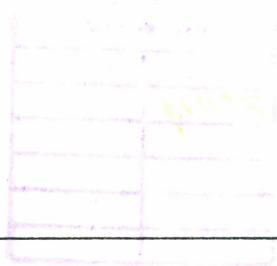


865
7.02.98



**MECHANISM FOR THE REDRESS OF GRIEVANCES OF
PUBLIC OFFICERS IN SRI LANKA**

*Being the Extended Essay submitted in partial
fulfillment of the requirements for the
award of the degree of
MASTER OF LAWS
Faculty of Law, University of Colombo*

by

P.B. WANNINAYAKA

20 April 1997

144865

TABLE OF CONTENTS

	<i>Page</i>
<i>Declaration</i>	
<i>Acknowledgments</i>	
<i>Abstract</i>	1
<i>Introduction</i>	2
1. <i>Historical Background</i>	4
2. <i>Tenure "during pleasure"</i>	7
3. <i>Sources of grievances of Public Officers</i>	12
4. <i>Administrative (domestic) remedies</i>	24
(I) <i>Appeals to the Public Service Commission</i>	
(II) <i>Appeals to the Cabinet of Ministers</i>	
(III) <i>Appeals to the Political Victimization Committee</i>	
5. <i>Non Judicial Remedies</i>	31
(I) <i>Appeals to the Committee on Public Petitions</i>	
(II) <i>Appeals to the Ombudsman</i>	
(III) <i>Questions in Parliament</i>	
(IV) <i>Commission for the Elimination of Discrimination and Monitoring of Fundamental Rights</i>	
6. <i>Judicial Remedies</i>	41
(I) <i>Fundamental rights</i>	
(II) <i>Writs</i>	
(III) <i>Declaratory judgments</i>	
7. <i>Adequacy of the remedies available and suggested changes</i>	58
<i>Annexures</i>	
<i>List of Statutes</i>	
<i>Case Index</i>	
<i>Bibliography</i>	

A B S T R A C T

Sri Lanka inherited a tradition of independent Public Service at the time she won her political freedom from British rule. The administration of the Public Service by an independent Public Service Commission was the hallmark of this tradition. Subsequently, with the promulgation of the Republican Constitution of 1972, the Public Service came under the direct control of the Cabinet. Although public officers in Sri Lanka held office during pleasure, there are certain legal principles which ensure their security of tenure. This is particularly evident in the principles that when action is taken against them, it shall be done in accordance with the rule of law and in terms of the accepted code of conduct laid down by the Cabinet.

Where a public officer is dissatisfied with any decision taken by a disciplinary authority, he has certain avenues of redress. The chief mode of redress in this regard is the right to seek relief on grounds of violation of fundamental rights. Other modes open to them, though not so specific and definite as in the case of fundamental rights, are nevertheless beneficial in varying degrees.

The objective of this extended essay is to explain the effectiveness of each of the remedies available to the public officers seeking redress of their grievances and suggesting alternatives where appropriate. The findings of this exercise are that each of the remedies available has its beneficial aspects as well as limitations and shortcomings. Some are effective but expensive for the litigant. Some are informal and inexpensive but the findings lack the element of enforceability. Some are only in the nature of recommendations which may or may not be accepted by the authorities concerned. On the whole it would be more appropriate to have a more effective system where the rights and procedures are specifically mentioned and where the rights of the public officers are legally enforceable.