

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

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

SC.FR Application No.36/2020  
with 348/12, 530/12, 71/16 &  
SC. CONTEMPT No. 05/20

**SC FR Application No. 36/20**

1. K. T. T. Dewapriya  
Abeywardena, Assistant  
Superintendent of Police,  
Police Engineering Unit,  
101/1, Kew Road, Colombo 02.
2. S. B. P. M. P. G. Y. Bandara,  
Assistant Superintendent of Police,  
Police Engineering Unit,  
101/1, Kew Road, Colombo 02.
3. Tharaka Seneviratne,  
Assistant Superintendent of Police,  
Information Technology Division,  
Police Head Quarters, Colombo 02.
4. P. M. K. P. Gunawardena,  
Assistant Superintendent of Police,  
Police Transport Division,  
Narahenpita, Colombo 05.

**PETITIONERS**

**-Vs-**

1. Mr. K.W.E.Karaliyadda Chairman,  
National Po-lice Commission,

Block No. 9, B.M.I.C.H. Premises,  
Bauddhaloka Mawatha, Colombo 07

1A) Mr. E. W. M. Lalith  
Ekanayake Chairman,  
National Police Commission,  
Block No. 9, B.M.I.C.H.  
Premises, Bauddhaloka  
Mawatha, Colombo 07.

2. Secretary, National Police  
Commission,  
Block No. 9, B.M.I.C.H. Prem-  
ises, Bauddhaloka Mawatha,  
Colombo 07

2A) Mrs. Thamara D. Perera  
Secretary,  
National Police Commission,  
Block No. 9, B.M.I.C.H. Premises,  
Bauddhaloka Mawatha, Colombo 07

3. Mr. Gamini  
Nawarathne Member,  
National Police Commission,  
Block No. 9, B.M.I.C.H.  
Premises, Bauddhaloka  
Mawatha, Colombo 07.

4. Ms. Savithree D. Wijesekara,  
Member, National Police  
Commission, Block No. 9,  
B.M.I.C.H. Premises,  
Bauddhaloka Mawatha, Colombo 07.

5. D. Tilak Collure The Member,  
National Police Commission,

Block No. 9,  
B.M.I.C.H. Premises,  
Bauddhaloka Mawatha,  
Colombo 07.

6. Mr. Ashoke Wijethilake,  
The Member,  
National Police Commission,  
Block No. 9,  
B.M.I.C.H. Premises,  
Bauddhaloka Mawatha,  
Colombo 07.

7. Mr. Y. L.M. Zawahir,  
Member,  
National Police Commission,  
Block No. 9, B.M.I.C.H.  
Premises,  
Bauddhaloka Mawatha,  
Colombo 07.

8. Mr. G. Jeyakumar,  
Member,  
National Police Commission,  
Block No. 9,  
B.M.I.C.H. Premises,  
Bauddhaloka Mawatha,  
Colombo 07.

8A) Mrs. D.K.Renuka  
Ekanayake

8B) Mr. K. Karunaharan

8C) Mr. P.G.S. Gamini De

Silva

8D) Mr. Dilshan Kapila  
Jayasuriya

8A to 8 D of Members,  
National Police Commission,  
Block No. 9, B.M.I.C.H.  
Premises,  
Bauddhaloka Mawatha, Colombo 07.

9. Inspector-General of Police,  
Police Headquarters,  
Colombo 01.

10. Senior Deputy Inspector of Police  
(Administration). Police Headquarters,  
Colombo 01.

11. Deputy Inspector General of Police  
(Human Resources management Rang),  
Police Headquarters, Colombo 01.

12. Director Human Resources  
Management Division,  
Police Headquarters, Colombo 01.

13. Secretary Ministry of Defence,  
No 15/5, Baladaksha Mawatha, Colombo

14. Honorable Attorney General  
Department of the Attorney General,  
Colombo 12.

## **RESPONDENTS**

15. Hon. Justice Jagath  
Balapatabendi Chairman,  
Public Service Commission
16. Mrs. Indrani Sugathadasa  
Member, Public Service  
Commission
17. Mr.V.Shivagnanasothy  
Member,  
Public Service Commission
18. Dr.T.R.C.Ruberu  
Member, Public Service Commission
19. Mr. Ahamod Lebbe Mohamed  
Saleem Member,  
Public Service Commission
20. Mr. Leelasena Liyanagama  
Member, Public Service  
Commission
21. Mr. Dian Gomes  
Member, Public Service  
Commission
22. Mr. Dilith Jayaweera  
Member, Public Service  
Commission

23. Mr. W.H.Piyadasa  
Member, Public Service  
Commission

All of 15th to 23<sup>rd</sup>  
Public Service Commission  
No 1200/9, Rajamalwatta Road,  
Battaramulla

**ADDED**

**RESPONDENTS**

**SC FR Application No. 348/12**

1. K. T. T. DevapriyaAbeywardene,  
Assistant Superintendent of Police,  
Police Engineering Unit,  
101/1, Kew Road, Colombo 02
2. S. B. P. M. P. G. Y. Bandara,  
Assistant Superintendent of Police,  
Police Engineering Unit,  
101/1, Kew Road, Colombo 02.
3. Tharaka Senaviratne,  
Assistant Superintendent of Police,  
Information Technology Division,  
Police Head Quarters, Colombo 01.
4. P. M. K. P. Gunawardena,  
Assistant Superintendent of Police,  
Police Transport Division, Narahenpita,  
Colombo 5.

**PETITIONERS**

-Vs-

1. Vidyajothi Dr. Dayasiri Fernando,  
Chairman, Public Service Commission,  
1A. Sathya Hettige, Substituted  
Chairman, Public Service  
Commission

**SUBSTITUTED CHAIRMAN OF THE PUBLIC**  
**SERVICE COMMISSION**

2. The Secretary, Public Service Commission,
3. Mr. PalithaKumarasingha P.C. Member,
4. Mrs. Sirimavo A. Wijerathne, Member,
5. Mr. S. C. Mannapperuma, Member,
6. Mr. AnandaSenevirthatne, Member,
7. Dr. N. H. Pathirana, Member,
8. Mr. S. Thillandarajah, Member,
9. Mr. M.D.W. Ariyawansa, Member,
10. Mr. A. Mohomed Nahiya, Member,

3A. S. C. Mannapperuma, Member,  
Public Service Commission, No: 177,

Nawala Road, Narahenpita,  
Colombo-05.

4A. Ananda Senevirathne, Member,  
Public Service Commission,  
No: 177, Nawala Road, Narahenpita,  
Colombo-05.

5A. N. H. Pathirana, Member,  
Public Service Commission,  
No: 177, Nawala Road,  
Narahenpita, Colombo-05.

6A. S. Thillanadarajah, Member,  
Public Service Commission,  
No: 177, Nawala Road, Narahenpita,  
Colombo-05.

7A. A. Mohomed Nahiya, Member,  
Public Service Commission,  
No: 177, Nawala Road, Narahenpita,  
Colombo-05.

8A. Kanthi Wijethunga, Member,  
Public Service Commission,  
No: 177, Nawala Road, Narahenpita,  
Colombo-05.



9A. Sunil. S. Sirisena, Member,  
Public Service Commission,  
No: 177, Nawala Road, Narahenpita,  
Colombo-05

10A. I.N. Soysa, Member,  
Public Service Commission,  
No: 177, Nawala Road, Narahenpita,  
Colombo-05.

**SUBSTITUTED MEMBERS OF THE PUBLIC  
SERVICE COMMISSION**

11. Mr. N. K. Illangakoon,  
Inspector General of Police,  
Police Head Quarters, Colombo 01.

11A. Mr. C. D. Wickramaratne,  
Act. Inspector General of Police,  
Police Head Quarters, Colombo 01.

12. Mr. Gamini Nawaratna,  
Senior Deputy Inspector General of Police,  
Administration,  
Police Head Quarters, Colombo 01.

12A. Mr. C. D. Wickramaratne,  
Senior Deputy Inspector General of Police,  
Administration,  
Police Head Quarters, Colombo 01.

13. Mr. P.B. Nikahatiya, Deputy Inspector  
General of Police,

Transport and Communication Range,  
Narahenpita, Colombo 5.

13A. Mr. Ranmal Kodituwakku,  
Deputy Inspector General of Police,  
Transport and Communication Colombo 05  
Range,  
Narahenpita, Colombo 05

14. Mr. Ajith Wickramasekara,  
Deputy Inspector General of Police,  
Personal Range,  
Police Headquarters, Colombo-01

14A. Mr. G.A.U.R. Galgamuwa,  
Senior Superintendent of Police,  
Personnel Division, Police head Quarters,  
Colombo 01.

14B. Mr. A.L.U.N.P. Liyanage Senior  
Superintendent of Director Human  
Resources Management Division,  
Police head Quarters, Colombo 01.

15. 15. H.D.K.S Jayasekara,  
Senior Superintendent of Police,  
Director, Police Transport Division,  
Narahenpita, Colombo 5.

15A. Mr. G S. Walgama,  
Senior Superintendent of Police,  
Director, Police Transport Division,  
Narahenpita, Colombo 5.

15B. Mr. Kelum C. Thilakaratne,  
Senior Superintendent of Police,

Director, Police Transport Division,  
Narahenpita, Colombo 05.

16. Mr. W.K Jayalath,  
Senior Superintendent of Police,  
Director of Recruitment,  
Recruiting Division,  
No. 375, "VilasithaNiwasa", Sri  
Sambuddha Jayanthi Mawatha, Colombo  
06.

16A. Mr. U.P.A.D.K.P. Karunanayake,  
Senior Superintendent of Police,  
Director of Recruitment,  
Recruiting Division,  
No. 375,"VilasithaNiwasa", Sri Sambuddha  
Jayanthi Mawatha, Colombo 06.

16B. Mr. U.A.L Udahawatta,  
Senior Superintendent of Police,  
Director of Recruitment,  
Recruiting Division,  
No. 375,"VilasithaNiwasa", Sri Sambuddha  
Jayanthi Mawatha, Colombo 06.

17. Mr. ChampikaSiriwardana,  
Senior Superintendent of Police,  
Director of Criminal Record Division,  
P.O. box 526, Torrinton Square,  
Colombo 07

17A.Mr. J. A. D. M. P. N. Jayakody,  
Senior Superintendent of Police,  
Director of Criminal Record Division,  
P.O. box 526, Torrinton Square,  
Colombo 07

17B. Mr. M.T.T. Ruwan Kumara,  
Senior Superintendent of Police,  
Director of Criminal Record Division,  
P.O. box 526, Torrington Square,  
Colombo 07

18. Hon. Attorney General,  
Attorney General's Department,  
Colombo 12.

**RESPONDENTS**

19. Secretary,  
National Police Commission,  
Block No. 9,  
B.M.L.C.H. Premises,  
Buddhaloka Mawatha, Colombo 07.

19A. Secretary,  
Mrs. Thamara D. Perera National Police  
Commission, Block No. 9,  
B.M.I.C.H. Premises,  
Buddhaloka Mawatha,  
Colombo 07.

20. Prof. Siri Hettige, Chairman,  
National Police Commission,  
Block No. 9, B.M.I.C.H. Premises,  
Buddhaloka Mawatha, Colombo 07.

20A. Mr. K.W.E. Karalliyadda,  
Chairman,  
National Police Commission, Block No. 9,  
B.M.I.C.H. Premises,  
Buddhaloka Mawatha, Colombo 07.

**20B.Mr. E. W. M. Lalith Ekanayake,  
Chairman, National Police  
Commission, Block No. 9, B.M.I.C.H.  
Premises, Bauddhaloka Mawatha,  
Colombo 07.**

**SUBSTITUTED CHAIRMAN OF THE POLICE  
COMMISSION**

21. Mr. P.H. Manatunga Member,  
National Police Commission,  
Block No. 9, B.M.I.C.H. Premises,  
Bauddhaloka Mawatha, Colombo 07

22. Ms. Savithree Wijesekara,  
Member, National Police Commission,  
Block No. 9, B.M.I.C.H. Premises,  
Colombo 07. Bauddhaloka Mawatha,

23. Tilak Collure The Member,  
National Police Commission, Block No. 9,  
B.M.I.C.H. Premises, Bauddhaloka  
Mawatha, Colombo 07.

24. Frank de Silva The Member,  
National Police Commission,  
Block No. 9, B.M.I.C.H. Premises,  
Bauddhaloka Mawatha, Colombo 07.

25. Mr. Y. L,M. Zawahir,  
Member, National Police Commission,  
Block No. 9, B.M.I.C.H. Premises,  
Bauddhaloka Mawatha,  
Colombo 07.

26. Mr. Anton Jeyanadan, Member,

National Police Commission, Block No. 9,  
B.M.I.C.H. Premises, Colombo 07.  
Buddhaloka Mawatha,

**ADDED RESPONDENTS**

27. Mr. Gamini Nawarathne Member,  
National Police Commission,  
Block No. 9, B.M.L.C.H. Premises,  
Colombo 07. Buddhaloka Mawatha,

28. Mr. Asoka Wijetilleka Member,  
National Police Commission,  
Block No. 9, B.M.I.C.H. Premises,  
Colombo 07. Buddhaloka Mawatha,

29. Mr. G. Jeyakumar Member,  
National Police Commission,  
Block No. 9, B.M.I.C.H. Premises,  
Buddhaloka Mawatha, Colombo 07.

**29A. Mrs. D.K.Renuka Ekanayake**

**29B. Mr. K. Karunaharan**

**29C. Mr. P.G.S. Gamini De Silva**

**29D. Mr. Dilshan Kapila Jayasuriya**

**29A to 29D of Members,  
National Police Commission,  
Block No. 9, B.M.I.C.H. Premises,  
Buddhaloka Mawatha,  
Colombo 07.**

**SUBSTITUTED MEMBERS OF THE POLICE**

**COMMISSION**

1. Mrs. K. B. Senaratne, Woman  
Superintendent of Police Grade II (SP),  
Police Engineering Unit, 101/1, Kew Road,  
Colombo 02.

**PETITIONER**

-Vs-

1. Vidyajothi Dr. Dayasiri Fernando,  
Chairman, Public Service Commission,  
  
1A. SathyaHettige, Substituted Chairman,  
Public Service Commission

**SUBSTITUTED CHAIRMAN OF THE PUBLIC  
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7. Dr. N. H. Pathirana, Member,
8. Mr. S. Thillandarajah, Member,
9. Mr. M.D.W. Ariyawansa, Member,
10. Mr. A. MohomedNahiya, Member,

All of, Public Service Commission, No. 117,  
Nawala Road, Narahenpita, Colombo 05.

3A. S.C Mannapperuma, Member, Public Service Commission, No: 177, Nawala Road, Narahenpita, Colombo-05

4A. AnandaSenevirathne, Member, Public Service Commission, No: 177, Nawala Road, Narahenpita, Colombo-05

5A. N. H. Pathirana, Member, Public Service Commission, No: 177, Nawala Road, Narahenpita, Colombo-05

6A. S. Thillandarajah, Member, Public Service Commission, No: 177, Nawala Road, Narahenpita, Colombo-05

7A. A. MohamedNahiya, Member, Public Service Commission, No: 177, Nawala Road, Narahenpita, Colombo-05.

8A. KanthiWijethunga, Member, Public Service Commission, No: 177, Nawala Road, Narahenpita, Colombo-05

9A. Sunil. S. Sirisena, Member, Public Service Commission, No: 177, Nawala Road, Narahenpita, Colombo-05.

10A. I.N.Soyso, Member, Public Service Commission, No: 177, Nawala Road, Narahenpita, Colombo-05.

**SUBSTITUTED MEMBERS OF THE PUBLIC**  
**SERVICE COMMISSION**



11. Mr. N. K. Illangakoon, Inspector General of Police, Police Head Quarters, Colombo 01.

12. Mr. Gamini Nawaratna, Senior Deputy Inspector General of Police, Administration, Police Head Quarters, Colombo 01.

13. 13. Mr. Ajith Wickramasekara, Deputy Inspector General of Police, Personal Range, Police Headquarters, Colombo-01

13A.Mr. G. A. U. R. Galgamuwa, Senior Superintendent of Police, Personnel Division, Colombo 01. Police head Quarters,

14. Mr. W.K Jayalath, Senior Superintendent of Police, Director of Recruitment, Recruiting Division, No. 375, "Vilasitha Niwasa", Sri Sambuddha Jayanthi Mawatha, Colombo 06.

14A. Mr. U.P.A.D.K.P. Karunanayake, Senior Superintendent of Police, Director of Recruitment, Recruiting Devision, No. 375, "Vilasitha Niwasa", Sri Sambuddha Jayanthi Mawatha, Colombo 06.

15. Mr. Champika Siriwardena, Superintendent of Police Grade I (SSP), SSP Parliament Division Director of Parliament Division, Sri Jayawardhanapura, Parliament Complex, Kotte.

16. Mr. K.A. Rohana, Superintendent of Police Grade 1 (SSP) Director of Police Public Relations Headquarters, Colombo 01. Division, Police
17. Mr. W. N. S. W. Wickramasinghe, Superintendent of Police Grade I (SSP), SSP-Office Vavuniya
18. Mr. L.P.S.P. Sandugahawatta, Superintendent of Police Grade 1 (SSP), SSP-Office, Puttlam
19. Mr. J.A.P.P. Jayakody, Superintendent of Police Grade I (SSP), Police Public Relations Division, Police Headquarters, Colombo 01.
20. Mr.J.A.D.M.P.N.Jayakody, Superintendent of Police Grade I (SSP) Director of Criminal Record Division, P.O. box 526, Torrington Square, Colombo 07.
21. Mr. R.M.N.G.O. Perera, Superintendent of Police Grade 1 (SSP)President's Security Division, Janadhipathi Mawatha, Temple trees', Colombo 03.
22. Mr. W.M.M. Wickramasinghe, Superintendent of Police Grade I (SSP), SSP-Office Nugegoda
23. Mr. H.K.D.W. M.P.B.Rathnathilake, Superintendent of Police, Grade I (SSP)

24. Mr. B.D. Chandrasiri, Superintendent of Police Grade I (SSP), Special Task Force, Gonahena, Kadawatha.
25. Mr. W.M.R.M. Welikanna, Superintendent of Police Grade I (SSP) State Intelligence Service, No.10, Cambridge Place, Colombo 07.
26. Mr. D.R.L. Ranaweera, Superintendent of Police Grade I (SSP) Criminal Investigation Department Criminal Investigation Department, New Secretariat Building, Police Headquarters, Colombo 01.
27. Mr. S. W. Y. B. S. B. Baddewela, Superintendent of Police Grade I (SSP) Retd
28. Mr. A.K. Samarasekara, Superintendent of Police Grade I (SSP) Retd.
29. Mr. M.H.K.B. Mahagedara, Superintendent of Police, Grade I (SSP) Director of National Police Academy, Thimbirigaskatuwa, Katana
30. Mr. D.R.G.M.B. Ellepola, Superintendent of Police Grade I (SSP), SSP Office, Kandy.
31. Mr. D. Gajasinghe, Superintendent of Police Grade I (SSP) PA to Inspector General of Police Police Headquarters, Colombo-01

32. Mr. K.P.P. Fernando, Superintendent of Police Grade I (SSP), SSP - Office Ratnapura
33. Mr. L.K.J.G.S. Peiris, Superintendent of Police Grade 1 (SSP) State Intelligence Service, No. 10, Cambridge Place, Colombo 07.
34. Mr. K.P.M. Gunaratne, Superintendent of Police Grade 1 (SSP) President's Security Division, Janadhipathi Mawatha, Temple trees' Colombo 03.
35. Mr. L.H.K.W.K. Silva, Superintendent of Police Grade 1 (SSP) Director of Police Narcotics Bureau, 3rd Floor, New Secretariat Building, Colombo 01.
36. Mr. A. H. M. W. C. K. Alahokoon, Superintendent of Police Grade I (SSP), SP Office, Nikaweratiya,
37. Hon. Attorney General, Attorney General's Department, Colombo 12.

### **RESPONDENTS**

38. Secretary, National Police Commission, Block No. 9, B.M.I.C.H.Premises, Bauddhaloka Mawatha, Colombo 07.

#### **38A. Secretary**

**Mrs. Thamara D. Perera National Police Commission, Block No. 9, B.M.I.C.H. Premises, Bauddhaloka Mawatha,**

## **Colombo 07.**

39. Prof. Siri Hettige,  
Chairman, National Police Commission,  
Block No. 9, B.M.I.C.H. Premises,  
Buddhaloka Mawatha, Colombo 07.

**39A Mr.E.W.M. Lalith Ekanayake  
Chairman, National Police  
Commission, Block No. 9, B.M.I.C.H.  
Premises, Buddhaloka Mawatha,  
Colombo 07.**

40. Mr. P.H. Manatunga  
Member, National Police Commission,  
Block No. 9, B.M.I.C.H. Premises,  
Buddhaloka Mawatha, Colombo 07.

41. Ms. Savithree Wijesekara, Member,  
National Police Commission, Block No. 9,  
B.M.I.C.H. Premises, Buddhaloka  
Mawatha, Colombo 07.

42. Tilak Collure, The Member, National  
Police Commission, Block No. 9,  
B.M.I.C.H. Premises, Buddhaloka  
Mawatha, Colombo 07.

43. Frank de Silva, The Member, National  
Police Commission, Block No. 9, B. M. I. C.  
H. Premises, Buddhaloka Mawatha,  
Colombo 07.

44. Mr. Y. L, M. Zawahir, Member, National  
Police Commission, Block No. 9,  
B.M.I.C.H. Premises, Buddhaloka  
Mawatha, Colombo 07.

45. Mr. Anton Jeyanadan, Member, National Police Commission, Block No. 9, B.M.I.C.H. Premises, Bauddhaloka Mawatha, Colombo 07.

**45A Mr. P.G.S. Gamini De Silva**

**45B Mr. Dilshan Kapila Jayasuriya**

**45C Mr. K. Karunaharan**

**45D Mrs. D.K.Renuka Ekanayake**

**45A to 45C Members, National Police Commission, Block No. 9, B.M.I.C.H. Premises, Bauddhaloka Mawatha, Colombo 07.**

**ADDED RESPONDENTS**

**Before** : Murdu N.B. Fernando, PC, CJ,  
A.H.M.D. Nawaz, J &  
Kumudini Wickremasinghe, J.

**Counsel** : Saliya Pieris, PC with Thanuka Nandasiri  
Instructed By Manjula Balasooriya for the  
Petitioners.  
Hashini Opatha, SSC instructed by Rizni  
Firdous SSA For all Respondents.

**Argued on** : 28.10.2024

**Decided on:** 25.07.2025

**A.H.M.D. Nawaz, J.**

## **Introduction**

1. This Court is called upon to determine whether the actions of the Respondents in classifying the Petitioners—officers previously recruited to the Reserve Assistant Superintendent of Police cadre—into a "Support Service" within the regular police structure amounts to a violation of their fundamental rights guaranteed under Article 12(1) of the Constitution.
2. This application SC FR 36/2020 consolidates the grievances arising from a series of prior proceedings, namely SC FR 374/07, SC FR 348/12, SC FR 71/16, and SC Contempt 05/20. The parties have consented to the determination in this case as dispositive of the other related matters.

## **Factual and Procedural History**

3. The Petitioners were recruited as Reserve Assistant Superintendents of Police on 21<sup>st</sup> March 2006, at a time when the Police Reserve Service had been abolished. By a Cabinet decision, it was agreed that these officers would be absorbed into the Regular Police Service.

4. Due to administrative inertia, this integration was not effectuated, leading to SC FR 374/07, in which the State undertook—on 10th June 2008—to absorb the Petitioners into the Regular Service with effect from the original date of appointment. That application was settled based on the undertaking.
5. However, subsequent to that undertaking, the then Inspector General of Police issued Circular No. 2070/2008 dated 27th June 2008, purporting to re-classify the Petitioners into Special and Technical Cadres. This act, which followed just 17 days after the State's commitment before this Court, sparked further litigation in SC FR 348/12.
6. While the matter remained thus unresolved, a seniority list dated 29th January 2016 placed the Petitioners in a segregated list separate from officers who were recruited subsequently. This arbitrary categorization formed the basis of SC FR 71/16.
7. Despite clear instructions from the National Police Commission (letters dated 15.10.2008 and 30.10.2009) that the Petitioners were part of the Regular Cadre, the Respondents issued new letters of appointment on or before 9th January 2020 reassigning the Petitioners into a so-called "Support Service". This final act triggered the present application.

### **Petitioners' Contentions**

8. The Petitioners contend:



- That they have been continuously discriminated against despite the Supreme Court-sanctioned settlement in SC FR 374/07.
- That their classification into "Support Services" is arbitrary and lacks consultation or justification.
- That they have a legitimate expectation to be treated as part of the Regular Police Cadre.
- That similarly circumstanced officers were treated more favourably in terms of career progression.
- That their non-promotion and exclusion from the main seniority list constitute a violation of Article 12(1) of the Constitution.

## **Respondents' Preliminary Objections**

9. The Respondents assert:

- That a reasonable classification exists based on the Petitioners' educational qualifications and specialized training.
- That grievances have been resolved through approved Schemes of Recruitment.
- That the claims are time-barred due to delays in challenging Circular 2070/2008

10. I must state that it is not the delay in challenging the IGP's circular that surfaces to the fore but the continuing episodes of classification that pervades the case.

### **Reasonable Classification**

11. The law permits classification, but it is trite that classification must not be arbitrary and must have a rational nexus to the objective sought. The Petitioners were absorbed into the Regular Cadre by a Cabinet decision and by the unequivocal undertaking given to this Court. The classification imposed by Circular 2070/2008 lacks legal sanction from the National Police Commission or the Public Services Commission and undermines the legitimate expectation created by the State's undertaking.

12. Having regard to the pleadings and documents filed on behalf of all parties, this Court takes the view that the *post-hoc* creation of a "Support Service" and issuance of appointment letters without consultation or objective criteria offends Article 12(1) of the Constitution.

### **Legitimate Expectation**

13. The Petitioners' expectation of equal treatment with similarly situated officers is founded on law and fact. Letters from the National Police Commission support their contention that they were absorbed into the Regular Cadre effective 21st March 2006. The failure to treat them on par with other regular officers and the

sudden creation of a new cadre violates the doctrine of legitimate expectation. The Petitioners have undergone training in the same way as the other officer any classification s in the regular service

### **Arbitrariness and Discrimination**

14. The Court would allude to *Rienzie Perera v UGC, Charanjit Lal Chowdhury v Union of India*<sup>1</sup> and *Dayarathna v Minister of Health*<sup>2</sup> to affirm that arbitrariness, lack of consultation, and discriminatory treatment of individuals in similar positions contravenes the principles of equality and non-discrimination enshrined in Article 12(1). In fact, *Chowdhury v Union of India*<sup>3</sup> it was clearly stated:

*“a law applying to one person or one class of persons or one class of persons is constitutional if there is sufficient basis for the reason or reason for it. Any classification which is arbitrary and which is made without any basis is no classification and a proper classification must always rest upon some difference and must bear a reasonable and just relation to the things in respect of which it is proposed.”*

15. The classification into a Support Service was not merely administrative reorganization but had significant career implications. The Petitioners missed

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<sup>1</sup> (1978) 1 Sri L.R.128.

<sup>2</sup> (1999) 1 Sri L.R. 393.

<sup>3</sup> (1950) AIR 41, 1950 SCR 869

promotional opportunities that, per the Regular Cadre Scheme, should have placed them at the rank of DIG by March 2023.

### **Delay and Time Bar**

16. The Court finds the argument on time bar to be without merit. The continuous nature of the violation and the absence of finality in earlier proceedings keeps the cause of action alive. Further, the issuance of the 2020 appointment letters amounts to a fresh executive act warranting scrutiny.

### **Contempt Allegation (SC Contempt 05/20)**

17. While this Court does not reach a finding on contempt in this judgment, it must be noted that non-compliance with the undertaking given in SC FR 374/07 reinforces the Petitioners' claim of a continuing violation of their fundamental rights. For the foregoing reasons, this Court holds that:

- The decision to categorize the Petitioners into a separate Support Service without consultation, and contrary to a prior undertaking and Cabinet decision, amounts to an infringement of the Petitioners' fundamental rights under Article 12(1).
- The Petitioners are entitled to be treated as part of the Regular Police Cadre with effect from 21st March 2006.
- The appointment letters dated on or before 9th January 2020 are quashed to the extent they assign the Petitioners to a separate Support Service.

In the circumstances this Court makes the following orders

1. A declaration is made that the Petitioners are entitled to be recognized as members of the Regular Police Cadre effective from 21st March 2006.
2. The Respondents are directed to reintegrate the Petitioners into the Regular Police Cadre and restore their seniority and career progression as per the applicable scheme of recruitment.
3. The impugned appointment letters categorizing them into the Support Service are hereby quashed.

**Judge of the Supreme Court**

**MURDU N.B. FERNANDO, PC. CJ.**

I agree

**CHIEF JUSTICE**

**KUMUDINI WICKREMASINGHE J.**

I agree

**JUDGE OF THE SUPREME COURT**