary

Mr. Pasan Amarasena
Additional District Judge, Pugoda.

Assistant Secretary

Mr. Suranga Munasinghe
*Additional Magistrate,
Mathugama.*

Treasurer

Mr. Bandara Illangasinghe
Additional Magistrate, Colombo.

Web Master

Mr. Pamoda Jayasekara,
District Judge, Welimada.

Editor

Mrs. Chamila Rathnayake,
District Judge, Dambulla.

Assistant Editor

Mr. Chaminda karunadasa,
Magistrate, Morawaka.

Editorial Board Members

Mr. Isuru Neththikumarage
Mr. Aruna Buddhadasa
Mr. Lahiru Nirmal
Mr. Harshana De Alwis,
Miss. Sunali Maduwanthi
Mr. Sampath Rajapaksha

Committee Members

Mr. Duminda Mudunkotuwa
Mr. Valan Anandarajah
Miss. Nilupulee Lankapura
Mr. Lalith Kannangara
Mr. Bandula Gunarathna
Mr. Asanga Bodaragama
Mrs. Augusta Atapattu
Mr. Aruna Wickramasinghe
Mr. Chamara Wickramanayake
Mr. Uddala Suwandurugoda
Mr. Isuru Neththikumarage
Mrs. kanchana Silva,
Mr. Sampath Gamage
Mrs. Nadeeka Piyarathna
Mr. Nayantha Samarathunga
Mr. Thusitha Dammika
Mr. Dulan Weerawardana
Mr. Trinity Rajapaksha
Mr. Sanjaya Wijesinghe
Mr. Janaka Samarasinghe
Mr. Lilan Warusavithana
Mr. Nuwan Gunasekara
Mr. Rasika Mallawarachchi
Mr. Aruna Buddhadasa
Mr. Lahiru Silva
Mr. Sameera Dodangoda
Mr. Mahesh Wakishta
Mr. Mohammed Rafi
Mr. A.A.P. Lakshman
Mrs. kanchana Perera
Mr. Harshana De Alwis
Mr. Nuwan Kaushalya
Mr. Chathura Dissanayake
Mr. Aravinda Gunarathna
Miss Sunali Maduwanthi
Mr. Dinindu Samarasinghe
Mr. Sampath Rajapaksha
Mr. Thilina Peiris



Editorial

Are you happy as a judicial officer?

The term “stress” refers to the impact of ongoing demands in the ordinary course of a person’s life and “work-related stress” is also common to every profession. Judges also as human beings are not immune to negative emotions such as anger and stress. The years 2020 and 2021 have been an unprecedented time in the history of our country where our judicial system also faced numerous obstacles as a consequence of the global pandemic. Still we are not relieved from such impediments and consequently judges have to work under immense pressure. Fear and anxiety about Covid virus, adhering to the health guidelines, daily power cuts have worsen the situation and accordingly judicial officers also have been subjected to stress ever than before. But, as judges we have to cope with all these hurdles anyhow and work hard to achieve the targets as judicial officers while striking a balance to dispense justice, avoid delays and reduce backlogs. Why should we give attention to the topic “stress” and is it important? Even if the “positive stress” is a good factor, it can cause negative outcome as well in judges’ personal and professional lives. Stress related negative outcome can include reduced physical and mental health, lower job satisfaction and performance, decreased professional efficacy etc. These stressors can affect individual judges as well as the entire judicial system and as a result anyone in the system could be adversely affected. Hence, we should not disregard this as a trivial or irrelevant factor in our lives. Therefore, the purpose of this is to demonstrate the importance of judges’ well-being for a better judiciary and what can we do to achieve that. In fact judicial officers are the pinnacle of the legal profession, protectors of the rule of law, and the third pillar of the government and as such their occupational well-being is very important. Hence, in some countries, courts have responded with initiatives to promote and support the well-being of judges. Judicial officers are educated and guided with necessary instructions about the causes and effects of stress and stress relieving methods have been introduced in order to lead a healthier life. Unfortunately, in Sri Lanka this has not yet been considered as an important topic even in the judiciary and still there were hardly any researches or studies were carried out to examine the causes and effects of “judicial stress”. Hence, as judicial officers we ourselves have to think of our occupational well-being by taking appropriate measures to relieve stress and this is the high time for that. Therefore, it is advisable to allocate time to take care of yourself and follow some stress relieving techniques such as regular meditation, practice yoga, practice mindfulness and breathing techniques, having healthy foods and proper sleep, practice gratitude, cultivate your sense of humor, practice self compassion etc. to manage your stress, improve your health and be a better judge. Perhaps you might think that these practices are time consuming. But they are likely easier than repairing the damage done by stress and lack of self care. It is not a secret that even during the pandemic Sri Lankan judges have performed their duties to their maximum level despite immense stress generated by various sources by putting their well-being on the back burner to cope with all their obligations and it is a matter for appreciation. However, as judges we have a duty to think of our physical and mental well-being as well. So let us move on to lead a healthier life without allowing stress to rob our well-being and let us remember always that “health is a great boon”.

**“To keep the body in good health is a duty...
otherwise we shall not be able to keep our mind strong and clear”**

- Gautama Buddha -



Former Secretary's Note for the Year 2021

It is indeed a pleasure and a privilege for me as the Secretary of the JSA for the year 2021, to pen a few lines contemplating the projects and works carried out by the Executive Committee thereof.

The year 2021 was a challenging period when the President elect on 26th December 2020 at the AGM had to face a no confidence motion from the Executive Committee and the Special General Meeting was called for subsequently due to her refusal to step down peacefully at the committee meeting and Mr. Prasanna Alwis was elected as the new President at the Special General Meeting held on 28th March 2021 at Civil Appellate High Court Homagama.

With the delicate guidance of the newly elected President Mr. Prasanna Alwis, we were able to publish two News Letters under difficult circumstances during the pandemic. Further, we were able to release the JSA Law Journal as a result of the great effort of the two Editors and the Editorial Board.

During the year, the JSA was fortunate enough to introduce a special postpaid package from Mobitel Company to the membership and a tailor-made Insurance Policy with special benefits from the Sri Lanka Insurance. Moreover, we were able to negotiate with Urban Development Authority to get apartments from their housing projects for the JSA membership. However with so many difficulties in and out, it is being successfully processing now.

We have introduced a Credit Card facility with 1.5 Million credit limit and without Annual/ joining fee for lifetime for the membership from the Peoples Bank in addition.

The initial steps of issuing new official identity cards for the membership have already been taken by the JSA and the printing process is set to be started. I hope the Identity cards will be issued by the new Executive Committee in 2022.

Further, I am inclined to mention that most of the issues referred to the JSA by the members have been submitted to the JSC and we were pleased to receive favorable results.

Grade one (I) school admission for the children of the members and school admission based on transfer were successful during the year too with much efforts rendered by the JSA.

Upon the request made by the membership, the Judicial Service Association had decided to do a Webinar series in relation to some important topics in day to day affairs of the Judicial Office, and sought the permission of the Judicial Service Commission. The JSC instructed the JSA to do the intended Webinars in collaboration with the Judges' Institute. The Judges' Institute will make necessary arrangements to materialize it in due course.

The Executive Committee of the JSA even prepared to provide a helping hand to its members in a situation where a member or an immediate family member is infected with Covid 19. The Association also negotiated with the Ministry of Justice to extend the judges insurance policy without any delay in Covid pandemic situation.

Everyone should appreciate that we could provide all those facilities to the membership under a terrible situation of being subject to Covid pandemic.

I am proud to say that all could be achieved due to the unity and vigorous efforts of the Executive Committee.

The Judicial Service Association is the only organization for all the Judges of the Courts of first instance in Sri Lanka. The JSA always maintain and safeguard the dignity and decorum of the membership while providing welfare services under whatever circumstances. Hence, I wish same attitude would be maintained by the office bearers who were appointed for the year 2022 too.

Nilupulee Lankapura

Magistrate-Homagama.

Secretary-2021

Judicial Service Association of Sri Lanka.



| New Appointments || New Appointments || New Appointments || New Appointments |

New Appointment to the Court of Appeal

Hon. Justice Vikum Athula Kaluarachchi took oaths as a judge of the Court of Appeal before His Excellency the President on 24.12.2021. Justice Kaluarachchi has served as a Magistrate, a District Judge, a Judge of the Provincial High Court and the Civil Appellate High Court for 27 years out of his 33 years of service. Judicial Service Association wishes all the best on his Lordship's new appointment!

New Appointments to the High Court

On 03.03.2022, thirteen High Court Judges were appointed by His Excellency the President in terms of section III of the Constitution of Sri Lanka. Eleven of them are from the courts of first instance and two of them are from the Attorney General's Department. JSA expresses heartfelt congratulations to all newly appointed High Court Judges!



(Front row seated - From left to right, except Hon. Chief Justice)

- | | | |
|-----------------------------------|-----------------------------------|---------------------------------|
| (1) Mr. M. Prabath Ranasinghe | (2) Mr. R. A. D. U. N. Ranathunga | (3) Mr. A. G. Aluthge |
| (4) Mr. R. R. J. U. T. Rajakaruna | (5) Mr. T. M. C. S. Gunasekara | (6) Mr. R. M. S. B. Chandrasiri |

(Back row standing, from left to right)

- | | | |
|--------------------------------|-----------------------------------|--------------------------------|
| (7) Mr. V. M. Weerasooriya | (8) Mr. A. Nishantha Peiris | (9) Mr. R. Weliwaththa |
| (10) Mr. G. L. Priyantha | (11) Mr. S. M. A. S. Manchanayake | (12) Mr. L. Chamath Madanayaka |
| (13) Mr. H. A. D. N. Hewawasam | | |

New Appointments to the Courts of First Instance

Judicial Service Commission recruited 46 new judicial officers (Class II/Grade I) to Sri Lanka Judicial Service on 15th November 2021 and this is the largest batch of judicial officers recruited to the judiciary in the history. JSA wishes all of them strength and courage to act impartially and independently while upholding the best traditions and dignity of the office they assumed.

"Our bodies are our gardens- our wills are our gardeners."

- William Shakespeare -

For your well-being



JSA writes to the Director of Sri Lanka Judges' Institute on selection of resource persons for training programs

Very recently JSA stood for the sake of dignity of the judges and this letter was sent to the Acting Director of Sri Lanka Judges' Institute requesting to select suitable resource persons for training judges.

25th January 2022

Hon. Acting Director,
Sri Lanka Judges' Institute,
Colombo 12.

Dear Sir,

Concerning Certain Resource Persons for Training Trainee Judges

Your good office may be pleased to draw attention to the fact mentioned herein for the sake of integrity and the dignity of the judicial officers who will assume duties after the training. It has been known to the JSA that a police officer and a registrar are amongst the resource persons to give lectures to the trainee judges.

It has been the longstanding norm that judges should be trained by judges except where some expert knowledge (e.g. Bankers, Forensic Sciences) is required to be given for the benefit of judges. The norm is undoubtedly correlated with the principle of independence of the judiciary. It is also significant to the impartial and fearless functioning of judges in the judicial capacity and the administrative capacity.

It was known to the JSA that a lawyer who gave a lecture to the trainee judges on a previous occasion had spoken loftily among the members of the bar about his lecture to the judicial officers.

We believe that many of our Superior Courts judges and High Court judges have wealth of knowledge and experience pertaining to the areas of knowledge that can be covered by the police officers and the registrars.

Our appreciation always rests of Your high office for bringing out efficient judges to the Sri Lanka judiciary. Hence, JSA humbly requests to consider the above fact in future training programs. Thank you.

Pasan Amarasena
Secretary
Judicial Service Association

JSA believes that Sri Lanka Judges' Institute will consider the above request when the resource persons are selected for the future training programs.

*"Wellness is the complete integration of body, mind and spirit
- the realization that everything we do, think, feel and believe has an effect
on our state of well-being."*

- Greg Anderson -

For your well-being



| News || News || News || News || News || News || News || News || News || News |

JSA writes to His Excellency the President and JSC regarding the importance of adopting a reasonable criteria for appointing High Court Judges

After the JSA reliably learnt that His Excellency the President was in the process of appointing fifteen new High Court Judges and eleven of them are from the minor judiciary and four of them are from the Attorney General's Department, JSA called a sudden special meeting on 06.02.2022 and unanimously decided to write to His Excellency the President and Hon. Chief Justice since that was the first time that such a high number of appointments (11:04) was allocated to the Attorney General's Department.

The Letters are published here for your information.

His Excellency Gotabaya Rajapaksa,
President of the Democratic Socialist Republic of Sri Lanka,
President Secretariat,
Colombo 01.
07. 02. 2022

Your Excellency,

Appointments to the High Court

The Judicial Service Association (JSA) which represents the Magistrates and District Judges of Sri Lanka wishes to bring to your immediate and close attention, the deep concern of its members on the following matter.

JSA has learned that Your Excellency is in the process of appointing fifteen new High Court Judges acting under Article III (2) (a) of the Constitution. It has also been known that eleven of them are from the Minor Judiciary and four of them are from the Attorney General's Department. This is the first time that a such number of appointments (11:4) are allocated to the Attorney General's Department in history.

Your Excellency knows that it is the minor Judiciary that maintains the command of the judicial power of the state to every nook and cranny of the island. A judge of the minor judiciary serves at least 15 years in every part of the country before he is elevated to the High Court. For most of them, the only career prospect is the appointment to the High Court.

It has been the practice and the tradition that a reasonable number of nominees from the Attorney General's Department are appointed as the High Court Judges. However, it has not been such that it obstructs the career ladder of the judges of the minor judiciary.

Your Excellency was gracious enough to follow the same on the last two occasion as well. Disturbances to this practice and tradition will undoubtedly cause frustration and disappointment amongst the judges of the minor judiciary.

Hence, Your Excellency may kindly grant and appointment to the JSA to make a representation on the issue.

Prasanna Alwis
President
Judicial Service Association

Pasan Amarasena
Secretary
Judicial Service Association



His Lordship the Chief Justice and
Other Lordships of the Judicial Service Commission,
Judicial Service Commission,
Colombo 12.
07. 02. 2022

Your Lordships,

Appointments to the High Court

The Judicial Service Association (JSA) wishes to bring to your Lordships' attention, the deep concern of its members on the following matter.

JSA has learned that His Excellency the President has proceeded to appoint fifteen new High Court Judges acting under Article III (2) (a) of the Constitution. It has also been known that eleven of them are from the Minor Judiciary and 4 of them are from the Attorney General's Department. This is the first time that a such number of appointments (11:4) are allocated to the Attorney General's Department in history.

It has been the practice and the tradition that a reasonable number of nominees from the Attorney General's Department are appointed as the High Court Judges. However, it has not been such that it obstructs the career ladder of the judges of the minor judiciary. A judge of the minor judiciary serves at least 15 years in every part of the country to maintain the command of the judicial power of the state in every nook and cranny of the island before he is elevated to the High Court. For most of them, the only career prospect has been the appointment to the High Court. Disturbances to this practice and tradition will undoubtedly cause frustration and disappointment amongst the judges of the minor judiciary.

Hence Your Lordship may consider our concern over this issue when making recommendations to the President in terms of Article III (2) (a) of the Constitution.

Thank you.

Prasanna Alwis
President
Judicial Service Association

Pasan Amarasena
Secretary
Judicial Service Association

Thereafter, His Excellency the President had taken into consideration the above concerns of JSA and responded positively by a letter dated 19.02.2022. Accordingly, only two appointments had been allocated to the Attorney General's Department when thirteen High Court Judges were appointed very recently. This was a great achievement of JSA and on behalf of the minor judiciary, JSA takes this opportunity to appreciate the favourable response of His Excellency the President and JSC on the same.

A good laugh and a long sleep are the two best cures for anything.

- Irish proverb -

For your well-being



| News || News || News || News || News || News || News || News || News || News ||

JSA launches its Law Journal for the year 2021

JSA Law Journal 2021 Volume VIII was launched at the Supreme Court on 30.12.2021 despite the difficulties during the pandemic period and former President, Secretary and the Editorial Committee members participated at the event.

New Executive Committee of JSA 2022 meets the Chief Justice and other Justices of Judicial Service Commission

On 23.02.2022 new executive committee of JSA 2022 visited the Hon. Chief Justice and other Hon. Justices of JSC and it was able to discuss some important issues relating to High Court appointments, annual salary increments of judicial officers and issues pertaining to administration of minor staff members appointed by the Ministry of Justice.

JSA stands for its members grievances on earning annual salary increments due to COR circulars issued during the pandemic situation

JSA always concerns about the grievances of its members. In the year of 2020 also JSA has brought to the notice of the JSC with regard to the difficulties faced by judicial officers in fulfilling the required minimum number of judgments for considering the annual increment in the midst of Covid -19 Pandemic situation and consequently, JSC had provided a concession considering the period in which courts were not functioning. In the last year also some judicial officers had to face with difficulties of earning the annual salary increments due to the inability to write the specified minimum number of judgments. Considering those grievances, JSA again brought them to the notice of JSC at the time it visited the Hon. Justices and the Secretary to the JSC. Moreover, JSA by a letter dated 07.03.2022 brought to the notice of JSC regarding the difficulties of earning annual salary increments by District Judges and Magistrates due to the special COR circulars issued for the purpose of controlling the spread of Covid-19 Virus in court complexes. That letter is published below for your notice.

ලේකම්තුමා මගින්,

අධිකරණ සේවා කොමිෂන් සභාව,

කොළඹ.

කොවිඩ් 19 වෛරසය ව්‍යාප්තිය පාලනයට නිකුත් කරන ලද විශේෂ චක්‍රලේඛයන් හේතුවෙන් දිසා විනිශ්චයකාරවරුන්ට සහ මහෙස්ත්‍රාත්වරුන්ට වාර්ෂික වැටුප් වර්ධක උපයා ගැනීමේදී ඇති වූ දුෂ්කරතා සම්බන්ධයෙන් ශ්‍රී ලංකා අධිකරණ සේවා සංගමයේ කරුණු දැක්වීම.

අධිකරණ සේවා කොමිෂන් සභාවේ ගරු විනිසුරුතුමන්ලා සමග 2022/02/24 දින අධිකරණ සේවා කොමිෂන් සභාවේ විධායක කමිටු සාමාජිකයින් පවත්වන ලද සාකච්ඡාව හා බැඳේ.

(01) අධිකරණ සේවා කොමිෂන් සභාව විසින් විනිශ්චයකාරවරුන්ගේ වාර්ෂික වැටුප් වර්ධක ප්‍රදානය කිරීමේ දී ඔවුන්ගේ කාර්යක්ෂමතාවය සලකා බැලීමට තීරණය කිරීම දීර්ඝ කාලයක් තිස්සේ ශ්‍රී ලංකාවේ අධිකරණයන් තුළ ගොඩ ගැසී තිබූ, ප්‍රමාද වූ නඩුකරයන් විශාල ප්‍රමාණයක් කඩිනමින් විසඳා අවසන් කිරීමට ද,



| News || News || News || News || News || News || News || News || News || News |

ඒ හේතුවෙන් ශ්‍රී ලංකාවේ අධිකරණ පද්ධතිය කෙරෙහි යහපත් චිත්‍රයක් නිර්මාණය කිරීමට ද හේතු වූ බවත්, එම තත්ත්වය අඛණ්ඩව ඉදිරියට ද පවත්වාගෙන යා යුතු බවත් අප සංගමයේ ස්ථාවරය වේ. මෙම තත්ත්වය කාර්යක්ෂමව රාජකාරිය ඉටු කරනු ලබන විනිශ්චයකාරවරුන්ට යම් අගය කිරීමක් ලබා දීමට ද, සෙසු විනිශ්චයකාරවරුන්ගේ කාර්යක්ෂමතාවය වර්ධනයට ද තම වගකීම නිසි පරිදි ඉටු නොකරන විනිශ්චයකාරවරුන් හඳුනා ගැනීමටද හේතු විය.

- (02) කෙසේ වුවද, 2020 වර්ෂයේ මාර්තු මාසයෙන් පසුව ඇති වූ කොවිඩ් 19 වෛරසයේ ව්‍යාප්තිය වර්ධනය වූ කාල පරිච්ඡේදයට අදාළ වැටුප් වර්ධකයන් උපයා ගැනීමේ දී ඇති වූ තත්ත්වයන් පිළිබඳව දිසා විනිශ්චයකාරවරුන් සහ මහෙස්ත්‍රාත්වරුන් දිගින් දිගටම අප සංගමය වෙත ඉදිරිපත් කරන ලද කරුණු දැක්වීම් සහ එම කාල පරිච්ඡේදය තුළ වැටුප් වර්ධක විෂයෙහිලා උද්ගත වූ තත්ත්වයන් කෙරෙහි වූ අපගේ නිරීක්ෂණයන් අනුව ශ්‍රී ලංකාවේ අධිකරණ පද්ධතියේ ස්ථාවර පැවැත්ම සම්බන්ධයෙන් අතිශය සංවේදී වන්නා වූ කරුණු කෙරෙහි අධිකරණ සේවා කොමිෂන් සභාවේ අවධානය යොමු කර වීම හදිසි සහ අත්‍යාවශ්‍ය තත්ත්වයක් බව පෙනී යන ලදී. මේ දක්වා විනිශ්චයකාරවරුන්ගේ වැටුප් වර්ධක විෂයෙහිලා අධිකරණ සේවා කොමිෂන් සභාව ගනු ලැබූ තීරණයන් සම්බන්ධයෙන් කරුණු නොදැක්වීම අප සංගමය විසින් අනුගමනය කළ ප්‍රතිපත්තිය වුවද, ප්‍රශ්නගත කාල සීමාවට අදාළව තමන්ට පාලනය කර ගත නොහැකිව තිබූ, කොවිඩ් වෛරසයේ ව්‍යාප්තියේ හේතුව මත ම ඇතිවූ වාර්ෂික වැටුප් වර්ධක ප්‍රදානය විෂයෙහිලා ගනු ලැබූ තීරණයන් මගින් දිසා විනිශ්චයකාරවරුන් හා මහෙස්ත්‍රාත්වරුන් පත්ව ඇති තත්ත්වයන් සමීපව අධ්‍යයනය කිරීමෙන් පසු, එම තත්ත්වයන් දීර්ඝ කාලීනව අධිකරණ කටයුතු වල අපේක්ෂිත ගුණාත්මකභාවය කෙරෙහි අහිතකර ලෙස බලපෑ හැකි බව පූර්වේක්ෂණය කරන බැවින් මෙම කරුණු දැක්වීම සිදු කරමු.
- (03) මෙම කරුණු දැක්වීම කිසිසේත්ම අධිකරණ සේවා කොමිෂන් සභා තීරණ වලට මැදිහත්වීමක් නොවන බවත්, හුදෙක්ම ගරු අධිකරණ සේවා කොමිෂන් සභාව වෙත කරනු ලබන සානුකම්පිත ආයාචනයක් පමණක්ම වන බවත් ගෞරවයෙන් යුතුව දැනුම් දෙමු.
- (04) මෙකී විෂයෙහිලා අප සංගමය ඉදිරිපත් කරනු ලබන සියලු කරුණු දැක්වීම් වලදී, ඉහත 01 ඡේදයේ විස්තර කර ඇති සාධනීය ප්‍රතිඵලවලට ඉන් බලපෑමක් නොවීමට ප්‍රවේසම් සහගත වන අතර, අධිකරණ කටයුතු වලදී කොවිඩ් 19 ව්‍යාප්තිය වැලැක්වීම සඳහාම අධිකරණ සේවා කොමිෂන් සභාව හා රජය විසින් වරින්වර නිකුත් කරන ලද චක්‍රලේඛයන් (මින් ඉදිරිය ප්‍රශ්නගත කාලපරිච්ඡේදය යැයි හඳුන්වන) තුලට සම්පූර්ණයෙන් හෝ කොටසක් අයත් වන්නා වූ වැටුප් වර්ධකයන්ට අදාළව පමණක්ම ඉදිරිපත් කර සිටිමු.
 - i. COR චක්‍රලේඛයන් ප්‍රකාරව වරින්වර අධිකරණයන් වසා දමා තිබීමෙන් පසු අධිකරණ කටයුතු ආරම්භ කරන ලද සෑම අවස්ථාවකදීම, පළාත් හෝ දිස්ත්‍රික් සංවරණ සීමා තවදුරටත් මාස දෙකකට ආසන්න කාලයක් ක්‍රියාත්මක වීම හේතුවෙන් හා පොදු ප්‍රවාහන සේවයන් නිසි පරිදි ක්‍රියාත්මක නොවීම හේතුවෙන් එම කාලය තුළ නියමිතව තිබූ නඩු විභාගයන් වලින් 90%ක් පමණ විභාගයට නොගෙන කල් තැබීමට සිදු වීම.
 - ii. ප්‍රශ්නගත කාලපරිච්ඡේදය අවසන් වන 2021/12/31 දින වන විටද COR චක්‍රලේඛයන් අනුව අධිකරණ ශාලා තුලට ඇතුලත් කර ගත හැකි වූයේ සාමාන්‍ය ධාරිතාවයෙන් 50%ක් පමණක් වන බැවින්, පිටත ඉඩකඩ නොමැති අධිකරණ පරිශ්‍රයන්වල නඩු ප්‍රමාණයෙන් අඩක් පමණ ඒ හේතුව මතම විභාගයට නොගෙන කල් තැබීමට සිදුවීම.
 - iii. COR චක්‍රලේඛයන් ප්‍රකාරව ප්‍රාදේශීය නීතිඥ සංගම්වල අදහස් ද විමසා අධිකරණ කටයුතු සිදුකිරීමට මග පෙන්වා තිබියදී, එකී නීතිඥ සංගම් යම් යම් අවස්ථාවලදී අධිකරණ කටයුතු වලින් ඉවත්ව සිටීමටද විභාග නඩු කල් දමා හදිසි නඩු පමණක් කැඳවීමට ඉල්ලා සිටීමට ද ගෙන තිබූ තීරණයන් කෙරෙහි සැලකිල්ලක් දැක්වීමට සිදුවීම.



| News || News || News || News || News || News || News || News || News || News ||

- iv. අධිකරණ කාර්ය මණ්ඩලයෙන් 1/3 හෝ 1/2 පමණක් කැඳවීමට වරින් වර නිකුත් කරන ලද චක්‍රලේඛ මගින්, මග පෙන්වා තිබීම හේතුවෙන් ලේඛනාගාරය, නඩු භාණ්ඩ කාමරය ආදියෙහි කටයුතු අවම මට්ටමකින් සිදු වීම මත ප්‍රශ්නගත කාලපරිච්ඡේදය පුරාවටම සාමාන්‍ය දෛනික නඩු ප්‍රමාණය විභාගයට ගැනීමට නොහැකිවීම.
 - v. COR චක්‍රලේඛයන් මගින් නොපැමිණෙන තැනැත්තන් විෂයෙහිලා වරෙන්තු නිකුත් නොකිරීම අපේක්ෂා කර තිබීම මත, නඩු කටයුතු කාර්යක්ෂම වීම තමන්ට අවාසියක් ලෙස කල්පනා කරන පාර්ශවයන් හිතා මතාම ඵලදායී ඊළඟ දින වලදී ද ප්‍රසිද්ධ දැන්වීම් මත ක්‍රියාකර අධිකරණයේ පෙනී සිටීම පැහැර හැරීම සාමාන්‍ය තත්ත්වයක් බවට පත්වීම, එවන් අවස්ථාවන්හිදී ඔවුන් විෂයෙහිලා නොතීසි නිකුත් කළ ද, වෛරස ව්‍යාප්තිය උග්‍ර තත්ත්වයක පැවතියදී නඩුවල සියලුම පාර්ශවයන්ට කෙටි කාලයක් තුළ එකවර නොතීසි භාර දීමට කැඳවන සීමිත කාර්යය මණ්ඩලයට ප්‍රායෝගිකව නොහැකිවීම මත විභාග නඩු කල් තැබීමට සිදුවීම.
 - vi. විවෘත අධිකරණයේ කටයුතු පැවතිය ද, දිගින් දිගටම විනිශ්චයකාරවරයා/භාෂණ පරිවර්ථක/ නීතිඥවරයා/ පැමිණිල්ල මෙහෙවන නිලධාරියා/ සාක්ෂිකරු/ චූදිතයෙකු යන අයවලුන්ගෙන් කවුරුන් හෝ අයෙකු කොරෝනා වෛරසය ආසාදිතයෙකු වීම හෝ කොරෝනා රෝගියෙකුගේ ආශ්‍රිතයෙක් වීම මත නිරෝධායන කාල සීමාවක් ගත කිරීම හේතුවෙන් නඩු විභාග කල් තැබීමට සිදුවීම.
- (06) ඉහත කී තත්ත්වයන් හා මෙහි විශේෂයෙන් සඳහන් කර නොමැති ආනුෂංගික තත්ත්වයන් ප්‍රශ්නගත කාලපරිච්ඡේදය පුරාවට ම පැවතුණු අතර, එම තත්ත්වයන් සම්පූර්ණයෙන්ම අදාළ විනිශ්චයකාරවරයාගේ පාලනයෙන් තොර තත්ත්වයන් වීම. වාර්ෂික වැටුප් වර්ධකය සලකා බැලීමේ දී ප්‍රසිද්ධ දැන්වීම් මගින් මිළඟ දිනය දන්වන ලද කාල සීමාව පමණක් ඉවත් කොට සලකා බැලීමට ගරු අධිකරණ සේවා කොමිෂන් සභාව ගෙන ඇති තීරණය නැවත සලකා බලන ලෙසත්, ඉහතින් සඳහන් කරන විශේෂිත තත්ත්වයන් කෙරෙහි ද නැවත සලකා බලන ලෙස ගරු අධිකරණ සේවා කොමිෂන් සභාවෙහි ගෞරවනීය අවධානයට යළි යොමු කළ යුතු තත්ත්වයක් බවට අප සංගමයේ විධායක සභාව විසින් ඒකමතිකව තීරණය කරන ලදී.
- (07) විනිශ්චයකාරවරුන්ගේ වාර්ෂික වැටුප් වර්ධකය ප්‍රදානයෙහිලා සලකා බලනු ලබන සියලු නිර්ණායකයන් අධිකරණ කටයුතු වඩාත් කාර්යක්ෂම කිරීම අරඹයා සෑම විටම ක්‍රියාත්මක විය. එකී නිර්ණායකයන් මගින් වැටුප් වර්ධක විෂයෙහිලා ප්‍රකාශයට පත් කරන ලද නඩු තීන්දු ප්‍රමාණය සලකා නොබලන ලද පූර්ව කාලයන්හිදී ද තමන්ට පැවරූ වගකීම කාර්යක්ෂමව හා නිර්මාණශීලීව ඉටු කරන ලද විනිශ්චයකාරවරුන් අධෛර්යයට පත්වීම සිදුවන්නේ නම්, එකී චක්‍රලේඛ මගින් අපේක්ෂිත අවසාන අරමුණ බිඳවැටීමට ලක්විය හැකි බවත්, එය දීර්ඝ කාලීනව අධිකරණ කටයුතු වල කාර්යක්ෂමතාවය හා ගුණාත්මකභාවයට අහිතකර ලෙස බලපෑ හැකි බවත් අපි විශ්වාස කරමු.
- (08) ඉහතින් විස්තර කරන ලද කරුණු මත පදනම් වී අප සංගමය විසින් පහත යෝජනා ඉදිරිපත් කර සිටිමු.
- i. ප්‍රශ්නගත කාල සීමාවට ඇතුළත් වන වැටුප් වර්ධක ලබා දීමේදී තවදුරටත් ප්‍රදානය කරන ලද තීන්දු ප්‍රමාණය පමණක් ම නිර්ණායකය ලෙස සලකන්නේ නම් ප්‍රසිද්ධ දැන්වීම මගින් නඩු කටයුතු කල් තබන ලද කාල සීමාවන් පමණක් නොව, ඉහත 05 ඡේදයේ i සිට vi දක්වා වූ අනු අංකයන් යටතේ විස්තර කර ඇති විශේෂිත හා ආනුෂංගික තත්ත්වයන් ද සැලකිල්ලට ගැනීම හා ඒ පිළිබඳව දිසා විනිශ්චයකාරවරුන්ගේ හා මහෙස්ත්‍රාත්වරුන්ගේ පූර්ව අවධානය යොමු කරවීම.
 - ii. අදාළ විනිශ්චයකාරවරයාගේ කාර්යක්ෂමතාවය විෂයෙහිලා විශේෂයෙන් සලකා බැලිය යුතු අහිතකර තත්ත්වයන් වාර්තා වී නොමැති නම් සහ අවසාන වැටුප් වර්ධක ප්‍රමාදයන් රහිතව උපයා ගෙන ඇති නම්, ඉහතින් සඳහන් කරන ලද තමන්ගේ පාලනයෙන් තොර හේතූන් නොසලකා හැර ප්‍රශ්නගත කාල පරිච්ඡේදයට අදාළ වැටුප් වර්ධකය ප්‍රදානය කිරීම.



| News || News || News || News || News || News || News || News || News || News |

- iii. ප්‍රශ්නගත කාල පරිච්ඡේදය තුළදී COR වක්‍රලේඛයන්හි නිර්ණායක දැඩිව අනුගමනය කිරීමේ හේතුව මත, නඩු විභාගයන් අවම මට්ටමින් සිදු කිරීම හේතුවෙන් සීමිත නඩු තීන්දු ප්‍රමාණයක් ප්‍රකාශයට පත් කර ඇති අවස්ථාවලදී අදාළ විනිශ්චයකාරවරයා විසින් අපේක්ෂිත ඉලක්කය සපුරා ගැනීම සඳහා තම උපරිම උත්සාහයක් දරා ඇති බවට පෙනී යන්නේ නම්, එකී තත්ත්වය සැලකිල්ලට ගෙන වාර්ෂික වැටුප් වර්ධකය ප්‍රදානය කිරීම.
- iv. ඉහතින් සඳහන් කරන ලද සුවිශේෂී තත්ත්වයන් යටතේ කාර්යය සාධනය පිළිබඳව අන්‍යයාකාරයකින් සැඟිමට පත්විය හැකි දිසා විනිශ්චයකාරවරුන් සහ මහෙස්ත්‍රාත්වරුන් සම්බන්ධයෙන් එකී අත්හිටුවීම අවලංගු කර වාර්ෂික වැටුප් වර්ධකය ප්‍රදානය කිරීමට කටයුතු කිරීම.
- v. දැනට වැටුප් වර්ධකය අත්හිටුවා ඇති යම් විනිශ්චයකාරවරයෙකු නම් අත්හිටුවීමේ ලිපියෙහි සඳහන් නඩු තීන්දු ප්‍රමාණය, අත්හිටුවා ඇති කාල සීමාව ඉක්මවා යාමට ප්‍රථමයෙන් ප්‍රකාශයට පත්කර ඒ බව අධිකරණ සේවා කොමිෂන් සභාවට දන්වන ලද අවස්ථාවකදී එම අත්හිටුවීම අවලංගු කර, අදාළ වැටුප් වර්ධකය ප්‍රදානය කිරීමට පියවර ගැනීම.
- vi. ඉහතින් සඳහන් කරන ලද සියළුම ඉල්ලීම්වලට අගති රහිතව, දැනටමත් වැටුප් වර්ධක අත්හිටුවා ඇති දිසා විනිශ්චයකාරවරුන් හා මහෙස්ත්‍රාත්වරුන්ගේ එම අත්හිටුවීම සම්බන්ධයෙන් අත්හිටුවූ කාල සීමාව ඉක්මවා යාමට ප්‍රථම, ඉහතින් අවධානයට යොමු කරන ලද කරුණු මත එක් අභියාචනයක් සිදු කිරීම සඳහා අවස්ථාව ලබා දීම හා අත්හිටුවා ඇති කාල සීමාව තුළදී එකී කණ්ඩායමේ සෙසු විනිශ්චයකාරවරුන් අධිකරණ සේවයේ ඊළඟ ශ්‍රේණියට උසස් කරනු ලබන විටක වැටුප් වර්ධකය විශේෂිත තත්ත්වයන් යටතේ අත්හිටුවීමට ලක්ව ඇති විනිශ්චයකාරවරයාගේ ජ්‍යෙෂ්ඨත්වයට බලපෑමක් නොවන පරිදි කටයුතු කිරීම.

අධිකරණ කටයුතුවල යහපැවැත්මට සංවේදී වන උක්ත තත්ත්වයන් කෙරෙහි අධිකරණ සේවා කොමිෂන් සභාවේ අවධානය යොමු කර, විනිශ්චයකාරවරුන්ගේ උපරිම ධාරිතාවය අධිකරණ කටයුතු සඳහා ලබාගත හැකි වන ආකාරයේ තීරණයක් ගනු ඇතැයි අප සංගමය විශ්වාස කරමු.

ප්‍රසන්න අල්විස්

සභාපති,

ශ්‍රී ලංකා අධිකරණ සේවා සංගමය.

වර්ෂ 2022.03.07 දිනදී ය.

සුරංග මුණසිංහ

උපලේකම්,

ශ්‍රී ලංකා අධිකරණ සේවා සංගමය (ලේකම් වෙනුවට)

Consequently, JSC by a Circular No. JSC/SEC/CIR/2022 dated 25.03.2022 has responded positively for the above request of JSA. Therefore, JSA requests the members who have issues regarding the annual salary increments, to make use of this opportunity and forward an application to the JSC hastily.

Calm mind brings inner strength and self-confidence, so that's very important for good health.

- Dalai Lama -

For your well-being



| News || News || News || News || News || News || News || News || News || News |

Ex-co appoints a sub-committee to consider a solution for issues relating to recruitments of minor staff

Since the indiscipline acts of the minor staff members who are under the control of the Ministry of Justice is a long-standing problem, a sub-committee was appointed by the JSA at its meeting held on 14.08.2021 to find a solution. The sub-committee having observed several issues with their recruits submitted its recommendations for the consideration of the Executive Committee of JSA. Later with the approval of the ex-co, the report of the sub-committee was forwarded to the JSC for its attention. That report is published here for the attention of the membership.

Report of the sub-committee which was appointed to make recommendations on appointments of minor staff

Introduction

As a hallowed institution, it is of paramount importance to safeguard the public trust placed in the judicial system of a Country. This task cannot be assured by the Judges only. There are a number of stakeholders and the Court's staff is the main.

Corruptions, malpractices and unacceptable indiscipline acts of the staff members have created many administrative issues and those issues should be properly addressed to curtail or minimize them for a healthy Judicial system.

But there are burning issues with regard to the disciplinary control of some of the staff members attached to the Courts including top to bottom.

Even though SPO are under the disciplinary control of the JSC, disciplinary control of Minor staff attached to the Courts are not within the purview of the JSC.

To find a solution to this long-standing problem, the Staff Recruitments Committee was appointed in the executive committee meeting held on 14.08.2021.

Committee Members

The Committee is comprised of,

1. Mr.Buddika Ragala (Chairman)
2. Mr.Bandula Gunarathna
3. Mr.Uddala Suwaturugoda
4. Mr.Isuru Neththikumarage
5. Mr.Jayaruwan Dissanayaka
6. Mr.Sampath Gamage

Observations

The committee headed by me, observed following issues with these recruits.

- I. Recruitments

We all know, how these recruitments are taking place.

All these recruitments done by the wish of the Political authority on the basis of the support they have tendered at the Elections.



As a result, most of these members are willing to serve their previous Masters and doing various practices which create many administrative issues.

In addition to that their ability to work as well as the attitudes are also very detrimental to the functions of the Courts.

2. Knowledge of recruits.

As mentioned above recruitments method, most of these recruits are generally not suitable to bear the given responsibility.

3. Poor standards of the personal life of recruits.

The character of the person is immaterial in these appointments. As a result of this, we have found and learnt in many occasions where there are drug addicts and persons who consisted with a criminal background among these appointees.

4. Security of court's work.

Where the court staff is filled with persons who consist with a political background, impartial functioning of the office of the court might be threatened in the cases with political nature.

5. Irregularities and inefficiencies of the administration.

What is happening

In case of any misconduct or disciplinary issues arise, it takes some delay in transfers and disciplinary proceedings where two institutions are involved with the same.

We have learned and experienced that some persons who have been recommended to hold or initiate disciplinary inquiries on serious misconduct, are posted to a nearest court without taking the proper steps.

Apart from that, most of these people have involved lots of wrongful acts such as stealing productions, consuming liquor and similar articles under Court's custody, misplacing case records so on and so forth.

Once they are caught in doing these things and after referral to the MOJ, they are being interdicted for a short period of time and are placed again to another Court house, placing many inconveniences and giving extra burdens to the presiding judicial officers to have a surveillance on him/her.

On above forgoing, some of the members are of the view that we must propose the JSC to take over the power of recruitments, transfers and disciplinary control of these staff members including account's clerks who have been recruited from the recent past.

Some of members are of the view that making a recommendation to do these recruitments by the JSC would not be practical due to the objections of the political authority, therefore, after recruitments done by the MOJ their disciplinary control including transfers should be taken under the control of the JSC.

Therefore, both suggestions are placed here for the consideration of the executive committee.



| News || News || News || News || News || News || News || News || News || News |

Recommendations

Under the above set back, we would like to submit following recommendations for the consideration of the Executive Committee.

1. Them to be recruited to a specially created category like SPO by the JSC under a formulated mechanism or,
2. After recruitments done by MOJ, JSC should absorb them to a specially created category of JSC, under a screening process. Thereafter their transfers should be done only within the judicial establishments.
(As I learnt from the Senior Judges, this issue has been discussed by the JSC, 8-9 years ago)
3. The already assigned staff members should be absorbed to the above said special category under a formulated screening process.
4. Until this mechanism is established, JSC needs to inform the MOJ to formulate an acceptable transfer scheme to the minor staff members.
5. At the same time, MOJ should be informed that while this process is going on, not to place any minor staff member who have been transferred on disciplinary ground to another Court house.

Buddika Ragala

JSA is expecting a beneficial response on this issue in the future.

Ode To The GREATEST Judge

*"You have never failed to convict the guilty
No one who does wrong ever escapes your chastening whips
Thou visits the reprobate mind
And the body cannot but show remorse
You are present in the heart of all who draw breath
With you, there are no exceptions
Thou reprimands without exemptions
With truth in hand, thou corrects the unjust
Your shoulder is never far from the just in times of tribulations
With you, the innocent has hope
Thou art a kin to peace of mind
And the guilty is never at peace with thee
Who then is this great judge?
Impervious to corruption
Immune to social status or class
And unyielding to human nature
Thy name is Conscience
That inner still but resolute voice
When thou speaks
Even the heart carved out of stone listens."*

- Shedy Akor Prince -



| Welfare || Welfare || Welfare || Welfare || Welfare || Welfare || Welfare || Welfare |

'Motor Plus' Vehicle Insurance Package with special benefits for JSA Members

After a discussion had with the JSA, Sri Lanka Insurance Corporation Ltd provided a special benefits package of Motor Plus Insurance to members of JSA and more lucrative benefits of this vehicle insurance package are as follows:

- Insurance protection from 100% government owned insurer.
- Services through the largest branch network.
- On-site inspection of accident damages.
- Call and move facilities at an accident.
- Speedy Claims Settlements.
- Full reimbursement cost of Brand New Airbag replacement.
- Cashless Repair Facilities from local agents island wide and SLIC Registered Repair Centers.
- Vehicle Allowances whilst the vehicle is under collision repair.
- Vehicle repairs carried out by Second-tier Garages at Zero Owner's Account.

If you feel that this package will meet your expectations, still you can contact Mr. Uddala Suwandurugoda, committee member of ex-co for further information.

Special Postpaid Mobitel Package

Having discussed with the JSA, SLTMobitel Ltd. has introduced a special customized communication solution proposal for the members of JSA considering their professional needs. Accordingly, they have especially designed;

- Mobitel Voice/Data Solutions – special co-operate tariff with two options
- Device purchase options.

For your information, aforesaid two options for Mobitel voice/data solutions are mentioned below.

Option 01

Voice Bundle	M2M	Unlimited
Monthly rental - Rs. 1,500 + taxes		
	M2O	2000 Min. Free (Rs.1.50 after exceeding)
SMS	M2M	Unlimited
	M2O	Rs.0.20 Per Msg
Data	14 GB	Anytime Data
Social Media Package (Non-stop Lokka) Monthly rental - Rs. 361 + taxes	YouTube, Facebook, Instagram, WhatsApp, Viber, IMO, Facebook Messenger, LinkedIn & Twitter	Unlimited Access
Work and Education package (STU 150) Monthly rental - Rs. 150 + taxes	MS Teams/ Office 365/ Zoom/ mLearning/ SLT Lynked/ SLT eSiphala	25 GB Free Data Per Month



| Welfare || Welfare || Welfare || Welfare || Welfare || Welfare || Welfare || Welfare || Welfare |

Social Media package terms and conditions

1. FUP for 4G networks: 30GB HD on 4G Network. Non-stop usage up to 1Mbps once limit is reached.

2. FUP for 3G networks: Non-stop usage up to 1Mbps

Plan Rental - Rs: 2,400.00 (Including Tax)

Total value after discount - Rs: 1,680.00 (Including Tax)

Option 02

Voice Bundle Monthly rental - Rs. 240+ taxes	Outgoing /Incoming Voice/Video calls within the group	Unlimited
	Voice outgoing to any other network	1000 Min. Free (Rs.1.50 after exceeding)
SMS	Within the group	Unlimited
	SMS outgoing to any other network	1000 msg free (Rs.0.20 Per Msg after exceeding)
Data	2 GB	Anytime Data
Social Media Package (Non-stop Lokka) Monthly rental - Rs. 361 + taxes	YouTube, Facebook, Instagram, WhatsApp, Viber, IMO, Facebook Messenger, LinkedIn & Twitter	Unlimited Access
Work and Education package (STU 150) Monthly rental - Rs. 150 + taxes	MS Teams/ Office 365/ Zoom/ mLearning/ SLT Lynked/ SLT eSiphala	25 GB Free Data Per Month
Anytime Data add on package rental Rs. 550 + taxes	Data bundle	10 GB

Social Media package terms and conditions

1. FUP for 4G networks: 30GB HD on 4G Network. Non-stop usage up to 1Mbps once limit is reached.

2. FUP for 3G networks: Non-stop usage up to 1Mbps

Plan Rental on already discounted packages - Rs.1,464.22 (Including Tax)

If you are interested to purchase them you can contact Mr. Isuru Neththikumarage, committee member of JSA for further information.

Credit Card Facility

JSA has introduced a credit card facility up to 1.5 Million rupees credit limit from the People's bank. This package was specially designed for the members of JSA without a lifetime annual fee and a joining fee. If you are interested in this, you can contact Mr. Suranga Munasinghe, Assistant Secretary to the JSA for more information.

Residential Get-together for JSA Members

JSA is making arrangements in organizing a residential get-together for its members after a considerable period of silence due to the pandemic situation. The ex-co has already appointed a sub-committee to plan the get-together and negotiate with the resource persons. JSA expects to organize the annual get-together by the mid-year and further details will be communicated in due course.



For your well-being!

Meditation Techniques

"Why meditate?

Firstly, regular meditation has many amazing benefits which include:

- Reduce stress and anxiety.
- Improves emotional balance and well-being.
- Increases your awareness of what's going on inside you - your thoughts and feelings.
- Develops concentration.
- Improves sleep.

Secondly you can meditate anywhere you can find a place to sit – so you can take meditation anywhere....."

Yoga Techniques

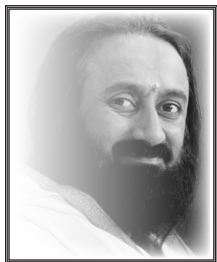
"Yoga is the perfect activity that combines the mind, the breath and the body – it brings everything together.... Yoga will help you to reduce stress, improve your health, increase your immunity, strengthen your body, increase your flexibility, develop your balance and improve your posture...."

Breathing Techniques

"There is a direct connection between the breath and the mind, so by controlling and manipulating our breath we can control and direct what is happening with our mind. The breath has ever been described as the "remote control" for your brain. Through actively controlling our breathing in particular patterns we can calm and relax our mind, clear and focus our mind, and even refresh and energise our mind."

*Extracted from the Judicial Officer's Survival Guide Handbook by Greg Benn
for the SI National Judicial Workshop Oct 2020.*

Who is your life PARTNER?



Mom?

Dad?

Wife?

Son?

Husband?

Daughter?

Friends?

Not at all!

Your real-life partner is your body.

Once your body stops responding no one is with you.

You and your body stay together from birth till death.

What you do to your body is your responsibility and that will come back to you.

The more you care for your body, the more your body will care for you.

What you eat, what you do for being fit, how you deal with stress, how much rest you give to it; will decide how your body going to respond.

Remember, your body is the only permanent address where you live.

Your body is your asset/liability, which no one else can share.

Your body is your responsibility. Because you are the real-life partner.

Be fit. Take care of your-self. Money comes and goes.

Relatives and Friends are not permanent.

Remember, no one can help your body other than you.

Pranayama - for Lungs

Meditation - for Mind

Yoga - for Body

Good food - for Intestines

Good thoughts - for Soul

Good Karma - for World

- By Sri Sri Ravishanker -



| Unreported || Unreported || Unreported || Unreported || Unreported | Unreported |

SUPREME COURT

JSALR 2022 /I//I

Jayasinghe Pathman Vs Korale Kankanamge Lal Pathmasiri

SC Appeal 06/2014

Before : B. P. Aluwihare, PC, J.

L. T. B. Dehideniya, J.

S. Thuraiaraja, PC, J.

Decided on : 19.11.2021

Section 3 of the Prescription Ordinance No.22 of 1871, Permissive possession, distinction between 'Occupation' and 'Possession'

L. T. B. Dehideniya, J.

The Appellant contested that the Respondent was in unlawful and forcible occupation in the said land. The Appellant produced proof of his title to the land in the form of the final decree in the District Court Balapitiya NP/3085 of 1979, whereby Korala Kankanamge Rosalin (Appellant's Mother) got title to lot 5 in plan No.1946/A.

Respondent denied the rights of the Appellant and claimed prescriptive rights by long, uninterrupted and adverse possession over ten years. Respondent's position was that he is not a licensee, and that he had been living in the said land with his parents and even after he got married, he lived in the premises with his wife and specifically stated that he has been living in the premises for over 70 years.

Held:

1. It is a settled law that in a *rei vindicatio* action, the defendant has no burden to prove anything until the plaintiff proves his title to the land. Once the paper title has proven, burden shifts to the defendant to prove that the defendant has obtained a title adverse and independent to the paper title of the plaintiff.
2. A person who bases his title on adverse possession must show clear and incontrovertible evidence that his possession was hostile to the true owner of the property,

where the property belongs to a family member, the presumption will be that it is "permissive possession" which is not in denial of the title of the family member who is the true owner of the property and is consequently not adverse to him/her. This presumption represents the interference that may be drawn in the context of the relationship of the parties.

3. It is a well established legal principal that when a person enters into occupation, he is precluded from setting up title by prescription without establishing a change of character in which he began his occupation and an overt act or something similar indicating the intention to possess adversely to the owner.
4. When deciding one's Prescriptive rights against another's paper title the court must be aware of the distinction between 'Occupation' and 'Possession'. Mere occupation of a premise for a long time does not establish a true possession. Occupation with the intention of holding the property as owner is considered as true possession.

The appeal was allowed. The Judgment of the High Court of Civil Appeal was set aside and the Judgment of the District Court was affirmed.

JSALR 2022 /I//II

D. M. Susiripala Vs D. M. Sumanawathie

SC Appeal 61/2014

Before : Vijith K. Malalgoda, PC, J.

Achala Wengappuli, J.

Mahinda Samayawardhena, J.

Decided on : 20.01.2022

Section 46 of the Land Development Ordinance, *Jus Retentionis*, Useful improvements

Mahinda Samayawardhena, J.

The plaintiff filed this action in the District Court of Monaragala seeking a declaration that she is the owner of the land described in the schedule to the plaint on the permit marked PI issued under the



Land Development Ordinance, and ejectment of the defendant therefrom.

After trial the District Judge dismissed the plaintiff's action predominantly on the basis that the Divisional Secretary had issued the permit PI in violation of the provisions of the Land Development Ordinance.

Held:

1. State lands cannot be sold by individuals. In terms of section 46 of the Land Development Ordinance, even the permit-holder cannot alienate the permit land without the written consent of the Divisional Secretary: such alienations are null and void.
2. Only bona fide possessors are entitled to compensation for useful improvements and the *jus retentionis* (right of retention) is available to them until compensation is paid by the owner. Even if the defendant is a bona fide possessor, the plaintiff does not want the buildings on the land perhaps because she does not have the financial capacity to pay compensation. The buildings cannot be thrust upon her and she cannot be compelled to pay compensation to the defendant.
3. What the plaintiff in a *rei vindicatio* action shall prove is that he was the owner of the land at the time of filing the action and continues to be so until judgment is entered in his favour. In my view the plaintiff has discharged her burden.
4. There is no necessity to interpret the law with excessive stringency against the plaintiff in a *rei vindicatio* action and if the plaintiff proves on a balance of probabilities that he has "sufficient title" or "superior title" to that of the defendant, the plaintiff shall succeed.

The Judgment of High Court was affirmed and accordingly the appeal was dismissed.

JSALR 2022 /I//III

Veerasamy Sivathasan Vs Attorney General

SC Appeal 208/2012

Before : B. P. Aluwihare, PC, J.

Yasantha Kodagoda, PC, J.

Janak De Silva, J.

Decided on : 15.12.2021

Sections 54A (b) and 54A (d), respectively, of the Poisons, Opium and Dangerous Drugs Ordinance, as amended by Act No. 13 of 1984, Suggestions to the Prosecution Witnesses, Section 263(I) of the Code of Criminal Procedure Act, Section 5 of the Evidence Ordinance

Yasantha Kodagoda, PC, J.

The two Appellants before the Court of Appeal had been indicted in the High Court of Vavuniya by the Honourable Attorney-General for having on or about 16th August 2004, in Mannar, trafficked 1, 503 grammes of Diacetyl Morphine (Heroin) and in the course of the same transaction, for having possessed the same quantity of heroin. Thereby, the Honourable Attorney-General had alleged that both accused had committed offences in terms of sections 54A (b) and 54A (d), respectively, of the Poisons, Opium and Dangerous Drugs Ordinance, as amended by Act No. 13 of 1984. It is common ground that the two accused who are brothers were indicted on the footing that these offences had been committed by them jointly.

Following a trial before the High Court of Vavuniya, both Accused were found "guilty" of having committed the afore-stated offences. Accordingly, they were convicted, and sentenced to serve life imprisonment.

Held:

1. It would therefore be seen that suggestions to prosecution witnesses are very important, and inter-alia serve as an opportunity for the defence to place before prosecution witnesses the position of the defence. It enables the Court to take early cognizance of the position



| Unreported || Unreported || Unreported || Unreported || Unreported | Unreported |

- of the defence, and also enable prosecution witnesses to respond to the defence position. That the defence placed before Court their position at the first available opportunity also enables it to satisfy the 'test of spontaneity'.
2. Therefore, it is of importance that the defence uses this opportunity to specifically and in unambiguous terms indicate both to the Court and to prosecution witnesses, the position of the defence. Should the defence not make use of this opportunity and take up a particular position for the first time during the case for the defence, that position will suffer from the weakness of 'belatedness'.
 3. Furthermore, when the defence takes up its position belatedly, without putting it to prosecution witnesses, it is not possible to check its veracity. A belatedly taken up defence position would affect the credibility that may be attached to defence witnesses who testify in support of that position, and will also have a negative impact on the evidential weight that could be attached to the position of the defence.
 4. It is to be noted that the contents of a suggestion unsupported by evidence, does not have any evidential value. Thus, a suggestion unsupported by evidence serves hardly any purpose.
 5. As regards the standard of proof to be satisfied in a criminal case, there is no doubt that the prosecution must prove its case beyond reasonable doubt. However, one must take a realistic and pragmatic view of what can be reasonably expected of a prosecution. It is important in my view to bear in mind that a prosecution cannot be expected to prove its case to a degree of mathematical accuracy or scientific certainty. The degree of accuracy and certainty that a prosecution can be reasonably expected to satisfy is much less.
 6. That is quite natural, as prosecutions have to rely primarily on human testimony, which is subject to the inherent frailties associated with human observation, memory, recollection, and verbal articulation through oral testimony.
 7. It is the duty of the trial judge to control proceedings and forbid questions which an Attorney-at-Law is precluded or disentitled in terms of the Evidence Ordinance and professional ethics from asking, or are inappropriate, and are aimed at or may result in the obstruction of the course of justice, causing secondary victimization of victims of crime who testify or denying witnesses the entitlement of testifying at a fair trial.
 8. Unfortunate delays in the commencement and completion of criminal trials, and long and unjustifiable intervals between successive trial dates (which must be avoided, particularly as in terms of the proviso to section 263(I) of the Code of Criminal Procedure Act, trials must be conducted on a day-to-day basis unless doing so is impracticable, in the literal sense of the word 'impracticable') are contributory factors that have an adverse impact on the accuracy and quality of human testimony.
 9. This is because human testimony is primarily based on human memory, which tends to fade away and get adversely affected due to the passage of time. Indeed, if the testimony of a witness contains intentionally uttered falsehood, such testimony must be rejected, particularly if there is no legal justification to separate the truth from the falsehood. Nevertheless, unintentional errors which may creep into or be embedded in human testimony should not result in the total rejection of the testimony of any particular witness.
 10. Thus, the trial judge must be able to assess and determine that prosecution witnesses on whose testimonies the prosecution relied on, are credible and their testimonies are trustworthy. Furthermore, the testimonies so provided by such witnesses must be compliant



| Unreported || Unreported || Unreported || Unreported || Unreported | Unreported |

with section 5 of the Evidence Ordinance, and thus should relate to only 'facts in issue' and 'relevant facts'. Their oral testimonies pertaining to such facts should also be 'admissible'. Such oral evidence testified to by prosecution witnesses, along with other evidence, if any, of the prosecution's case.

- II. Particularly in a criminal trial conducted before a judge sitting without a jury, testimony and evidence related functions to be performed by the presiding judge, which I wish to refer to as the primary functions of the trial judge to be performed after the recording of evidence, are the following:
- (i) Assessment and determination of 'credibility' of witnesses.
 - (ii) Determination of 'testimonial trustworthiness' of the testimonies given by witnesses.
 - (iii) Analysis of the evidence.
 - (iv) Determination of the 'probative value' (weight) to be attached to evidence and the 'sufficiency' of evidence to prove the charges.
 - (v) Determination of whether the prosecution has 'proven the ingredients of the offence(s)' the accused stands charged.
 - (vi) If the defence has relied on a 'general or special exception to criminal liability', whether the defence has proven such exception.
 - (vii) Determination of whether the prosecution has proven its case 'beyond reasonable doubt', and contra wise, whether the defence has raised a 'reasonable doubt' regarding the case for the prosecution.

The Conviction and the Sentence was affirmed. Accordingly the Appeal was dismissed.

JSALR 2022 /I//IV

Irene Leticia Haththotuwa Vs Warnakulasuriya Wargakkarige Lalitha Fernando

Sc Appeal No. 66/2011

Before : P. Padman Surasena, J.

Achala Wengappuli, J.

Mahinda Samayawardhena, J.

Decided on : 15.10.2021

Section 7(1), 14(1) of the Registration of Documents Ordinance, No. 23 of 1927,

Mahinda Samayawardhena, J.

There is no dispute that by order made in the District Court Colombo Case No. II384/MB, Lipnus Perera became the owner of this land in 1942 (IV4), and he gifted this land to his son, the 2nd defendant, by deed No. 1642 (P2) in 1969. The 2nd defendant by deed No. 3047 (P3) gifted the land to the 1st and 2nd plaintiffs in 1979. Thereafter by deed No. 2861 (P4) the 2nd defendant sold the land to the 1st defendant in 1988. The plaintiffs filed this action seeking a declaration that they are the owners of the land by deed P3 and that the subsequent deed P4 has no force or avail in law.

Held:

1. The basic principle is that any instrument affecting land shall be registered in the folio in which the first registered instrument was registered or in another folio maintained in continuation thereof with cross references connecting the folios are properly made.
2. But the proviso (a) to section 14(1) states that if a new folio is opened (as opposed to continuing with the earlier one), cross references shall be made "to connect the registration with any previous registration affecting the same land". No doubt "any previous registration" does not encapsulate a wrong registration.
3. Under the proviso (a) to section 14(1), the Registrar of Lands has the discretion to open a new folio with cross references connecting the new registration with any previous registration.
4. A new folio is opened, for instance, when new allotments of land come into existence by way of partition, be it by way of a decree of court or amicable partition.
5. When a new folio is opened without cross reference to the old folio and without a corresponding cross reference in the old folio to the new folio, it is a wrong folio.



| Unreported || Unreported || Unreported || Unreported || Unreported | Unreported |

6. There can be a rare situation where cross reference is not necessary for the reason that no deed affecting the land has been previously registered.
7. Appeal dismissed

COURT OF APPEAL

JSALR 2022 /I//V

Jayasinghe Arachchilage Karunathilaka Jayasinghe Vs The Director General Commission to Investigate Allegations of Bribery or Corruption

CA 113/2018

Before : Sampath B. Abayakoon, J.
P. Kumararatnam, J.

Decided on : 02.03.2022

Section 19(b), 19(c) of the Bribery Act, Section 53, 54 of the Evidence Ordinance

P. Kumararatnam, J.

The learned High Court judge in his judgment at page 771 of the brief has described the Appellant as a person who as a practice request and obtain money to admit students to the school he works at. He further stated that the defence evidence revealed that the Appellant had spent lots of money for his children's costly education abroad and that there is heavy spending which goes over and above the earnings from a usual government salary. This adverse reference had totally been made by unsupported evidence and are assumptions of the trial judge. Now I will consider how this reference which amounts to bad character of the Appellant affects the fair trial and prejudice the defence case.

Held:

1. When the Character of the Appellant had not been put in issue during the trial, the adverse reference made against the Appellant by the trial judge in his judgement has caused a serious miscarriage of justice.
2. No evidence regarding the bad character of an accused should directly or indirectly become part of the proceedings in a criminal case.

3. In a criminal trial when evidence of bad character of an accused has been led in evidence, it is the profound duty of the trial judge to stop such questioning immediately. He must ensure that no character evidence goes into the proceedings at any stage of the trial.
4. In a criminal trial if inadmissible evidence is admitted by the trial judge at any stage not only does such evidence go into the proceedings but it will greatly prejudice the accused's interests and affect his right to a fair trial.

The appeal was allowed. The conviction and sentence imposed on the Appellant were set aside. The Appellant was acquitted from all the charges.

JSALR 2022 /I//VI

Sasitharan Ganeshan and others Vs Mahendran Subramaniam

CA 87/2020 (APN)

Before : Prasanth De Silva, J.

K. K. A. V. Swarnadhipathi, J.

Decided on : 23.02.2022

Section 136 (I) (a), 139 (I), 63 (I) of the Code of Criminal Procedure Act, Section 511 and 512 (I), 515 of the Companies Act

Prasanth De Silva, J.

It appears that the Complainant instituted action by way of a private complaint dated 6th of June 2019, in the Magistrate's Court of Colombo, case bearing No.12302/5/19 against the 1st, 2nd and 3rd Defendants, under Section 136 (I) (a) of the Code of Criminal Procedure Act read with Section 511 and 512 (I) of the Companies Act. The Complainant supported the application on the 14th of June 2019 and thereafter the Court issued summons on the Defendants. Consequently, the Defendants appeared in Court on the 17th of July 2019 and the Counsel who appeared for the Defendants had moved Court to recall the summons on the basis that no summons could have been issued in the first instance



| Unreported || Unreported || Unreported || Unreported || Unreported | Unreported |

Held:

1. According to Section 63 (I) of the Code of Criminal Procedure Act, Court may in any case in which it is empowered by this Code to issue summons for the appearance of any person other than a Juror, issue, after recording its reasons in writing, a warrant for his arrest. It is to be observed that in terms of Section 63 (I), there is no duty cast on the Judge to hear the Accused or any other person against whom process is being issued, prior to the issue of the warrant of first instance.
2. Hence, in terms of Section 139 (I) of the Code of Criminal Procedure Act, it clearly manifests that the Magistrate has discretion to issue summons in the first instance, if he is satisfied that sufficient grounds exist to issue summons.
3. It is apparent that in terms of Section 136 (I) (a) of the Code of Criminal Procedure Act, and in terms of Section 515 of the Companies Act, there is no requirement to state all the facts to Court.
4. The requirement of *uberima fides* mostly applies in civil litigation where a party seeks orders for the grant of injunctions or issue of writs and revision applications, which are being granted at the discretion of Court.
5. The Court issued summons on the Defendant-Petitioner-Petitioners to appear in Court, to give an opportunity to present or defend their case to take up the matter inter-partes. As such, the principle of *uberima fides* is not strictly applicable in terms of Section 139 of the Code of Criminal Procedure Act.
6. According to Section 63 (I) of the said Act, no duty is cast on the Judge to hear the suspect prior to the issuing of both summons and warrant in the first instance although it carries dire consequences.
7. It is seen that a person's civil liability does not relieve him from criminal liability and vice

versa. As such, the Complainant-Respondent is not precluded by instituting action in the Magistrate's Court while the civil litigation is pending in the Commercial High Court.

The Judgment of High Court was affirmed and accordingly the application to recall the summons issued on the Defendant-Petitioner-Petitioners in Magistrate's Court case No. 12302/5/19 was refused.

JSALR 2022 /I//VII

Koronchige Thilaka Siriwardane Vs Anhettigama Gamaralalage Dharmawardana

CA 748/99 F

Before : C. P. Kirtisinghe, J.
Mayadunne Corea, J.

Decided on : 08.02.2021

Sections 518, 534 of the Civil Procedure Code

C. P. Kirtisinghe, J.

The Petitioner-Respondent had instituted this testamentary action in the District Court of Avissawella to administer the estate of his deceased father Anhettigama Gamaralalage Punchimahattaya. The Petitioner was the only son of the deceased testator and the Petitioner has taken up the position that his sisters -1st to 9th Respondents are not entitled to the properties of his father as the sisters had entered into Deega marriages under the Kandyan Law. The sisters had taken up the position that their father the deceased testator was not a Kandyan and therefore, they are also entitled to the properties of the deceased testator. The learned District Judge has come to the conclusion that the deceased testator was governed by the Kandyan Law and the properties of his estate are governed by the Kandyan Law.

Held:

- I. A legatee cannot claim as a creditor that a sum of money is due to him from the estate of the testator, if the claim is disputed by the executor. Such a disputed claim can only be made by way of separate action.



| Unreported || Unreported || Unreported || Unreported || Unreported | Unreported |

2. In a Petition presented to court in terms of section 518 of the Civil Procedure Code a description of the extent of the interests of the deceased in property specified therein is not a material allegation in the sense of that expression as it occurs in section 534 of the same Code.
3. The purpose of this Testamentary action is to administer the estate of the deceased testator and this is not a case to decide the undivided rights of properties owned by him. The learned District Judge has correctly observed that.

The judgment of the Learned District Judge was affirmed. Accordingly, the Appeal was dismissed.

JSALR 2022 /I//VIII

**Kanugalawatte Shamila Harsha Perera Vs
Hon. Attorney General**

CA 68/2017

Before : Sampath B. Abayakoon, J.

P. Kumararatnam, J.

Decided on : 02.03.2022.

Identity of the Accused, Turnbull principles

P. Kumararatnam, J.

The above-named Accused-Appellant (hereinafter referred to as the Appellant) was indicted in the High Court of Kuliyaipitiya under Section 296 of the Penal Code for committing the murder of Mudiyansele Susil Premasiriwardene on or about 20th April 2014. Trial commenced before the High Court Judge of

Kuliyaipitiya as the Appellant had opted for a non-jury trial. After the conclusion of the prosecution case, the learned High Court Judge had called for the defence and the Appellant had given evidence from the witness box and called witnesses on his behalf. After considering the evidence presented by both parties, the learned High Court Judge had convicted the Appellant as charged and sentenced him to death on 02/05/2017.

Held:

- I. The judge should tell the jury that: (i) caution is required to avoid the risk of injustice; (ii) a witness who is honest may be wrong even if they are convinced, they are right; (iii) a witness who is convincing may still be wrong; (iv) more than one witness may be wrong; (v) a witness who recognises the defendant, even when the witness knows the defendant very well, may be wrong.
2. The Judge should direct the jury to examine closely the circumstances in which the identification by each witness came to be made. Some of these circumstances may include: (i) the length of time the accused was observed by the witness; (ii) the distance the witness was from the accused; (iii) the state of the light; (iv) the length of time elapsed between the original observation and the subsequent identification to the police.

Appeal was allowed and the Appellant was acquitted from the charge of murder.

The Occidental teachings show that the physical health depends very materially upon correct breathing. The oriental teachers not only admit that their Occidental brothers are right, but say that in addition to the physical benefit derived from correct habits of breathing, man's mental power, happiness, self-control, clear-sightedness, morals and even his spiritual growth may be increased by an understanding of the 'Science of Breath'.

Geoff Pike & Phyllis Pike, Ch'I – The Power Within

For your well-being



Calling Articles for JSA Law Journal 2022

The Judicial Service Association has taken steps to publish JSA Law Journal Volume IX in December 2022 and members of the JSA are invited to submit their articles on or before 31st August 2022 for the publication of the Journal.

Guidelines:

1. The article should be written in English on any legal topic relating to law or administration of justice.
2. It should be an original work of the author and it should not have been published elsewhere earlier.
3. The average length of articles should be between 3000 to 6000 words in length (including footnotes).
4. The font type should be Times New Roman only and font sizes should be as follows:
 - for headings - 14
 - for sub headings - 13
 - for the text (body) - 12
 - for footnotes - 10
5. All citations should be in foot notes and not in the text.
6. Author should include self academic qualifications and details of the current employment. Those biographical details should be starred (*) and preceded with footnotes.
7. Author is expected to check accuracy of all references in the manuscripts before submission.
8. Papers should be numbered sequentially.

Please be kind enough to send your articles as a Microsoft Word Document by way of e-mail to chamilatadck@gmail.com on or before 31st August 2022 with contact details.

For more details please contact : Chamila Rathnayake (Editor) 070-8490103
Chaminda Karunadasa (Asst. Editor) 070-6530554

If the submitted article is accepted by the Editorial Board, it will be published in the JSA Law Journal Volume IX and will also be made available online. JSA expects that all of you will make use of this great opportunity.

Editor - JSA 2022



Acts of 2021/2022

- 01/2021 : Shop and Office Employees (Regulation of Employment and Remuneration) (Amendment)
- 02/2021 : Employment of Women, Young Persons and Children (Amendment)
- 03/2021 : Minimum Wages (Indian Labour) (Amendment)
- 04/2021 : Factories (Amendment)
- 05/2021 : Penal Code (Amendment)
- 06/2021 : Evidence (Amendment)
- 07/2021 : Bail (Amendment)
- 08/2021 : Intellectual Property (Amendment)
- 09/2021 : Value Added Tax (Amendment)
- 10/2021 : Inland Revenue (Amendment)
- 11/2021 : Colombo Port City Economic Commission
- 12/2021 : Fiscal Management (Responsibility) (Amendment)
- 13/2021 : Sri Lanka Land Development Corporation (Amendment)
- 14/2021 : Code of Criminal Procedure (Amendment)
- 15/2021 : Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Amendment)
- 16/2021 : National Minimum Wage of Workers (Amendment)
- 17/2021 : Corona Virus Disease 2019 (Covid-19)(Temporary Provisions)
- 18/2021 : Finance
- 19/2021 : Securities and Exchange Commission of Sri Lanka
- 20/2021 : Consumer Affairs Authority (Amendment)
- 21/2021 : Petroleum Resources
- 22/2021 : Registration of Electors (Amendment)
- 23/2021 : Employees' Provident Fund (Amendment)
- 24/2021 : Youthful Offenders (Training Schools) (Amendment)
- 25/2021 : Penal Code (Amendment)
- 26/2021 : Appropriation (Amendment)
- 27/2021 : Immigrants and Emigrants (Amendment)
- 28/2021 : Minimum Retirement Age of Workers
- 29/2021 : Termination of Employment of Workmen (Special Provisions) (Amendment)
- 30/2021 : Appropriation Act
- 01/2022 : Mahapola Higher Education Scholarship Trust Fund (Amendment)
- 02/2022 : Code of Criminal Procedure (Amendment)
- 03/2022 : Prohibition Of Anti-Personnel Mines
- 04/2022 : Judicature (Amendment)
- 05/2022 : Civil Procedure Code (Amendment)
- 06/2022 : Provincial Councils (Transfer of Stamp Duty) (Amendment)
- 07/2022 : Fauna and Flora Protection (Amendment)
- 08/2022 : Intellectual Property (Amendment)
- 09/2022 : Personal Data Protection
- 10/2022 : Workmen's Compensation (Amendment)
- 11/2022 : Land Development (Amendment)



JSA News Letter

If undelivered, please return to:

The Editor,
District Judge,
Dambulla, Sri Lanka.