

**IN THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI
LANKA**

In the matter of an Application under Article 126 of
the Constitution of Sri Lanka.

SC. FR. 170/2008

01. M.M.I. Wilgamuwa,
1038/72, Sri Sumangala Mawatha, Aluvihara,
Matale.
02. I.M. Kanthilatha,
266/55/K, 11th Lane,
Jayamalapura, Gampola.
03. L.R. de Silva, Konpola,
Doratiyawa, Kurunegala.
04. G.W.A.A. de Silva, 60/63,
Galpoththa Road,
Mihindupura, Athurugiriya.
05. K.D.L. Maheepala, Mihira,
Miriswatta, Millawa.
06. R.M. Piyatissa, Upulvehera,
Maneruwa, Negampaha.
07. W.A.C.P. Wijesinghe,
Canada Mithra Mawatha,
Anguruwelal, Ruwanwella.
08. P.H. Welamedage, 43,
Janasavigama, Pallekelle,
Kundasale.
09. T.M.L. Tennakoon, 395 A,
Gohagoda, Katugastota.

10. D.K.S. Senaratne, 7/990,
Sri Sumangala Mawatha,
Aluvihare, Matale.
11. A.S.P. Jayatilaka, 175/19,
Jayasuriya Watte,
Horana.
12. V.O. Sirimanna, 24/A3/10,
Siyane Uyana, Yakkala.
13. K.G.J. Priyadarshani, 3A,
Watigama, Vitharandeniya.
14. G.A. Dissanayake,
Deniyakantham Watte,
Elahenpita, Thalpavila, Matara.
15. D.H.M.C. Udabage, 54/6A, Sri
Dheerananda Mawatha, Maitipe,
1st Lane, Karapitiya, Galle.
16. J.P.A.S. Seneviratne, 125, Isuru Place,
Dambakanda Watte, Boyagane.
17. M.T. Olaboduwa, 186, Pannala Road,
Dankotuwa.
18. K.H.C. Jayalath, Mahawela Road,
Pallikkudawa, Tangalle.
19. L.N.A. Magamma, 87,
Magamma, Homagama.
20. P. Chandika, Boghamullawatta,
Kiriwandeniya, Rabukkana.
21. E.A.D. Somawathie, 297/4,
Kuda Pokuna Road, Thanthirimulla,
Panadura.

22. T.P.S. Priyadarshanee, 1000/1,
Thlangama (North), Malabe.
23. K.W.P.M. Thilakaratne, 18/4,
Sri Gunaratne Road, Panadura.
24. R.W. Weragoda, 38, Sandun Uyana,
Kalutara.
25. J. Weerasinghe, 5F/29,
Jayawadanagama, Battaramulla.
26. O.D.G. Sunil, 5G/29,
Jayawadanagama, Battaramulla.
27. A.P. Munasinghe, 314/4A,
Degaha Watte, Wijemanna Mawatha,
Kalutara (North).
28. K. Thanalojana, 34, 2nd Lane,
Palaly Road, Jaffna.
29. S. Krupananden, 16/14, 2nd Lane,
Sivan Kovil Road, Thirunelvely,
Jaffna.
30. K.D. Gunawathie, 275,
Dihempura, 2nd Step, 25th Lane,
Muagama, Horana.
31. Indrani Fernando, 17/1,
Sri Rahula Mawatha, Katubedda,
Ratmalana.
32. M.L.A..G. Fernando, 34, Fonseka Road,
Kalutara North.
33. W. Seenipallage, 3-D-01,

Raddolugama, Seeduwa.

34. M.R. Dharmasena, 03,
Government Quarters, Stage 03,
Anuradhapura.
35. T.J.C. Perera, C/E-5/25,
Ranpokunagama, Nittambuwa.
36. T.J.C. Perera, , C/E-5/25,
Ranpokunagama, Nittambuwa.
37. T.A.R. Pushapalatha, 223/B/4,
Suripaluwa, Ganemulla.
38. D.G. Ranatunge, 278/A,
Gonawala (WP), Kelaniya.
39. P.G. Dayawathie, Madusara,
Pottewela, Hakmana.
40. S.P. Weliwita, Senasuma,
Okanduyaya, Thalagasyaya,
Akmeemana.
41. W.C. Kumari, 386, Pallealudeniya Road,
Karamada, Gelioya.
42. K. Ratnasiri, 55, Milagahawatte,
Palayandgoda, Payagala.
43. W.J.W. Dias, 33, Muwapura,
Housing Scheme, Dediawala,
Kalutara.
44. W.A.N. Ratnayake, Ellapahala,
Paranathala, Algama.
45. W.W.T.N. Fernando, 28, Jaya Mawatha,
Wattalpola, Panadura.

46. J.A.W.K. Jayawardane, 326A,
Charles Four Garden, Horagolla,
Ganemulla.
47. H.M.S. Warnakulasuriya, 02,
Silverdala, Thudugala,
Didangoda.
48. W.A.K. Bandara, Kusum Sevana,
Megoda, Eathanawatte,
Dodangolla, Bibile.
49. N. Jeewamalar, 94, Adiyapotha Road,
Thirunelvely (East) Jaffna.
50. M.C.M. Victoria, 74/56, Sinhala,
D.S. Office Lane, Manna Road,
Vavuniya.
51. M.D.A. Sudath, 404/1,
Subadararama Road,
Dippitigoda, Kelaniya.
52. E.W.P. Piyasena, 160/3,
Hulangamuwa Road, Matale.
53. R.A.V.L. Ranasinghe, 64,
Akuramboda Road, Matale.
54. A.H.K. Sirisena, 2/14, Nikawela Watte
Road, Kirigalpotta,
Palapathwela, Matale.
55. T.G.R. Pushpakumara, 90,
Mapamadulla, Kulugammana.
56. M.W.S.S. Pieris, 240/7,
Nikawewa Watte Road,
Kirigalpotta, Palapathwela,
Matale.

57. Robert Gamage, 92,
Shanthipura, Nuwara Eliya.
58. H.M.P. Herath, 31, Munamale,
Jambugaspitiya.
59. K.P.H.S. Karunasinghe,
163/13/02, Kalugalle Lane,
Kegalle.
60. G.L. Anil Priyantha, Pelpatha,
Molagoda, Kegalle.
61. B.A.T. Nandasiri, 68,
Manahagoda, Ihala Bomiriya,
Kaduwela.
62. H.A. Somalatha, Sewwandi, Sisil Sevana,
Elapola Watta, Gonapinuwala.
63. A. Kumarapperuma, Dewundara Watta,
Walgama, Matara.
64. K.A.N.P. Herath, Pathangi Watte,
Walgama, Yatagama, Rambukkana.
65. H.P.R. Karunatilaka, Odangapola,
Maharachchimula.
66. W.A.A. Abeysinghe,
Madakumburumulla,
Kuliyapitiya.
67. T.P. Mamamendra, 346,
Embaraluwa South, Weliweriya.
68. W.A. Weerasena, Nimasahan,
Galegedara, Kinchigune,
Medamulana.

69. B.L.P. Namali, Sirinada,
Polwathumodara, Mirissa.
70. N.A. Gunaratne, Meegahawatte,
Kiyanduwa, Akuressa.
71. S.N.S. Mallika, 185,
Bogahawatte, Kogala, Hakmana.
72. Y.W.N. Abeydeera,
Dodampahala, Dikwella.
73. R.W. Kusumalatha, Nelundeniya,
Dedigama.
74. P.R.U.S. Peramuna, 34, Kalawana
Aranayake.
75. H.A.B.N. Gunawardane, 256,
Ihala Bomiriya, Kaduwela.
76. W. Nimali, 857, Athurugiriya Road,
Homagama.
77. W.K.R. Weerasinghe, Chitra Wasa,
Thundeniya, Gampola.
78. T.M.T.J.S. Tennakoon, 61/B,
Dabahena Road, Maharagama.
79. K.K.G. Vajira Wasantha,
24/3/10, Siyane Uyana, Yakkala.
80. W.W.P.W.R.A.J. Gollawa, 60,
Cretain Village, Nuwara Eliya.
81. H.A.N. Kumara, 687/1/1, Punakahadeniya,
Dadigamuwa.
82. P.D.E. Perera, 256, Ihala Bomiriya,

Kaduwela.

83. M.S. Piyaseeli, 145,
Gunasinghegama, Magamma,
Homagama.
84. Wasantha Rubasinghe, 12/6A,
Bogahalanda Road,
Parakandeniya, Imbulgoda.
85. K.H. Nalni, Hatangala Handiya,
Nehinna, Dodangoda.
86. B.G. Wijepala, Tharindu,
Kandamala, Indurupolpeketiya,
Thalgaswala.
87. L.W.V. de Silva, 124,
Mihindupura, Meepilimana,
Nuwara Eliya.
88. N.H.C. Upaseeli, 38/8, Mosque Road,
Kandewatte, Galle.
89. T.M.K. Kusumalatha, 02,
Pinsirigama, Ganewatte,
Nikadalupotha.
90. M.M. Nandawathie, Pussella,
Pusselithenna.
91. W.D. Ranjane, Senavi Sevana,
Palliyapitiya, Dunagaha.
92. W.D.B.R. Vithana, 89, Megalla,
Urapola.
93. R.P.K. Jayawardane, 07,
Raddalgoda, Kelaniya,

Meerigama.

94. N.M.G. Nawaratne, Mudaliwatte,
Yatiwala, Mawathagama.
95. D.M.C.M. Dissanayake, Chitra Niwasa,
Thundeniya, Gampola.
96. D.P.M. Liyanarachchi, 268 C,
Narathaldeniya Road,
Embilmeeegama, Pilimatalawa.
97. L.G. Vajirakantha, 09,
Janasavigama, Stadium Road,
Pallekelle, Kundasale.
98. I. Manawadu, 346, Bolawatte,
Ganemulla.
99. W.D.K. Priyanthi, Sethsiri,
Udumulla, Padukka.
100. R.M.G. Ranayake, 203/1,
Jayawardanagama,
Battaramulla.
101. W.A.S.I. de Silva, B91/B,
Soysapura, Moratuwa.
102. G.P.K. Perera, 278A,
Gonawala (WP), Kelaniya.
103. W. Weerasinghe, 160B,
Hendapola Road,
Polhenawatta, Bataleeya,
Pasyala.
104. G.S. Dahanayake, 8/B-68-7,
Mattegoda Housing Scheme,
Mattegoda.

105. D.E.S. Halahakoon, 33,
Nuwarapura, Dediyaawala,
Kalutara.
106. P. Gunasena,
Kadahathawela,
Pihimbiyagollwewa,
Medawachchiya.
107. A.I. Gamage, 25, Arangalle,
Nattaranpotha.
108. K. Mahendran, School Lane,
Sandilipay Centre, Sandilipay.
109. R. Thirugamuthy, 65,
Serukkupulam Lane,
Potapthy Road, Kondavil East,
Kondavil.
110. L.P. Senadeera, 176, C1,
Ehalagama, Gampaha.
111. K.L.M. Walpola, 128,
Polhena, Madapatha.
112. W. Banduwathi,
Depalamulla, Balangoda.
113. W. Malani, 10B 104/2,
Maththegoda Housing Scheme,
Maththegoda.
114. H.D. Premadasa, Mada Niwasa,
Welisara, Welisara Netolpitiya.
115. B.A. Ananda Kusumsiri,
Polhengoda,
Madakumburumulla,

Kuliyapitiya.

116. S.T.M.R. Silva, Rosari, St. Vincent Road, Diyalagoda, Maggona.
117. O.N.N. Amarasinghe, F219, Stage 11, Ranpokunagama, Nittabuwa.
118. L.D.L. Ratnasekare, 80/L, Hokandara East, Hokandara.
119. M.J. Chandrasena, 217/25, Cyril Janze Mawatha, Panadura.
120. M.D.W.C. Basnayake, 68/10, Gamunu Mawatha, Colombo 14.
121. B. Chandrasekara, Sprin Watte, Kebillewa North, Bandarawela.
122. P.A. Ratnasena, Weda Niwasa, Dehigahalanda, Ambalantota.
123. S.A. Harischandra, 47, Silverdale, Thudugala, Dodangoda.
124. A.R.S. Jayawardane, 37, Sirimal Uyana, Godalsuwana Road, Piliyandala.
125. D.P.C. Pathmakanthi, 373, Samadana Mawatha, Makola North, Makola.
126. V. Velmurugu, 2, Housing Quarters, Chundukkuli.

127. W.P.I. Perera, 42, Asiri Mawatha,
Kalubowila, Dehiwala.
128. J.P.P.M. de Silva, 68,
Manimulla Road,
Ambalangoda.
129. S.M.H.J.M. Samarakoon,
Thammitagama,
Nagollagama.
130. D.H.V.H. Samarasinghe,
266/3, Gnanamoli Mawatha,
Makola North, Makola.
131. M. Ruwan Pathirana, 18/1,
E.M.W. Jayasuriya Mawatha,
Nupe, Matara.
132. M.M. Ananda Mapa, 16,
Thambugala Watte,
Dellandeniya, Maspotha.
133. A.M. de Zoysa, 14,
Bodhirukkarama Road,
Wellawatte, Colombo.
134. N.K.D. Keerthiratna, 199,
Dorape, Anuglugaha.

PETITIONERS

Vs.

1. Lionel Fernando – Co-Chairman
2. Saliya Mathew- Co-Chairman
of National Salaries & Cadres Commission
Room, No. 2G, 10, B.M.I.C.H.
Buddaloka Mawatha,

Colombo 07.

3. K.L.L. Wijerathne, Secretary,
of National Salaries & Cadres Commission
Room, No. 2G, 10, B.M.I.C.H.
Bauddaloka Mawatha,
Colombo 07.

3(a). Don Herbert Neville

Piyadigama- Co-Chairman

3(b). Jayalath Anasinghe Vimalasena

Dissanayake, Co-Chairman

3(c). Gunesekara Liyanage

Wimaladasa Samarasinghe

3(d). Vijeyalakshmy Jegarasasingam

3(e). Ginigaddarage Piyasena

3(f). R.A. Dona Rupa Malini Peiris

3(g). Dyananda Widanagamachchi

3(h). Sembakuttige Swarnajothi

3(i). Benedict Karunajeewa Ulluwishewa

3(k). Sujeeva Rajapaksha

3(l). Prof. Sampath Amaratunga

3(m). Dr. Ravi Liyanage

3(n). W.K.Hemachandra Wegapitiya

3(o). Keerthi Kotagama

3(p). Reyaz Mihular

3(q). Priyantha Fernando

- 3(r). Leslie Shelton Devendra
- 3(s). Wijesinghe Wellappili Don Sumith
Wijesinghe
- 3(t). Gampahalage Don Somaweera Chandrasiri
- 3(u). Walgama Hewamaluwage Piyadasa

3(a) to 3(u) Respondents: all of National Pay
Commission Room No. 2-116, BMICH,
Buddhaloka Mawatha, Colombo 07.

4. National Housing Development
Authority, 34, Sir Chittampalam A.
Gardiner Mawatha,
Colombo 2.
5. M.I. Mohamed Rafeek,
Chairman, 34, Sir Chittampalam A.
Gardiner Mawatha,
Colombo 2.
6. W.L.G. Wasantha Wijeratne
National Housing Development
Authority, 34, Sir Chittampalam A.
Gardiner Mawatha,
Colombo 2.
7. W.B. Ganegala, Secretary,
Ministry of Housing & Common Amenities,
6th & 9th Floor, Sethsiripaya,
Battaramulla.
8. P.B. Jayasundera, Secretary,
Treasury, Ministry of Finance,
Colombo 1.
9. Hon. Attorney General,
Attorney General's Department,

Colombo 12.

RESPONDENTS

Before : Sisira J. De AbrewJ.
Nalin Perera J &,
Prasanna S. Jayawardena PCJ

Counsel : J.C. Weliamuna with Pasindu Silva for the Petitioners.
Ms. S. Barrie, SSC. for the Respondents.

Argued on : 15.09.2016

Decided on : 2.11.2016

Sisira J De Abrew J

The Petitioners, by this petition, seek a declaration that their fundamental rights guaranteed by Article 12(1) of the Constitution have been violated by the Respondents. This court by its order dated 2.6.2008, granted leave to proceed for the alleged infringement of Article 12(1) of the Constitution.

The Petitioners, by their petition, complain to this court that after the salary revision in 2006, the 1st to 50th Petitioners who were Grade 1V officers and Middle Managers were lowered to Junior Managers; that they were placed in a salary code known as JM; that the 51st to 134th Petitioners who were Grade V1 officers and Junior Managers were lowered to Management Assistant; that they were placed in a salary code known as MA; that JM and MA denote Junior Manager and

Management Assistant respectively; and that their salaries were also lowered after the said salary revision. The Petitioners advanced their argument that their salaries were lowered on the basis that the 1st to 50th Petitioners were lowered to the level of Junior Manager and the 51st to 134th Petitioners were lowered to the level of Management Assistant. When considering this argument the important question that arises for consideration is whether the 1st to 50th Petitioners were lowered to the level of Junior Manager and the 51st to 134th Petitioners were lowered to the level of Management Assistant. To prove this point the Petitioners heavily relied on documents marked P8(a) to P8(e) and P5. P5 is termed as follows:

“New Salary for Statutory Boards, Corporations and Fully Owned Government Companies
Alternative salary scales to be awarded on the basis of the existing salary scales.”

P5 contains the following information.

Croup	Salary Code
Junior Manager C-1	JM 1-1-2006
Junior Manager C-2	JM 1-2-2006
Middle Manager C-1	MM 1-1-2006
Middle Manager C-2	MM 1-2-2006
Middle Manager C-3	MM 1-3-2006

Prior to salary revision what was the Grade of the 1st to 50th Petitioners? The Petitioners have produced letters of promotion relating to the 1st and the 2nd Petitioners as P2(a) and P2(b). The letters relating to the promotion of the other Petitioners or their letters of appointment have not been produced by the Petitioners. According to P2(a) and P2(b) the 1st and the 2nd Petitioners were

promoted to the Manager Grade V in 1999. Therefore the Petitioners contend that prior to the salary revision, the 1st to 50th Petitioners were in Grade V and the 51st to 134th Petitioners were in Grade VI. After the salary revision, the 1st to 50th Petitioners continued to remain in Grade V and the 51st to 134th Petitioners continued to remain in Grade VI. This is evident by documents marked P1 and P8(a) to P8(e) produced by the Petitioners. Thus it appears that after the salary revision the Petitioners' Grades have not been changed. It is important to note that according to P1(a) the grade of a Junior Manager is Grade VI. Therefore if the contention of the Petitioners that is to say that the 1st to 50th Petitioners' position were lowered to the level of a Junior Manager after the salary revision is correct, then their Grades too would have been lowered to Grade VI. But it has not taken place. The above observation demonstrates that the position of the 1st to 50th Petitioners have not been lowered to the level of a Junior Manager after the salary revision. The 51st to 134th Petitioners continued to remain in Grade VI after the salary revision.

When I consider the above facts the contention of the Petitioners that the 1st to 50th Petitioners were lowered to the level of a Junior Manager and that the 51st to 134th Petitioners were lowered to the level of a Management Assistant cannot be accepted and is hereby rejected. Further according to paragraph 13 of the affidavit of the 3(a) Respondent, prior to the salary revision the starting salary and the maximum salary of Grade VI officers were Rs.11,245/- and Rs.15,970/- respectively; after the salary revision their starting salary is Rs.17,695/- and the maximum salary is Rs.29,320/-. The salary details of officers of Grade V are as follows: Prior to the salary revision their starting salary was Rs.12,955 and maximum salary was Rs.20,625/- and after the salary revision their starting salary is Rs.20,490/- and the maximum salary is Rs.32,290/-.

When I consider the above matters, the contention of the Petitioners that their salaries were lowered after the salary revision cannot be accepted.

For the aforementioned reasons, I hold that there is no merit in the Petitioners' case and that Respondents have not violated the fundamental rights of the Petitioners guaranteed by Article 12(1) of the Constitution.

For the above reasons, I dismiss the petition of the Petitioners. In all the circumstances of this case, I do not make an order for costs.

Judge of the Supreme Court

Nalin Perera J

I agree.

Judge of the Supreme Court

Prasanna Jayawardena PC, J

I agree.

Judge of the Supreme Court