

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 of the Democratic Socialist
Republic of Sri Lanka.*

SC/FRA/10/2022

D.W.R.N.M.M.W.I.H Madugalle
No. 256, Udawaththa Walawwa,
Kondadeniya,
Katugasthota.

PETITIONER

Vs.

1. Air Marshal S.K. Pathirana,

1a. Air Marshal R.A.U.P.Rajapaksa (Retired)

1b. Air Marshal V.B.Edirisinghe

All are of,
The Commander,
Sri Lanka Air Force,
Air Force Headquarters,
Colombo.

2. Air Vice Marshal Prasantha Payo,

2a. Air Vice Marshal R.A.U.P.Rajapaksa

2b. Air Vice Marshal L.S.Wickremeratne (Retired)

2c. Air Vice Marshal Lasitha Sumanaweera

All are of,
Chief of Staff,
Sri Lanka Air Force,
Air Force Headquarters,
Colombo.

3. Air Vice Marshal D.K. Wanigasooriya,

3a. Air Vice Marshal V.B.Edirisinghe

3b. Air Vice Marshal L.H.Sumanaweera (Promoted)

3c. Air Vice Marshal N.H.D.N.Dias

All are of,
Director Air Operations
Sri Lanka Air Force,
Air Force Headquarters,
Colombo.

4. Air Vice Marshal Lalith Jayaweera,
Director Health Service,
Sri Lanka Air Force,
Air Force Headquarters,
Colombo.

5. Air Vice Marshal R.S. Biyanwila,

5a. Air Vice Marshal K.M.K.Keppetipola (Retired)

5b. Air Vice Marshal V.T.S. Sirimanna

All are of,
Director Administration,
Sri Lanka Air Force,
Air Force Headquarters,
Colombo.

6. The Hon. Attorney General,
Attorney General's Department,
Colombo 12.

RESPONDENTS

D.W.R.N.M.M.W.I.H Madugalle v Air Marshal V.B. Edirisinghe, The Commander, Sri Lanka Air Force and Others
Case No. SC/FRA/ 10/2022

Before: Janak De Silva, J.
Dr Sobhitha Rajakaruna, J.
Menaka Wijesundera, J.

Counsel: Mahesh Senaratne for the Petitioner
Sureka Ahmed, SSC for the Respondents

Written Submissions: Petitioner : 10 March 2025 & 02 April 2026
Respondents : 10 March 2025

Argued on: 24 February 2026

Decided on: 24 September 2026

Judgement

Dr Sobhitha Rajakaruna J.

The Petitioner, an Officer of the Sri Lanka Air Force, joined the Air Force in 2014 as an Officer Cadet of the 57th Intake and was commissioned in 2017. He was thereafter promoted to the rank of Flying Officer in 2018 and, at the material time, served as an Operations Co-pilot attached to No. 7 Helicopter Squadron at the Sri Lanka Air Force Station, Palaly. The Petitioner states that he had an otherwise commendable service record, including achievements in physical fitness, flying training and badminton, and had passed his annual physical tests from 2015 to 2021.

The events giving rise to this Application occurred on 25 June 2020. According to the Petitioner, after participating in a fatigue programme during the day and subsequently playing badminton for over two hours, he attended a birthday celebration at the Officers' Mess at Palaly. During the course of the evening, he was requested to participate in a briefing at a helicopter model bar counter situated in the Officers' Mess garden. While returning from the briefing, the Petitioner states that, whilst using his mobile telephone and carrying a glass, he accidentally tripped over a step, fell and struck his chin on a stone, resulting in a laceration and a brief loss of consciousness. He was immediately taken to the Palaly Station Hospital, where his injuries were treated.

The following day, 26 June 2020, the Petitioner undertook a flight, having not been prevented from flying by the Medical Officer or the Commanding Officer. Thereafter, however, the incident was reported to Air Force Headquarters and the Petitioner was directed to undergo a medical investigation. An initial Board of Inquiry was convened, which, according to the Petitioner, suffered from several procedural irregularities, including the absence of an independent Medical Officer and an independent General Duties Pilot, the failure to record his statement at the initial stage, and the failure to obtain a statement from his Captain Pilot, who was an eyewitness to the incident. The Petitioner further disputes the evidence subsequently given by the Medical Officer who had attended to him immediately after the incident.

Following the inquiry, the Petitioner underwent a series of medical investigations, including EEG, MRI, Holter monitoring, blood pressure monitoring, exercise ECG,

cardiac echocardiography and a sleep-deprived EEG, all of which he states produced normal results. A Consultant Cardiologist recommended that he could perform normal flying duties. However, a Consultant Neurologist recommended a ten-year period of observation, which, according to the Petitioner, was based substantially on an allegedly inaccurate account of the incident given by the Medical Officer. The Petitioner subsequently obtained a second neurological opinion from another Consultant Neurologist, who examined his medical reports and cleared him for flying duties.

A Special Medical Investigation Board was thereafter constituted by the Director of Health Services. The Petitioner states that, in the course of that investigation, he underwent further specialist examinations and a Tilt Table Test, all of which were favourable. Several Consultants, including specialists in neurology, cardiology, psychiatry and ENT, provided opinions indicating that he was medically fit, or capable of being cleared, for flying duties. Nevertheless, the Special Medical Investigation Board recommended that he remain under observation for five years. The Petitioner contends that this period was excessive and that the Board had, in particular, taken into account an earlier incident in 2015, notwithstanding that he had subsequently been medically cleared as fit to fly.

A further Medical Board was held on 15 November 2021 at the Sri Lanka Air Force Base, Katunayake. The Board comprised senior officers, including Aviation Medicine Specialists and a General Duties Pilot qualified as a Flying Instructor. Having considered the Petitioner's medical history and the relevant medical opinions, including the opinion of an independent Consultant Physician who had cleared him for flying duties, the Board concluded that the Petitioner could continue flying and recommended that he be cleared for flying upon successfully undergoing the annual Air Crew Medical Examination. The Petitioner maintains that this subsequent recommendation, being made by a more senior and appropriately constituted Board upon consideration of the available medical evidence, ought to have prevailed.

The Petitioner thereafter sought redress from the Commander of the Air Force and requested an interview, but states that his request was rejected. He further contended that the decision to keep him grounded for five years was inconsistent with the applicable Aviation Medicine Guidelines and proposed that he be subjected to a shorter period of observation while continuing to perform duties as a Co-pilot. Notwithstanding these representations, on or about 10 December 2021, he was informed that his request had not

been approved and that he was required either to change his branch and remain in service or to leave the Air Force. He was subsequently requested, on or about 21 December 2021, to indicate three branches to which he preferred to be transferred.

The Petitioner contends that the decision to prevent him from continuing his flying duties and to compel him to choose between changing his branch and leaving the service was unreasonable, excessive and discriminatory, particularly in view of the favourable medical reports and the recommendation of the Medical Board held on 15 November 2021. He further asserts that there were no disciplinary complaints or proceedings against him and that the impugned decision would cause serious prejudice to his professional career and reputation.

In these circumstances, the Petitioner alleges that the acts and omissions of the 1st to 5th Respondents constitute executive or administrative action infringing, and/or imminently infringing, his fundamental rights guaranteed under Articles 12(1), 12(2) and 14(1)(g) of the Constitution. He accordingly seeks, inter alia, a declaration of such infringement, interim relief preventing the Respondents from acting upon the decisions communicated in December 2021, reinstatement to flying duties, appropriate relief concerning his promotion, production of his personal and medical records, compensation and costs.

This Court on 11 January 2024 granted leave to proceed with the instant Application upon the alleged infringement of fundamental rights under Articles 12(1) and 14(1)(g) of the Constitution.

Evaluation

Having considered the pleadings, the written submissions of the parties and the material placed before Court, it is necessary at the outset to identify the precise nature of the decision impugned by the Petitioner. The complaint of the Petitioner is, in substance, that the decision to keep him away from flying duties for a period of five years, and the consequential requirement that he change his branch or leave the Sri Lanka Air Force, was unreasonable, arbitrary and discriminatory, particularly in view of the several medical reports which, according to him, demonstrated that he was medically fit to fly. The Petitioner further seeks to attribute this decision to what he contends was an improperly conducted initial Board of Inquiry and to the alleged reliance upon an inaccurate account of the circumstances in which he fell on 25 June 2020.

I have carefully considered the Petitioner's contention that the initial Board of Inquiry was conducted in his absence, that neither he nor his Captain Pilot was called upon to give evidence at that stage, and that there were inconsistencies in the statements attributed to the Station Medical Officer. These matters undoubtedly raise questions concerning the evidential value and weight that could properly be attached to the findings of that initial inquiry. However, the Court must distinguish between the question whether the initial inquiry could, by itself, constitute a sufficient basis for an adverse administrative decision and the question whether the ultimate decision complained of was supported by a proper and reasonable basis. In my view, the latter question assumes greater significance in the present Application.

The material before Court demonstrates that the Petitioner's flying status was not determined solely by the initial Board of Inquiry. Following that inquiry, the Petitioner was subjected to an extensive series of medical investigations and was examined by several medical specialists in different disciplines. It is significant that the medical evidence is not entirely uniform. While certain specialists, including Dr M. Niraj and Dr Arjuna Fernando, expressed the view that there was no objection to the Petitioner resuming normal duties, other medical opinions raised concerns regarding the possibility of a syncopal episode and its implications for flying duties. In particular, Dr Gamini Pathirana recommended that the Petitioner should not undertake flying duties for ten years, while Dr Senaka Bandusena expressed the view that grounding would be appropriate if the incident was attributable to a syncopal episode rather than a simple trip and fall. Even the opinion of Dr Shenal Appuhamy, upon which considerable reliance has been placed by the Petitioner, contemplated close monitoring because of the possibility, albeit described as a minute possibility, of a rare cause of syncope which might not be detected by the investigations conducted.

The fact that several medical investigations, including cardiac, neurological and other investigations, produced normal results cannot, in my view, be regarded as conclusively establishing that the Petitioner was medically fit for operational flying in all circumstances. A normal medical investigation may exclude particular causes of an episode without necessarily establishing the absence of every possible risk associated with an unexplained loss of consciousness. This is particularly relevant where the duties concerned are those of an operational pilot, in which the consequences of an unexpected loss of consciousness

extend beyond the individual pilot and may directly affect the lives of other crew members, passengers and persons on the ground, as well as the safety of the aircraft itself.

In this regard, the Court must bear in mind the specialised nature of aviation medicine. The Aviation Medicine Guidelines are not merely administrative formalities which may be disregarded whenever an individual medical opinion happens to favour the continuation of flying duties. Such guidelines exist precisely because aviation duties involve exceptional risks and require a higher degree of medical certainty and precaution than may ordinarily be required in relation to other occupations. It is therefore important that the competent authorities follow the applicable Aviation Medicine Guidelines in order to safeguard not only the life and health of the pilot concerned, but also the lives of other members of the crew and passengers and the safety of the aircraft. The decision-making authority is consequently entitled, and indeed obliged, to adopt a cautious approach where there remains a medically recognised possibility of an event which could impair the pilot's ability to control an aircraft.

It is also material that the Petitioner had experienced an earlier episode in 2015 involving a loss of consciousness or a similar medical episode. Although the Petitioner submits that the earlier incident was attributable to hyperventilation, that he was subsequently cleared for flying, and that the two incidents were separated by approximately five years, the fact that there had been a previous episode could reasonably be considered by medical specialists when assessing the significance of the later unexplained incident. Whether the earlier episode should ultimately have been regarded as medically connected to the later incident is essentially a matter requiring medical assessment. It is not a matter upon which this Court, exercising its fundamental rights jurisdiction, is equipped to substitute its own medical assessment for that of the competent medical authorities.

I have also considered the Petitioner's contention that the final Medical Board recommended that he could continue flying after undergoing an Air Crew Medical Examination and that this recommendation ought to have prevailed over the earlier medical recommendations. However, the existence of a favourable medical recommendation does not, by itself, establish that the Respondents acted arbitrarily by adopting a different course. The material before Court reveals differing medical assessments of the risks associated with the incident. The ultimate decision was therefore not one made in the absence of medical material, nor can it fairly be characterised as a

decision based solely upon an uncorroborated allegation contained in the initial Board of Inquiry.

In these circumstances, it is difficult for this Court to ascertain an infringement of a fundamental right merely by comparing one medical opinion with another and deciding which medical opinion ought to have been preferred. The question for this Court is whether the impugned executive or administrative action was arbitrary, irrational, discriminatory or otherwise constitutionally impermissible. Based on the circumstances of this Case, I take the view that the mere fact that another medical specialist, or even another medical board, may have reached a different conclusion does not, without more, establish a violation of Article 12(1), Article 12(2) or Article 14(1)(g).

Nor am I persuaded that the Petitioner's reliance upon the principles of natural justice, in the circumstances of the present Case, establishes the alleged constitutional infringement. Even assuming, without deciding, that the initial Board of Inquiry gave the Petitioner insufficient opportunity to participate, the final decision on his flying status did not rest on that alone. It came only after subsequent medical exams, specialist opinions, and further review by medical authorities. The process therefore cannot be viewed as one in which the Petitioner was deprived of any opportunity whatsoever to have his medical condition considered. Indeed, the material demonstrates that the Petitioner was examined on several occasions and was afforded further medical reviews, including consultations with specialists whose opinions were favourable to him.

The grounding decision therefore cannot be equated with the imposition of a disciplinary punishment. More importantly, the subsequent medical process substantially addressed the underlying question of the Petitioner's fitness to fly.

The Petitioner's complaint that the Respondents relied upon an erroneous account that he had fainted before falling also requires consideration in this context. There appears to have been a dispute as to the precise circumstances in which the Petitioner lost his balance and fell. However, even if the Petitioner's version that he tripped and fell is accepted for the purposes of argument, the medical authorities were entitled to assess the risk arising from the unexplained nature of the episode and the possibility that a loss of consciousness had occurred. The question whether the Petitioner in fact suffered a syncopal episode is a question of medical and evidential assessment. The existence of conflicting evidence

concerning the circumstances of the fall does not, without more, demonstrate that the Respondents acted with an unconstitutional purpose or in a manner so manifestly arbitrary as to attract the protection of Article 12.

The Petitioner's challenge under Article 14(1)(g) must similarly be considered in the context of the particular nature of his employment. The right to engage in a lawful occupation does not necessarily confer an unqualified right to perform every particular function within that occupation irrespective of legitimate safety requirements. In a profession involving operational aviation, the State and the competent authorities necessarily possess a substantial responsibility to determine whether an individual is medically fit to perform flying duties. A temporary restriction upon such duties, made upon medical and safety considerations, cannot by itself amount to an infringement of Article 14(1)(g).

I further observe that the decision complained of did not result in the immediate termination of the Petitioner's employment. The Respondents permitted him the option of remaining in the service by changing his branch, or alternatively leaving the service. The Petitioner's subsequent decision to leave the Sri Lanka Air Force was, according to the material before Court, a consequence of his own preference not to continue in another branch. This decision may cause a career impact on the Petitioner as a trained pilot. However, without evidence of a constitutional violation, that professional hardship is not enough to turn an administrative decision into an infringement of a fundamental right.

It is equally important to recognise that the decision impugned was taken in an area in which the competent authorities possess specialised knowledge and responsibility. The Court should be slow to substitute its own assessment for that of the authorities entrusted with aviation safety, particularly where the decision is supported by medical opinions and investigations and where the consequences of an erroneous assessment could be grave.

Conclusion

Having regard to the totality of the material before Court, I am not satisfied that the Petitioner has established that the decision to restrict him from flying duties for the stipulated period was actuated by discrimination, arbitrariness, mala fides or any other constitutionally impermissible consideration. On the contrary, the decision was taken in the context of a genuine medical and operational safety concern, following an incident

involving an unexplained fall or possible loss of consciousness, and after the Petitioner had been subjected to several medical investigations and consultations.

The existence of favourable medical reports does not negate the existence of other medical opinions which raised legitimate concerns regarding the possibility of syncope and the consequent risks associated with operational flying. In such circumstances, it cannot be said that the Respondents acted without a rational or reasonable basis. The fact that the Petitioner strongly disagrees with the medical assessment or that another medical board subsequently expressed a more favourable opinion is insufficient, in itself, to establish a violation of the Fundamental Rights guaranteed by Articles 12(1), 12(2) or 14(1)(g) of the Constitution.

For the foregoing reasons, I hold that the Petitioner has failed to establish that the impugned executive or administrative action infringed or threatened to infringe the Fundamental Rights guaranteed to him under Articles 12(1), 12(2) and 14(1)(g) of the Constitution. The instant Application is therefore dismissed.

In view of the circumstances of the Case, including the nature of the medical and professional issues raised and the Petitioner's service in the Sri Lanka Air Force, I would make no order for costs.

Judge of the Supreme Court

Janak De Silva, J.

I agree.

Judge of the Supreme Court

Menaka Wijesundera, J.

I agree.

Judge of the Supreme Court