

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 of the Constitution

1. M.M. Ravi Perera,
No. 56A, Pahalagama,
Gampaha.
2. K.Ramesh Kumar,
No. 165A, New Kalmunai Road,
Kallady,
Batticaloa.
3. W.L.D. Wijesekara,
No. 259B, West Doranagoda,
Udugampola.
4. D.P. Hathurusingha,
No. 564, Yakkaduwa,
Ja-Ela.

Petitioners

S.C. (F.R.) Application . 663/2012

Vs.

1. Commissioner General of Excise,
Department of Excise,
No. 34, W.A.D. Ramanayake Mawatha,
Colombo 02.
2. P.W. Rajapakshe,
Commissioner of Excise,
(Administration/Human Resources),
Department of Excise,
No. 34, W.A.D. Ramanayake Mawatha,
Colombo 02.
3. W. Withanage,
Deputy Commissioner of Excise,
(Administration Department of Excise,,
No. 34, W.A.D. Ramanayake Mawatha,
Colombo 02.
4. The Secretary,
Ministry of Finance and Planning,
The Secretariat,
Colombo 01.

5. Minister of Public Administration and Home Affairs,
Independence Square,
Colombo 7.
6. Director-General
Establishments,
Ministry of Public Administration and Home Affairs,
Independence Square,
Colombo 7.
7. Dr. Dayasiri Fernando,
Chairman,
7A. Retired Hon. Justice Sathya Hettige, P.C.,
Chairman.
8. Palitha M. Kumarasinghe, P.C.,
8A. S.C. Mannapperuma
9. Sirimavo A. Wijeratne
9A. Ananda Seneviratne
10. S.C. Manapperuma,
10A. N.H. Pathirana
11. Ananda Seneviratne,
11A. S. Thillanadarajah
12. N.H. Pathirana
12A. A. Mohamed Nahiya
13. S. Thillanadarajah,
13A. Kanthi Wijetunge
14. M.D.W. Ariyawansa,
14A. Sunil S. Sirisena
15. A. Mohamed Nahiya,
15A. Dr. I.M. Zoysa Gunasekera
All Members of the
Public Service Commission,
No. 177, Nawala Road, Narahenpita,
Colombo 05.

16. T.M.L.C. Senarathna,
Secretary,
Public Service Commission,
No. 177, Nawala Road, Narahenpita,
Colombo 05.
17. T. Upali Peiris,
Udugampola Road, Kotugoda.
18. Hemantha Karunathilaka,
15/24, Senanayake Place,
Padukka.
19. Terrence Weeratunga,
65B, Temple Road,
Ekala, Ja-Ela.
20. B.M.S. Bandara,
Eagalla,
Wadhakada.
21. W.H.M. Ozna Perera,
Uduwela,
Ibbagamuwa.
22. J.A.U.S. Chandrasiri,
Kalapaluwawa,
Rajagiriya.
23. S.W. Jayantha Chandana,
Madurawela,
Anguruwathota.
24. W.T.P. Premasiri,
Ranala Road,
Habarakada.
25. Morandage Kanti Violet Jayasinghe,
Manana,
Mahagam.
26. W.K.M. Samarathunga,
223/1,
Gangabada Road,
Palathota,
Kaluthara-North.

27. T.M.M.B. Tennakoon,
Puttalam Road,
Thittawella, Halpane.
28. T.M. Rewatha Tennakoon, Halpane Road,
Giriulla.
29. A.A. Shantha Kumara, Madelgamuwa,
Gampaha.
30. Imyhamy Mudiyansele,
Nimal Karunasena,
131, Wijaya Rajadahana,
Meerigama.
31. N.D.U. Gunasekara,
32. T.M.R. Tennakoon,
33. R.M.B. Ranasinghe,
34. T.U. Peiris,
35. K.B. Chandrasiri,
36. R. Nesakumar,
37. S.P. Wijerathne,
38. T. Weerathunga,
39. A.P. Kurukulasuriya,
40. A.M.D. Nilanthi,
41. V.Thiruchelvam,
42. G.W.M.S.B. Walisundara,
43. M.T. Abdeen,
44. M. Sathyaseelan,
45. K.A.D.S. Kothalawala,
46. S.R.L.A.S. Priyadarshani,
47. Y.C. Abeyrathna,
48. M.V. Nilmini,
49. U.B. Chandrasiri,
50. J.P.M. Sadaraj,

All C/o. The Department of Excise,
No. 34, W.A.D. Ramanayake Mawatha,
Colombo 02.

51. The Attorney General,
Attorney General's Department,
Hulftsdorp Street,
Colombo 12.

Respondents.

- 7A. D. Dissanayake, Chairman,
8A. Retired Hon. Justice A.W.A. Salam
9A. V. Jegarajasingham,
10A. Nihal Seneviratne,
11A. Dr. Prathap Ramanujam,
12A. S. Ranugge,
13A. D.L. Mendis,
14A. Sarath Jayathilaka,
15A. Dilhara Wijayatilleke,

All Members of the
Public Service Commission,
No. 177, Nawala Road, Narahenpita,
Colombo 05.

Substituted Respondents

- BEFORE** : K. SRIPAVAN,C.J.
S.E. WANASUNDERA,P.C.' J.,
P. JAYAWARDENA, PC.,J.
- COUNSEL** : Sanjeewa Jayawardena, PC. with Nilshantha Sirimanne and Ms.
Lakmini Warusawithana instructed by Amarasuriya Associates for
the Petitioners.
- Rajitha Perera, SSC for the 1st – 6th, 7a – 16a and 51st
Respondents.
Mahendra Kumarasinghe for the 31th –35th, 37th,
39th, 40th, 42-45th and 47th -50th Respondents.
- ARGUED ON** : 30/03/2016
- DECIDED ON** : **14. 07.2016**

K. SRIPAVAN, C.J.,

On 30th March 2016, all Counsel agreed that the Order that would be made in S.C.F.R. 661/12 would apply to this case as well.

Since the Court has made an Order in S.C. F.R. 661/12 allowing the application, the same Order would apply to this case as well.

I therefore declare that the act of the First Respondent in making promotions contrary to **1R7** violates the fundamental rights of the Petitioners guaranteed by Article 12(1) of the Constitution. I further declare that the promotions effected in excess of the quota fixed by **1R7** are unlawful and null and void. Each one of the Petitioners is entitled for costs in a sum of Rs. 5,000/- payable by the First Respondent. Thus, the Petitioners are entitled to receive the total sum of Rs.20,000/- as costs.

The First Respondent may seek the approval of the Public Service Commission to fill the balance vacancies in terms of the approved Scheme of Recruitment and to take action to fill such vacancies as expeditiously as possible following a transparent procedure.

CHIEF JUSTICE

S.E. WANASUNDERA, P.C., J.

I agree.

JUDGE OF THE SUPREME COURT

P. JAYAWARDENA, P.C., J

I agree.

JUDGE OF THE SUPREME COURT