

ALL CEYLON COMMERCIAL & INDUSTRIAL WORKERS UNION
v.
CEYLON PETROLEUM CORPORATION AND ANOTHER

SUPREME COURT
G. P. S. DE SILVA, C.J.,
KULATUNGA, J.,
RAMANATHAN, J.,
S.C. 21/95
C.A. 702/93

Revisionary jurisdiction of the Supreme Court to review its Judgments – Inherent Powers of the Superior Courts – Decisions made per incuriam

An application in Revision was made to revise a Judgment entered by the Supreme Court. It was contended that, the finding is likely to lead to a situation in which the Wages Board Ordinance would be violated in the future; as the Judgment does not indicate that in the determination of the matter court has taken into consideration very material facts.

Held:

- (1) Supreme Court has inherent powers to correct its errors which are demonstrably and manifestly wrong and where it is necessary in the interest of justice;
- (2) Decisions made per incuriam can be corrected. However a decision per incuriam is one given when a case or a statute has not been brought to the attention of Court and it has given the decision in ignorance or forgetfulness of the existence of that case or statute.

The inherent powers to correct its errors are adjuncts to existing jurisdiction to remedy injustice – they cannot be made the source of New jurisdiction to revise a judgment rendered by that court.

- (3) The application made in the instant case does not fall within the principles set out, in the relevant decisions of this court and other jurisdictions.

Cases referred to:

1. *Hettiarachchi v. Seneviratne* S.C. Appln. 127/94 – SCM 04.07.94.
2. *Senarath v. Chandraratne, Commissioner of Excise* S.C. Appln. 231/95 – SCM 24.8.95
3. *Ganeshanathan v. Goonewardene* 1984 1 Sri LR 321
4. *Alasupillai v. Yapetipillai* – 39 CLW 107
5. *Huddersfield Police Authority v. Watson* – 1947 2 AER 193

APPLICATION in Revision.

Batty Weerakoon with Ramani Muttetuwegama for Petitioner.

Cur. adv. vult.

August 29, 1995.

KULATUNGA, J.

This is an application seeking to revise the judgment of this Court delivered on 27.07.95 whereby the appeal of the appellant was allowed. The present application which has been filed on 14.08.95 is itself described as an "application in revision". Paragraph 6 of the petition states, by way of submission, that the judgment of this Court does not indicate that in the determination of the matter the Court has taken into consideration the very material fact namely, that the Special Security Force/Unit (established at Sapugaskanda) had been constituted of persons who had already been in the employ of the appellant as persons in the Security Service Trade and that in that capacity these persons were admittedly governed by the Wages Board Regulations for the Security Service Trade. The petition proceeds to contend that in the circumstances, the finding in this case is likely to lead to a situation in which the Wages Board Ordinance would be flagrantly violated in the future.

Next, paragraph 11 of the petition states, by way of further submission, that the failure to take into consideration the matters adverted to is a matter of error which should be rectified by this Court, acting in revision. Paragraph 12 emphasizes the relief sought and states that the matters urged in the petition warrant the review of the judgment of this Court acting in revision.

We are satisfied that this Court has not been vested with revisionary jurisdiction to review its judgments, in the manner urged in the petition presented to this Court. The extraordinary jurisdiction of this Court to correct its own errors and revise or modify its judgments has been set out in numerous reported judgments and referred to in two recent judgments namely, *Hettiarachchi v. Seneviratne*⁽¹⁾ and *Senarath v. Chandraratne, Commissioner of Excise*⁽²⁾.

In *Ganeshananthan v. Goonewardena* ⁽³⁾ (a Bench of 7 Judges) it was held that as a Superior Court of Record, the Supreme Court has inherent powers to correct its errors which are demonstrably and manifestly wrong and where it is necessary in the interest of justice. Decisions made per incuriam can be corrected. These powers are adjuncts to existing jurisdiction to remedy injustice – they cannot be made the source of new jurisdictions to revise a judgment rendered by that Court.

In regard to the submission made by the learned Counsel at the hearing before us that we should consider whether our judgment was per incuriam, it has been held in *Alasupillai v. Yapetipillai* ⁽⁴⁾, per Bassnayake J. following the case of *Huddersfield Police Authority v. Watson* ⁽⁵⁾ “A decision per incuriam is one given when a case or a statute has not been brought to the attention of the Court and it has given the decision in ignorance or forgetfulness of the existence of that case or statute”.

We are of the view that the application made in the instant case does not fall within the principles set out in the relevant decisions of this Court and other jurisdictions. In the circumstances, we are unable to accede to the prayer for review of the judgment of this Court, by way of revision. We accordingly refuse notice and reject the application.

For completeness sake we would add that the point raised by learned Counsel has received the attention of this Court; hence there is no injustice which calls for the exercise of the inherent powers of this court.

G. P. S. DE SILVA C.J. – I agree.

RAMANATHAN J. – I agree.

Application refused.