

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

**LANKA**

In the matter of an application made under and in terms of Article 17 and 126 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

**SC FR 132/2014**

1. R.A.S.R. Kulathunga  
B 07 Police Flats, Thimbirigasyaya.

**Petitioner**

**Vs.**

1. Pujith Jayasundera, Inspector General of Police, Police Headquarters, Colombo 01.
2. B.K.G. Navarathne,  
Senior Deputy Inspector General  
(Administration) Police Headquarters,  
Colombo 01.
3. P.H.P.G. Prasanna, OIC, Police Station,  
Balangoda.
4. F.U. Woodlar, OIC, Police Station,  
Wellawatte.
5. E.A.D.S.S.P. Edirisinghe,  
Community Police Training Centre,  
Gampaha.
6. A.L.M. Jameer, HQR Police Station,  
Thalaumannar,
7. H.L.C. Hiriyadeniya,  
Narcotic Division, 3<sup>rd</sup> Floor, New  
Secretariat Building, Colombo 01.
8. G.W.S.C. Jayathileke, OIC, Police Station,  
Madolsima.

9. S.A.S.C. Satharasinghe, OIC, Police Station, Wadukkotte.
10. P.K. Hettiarachchi, OIC , Police Station, Agarapathana.
11. R.A.G. Dammika, Presidential Security Division, Colombo 01.
12. H.K.H.S. Priyantha, OIC , Police Station, Kalawanchikudy.
13. A.B.I. Udayanga, Field Force Headquarters Colombo. 05.
14. M.M. Jarool, HQI, OIC Police Station, Polonnaruwa.
15. A.G. Sisira Kumara, Presidential Security Division, Colombo 01.
16. L.A.G. Liyanage, State Intelligence Service, No. 10, Cambridge Place, Colombo 07.
17. B.L.A. Prasanna, HQI, OIC Police Station, Paliyagoda.
18. M.D.A. Jayantha, HQI, OIC Police Station, Tangalla..
19. M.M.I. Janaka, Police Station, Kurunegala.
20. S.A.B.S.K. Senanayake, Presidential Security Division, Colombo 01.
21. N.P.K. Liyanaka, Presidential Security Division, Colombo 01.
22. G.P. Bodhipaksha, Crime Investigation Department, New Secretariat Building, Colombo. 01.
23. R.A.M.J. Ariyaratne, HQI, OIC Police Station, Haputale.

24. O.V.R.P. Olugala, Police Station, Modera.
25. B.N. Ekanayake, OIC, Police Station, Welimada.
26. K.S. Pathirana, OIC, Police Station, Chawalakade.
27. P.B.M.C. Basnayake, OIC, Police Station, Bibila.
28. P.N.C.R.. Tennakoon, Police Station, Kantale.
29. C.P.K. Wijsekera OIC, Police Station, Hakmana.
30. A.P.N.G. Gunathilaka, Police Hospital, No. 20, Nawala Road, Narahenpita, Colombo 05.
31. M.P. Priyadarshana, Presidential Security Division, Colombo 01.
32. M. Abeysinghe, Crime Investigation Department, New Secretariat Building, Colombo. 01.
33. D.M. Abeysekera, OIC, Police Station Kamburupitiya.
34. H.G. Lal, Terrorist Investigation Division, 2<sup>nd</sup> Floor, New Secretariat Building, Colombo. 01.
35. L.G. Gunarathne, Police Station, Kankasanthurai.
36. P.K.D. Ajith Kumara, OIC Police Station, Potuwil.
37. C.G. Welagedera, Ministry Security Division, No. 440, Dr. Colvin R. de Silva Mawatha, Colombo 02.

38. H.G.W.N. Deshapriya, OIC Police Station, Dambagalla.
39. H.S.M. Kaldera, HQI, Police Station, Matara.
40. A.A.K.S. Adikari, IC. Police Station, Welipenna.
41. R.L.S. Ranjith, OIC, Police Station, Hemmathagama.
42. P.P.R.S. Jayalath, Parliament Police Station, Sri Jayewardenapura, Kotte.
43. N.D.U. Priyankara, Presidential Security Division . Colombo 01.
44. H.L.P. Hettiarachchi, OIC, Police Station, Koragahahena.
45. T.D. de Silva, Crime Record Division, Torrington Square Colombo. 07.
46. K.M.S.G.R.S.K. Karunanayake, Police College, Kalutara.
47. D.T. Lasasnta, OIC, Police Station, Dikwella.
48. P.G.R. Sumendra, Bribery Commission, No. 36, Malalasekera Mawatha, Colombo 07.
49. R.W.H. Rajapaske, OIC, Police Station, Buttala.
50. N.P. Waidyathileke, HQI, Police Station, Hugurakgoda.
51. M.D.D. Nilanga, OIC, Police Station, Pugoda.
52. R.M.R. Rathnayake, OIC, Police Station, Nanau-Oya.

53. T.M.N.A.B. Totagodawatte, HQI, Police Station, Hatton.
54. S.P. Edirisinghe, OIC, Police Station, Kodikamam.
55. M.WE.S.P. de Silva, Prime Minister Security Division, No. 89, Jawatte Road, Colombo 05.
56. H.C.K.S. Hippola, State Intelligence Service, No.10, Cambridge Place, Colombo 07.
57. R.Jayantha, OIC, Police Station, Kotmale.
58. L.P.K. Rajamanthre, OIC, Police Station, Aranaganwila.
59. I.M.A. Udayakumara, OIC Police Station, Ingiriya.
60. W.A.G.R. Perera, Prime Minister Security Division, No. 89, Jawatte Road, Colombo 05.
61. M.P. de Silva, State Intelligence Service, No.10, Cambridge Place, Colombo 07.
62. Y.R.R. Wimalasiri, Crime Investigation Department, New Secretariat Building, Colombo. 01.
63. M.R.S. Tissa Kumara, OIC, Police Station, Panadura North.
64. W.A. Jayantha, Crime Investigation Department, New Secretariat Building, Colombo 01.
65. M.N.C. Mannapperuma, Sport Division Field Force Headquarters, Thimbirigasyaya, Colombo 05.

66. H.W. Udaya Kumara, OIC, Police Station, Panadura North.
67. C.P. Jayathileke, Police Station, Batticaloa.
68. M.P.C.C. de Silva, Crime Investigation Department, New Secretariat Building, Colombo 01.
69. P.W.G.S. R. de Silva, State Intelligence Service, No.10, Cambridge Place, Colombo 07.
70. D.R.J. Wijeratne, Police College, Kalutara.
71. D.P. Kumara, Police Station, Rathnapura.
72. G.W.L. Raveendra, Terrorist Investigation Division, 2<sup>nd</sup> Floor, New Secretariat Building, Colombo 01.
73. D.U.P. Maniyangama, OIC, Police Station, Lunugala.
74. P.R. Sunil, OIC, Police Station, Kosgama.
75. K.K.M. Perera, Presidential Security Division, Colombo 01.
76. S.A.R. Samaranayake, Police Station, Awissawella
77. S.R.D. Fernando, OIC. Police Station, Hambegamuwa.
78. H.M.C.C. Herath, Police Station, Kandeketiya.
79. R.C. Daniel , OIC, Discipline and Conduct Division, 5<sup>th</sup> Floor , Police Headquarters, Colombo 01.
80. H.M.P. Wijesiri, Foreign Employment Bureau, Crime Division, Police Headquarters, Colombo 01.

81. I.D.S Weerasinghe, Crime Investigation Department, New Secretariat Building Colombo 01.
82. D.N. Chandarasiri, OIC, Police Station, Karadeniya.
83. M.Selvakumar, OIC Police Station, Lindula.
84. H.D.N. Fernando, Prime Minister Security Division, No. 89, Jawatte Road, Colombo 05.
85. M.M.K.N.K. Mapa, Presidential Security Division, Colombo 01.
86. R.P. Siriwardana, OIC, Police Station, Rathnapura.
87. J.W. Kottachchi, Police Tourist Division, No 78 Galle Road, Colombo 02.
88. W.B.N.C.P.S. Bandara, HQI, Police Station, Kalutara South.
89. T.M.K.K. Hemarathne, State Intelligence Service, No. 10, Cambridge Place, Colombo 7.
90. M.M.S.B. Manamperi, Police Headquarters, Colombo 01.
91. M.A.S. Kumara, Police Station, Kahawatta.
92. J.M. Suse Hewage, Crime Record Division, Torrington Square, Colombo.07.
93. R.W.W.M.T.T. Halangoda, OIC Police Station, Dalada Maligawa, Kandy.
94. B.N.C.B. Nawarathne, Crime Record Division, Torrington Square, Colombo 07.
95. L.M.D.J. Pradeep, Crime Record Division, Torrington Square, Colombo 07.

96. H.H.Janakantha, Police Station. Bentota.
97. L.L Crishantha, Police Station,  
Kalawanchikudy.
98. R.M.A. Rajapakse, Police Station, Badulla.
99. G.V.N.B. Yatiwella, Police Station, Pettah.
100. R.D.M. Siril, Police Station, Negombo.
101. C. Ranasinghe, Police Station.  
Anuradhapura.
102. E.H.M. Karunarathne, Police Station,  
Borella.
103. H.M. Nawarathne Banda, Police Station,  
Matale.
104. H.K.G. Anura Priyantha, Police College,  
Kalutara.
105. M.D.W.S. Wijewardana, Police Hospital,  
No. 20, Nawala Road, Narahepita, Colombo  
05.
106. D.S. Peramjuna, Police Station, Mannar.
107. W.C.T. Botheju, Prime Minister Security  
Division, No.89, Jawatte Road, Colombo.  
05.
108. H. Somasiri, Police Station, Maligwatte.
109. K.D.C.P. Perera, Crime Record Division,  
Torrington Square, Colombo. 07.
110. S. Kaluarachchi, Crime Record Division  
Torrington Square, Colombo. 07.
111. P.L. Nissanka, Prime Minister Security  
Division, No.89, Jawatte Road, Colombo,  
05.



112. W.L.U. Samarasinghe, Western Province North Crime Division, Peliyagoda.
113. K.M.A. Wijesinghe, Police Station, Elpitiya.
114. K.M.C. Wijebandara, Presidential Security Division, Colombo 01.
115. K.T.M.P.T.D. Thilakrathne, Police Station, Rathnapura.
116. J.A.H.N. Jayasinghe, Presidential Security Division, Colombo.01.
117. S.N. de Zoysa, Police Station, Piliyandala
118. P.W.S. Sumanapala, OIC, Police Station, Hanwella.
119. D.M.S.P.K. Dissanayake, Police Emergence, Mihindu Mawatha, Colombo 12.
120. K.P.N.O. Perera, Police Station, Cinnamon Gardens.
121. G.S.P. de Silva, Police Station, Mawanella.
122. N.K. Mallika Arachchi, Bribery Commission, No. 36, Malalasekera Mawatha, Colombo.07.
123. W.M.J.S. Gunasekera, Police Station, Ragama.
124. N. Jayasundera, OIC, Police Station, Pettah.
125. D.J.C.K. Pathirana, State Intelligence Service, No. 10, Cambridge Place, Colombo 07
126. Q.R. Perera, Crime Division, Police Headquarters, Colombo 01.
127. S.P.K.K. Samaranayake, Minister's Security Division, No.440, Dr. Colvin R. de Silva Mawatha, Colombo 02.

128. V.S.N. Gunawardene, State Intelligence Service, No. 10, Cambridge Place, Colombo 07.
129. U.V.R. Chamara, State Intelligence Service, No. 10, Cambridge Place, Colombo 07.
130. P.S. Hewawitharana, Police Station, Maradana.
131. A.W.A. Bandaranayake, Minister's Security Division, No.440, Dr. Colvin R. de Silva Mawatha, Colombo 02.
132. H.S. Herriarachchi, Minister's Security Division, No.440, Dr. Colvin R. de Silva Mawatha, Colombo 02.
133. B.N.M.S.L.B. Basnayake, Police Station. Gampaha.
134. P.A.G.S. Senarathne, Building Division, Police Headquarters, Colombo. 01.
135. M.P.D.I. Kulasekera, Colombo Crime Division, Kolonnawa Road, Dematagoda.
136. K.N.T.K. Kannangara, Minister's Security Division, No.440, Dr. Colvin R. de Silva Mawatha, Colombo 02.
137. K.K.C.P. Kaluarachchi, Colombo Crime Division, Kolonnawa Road, Dematagoda.
138. W.V.P. Senarathne, Police Station, Slave Island.
139. C.A. Puwansha, OIC. Building Division, Police Headquarters, Colombo. 01.
140. S.K.Jeewan Kumara, Police Station, Jaffna.
141. M.K.S.P.P. Alwis, State Intelligence Service, No. 10, Cambridge Place, Colombo 07.

142. B.D.N. Perera, Police Station, Peliyagoda.
143. B.P.G. de Silva, Police Headquarters, Colombo 01.
144. W.T.L.G. Wimaladasa, Police Station, Hingurakgoda.
145. S.G. Weerathne, Minister's Security Division, No.440, Dr. Colvin R. de Silva Mawatha, Colombo 02.
146. T.S.P. Perera, No. 642/D Iriyawetiya Road, Kiribathgoda.
147. D.G.S. Sanjeewa, OIC, Police Station, Thihagoda.
148. A.H.M. Rafaithu, Police Station, Kandy.
149. R.M.Heen Banda, Mounted Division, Mihindu Mawatha, Colombo. 12.
150. J.A. Sirisena, OIC Police Station, Ja-Ela.
151. H.P.Y.W. Herath, HQI, Police Station, Kuliyaipitiya.
152. B.D. Premachandra, Puswella, Puswelitanna, Kurunegala.
153. P.N. Guruge, Ministers Security Division, No 440, Dr. Colvin R de Silva Mawatha, Colombo 02.
154. K.C.L. Perera, IT Division, 6<sup>th</sup> floor, Police Headquarters, Colombo 1.
155. M.G.H.U.K. Wijewardena, Police Station, Kandy.
156. A.G.V.N. Padeniya, OIC, Police Station, Kandy.
157. M.R.S.P. Bandara, Police Station, Kurunegala.

158. K.A.R.W. Kumarapeli, Police Station, Hettipola.
159. K.M.S.B. Samarakoon, HQI, Police Station, Dambulla.
160. R.J.A.S. Jayawardena, Crime Record Division, Torrington Square, Colombo 07.
161. W.M.M.S.P.K. Gunarathne, OIC, Police Station, Fort.
162. M.U.B. Sujeewa Kumara, Police Station, Anuradhapura.
163. K.D.R. Senadheera, Police Headquarters, Colombo 01.
164. J. Athukorala, Police Transport Division, Narahenpita, Colombo 05.
165. A.M.M.K. Alagiyawanna, Police Station, Dehiattakandiya.
166. M.G.N. Rathnasiri, Inspection and Review Division, Police Headquarters, Colombo 01.
167. P.W.U.D. de Silva, Police Station, Mirihana.
168. N.K.A.K.I. Wickremasinghe, Police Station, Pugoda.
169. K.W.W.W.M.S.K.B.M. Waidyanayake, State Intelligence Service, No. 10, Cambridge Place, Colombo 07.
170. B.V.R. Vitharana, OIC, Police Station, Polpitiyagama.
171. M.S. Premathilake, Police Station, Eravur.
172. S.R.J. Dias OIC, Police Station, Kuttigala.

173. P.D.T.K. Senarathne, Police Station, Hanwella.
174. A.P.N.N.S. Perere, Police Station, Mulativu.
175. H.M.W. Herath, Police Station, Badulla.
176. C.C. Rathnayake, OIC, Police Station, Silawatura.
177. D.N.P. Danthanarayana, Police Station, Kotahena.
178. S.P. Weerarathne, Police Station Kanakarayamkulam.
179. D.J.K. Iddamalgoda, Police Station, Borella.
180. H.R.D.K.C. Darmapriya, OIC, Police Station. Wolfendal.
181. S.W.Y.B.S. B. Baddewela, Police Station, Mulativu.
182. S.D.A.C.R. Darmasiri, Police Station, Narahenpita.
183. W.V.D.G. Samanthilake, HQI Police Station, Negombo.
184. W.P.N.C. Perera, Police College, Kalutara.
185. A.M.P.A.R. Arampola, Police Station, Thambuttegama.
186. P.R.V. Prethiviraj, State Intelligence Service, No. 10, Cambridge Place, Colombo 07.
187. A.D. Kariyawasam, OIC, Police Station, Opanayake.
188. W.A.K.I.P. Premathileka, Police Station, Kurunegala.

189. W. Sisira Kumara, Minister's Security Division, No.440, Dr. Colvin R. de Silva Mawatha, Colombo 02.
190. P. Chandrarathne, Presidential Security Division, No. 89, Jawatte Road, Colombo.05.
191. W.K.A. Silva, Police Station, Kelaniya.
192. H.K.S. Shantha Kumara, Police Station, Payagala.
193. S.D.J. Senadheera, Police Station, Anuradhapura.
194. W.M. Dharmasena, Police Station, Walimada.
195. K.A.S.W. Kumarajeewa, Legal Division, Police Headquarters, Colombo 01.
196. P. Kumaradasa, OIC, Police Station, Narammala.
197. R.A.K. Gamini, Police Headquarters, Colombo 01.
198. P.W.S.B. Palipana, Police Station, Gampola.
199. N.V.R.G. Dharmakeerthi, Colombo Crime Division, Kolonnawa Road, Dematagoda.
200. S.A. Anil Priyantha, Minister's Security Division, No.440, Dr. Colvin R. de Silva Mawatha, Colombo 02.
201. A.M.P.K. Chandrasekera, Police Station, Badulla.
202. S.M.S.B. Senanayake, Police Station, Aranayake.

203. B.K.C.N.D. Wijethilake, Minister's Security Division, No.440, Dr. Colvin R. de Silva Mawatha, Colombo 02.
204. A.A.D.L. Sandasiri, OIC, Police Station, Mundal.
205. G.C.J. Kumara, Police Station, Mt. Lavinia.
206. R.S.W.B.T.T. Gamage, Police Headquarters, Colombo 01.
207. R.D.A. Rajapakse, OIC, Police Station Palei.
208. K.M.L.C. Jayasekera, Police Station, Gampaha.
209. M.P.D.D. Weerasinghe, Police Station, Trincomalee.
210. W. Darmasooriya, Police Station Kodikamam.
211. A.H.M.D.W.B. Herath, Building Division, Police Headquarters, Colombo 01.
212. W.P. Mendis, Sport Division, Field Force Headquarters, Thimbirigasyaya, Colombo 05.
213. U.G.S.P. Senarathne, Police Station, Ampara.
214. M.A.C.N. Francis, Police Station, Kegalle.
215. B.M.T. Basnayake, Police Station, Narahenpita.
216. R.S.A. de Silva, Colombo Crime Division, Kolonnawa Road, Dematagoda.
217. J.T. Senarathne, Police Station, Seeduwa,
218. D.B. Gnanathileke, Presidential Security Division, Colombo 01.

219. M.K.I. Asar, Police Station, Ampara.
220. D.M.J.S.P. Ubayasena, Police Hospital, No. 20 Nawala Road, Narahenpita, Colombo 05.
221. G.I.T. Karunarathne, Police Station, Nuwara Eliya.
222. I.K.M.T. Nilangasekera, OIC, Police Station, Balamuna.
223. Y.M.J. Bandara, OIC, Police Station, Bingiriya.
224. W.W. Indrajith, OIC, Police Station, Kollupitiya.
225. H.A.D.N. Karunarathne, OIC, SCIB, Crime Investigation Bureau, Mirihana.
226. K.A. Kithsiri Kumara, Traffic Headquarters, Colombo .11.
227. A.D. Karunarathne, Police Station , Rathnapura.
228. M.M. Upul Priyalal, OIC, Police Station, Anamaduwa.
229. M.M.S. Lakshman Bandara, Crime Division, Police Headquarters, Colombo 01.
230. P.W. Neelarathne, Police Station, Balagolla, Kandy.
231. Hon. Attorney General, Attorney General's Department , Colombo 12.
232. Dharmasena Dissanayake, Chairman.
233. A. Salam Abdul Waid, Member.
234. D. Shirantha Wijayathilleke, Member.



235. Prathap Ramanujam, Member.
236. V. Jegarasasingam, Member.
237. Santhi Nihal Seneviratne, Member.
238. S. Ranugge , Member.
239. D.L. Mendis, Member.
240. Sarath Jayathileke, Member.
241. H.M.G. Senarathne, Secretary,  
232<sup>nd</sup> to 241<sup>st</sup> Respondents;  
Public Service Commission,  
No. 177, Nawala Road, Colombo 05.
242. G.Prof. Siri Hettige, Chairman.
243. P.H. Manathunga, Member.
244. Savithree Wijesekera, Member.
245. Y.L.M. Zawahir, Member.
246. Mr. Anton Jeyanandan, Member.
247. Thilak Collure, Member.
248. Frande Silva, Member.  
242<sup>nd</sup> to 248<sup>th</sup> Respondents  
National Police Commission,  
Buddhaloka Mawatha,  
Block No. 3, BMICH Premises, Colombo  
07.

**Respondents**

**SCFR 131/2014**

R.A.R.D. Karunaratne,  
Uduwa, Kandy.

**Petitioner**

**Vs.**

Pujith Jayasundera, Inspector General of Police,  
Police Headquarters, Colombo 01.  
And 247 others.

**Respondents(In SCFR 131/2014)**

**SCFR 133/2014**

M.W.S.Uvindasiri,  
No. 40A, Thusaragira,  
Udaperadeniya, Peradeniya.

**Petitioner**

**Vs.**

Pujith Jayasundera, Inspector General of Police,  
Police Headquarters, Colombo 01.  
And 247 others.

**Respondents (In SCFR 133/2014)**

Before ; Jayantha Jayasuriya, PC, CJ  
B.P. Aluwihare, PC, J.  
L.T.B. Dehideniya, J

Counsel : Widura Ranawaka with Sudath Perera instructed  
by Suraj Rajapakse for the Petitioner in SCFR  
Nos. 131/2014 and 133/2014.

Widura Ranawaka with Sudath Perera and Shyamal  
Rathnayake for the Petitioner in SCFR No. 132/2014.

Rajive Gunathileke, SSC, for the Hon. Attorney General.

Argued on : 28.08.2020 and 21.09.2020

Decided on : 18.03.2021

**Jayantha Jayasuriya, PC, CJ**

Three Fundamental Rights applications namely SC FR 131/2014, SC FR 132/2014 and SC FR 133/2014 were taken up together for argument. Grievance pleaded by the petitioners in these three applications is common to all of them. Petitioners in all three cases agreed to abide by the judgement in SC FR 132/2014, the matter that was taken up for argument before this Court. Petitioners in all these three applications are police officers who were unsuccessful in securing promotions to the rank of Chief Inspector of Police in the year 2014. All Petitioners had joined regular force of Sri Lanka Police at different points of time and were in the rank of Inspector of Police, at the time of filing these applications.

The 1<sup>st</sup> Respondent, who is the Inspector General of Police, called for applications for the promotions to the rank of Chief Inspector of Police from the officers serving in the rank of Inspector of Police by the order bearing No. D/MD/PRO/927/2013 (RTM 141) dated 4<sup>th</sup> September 2013, a copy of which produced before this Court, marked as P2.

According to the said Order, applicants had to satisfy two factors to be eligible to apply for the aforesaid promotion. Firstly they should have completed eight years of active service in the rank of Inspector of Police by 25 September 2013 and confirmed in the service. Secondly, they should possess an unblemished record of service for five years preceding 25 September 2013.

Petitioners in all three applications submitted their applications for the promotion, but were unsuccessful. Two hundred and eighteen Inspectors of Police had been promoted through this process as published through the order bearing No. D/MD/ADM/440/2014 dated 23<sup>rd</sup> April 2014 (TM 594) of the First Respondent, a copy of which is produced marked P8. Said promotions were made with effect from 17 March 2014.

Respondents do not dispute the eligibility of the Petitioner to apply for the promotion described hereinbefore. Furthermore it is conceded that the Petitioner in this application was in the 71<sup>st</sup> position in the list of seniority, dated 15.11.2012. It is the contention of the Petitioner that his right to equality was violated by denying the promotion to him while thirty-one applicants who were positioned below the thousandth place in the seniority list, being promoted, over and above him. It is his contention that the aforementioned thirty-one promotees (hereinafter referred to as 'promotee-respondents') had been favourably treated. It is his contention that these promotee-respondents did not satisfy the basic requirement of eight years service in the rank of Inspector as all of them were absorbed to the Regular Service in the police force with effect from 01 February 2006. The Petitioner contends that the thirty-one promotee-respondents should not have been promoted as they have initially joined the reserve police service and have not completed 8 years in active service as at 25<sup>th</sup> September 2013. They had been absorbed to the rank of Inspector of Police in the Regular Force of the Police Department with effect from 01 February 2006 – approximately seven years and eight months before the closing date of the applications namely 25 September 2013. Furthermore the petitioner contend that he had a legitimate expectation to be promoted to the rank of Chief Inspector of Police through the process initiated in 2013 as he had completed thirty years of service in the Police Department of which eleven years in the rank of Inspector of Police and was positioned at the seventy first place in the list of seniority. It is his contention that the denial of this promotion is irrational and arbitrary and therefore is violative of the right guaranteed under Article 12(1) of the Constitution.

Petitioner, therefore moves this Court to declare that Fundamental Rights guaranteed to him under Article 12(1) of the Constitution, had been infringed by the 1<sup>st</sup> Respondent. Furthermore, the Petitioner initially sought an order quashing the promotions granted by the 1<sup>st</sup> Respondent by his order bearing No. D/MD/ADM/440/2014 dated 23<sup>rd</sup> April 2014, marked as P8, and to declare the said promotions are null and void. He was further seeking from this Court an order directing the 1<sup>st</sup> Respondent to promote the Petitioner to the rank of Chief Inspector with effect from 17<sup>th</sup> March 2014.

However it is pertinent to note that the Petitioner in this matter and the Petitioners in the two other connected matters had been promoted to the rank of Chief Inspector of Police subsequent to the institution of these proceedings before this Court. Therefore the Petitioners in all three applications are now seeking an Order from this Court to back date the promotions to have effect from 17<sup>th</sup> of March 2014, only. It is significant to note that 17<sup>th</sup> March 2014 is the date from which the promotions were granted to the 218 successful candidates who applied in consequent to the circular dated 4<sup>th</sup> September 2013. They contend that that the injustice caused to them in 2013-2014 could be satisfactorily remedied by an Order backdating the effective date of the promotion to the same date on which the promotions were granted by the impugned Order / Circular P8, issued by the 1<sup>st</sup> Respondent.

The 1<sup>st</sup> Respondent contends, that rights of none of the Petitioners had been violated through the promotions granted to two hundred and eighteen Inspectors of Police as per the Order dated 23 April 2014 (P8). He further contends that the petitioners had not been successful as they failed to obtain marks above the cut off mark namely, 72.5. All two hundred and eighteen successful candidates, including the thirty-one promotee-respondents (Inspectors of Police who were absorbed to the Regular Police Force from the Reserve Force in 2006), have scored marks above the cut-off mark; whereas the total marks obtained by the Petitioner had been 69. Therefore, Respondents contend that none of the promotees had been favourably treated as against any of the Petitioners but all applicants had been treated equally. A copy of the marks sheet of all the candidates who applied to the post of Chief Inspector of Police was produced in these proceedings marked 1R2.

A copy of the marking scheme for promotion to the rank of Chief Inspector of Police (2013) was produced marked P4. Marks under the said marking scheme is awarded out of 100, where 50 marks are allocated for the period of service and the remaining 50 marks are allocated for merit. Candidates were to be awarded 05 marks for each complete year in the rank of Inspector of Police and half of the marks allocated for each year of service, that is 2.5 marks, were to be awarded for completing service for a period of 06 months or more and less than one year.

The basis for the Petitioner's contention that the thirty-one promotee-respondents had been treated favourably, is twofold. Firstly, it is his contention that those who were absorbed from the Reserve Force in 2006 were not qualified to be considered for the promotion under consideration as they have not completed 'eight years of active service' by the closing date of the applications namely 25 September 2013. It is his contention that such officers had completed only seven years and six months. Petitioner's such calculation is on the basis that the period of service in the Reserve Force should not be counted when calculating the period of 'active service' of such officers. Secondly, he contends that the maximum marks that should have been awarded to such officers was, 37.5 out of 50 marks allocated to the 'period of service'. Furthermore, the petitioner relies on the respective positions on which the Petitioners vis-à-vis the promotee-respondents were placed in the list of seniority as at 15 November 2012. Petitioner was on the seventy first position whereas the promotee-respondents were below the thousandth position in the said list.

Furthermore, the learned Counsel for the Petitioner relying on the judgment of this Court in **Tuan Ishan Raban and others v. Members of the Police Commission and Pradeep Priyadarshana v. Members of the Police Commission and others** (2007) 2 SLR 351 submitted that service in the Reserve Force should not be equated to the service in Regular Force. In **Tuan Ishan Raban and others** (supra) petitioners challenged a provision in a circular issued by the Senior DIG (Administration) on 21 October 2003, which required Sub Inspectors in the Reserve Force to complete six years of service in the Regular Force for them to be considered for the promotion to the rank of Inspector of Police. Petitioners in the said application who were in the rank of Sub Inspector of Police and served in the Reserve Force had challenged the aforementioned circular in 2003 on the basis that it is violative of the rights. Her ladyship Justice Shirani Bandaranayake (as she then was) in the judgment dated 05.07.2006, held that the said circular did not violate the fundamental rights guaranteed in terms of Article 12(1) of the Constitution.

It was held,

*“On a careful comparison of the characters of the Reserve Police Force and the Regular Police Force, on the basis of the aforementioned analysis, it is evident that they belong to two different categories without any rational nexus to link the two groups for the purpose of putting them together.*

*In such circumstances, it is abundantly clear that the officers of the Regular Force and the Reserve Force belong to two different categories and therefore the decision of the Respondents to include Clause 2.1.III in the undated Circular P1 cannot be regarded as unequal, unfair, arbitrary or violative of the Petitioners fundamental rights guaranteed in terms of Article 12(1) of the Constitution.” (at page 361) .*

In arriving at this decision the court took into account various factors including the fact that the Reserve Force and Regular Force are categorized separately under the Police Ordinance, applicability of different requirements for recruitment and promotions in the two forces and differences in the terms of employment in the two forces.

The learned Senior State Counsel contended that the facts and circumstances in **Tuan Ishan Raban and others** (supra) can be distinguished from the facts and circumstances relating to the applications under consideration. The petitioners in the present applications and all promotee-respondents were in the Regular Force at the time they submitted their applications for promotions, in 2013. These promotee-respondents had been absorbed to the Regular Force in consequent to a cabinet decision based on a cabinet paper presented in the year 2006 which was produced marked 1R3. The cabinet approval was sought to absorb all police officers in all ranks in the Reserve Force to the Regular Force, who possess all qualifications necessary for recruitment to the Regular Force. The Secretary Ministry of Defence by his letter dated 03 February 2006 had conveyed the Cabinet Decision to absorb “officers of the Reserve Police Service into the Regular Police Service on condition that they have fulfilled all qualifications

required to be fulfilled when making recruitment to the Regular Police Service” (P6(a)). The detailed Scheme of Absorption was issued by the Inspector General of Police and is produced marked 1R4. One of the conditions on which the absorption had taken place is that “ the reservists who are absorbed will be placed in their seniority just below their counterparts of the Regular Cadre in the respective years in which they have been enlisted and also as per the date on which they have been promoted to the respective ranks”. Furthermore the said scheme required “all reservists recommended for absorption should be sent for further training”. The learned Senior State Counsel further submitted that absorption process implemented in 2006 had taken cognizance of the differences that existed between the Reserve Force and the Regular Force and the reservists who were absorbed were placed on respective places in the seniority list without any discrimination being caused to the officers who were in the Regular Force.

When all these factors are taken into account I am of the view that the *ratio-decidenti* in **Thuan Ishan Raban and others** can be distinguished and hence cannot be directly applied to the facts and circumstances of the matters under consideration. It is also pertinent to note that the position in the list of seniority was not a factor that was recognised either in setting the criteria for eligibility to apply for the promotion or a factor to assign extra marks for any applicant under the marking scheme applicable to the impugned promotions. Marks were awarded for the period of service (maximum of 50) and merit (maximum of 50). Therefore, the Petitioner’s contention that the his rights were violated by granting promotions to the promotee-respondents who were below 1000<sup>th</sup> position in the seniority list is devoid of merit.

Furthermore, the eligibility criteria as per the notice dated 04 September 2013 (P2) is completion of eight years active service in the rank of Inspector Police and being confirmed in the said rank. The argument of the Petitioner that none of the promotee-respondents were eligible to apply is on the premise that an applicant should have completed a period of eight years active service in the rank of Inspector of Police in the Regular Police Service. It is the contention of the Petitioner that active service mentioned in the said Circular refers only to active service in the Regular Police Service.



It is pertinent to observe that the said Circular only specifies that a minimum of 8 years in active service in the rank of Inspector of Police and it does not make a distinction between active service in the regular force and the active service in the reserve force. It is my view, acceptance of the submission of the Petitioners in this regard would amount to introducing an additional criteria which was not stipulated in the circular. Court in my view should desist from taking such a course. It is evident from document marked 1R6, that the said promotee-respondents had joined the reserve force between 1988 and 1995 in the rank of Sub-Inspector of Police in the Reserve Force. They were promoted to the rank of Inspector of Police in the Police Reserve Service between 1998.04.16 and 2002.10.05. Therefore, they were in the rank of Inspector of Police in the Reserve Police Service when they were absorbed into the Regular Police Service in 2006. These promotee-respondents have served an aggregate period between 10 to 14 years in the rank of Inspector of Police as at the date specified in the circular (25.09.2013).

It is also pertinent to note that subsequent to the abovementioned absorption scheme, the National Police Commission by a letter to the Inspector General of Police dated 07<sup>th</sup> August 2007, (a copy of which is marked as 1R5) had laid down the criteria to be followed in determining the seniority of Police officers who were absorbed to the Regular Police Service.

The criteria stipulated in the said letter is reproduced as follows,

“

- i. *Seniority of officers in their respective ranks shall be determined from the date of absorption; and they will be placed junior to all officers of the Regular Police Service on that date.*
- ii. *In the case of officers of the Reserve Police Service absorbed into the Regular Police Service on the basis of 8 years active service, in lieu of possessing the required educational qualifications, their seniority in the Regular Police Service will be reckoned after deducting the 8 years active service from their total service.*

- iii. *In the case of a Reserve Police personnel who had a number of breaks in his/her service due to suspension, demobilization, his/her seniority shall be determined according to period of his/her total active service.”*

Furthermore, the said letter has confirmed,

*“The Commission is in agreement with the Committee’s recommendations that in promoting officers from rank to rank, the past service of the Reserve Police Officers be given due recognition”.*

The criteria set out by the Police Commission as described hereinbefore indicates that the distinctions between the two categories of service were given due consideration all throughout the process of absorption of Officers of the Reserve Service to the Regular Service. Furthermore, it is nothing but fair to give due recognition to the past service of the Reserve Police Officers when promotions from one rank to another is considered while placing them in positions below the positions held by the officers in the Regular Force in the seniority list, at the time of absorption.

Therefore, in my view giving due regard to the period of active service in the Reserve Force in the rank of Inspector of Police in deciding whether an applicant had completed eight years of active service in the rank of Inspector of Police is neither arbitrary nor irrational. I am unable to hold in favour of the claim made by the petitioner in this regard namely that the period of active service in the reserve force should not have been considered in calculating the period of active service in the context of the eligibility to apply for promotions under consideration.

It is also important to observe that ‘each and every expectation’ cannot be treated as a ‘legitimate expectation’ in the context of the exercise of rights of an individual. A rational, equal and fair process is a factor *sine-qua-non* to ensure that a legitimate expectation of an individual to gain

promotions to higher ranks in the course of employment, is protected and respected. It is not only the petitioner but all other co-workers are entitled to entertain a legitimate expectation to be promoted into higher ranks in the course of their service in the Police Force. Therefore promotions granted to co-workers through a rational, equal and fair process could not lead to a breach of a legitimate expectation of the Petitioner who failed to obtain more than the cut-off mark prescribed through such promotion scheme.

For the foregoing reasons I am unable to hold that the impugned process through which promotions to the rank of Chief Inspector of Police were granted by the Inspector General of Police with effect from 17 March 2014 is unequal, unfair, arbitrary or violative of the Rights guaranteed to the Petitioner under Article 12(1) of the Constitution. Therefore I hold that the Petitioners have failed to establish that his fundamental rights guaranteed in terms of Article 12(1) of the Constitution had been violated. Therefore the application is dismissed. I make no order, as to costs.

Chief Justice

B.P. Aluwihare, PC, J.

I agree.

Judge of the Supreme Court

L.T.B. Dehideniya, J.

I agree.

Judge of the Supreme Court