

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

Balasooriya Arachchige Chandradasa,
C/O the Office of the Assistant
Commissioner of Co-operative
Development,
No. 72, Mahameghawatta Road,
Maharagama.
And 150 Others
Petitioners

SC/FR/169/2008

Vs.

Hon. Reginald Cooray,
Former Chief Minister of the Western Provincial
Council, Chief Minister's Office,
No. 32, Sir Marcus Fernando Mawatha,
Colombo 07.
And 33 Others
Respondents

Before: Hon. Justice E.A.G.R. Amarasekara
Hon. Justice Mahinda Samayawardhena
Hon. Justice Sobhitha Rajakaruna

Counsel: Pulasthi Hewamanna with Harini Jayawardhana for the
Petitioner.
Sureka Ahmed, S.S.C., for the 10th Respondent.
Dr. Wijeyadasa Rajapakshe, P.C., with Gamini Hettiarachchi
for the 16th to 32nd Respondents.

Argued on: 07.03.2025

Written submissions:

By the Petitioner on 27.03.2025.

By the 10th Respondent on 25.03.2025

By the 16th to 32nd Respondents on 24.03.2025.

Decided on: 22.05.2025

Samayawardhena, J.

The petitioners filed this fundamental rights application seeking the following reliefs in the prayer to the petition:

- (a) *Grant leave to proceed with this application;*
- (b) *Declare that the Petitioners' fundamental rights guaranteed by Article 12(1) of the Constitution have been infringed by the 1st to 9th and 11th to 15th Respondents or by anyone or more of them;*
- (c) *Declare that all Cooperative Inspectors in the Department of Cooperative Development of the Western Province are entitled to be placed in the same salary scale;*
- (d) *Make order directing the 6th and 11th to 15th Respondents or anyone or more of them to grant the MN-4-2006 scale to the Petitioners and all Cooperative Inspectors of the Department of Cooperative Development of the Western Province;*
- (e) *Grant compensation for the violation of the Petitioners' fundamental rights;*
- (f) *Grant costs;*
- (g) *Grant such other and further relief as Your Lordships' Court shall seem fit and meet.*

After hearing, the Court pronounced its judgment on 05.10.2023, primarily granting reliefs (b) and (c) above, holding that “the 1st to the 7th respondent

and the 8th respondent have acted in violation of the petitioners' fundamental rights guaranteed under Article 12(1) of the Constitution."

However, the Court further stated as follows:

We further direct the said respondents or their successors to take necessary steps to alleviate the effects caused to the petitioners by the impugned decision arrived in violation of the fundamental rights guaranteed under Article 12(1) of the Constitution.

The counsel for the petitioners filed a motion dated 21.10.2024 stating that although "*more than one year has passed since the delivery of judgment, the respondents or their successors have not taken any step to alleviate the effects caused to the petitioners of this application*".

In response, the Senior State Counsel appearing for the incumbent 7th respondent (the Secretary to the Ministry of Provincial Roads, Transport, Cooperative Development and Trade, Housing and Construction, Estate Infrastructure Facilities, Industry and Rural Development of the Western Province) filed a detailed affidavit of the said respondent, together with documents marked X1-X16, explaining the steps taken "*to alleviate the effects caused to the petitioners of this application.*" It was stated that steps had been taken to identify the group of cooperative inspectors presently on a higher salary scale (MN-4-2006) and to place all cooperative inspectors in a common salary scale (MN-3-2006), as the Court, in its judgment, had concluded that no proper scheme had been followed by the 1st to 8th respondents when a group of cooperative inspectors (including the 16th to 32nd respondents) had been placed on the MN-4-2006 salary scale. The Court has observed that even a class I officer of the Cooperative Inspectors' Service was entitled to the MN-3-2006 salary scale.

After a brief oral hearing on the matter raised in the petitioners' motion, counsel were permitted to file written submissions.

In the written submissions filed on behalf of the petitioners, it is stated that the mere placement of all cooperative inspectors on a common salary scale (MN-3-2006) will not “*alleviate the effects caused to the petitioners*”. Learned counsel for the petitioners submits that “*the State must look at uplifting the petitioners’ position, as opposed to merely casting down the respondents to the position they should have been in*”, and suggests that “*a fit mode of redress available to the petitioners, who have suffered for more than fifteen years due to the arbitrary decision of the respondents, is the grant of monetary compensation as a solatium for the hurt caused to the petitioners. We submit it is only by the grant of monetary compensation that the effects caused to the petitioners can be alleviated.*”

The petitioners, in paragraph (e) of the prayer to the original petition, specifically sought the grant of “compensation” for the violation of their fundamental rights, but the Court in its judgment did not grant such relief. Therefore, they cannot seek that relief again at this stage.

Learned President’s Counsel appearing for the 16th to 32nd respondents states that such “demotion” from the MN-4-2006 salary scale to the MN-3-2006 salary scale is contrary to the spirit of the judgment. We are unable to agree. As the learned Senior State Counsel points out, the said officers (including the 16th to 32nd respondents) were not placed on the MN-4-2006 salary scale pursuant to a promotion or upon reaching a higher class or grade, but rather on a basis which the Court found to be unacceptable. Accordingly, placing them on the correct salary scale is neither a demotion nor contrary to the spirit of the judgment.

We are satisfied that the successors of the 1st to 8th respondents have taken steps to comply with the judgment dated 05.10.2023. We further hold that compensation cannot be awarded to the petitioners. As the cooperative inspectors who were promoted to the MN-4-2006 salary scale have

admittedly either passed away or retired from service, we are unable to set a timeline to place all officers on the common salary scale of MN-3-2006.

Judge of the Supreme Court

E.A.G.R. Amarasekara, J.

I agree.

Judge of the Supreme Court

Sobhitha Rajakaruna, J.

I agree.

Judge of the Supreme Court