

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

***In the matter of an application under and in
terms of Articles 17 and 126 (2) of the
Constitution of the Democratic Socialist
Republic of Sri Lanka.***

Case No. SC/FRA/17/2015

1. Provincial Public Service (Local Government),
Revenue Inspectors Trade Union,
Revenue Inspectors Brand,
Colombo Municipal Council,
Town Hall,
Colombo 07.
2. Prins Dalugoda,
No. 1277/5 Rajamalwatta Road,
Battaramulla.
3. Seemanmeru Pathiranage Sujeewa
Kalyanapriya Pathirana,
No. 103/7 Jayaboo Mawatha,
Muthuhena Watta Road,
Meegoda.
4. Asuramuni Dasantha Mangala Kumara
Silva,
No. 620/D2, Eriyaweitya,
Kaleniya.

PETITIONERS

Vs.

1. A. J. M. Mussamil (Ceased to hold Office),
The Governor,
Secretariat of the Governor,
Western Province, No. 98/4,
Havelock Rd,
Colombo 05.

1A. Dr. Seetha Arambepola,
The Governor,
Secretariat of the Governor,
Western Province,
No. 98/4 Havelock Road,
Colombo 05.

1B. Air Marshall Roshan Gunathilaka,
The Governor,
Secretariat of the Governor,
Western Province,
No. 98/4 Havelock Road,
Colombo 05.

2. Pradeep Yasarathna,
(Ceased to hold Office)
Chief Secretary of the Western Province,
Office of the Chief Secretary
Western Province,
204, Denzil Kobbekaduwa Mawatha,
Battaramulla.

2A. Jayanthi Wijethunga,
(Ceased to hold Office)
Chief Secretary of the Western Province,
Office of the Chief Secretary
Western Province,
204, Denzil Kobbekaduwa Mawatha,
Battaramulla.

2B. Pradeep Yasarathna,
Chief Secretary of the Western Province,
Office of the Chief Secretary
Western Province,
204, Denzil Kobbekaduwa Mawatha,
Battaramulla.

3. Mrs. Chandni Samarakoon,
(Ceased to hold Office)
Secretary to the Governor,
Secretariat of the Governor
Western Province,
No 98/4, Havelock Rd,
Colombo 05.

3A. P. Somasiri,
Secretary of the Governor,
10th Floor, no 204, Denzil Kobbakaduwa
Mawatha,
Baththaramulla.

4. H.M Leelawathie, (Ceased to hold
Office)

Assistant Secretary,
Secretariat of the Governor,
Western Province,
No 98/4, Havelock Rd,
Colombo 05.

4A. A.D.H. Sadeeka,
Secretary of the Chief Ministry of
Western Province,
10th Floor, no 204, Denzil Kobbakaduwa
Mawatha,
Baththaramulla.

5. A.D.P.I. Prasanna,
The Local Government Commissioner
Western Province,
Western Province Local Government,
Department no 204, Denzil
Kobbakaduwa Mawatha,
Baththaramulla.

6. Kalubowilage Sarath Gunathilaka,
(Ceased to hold Office)
Chairman,
Provincial Public Service Commission,
Western Province,
No. 532/7, Elvitigala Mawatha,
Narahenpita,
Colombo 05.

6A. President's Counsel U.R. de Silva,

Chairman,
Provincial Public Service Commission
Western Province,
No. 628, 10th Floor, Jana Jaya City
Building,
Nawala road,
Rajagiriya.

7. Ahangama Walawage Chandrasiri
Ariyadasa, (Ceased to hold Office)
Member,
Provincial Public Service Commission
Western Province,
No. 532/7, Elvitigala Mawatha,
Narahenpita,
Colombo 05.

7A. Kanthi Wijesinghe,
Member,
Provincial Public Service Commission
Western Province,
No. 628, 10th Floor,
Jana Jaya City Building,
Nawala Road,
Rajagiriya.

8. Kandasamy Paranamanna,
(Ceased to hold Office),
Member,
Provincial Public Service Commission
Western Province,

No. 532/7,
Elvitigala Mawatha,
Narahenpita,
Colombo 05.

8A. Chathurika Wijesinghe,
Member,
Provincial Public Service Commission
Western Province,
No. 628, 10th Floor,
Jana Jaya city Building,
Nawala road,
Rajagiriya.

9. Jinasena Paranamanna,
(Ceased to hold Office)
Member,
Provincial Public Service Commission
Western Province,
No. 532/7, Elvitigala Mawatha,
Narahenpita,
Colombo 05.

9A. N. Sivahumaran, (Ceased to hold Office)
Member,
Provincial Public Service Commission
Western Province,
No. 628, 10th Floor,
Jana Jaya City Building,
Nawala road,

Rajagiriya.

9B. Ruvini Yasoja Hapuarachchi,
(Ceased to hold Office)
Member,
Provincial Public Service Commission
Western Province,
No. 628, 10th Floor,
Jana Jaya city Building,
Nawala road,
Rajagiriya.

9C. Samsudeen Liyawdhin,
(Ceased to hold Office)
Member,
Provincial Public Service Commission
Western Province,
No. 628, 10th Floor,
Jana Jaya city Building,
Nawala road,
Rajagiriya.

9D. Nelun Shamen Madhurasinghe,
Member,
Provincial Public Service Commission
Western Province,
No. 628, 10th Floor,
Jana Jaya city Building,
Nawala road,
Rajagiriya.

10. Upali Wijeweera, (Ceased to hold Office)

Chairman,
National Pay Commission,
Room 2-G10 BMICH
Buddhaloka Mawatha,
Colombo 7.

10A. W.J.L.U. Jayaweera,

Chairman,
National Pay Commission,
Room no. 2-116 B.M.I.C.H.
Colombo 07.

11. Gotabhaya Jayarathne,

Member,
National Pay Commission,
Room no. 2-116 B.M.I.C.H.
Colombo 07.

12. Sujatha Cooray,

Member,
National Pay Commission,
Room no. 2-116 B.M.I.C.H.
Colombo 07.

13. Madura Wehalla,

Member,
National Pay Commission,
Room no. 2-116 B.M.I.C.H.
Colombo 07.

14. M.S.D. Ranasiri,

Member,
National Pay Commission,
Room no. 2-116 B.M.I.C.H.,
Colombo 07.

15. Ananda Hapugoda,
Member,
National Pay Commission,
Room no. 2-116 B.M.I.C.H.,
Colombo 07.

16. Sanjewa Somarathna,
Member,
National Pay Commission,
Room no. 2-116 B.M.I.C.H.,
Colombo 07.

17. Ravi Liyanage,
Member,
National Pay Commission,
Room no. 2-116 B.M.I.C.H.,
Colombo 07.

18. Sanath Ediriweer,
Member,
National Pay Commission,
Room no. 2-116 B.M.I.C.H.,
Colombo 07.

19. Prof. Ranjith Senarathna,
Member,
National Pay Commission,

Room no. 2-116 B.M.I.C.H.,
Colombo 07.

20. Eng. R.M. Amarasekara,
Member,
National Pay Commission,
Room no. 2-116 B.M.I.C.H.,
Colombo 07.

21. Major Gen (rtd) Siri Ranaweera,
Member,
National Pay Commission,
Room no. 2-116 B.M.I.C.H.
Colombo 07.

22. W.H. Piyadasa, (Ceased to hold Office)
Member,
National Pay Commission,
Room no. 2-116 B.M.I.C.H.,
Colombo 07.

22A. Ajith Nayanakantha,
Member,
National Pay Commission,
Room no. 2-116 B.M.I.C.H.,
Colombo 07.

23. Chandrani Senarathna,
Secretary,
National Pay Commission,
Room no. 2-116 B.M.I.C.H.,
Colombo 07.

24. Hon. Attorney General,
Attorney General Department,
Colombo 12.

RESPONDENTS

25. Hiransa Kaluthantri,
Director General,
Department of Management Service,
Room no. 343, 3rd Floor,
Ministry of Finance,
The Secretariat,
Colombo 01.

ADDED RESPONDENT

BEFORE: **S. THURAIRAJA, PC, J.**
KUMUDINI WICKREMASINGHE, J. AND
K. PRIYANTHA FERNANDO, J

COUNSEL: S.N. Vijithsingh instructed by N. Edirisinghe for the Petitioners

Ms. Yuresha de Silva, DSG instructed by Sonali Collure, SASA for the
Respondents

WRITTEN Petitioners on 15th February 2021 and 28th November 2024

SUBMISSIONS: Respondents on 27th October 2022 and 21st October 2024

ARGUED ON: 18th October 2024

DECIDED ON: 28th March 2025

THURAIRAJA, PC, J.

1. The present application was filed by the members of the Provincial Public Service (Local Government) Revenue Inspectors Trade Union (hereinafter referred to as the 'Petitioner') by petition and affidavit against the abovenamed Respondents seeking, *inter alia*, a declaration that the Petitioner's fundamental rights enshrined in Articles 12(1), 12(2) and 14(1)(g) of the Constitution have been violated by one or more of the Respondents. When this matter was taken up, this Court granted (i) leave to proceed for the alleged infringement of rights guaranteed under Articles 12(1) and 14(1)(g), and (ii) an interim order directing the 1st-4th Respondents abovenamed to stay the implementation of the Scheme of Recruitment dated 02nd January 2015¹ until the final determination of this application.
2. The crux of this application is the Petitioner's contention that the application of the said Scheme, **P14**, a salary scheme based on Public Administration Circular No. 06/2004,² to the job post of Revenue Inspector, namely in terms of the directions pertaining to categorisation and salary scale, is arbitrary, unreasonable and in violation of the Petitioner's legitimate expectations.
3. As is the nature of such cases, it is usual for the court to be faced with a multitude of different documents of varying natures submitted by both parties in support of their submissions. It is, therefore, helpful to first lay out the respective submissions of the Petitioner and Respondents contained within the petition, counter objections, answers, and written submissions, alongside the several accompanying marked documents, before performing an analysis and determination of the merits of the Petitioner's application.

¹ Marked "P14".

² Marked "P7".

SUBMISSIONS OF THE PETITIONER

4. The previous recruitment procedure for the posts held by members of the Petitioner Union, namely those of 'Revenue Inspectors', underwent a change in its recruitment procedure with the implementation of a new service of recruitment (SOR) dated 02nd November 2004.³ Subsequently, Revenue Inspectors were categorised into three grades, and each grade was assigned a corresponding salary step, as laid out below:
 - i. Grade II recruitment grade – MN-1 (Step 12)
 - ii. Grade I – MN-1 (Step 23)
 - iii. Supra Grade – MN-7.
5. The government issued Public Administration Circular No. 06/2006 dated 25th April 2006, **P7**, with the aim of recategorising/regrouping all posts in the public service and implementing new salary structures. In accordance with **P7**, the Petitioner was placed on salary scale MN-1 Step 12 (the first categorisation, as above).
6. The Petitioner members aver that such placement is incorrect and/or inappropriate by reason of their belief that they possess the necessary qualifications in terms of SOR P4(b) to be eligible for placement on salary scale MN-5. This position is rooted in the Petitioner's contention that in terms of previous SORs, the percentage division of cadre vacancies for the post of Revenue Inspectors is a delegation of (i) 60% for officers who sat the Limited Competitive Examination and held a post in a local government institution or officers who had been made permanent in their posts and completed 5 years of service; and, (ii) 40% for officers who sat the Open Competitive Exam and are graduates of recognised degree programs offered in universities in Sri Lanka. The Petitioner submitted that, at the time the petition was filed, more than 50 Revenue Inspectors fell in the former category, and 32 fell in the latter (and therefore held a degree qualification).

³ Marked "P4(b)".

7. According to the Petitioner, the 2nd Respondent (Chief Secretary) approved a SOR dated 02nd January 2015,⁴ despite the Petitioner voicing objections to the same. Such objections, the Petitioner submits, were based on the purported adverse effects of the said SOR such as, *inter alia*, reducing the minimum qualifications and removing the degree requirement as well as the efficiency bar exams which downgrades the standards of the service, arbitrarily removing the category of 'supra Grade' and thus restricting the opportunity of promotion, and placing the Petitioner members on a lower salary scale than clerical staff members who worked under the Petitioner members.
8. The Petitioner sought from this Court, *inter alia*, a declaration that their rights under Articles 12(1) and 14(1)(g) were thus violated and, further, a sum of Rs. 10 million in compensation excluding costs.

SUBMISSIONS OF THE RESPONDENTS

9. The submissions of the Respondents are extracted from the affidavit of the 10th Respondent dated 22nd December 2016, the affidavit of the 2nd Respondent dated 02nd May 2017, and the written submissions on behalf of the Respondents dated 27th October 2022 and 28th November 2024.
10. The Respondents submit that, based on the Scheme of Recruitment **P4(b)**, of the vacancies available for the post of Revenue Inspector Class II, only 40% could be filled by those possessing a degree, whereas 60% were required to be filled by those possessing six passes at the Ordinary Level Examination. Therefore, the post of Revenue Inspector Class II cannot be considered as one that strictly requires the completion of a degree to be recruited. Accordingly, the post was assigned to salary scale MN-1.

⁴ Marked "P14".

11. The Respondents submitted to this court letters⁵ by the Chief Secretary of the National Salaries and Cadre Commission in response to the requests submitted by the Petitioner pertaining to a change in the assigned salary scale. In such letters, the Chief Secretary emphasises the inability to recommend a different salary scale for the post of Revenue Inspector of the Western Province by reason that the post is not one which has a strict degree requirement and further that the already approved salary structure as per **P14** was so decided and assigned to all Revenue Inspectors serving in all Provinces. As such, placing officers in the Western Province on a different scale would create a significant anomaly within the approved salary structures applicable to public officers. Consequent to this, a new Scheme of Recruitment, **P14**, received assent by the Governor on 2nd January 2015.

12. It is the Respondents' position that, provided that individuals possessing five years' experience and having passed four subjects at the O/L examination were also able to apply to the post of Revenue Inspector (alongside those who held a degree), possessing a degree was not the sole criteria for requirement. As such, the degree requirement was dispensed with in the introduction of the new Scheme of Recruitment, **P14**. Furthermore, MN-4 is a classification reserved for officers who were recruited to posts with a strict degree requirement, such salary scale cannot be applied to Revenue Inspectors Class II. The Respondents also stress that it is not pragmatic to assign different scales to the same post whereby Revenue Inspectors who were recruited on the basis of a degree qualification and those who were required on the basis of O/L qualifications are placed on different salary structures.

13. Further, the Respondents submit that, in response to addressing the Petitioner's grievances and remedying the absence of promotional prospects and the issue of

⁵ dated 23rd May 2014 and 15th December 2014 respectively and marked "10R2" and "10R3" respectively.

stagnation, a Special Grade was proposed⁶ and approved⁷ by the Department of Management Services.

ANALYSIS

14. Article 12(1) of the Constitution guarantees that *"All persons are equal before the law and are entitled to the equal protection of the law."* In terms of Article 14(1)(g), *"Every citizen is entitled to the freedom to engage by himself or in association with others in any lawful occupation, profession, trade, business or enterprise."*
15. It is pertinent to note that, at the time of filing the petition, the Petitioner members had also challenged **P7** in the Court of Appeal by way of a writ application bearing No. 229/2009. The appellate court, by judgment dated 24th November 2015, dismissed the application and denied the Petitioner relief, *inter alia*, on the basis that the court, in several instances, has stressed that the salary of a public servant is a policy decision of the government, and therefore not subject to judicial review by the Court of Appeal. The Court of Appeal explained that the National Salary and Cadre Commission considers all facts before them before making recommendations for salary placement, and it is, in fact, only the Commission that possesses the relevant expertise to do so.
16. I am inclined to agree with the position of the Court of Appeal that the recommendations of the National Salary and Cadre Commission are policy decisions. However, that does not by itself preclude fundamental rights jurisdiction of this Court. If the Petitioner can establish that such recommendations are violative of fundamental rights they may be entitled to relief under fundamental rights jurisdiction.

⁶ By letter dated 6th January 2016 marked "2R6".

⁷ By letter dated 16th November 2016 marked "2R8".

17. The Respondents, in their written submissions dated 21st October 2024, cite the case of **B.H.D.H. Tilakaratne v B.A.P. Ariyaratne SC FR Application 272/2016**,⁸ wherein Justice Malalgoda emphasises that Article 12(1),

*“...guarantees every citizen an equal opportunity in the matters affecting his personal life including employment opportunity, but it does not mean that all persons are to be treated alike in all circumstances. It means that persons who are similarly circumstanced must be similarly treated. **However, it is permitted for the state to make laws that are unequal when dealing with persons who are placed in different circumstances in other words the law permits the classification of persons when enacting laws. However, such classification should not be irrational or arbitrary. It must be reasonable.**”*⁹

18. In the case of **Wickramasinghe v Ceylon Petroleum Corporation and others**,¹⁰ this Court distinguished between reasonableness and arbitrariness, stating that as long as an action is based on a justifiable and rational policy decision, it cannot be considered arbitrary.

19. The Respondents have, in my view, satisfactorily established that the changes introduced by the circulars and schemes of recruitment in question were made as part of a structured and consistent salary policy rather than as an arbitrary or discriminatory act targeting a specific group of employees. Accordingly, the introduction of the new Scheme of Recruitment, by virtue of being derived from the Public Administration Circular No. 06/2006 and verified by the National Salaries and Cadre Commission, constitutes a reasonable decision. Mere dissatisfaction with a policy change does not,

⁸ SC Minutes of 15th May 2024, p 9.

⁹ Emphasis is mine.

¹⁰ [2001] 2 Sri LR 409.

in itself, amount to a violation of fundamental rights unless it can be shown that the decision lacked any reasonable basis.

20. Thus, in the application of this principle, I do not find any basis to challenge the proposition that the Respondents' decision to adhere to Circular No. 06/2006 is, in fact, a rational policy choice rather than an arbitrary exercise of power.

21. Furthermore, I am inclined to agree with the Respondents' assertion that any action to change the approved salary scale assigned to the post held by the Petitioner members, contrary to the salary scale and administered by the Circulars and the Scheme of Recruitment would essentially cause the National Salaries and Cadre Commission to be in breach of its statutory duty. Such action would create a pronounced discrepancy between Revenue Inspectors operating in the Western Provinces versus those holding posts in other Provinces.

22. Similarly, it is my view that assigning different salary steps to the same post on the grounds of varying recruitment criteria (i.e., differentiating amongst those who were recruited by virtue of holding a degree versus officers who passed the O/L examination and satisfied the requirement of having 5 years in experience) may in and of itself cause discrimination amongst the officers of the public service and culminate in unequal treatment contrary to Article 12(1) of the Constitution.

23. It was observed by this Court in the case **J. A. Lionel Chandraratne v Mr. Tissa R. Balalla, The Governor of the Northwestern Province**,¹¹ that "*...It is obligatory for the Petitioner to prove that he has been treated differently to succeed in terms of Article 12(1) of the Constitution.*" Moreover, in the case **C.W. Mackie & Co. Ltd. v. H. Mologoda, Commissioner General of Inland Revenue**,¹² the Court held that in order

¹¹ S.C/FR Application No. 204/2011, SC Minutes of 20th May 2015, p 13.

¹² [1986] (1) Sri LR 300, p 301.

to sustain a claim of discrimination under Article 12(1), a party must satisfy two key requirements:

- a. That they have been treated differently from others;
- b. That they have been treated differently from persons similarly circumstanced without a reasonable basis.

24. I fail to see any material placed before this Court by the Petitioner that satisfies either of these two requirements. In the Petitioner's written submission dated 28th November 2024, the Petitioner emphasises that they did not seek to challenge the Public Administration Circular No. 06/2006, **P7**, but rather only ought to quash the decision to categorise the Petitioner members under the MN-1 salary scale introduced by the said Circular and confirmed by the subsequent Scheme of Recruitment **P14**. However, I do not find any merit in the challenge of the assignment of such salary structure to the post held by the Petitioner members. **P7** was introduced subsequent to a policy decision to ensure uniformity across officers in the Provincial Public Service. It is clear that possessing a degree was never the sole criterion to be recruited for the post of Revenue Inspector Class II based on previous schemes **P4(a)** and **P4(b)**, whereby 60% of the vacancies are required to be filled by applicants who passed the O/L examination with the necessary threshold. Accordingly, Revenue Inspectors were placed on salary scale MN-1 instead of MN-4, which is reserved for, *inter alia*, posts with strict degree requirements. Such decisions are confirmed and endorsed by the National Salaries and Cadre Commission.

25. Thus, I am of the view that the decision of the Respondents to adhere to the Circular No.06/2006 and the accompanying Scheme of Recruitment is reasonable and devoid of any basis for the violation of the Petitioner's fundamental rights guaranteed under Article 12(1) of the Constitution. It follows, therefore, that nor have the Petitioner's rights guaranteed by Article 14(1)(g) been the subject of any violations by the Respondents.

CONCLUSION

26. On the above facts, circumstances, and analysis, I find that the Petitioner has failed to establish a violation of their fundamental rights under Articles 12(1) and 14(1)(g) of the Constitution by one or more of the Respondents.

Application Dismissed.

JUDGE OF THE SUPREME COURT

KUMUDINI WICKREMASINGHE, J.

I agree.

JUDGE OF THE SUPREME COURT

K. PRIYANTHA FERNANDO, J.

I agree.

JUDGE OF THE SUPREME COURT