

**O.W.K.Gnanadasa v. Bank of Ceylon**

RTICAppeal(In-Person)/131/2017 -Order under Section 32 (1) of the Right to Information Act, No 12 of 2016 and Record of Proceedings under Rule 28 of the Right to Information Rules of 2017 (Fees and Appeal Procedure)-*Heard as part of the meeting of the Commission on 04.12.2017*

**Chairperson:** Mr. Mahinda Gammanpila

**Commission Members:** Ms. Kishali Pinto-Jayawardena

Mr. S.G. Punchihewa

Dr. Selvy Thiruchandran

**Present:** Director-General Mr. Piyathissa Ranasinghe

**Appellant:** O.W.K. Gnanadasa

**Notice issued to:** Mr. K.B.S. Bandara (Designated Officer)

**Appearance/ Represented by:** Mr. Senarath Bandara, Deputy General Manager, Bank of Ceylon

Mrs. Gaya Jayasinghe, Chief Legal Officer, Bank of Ceylon

Mrs. Nisha Nanayakkara, Senior Legal Officer, Bank of Ceylon

Mr. Gamini Rathnasiri, General Secretary, All Ceylon Bank Employee Union

Mr. K.H. Gnanadasa

Mrs. O.W.K. Gnanadasa

<b>RTI Request filed on</b>	: 27.03.2017
<b>IO responded on</b>	: 03.05.2017
<b>First Appeal to DO filed on</b>	: 14.04.2017
<b>DO responded on</b>	: 21.06.2017
<b>Appeal to RTIC filed on</b>	: 06.07.2017

The Appellant was present at the hearing.

The Public Authority was represented by Mr.Senarath Bandara, Deputy General Manager, Mrs. Gaya Jayasinghe, Chief Legal Officer, and Mrs. Nisha Nanayakkara, Senior Legal Officer.

### **Brief Factual Background**

In this case, the Appellant had requested the following information by an information request dated 27.03.2017:

1. As per circular no 78/2016 dated 27.09.2016 how many vacancies were there for the Manager Grade (කළමනාකාර ජ්‍යෙෂ්ඨය)
2. What were the marks obtained by the 58 persons who obtained promotions to the Manager Grade as per circular 17/2017 dated 20.02.2017, before the interviews?
3. What were the marks obtained at the interviews by the above 58 persons?
4. What were the cutoff marks for the above promotion?
5. What were the marks obtained by O.W.K. Gnanadasa (No 099350) at the interview held on 19.01.2017 subsequent to the calling for promotions via circular no 78/2016 dated 27.09.2016?

The Information Officer (IO) by letter dated 03.05.2017 had refused the requested information citing Section 5 (1) (b) of the RTI Act. The Appellant had made an appeal on 14.04.2017 to the Designated Officer (DO) who by letter dated 21.06.2017 had refused the same citing Section 5 (1) (a) of the Act. The present appeal dated 06.07.2017 lies before the Commission upon non-receipt of the requested information.

### **Matters Arising During the Hearing**

Upon the Commission seeking a clarification about the basis on which the information had been refused since there appeared to be a contradiction as two subsections of the Act had been quoted on two different instances, the PA clarified that the information was denied under Section 5 (1) (a) of the Act and that citing Section 5 (1) (b) was a typographical mistake. The PA stated that the promotion system adopted by the PA was transparent and that a copy of the circular, the

marks obtained by the Appellant according to such system specified by the circular had already been provided to the Appellant. The PA raised its concern of releasing the marks obtained by other candidates stating that it would not only be an invasion of privacy but also a hindrance to the general administration of the PA since it would create a precedent for the other 8000 employees of the PA, to make similar information requests. Therefore, it was the opinion of the PA that releasing the marks of other candidates would not constitute a public interest in the instant matter.

The Commission referenced several judgments of the Supreme Court of Sri Lanka delivered in favour of releasing final results of examinations conducted by Public Institutions and Boards. The Commission also remarked that the public interest of the subject matter is derived from the fact that the PA is funded by public money and therefore the public has a right to know whether or not appointments and promotions have been made in accordance with proper procedure. Therein, the PA expressed its consent to release the information for the perusal of the Commission at the next hearing.

**Order**

In the instant matter, the PA is directed to bring the requested information for the perusal of the Commission at the next hearing on 06.02.2018. The Commission will make a decision whether or not to release the information to the Appellant after such perusal.

The Appeal is hereby adjourned.

.....

RTICAppeal(In-Person)/195/2017- Order under Section 32 (1) of the Right to Information Act, No 12 of 2016 and Record of Proceedings under Rule 28 of the Right to Information Rules of 2017 (Fees and Appeal Procedure)-*Heard as part of the meeting of the Commission on 06.02.2018*

**Chairperson:** Mr. Mahinda Gammanpila  
**Commission Members:** Ms. Kishali Pinto-Jayawardena  
Mr. S.G. Punchihewa

**Present:** Justice Rohini Walgama  
Director-General Mr. Piyathissa Ranasinghe

**Appellant:** O.W.K. Gnanadasa  
**Notice issued to:** Mr. K.B.S. Bandara (Designated Officer)

**Appearance/ Represented by:**  
Mr. Senarath Bandara, Deputy General Manager, Bank of Ceylon  
Mrs. Nisha Nanayakkara, Senior Legal Officer, Bank of Ceylon  
Mr. K.H. Gnanadasa  
Mrs. O.W.K. Gnanadasa

The Appellant was present before the Commission. Mr. Senarath Bandara, Deputy General Manager, and Mrs. Nisha Nanayakkara, Senior Legal Officer, were also present before the Commission representing the Public Authority (PA).

### **Matters Arising During the Hearing**

Subsequent to the Order of the Commission on the last occasion, the PA had brought the requested information for the perusal of the Commission. However, the PA reiterated its concerns on disclosing the information at hand, stating that since it creates a precedent for other employees to make similar information requests, it would hinder the general administration of the PA. The PA further emphasized that, despite the fact that it is a public authority funded by the public, the general release of information relating to the basis on which internal promotions are granted would adversely impact on the competitiveness of the PA since it operates in the commercial industry.

### **Order**

Upon perusal of the documents brought by the PA, it has become evident that the information requested by the Appellant in the instant matter, was not of a confidential nature. Purported obstruction to the general administration of a public authority is not a ground under which a citizen's right to information can be denied.

Therefore, in the absence of a legal ground under which the disclosure of information can be refused, the Commission, operating within the four corners of the Right to Information Act, No.12 of 2016, orders the release of the information requested by the Appellant. This decision is

strictly limited to the factual and contextual matters in consideration in this Appeal and should not be taken as a precedent in other cases the determination of which will depend on the facts of each appeal.

The PA is directed to submit a revised document expunging the information that is not requested by the Appellant in her information request from the original document that the PA had brought before the Commission and to hand over the revised document to the Appellant before the Commission on 23.02.2018 at 12.30 pm. The decision of the DO is reversed.

The Appeal is hereby adjourned to enable the handing over of the information to the Appellant as directed as aforesaid.

\*\*\*\*

RTICAppeal (In person)/131/2017- *This Order under Section 32 (1) of the Right to Information Act, No 12 of 2016 and Record of Proceedings under Rule 28 of the Right to Information Rules of 2017 (Fees and Appeal Procedure)* -adopted as part of a formal meeting of the Commission on 23.02.2018 and all previous Orders in this Appeal considered and approved by the Full Bench of the Commission on 23.02.2018)

**Chairperson:** Mr. Mahinda Gammanpila

**Commission Members:** Ms. Kishali Pinto-Jayawardena

Mr. S.G. Punchihewa

Dr. Selvy Thiruchandran

Justice Rohini Walgama

**Present:** Director-General Mr. Piyathissa Ranasinghe

**Appellant:** O.W.K. Gnanadasa

**Notice issued to:** Mr. K.B.S. Bandara (Designated Officer)

**Appearance/ Represented by:**

- Appellant - Mrs. O.W.K. Gnanadasa  
Mr. K.H. Gnanadasa  
Mr. Gamini Rathnasiri, General Secretary, All Ceylon Bank  
Employee Union
- Public Authority - Mr. N.P. De Silva, Assistant Manager, Bank of Ceylon  
Mr. Manusha Chandrasekaraa, Assistant Legal Officer, Bank of  
Ceylon  
Mr. E.M. Jayasekara, Information Officer, Bank of Ceylon

The PA provided the Appellant with the documents as directed on 06.02.2018.

The Appeal is concluded.

\*\*\*\*\*