

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

*In the matter of an application in terms of Article
126 read with Article 17 of the Constitution of the
Democratic Socialist Republic of Sri Lanka.*

SC FR NO. 125/2020

Thevatheepan Priyadharshan,
Kanapathipillai Street,
Arayampathy East,
Arayampathy.

PETITIONER

Vs.

1. U. A. L. Udahawatta
Superintendent of Police,
Director/ Police recruitments,
No. 375,
Sri Sambuthava Jayanthi Mawatha,
Colombo 06.
2. The Inspector General of Police,
Police Headquarters,
Colombo 01.
3. Major General (Retd) G.D.H. Kamal Gunaratne,
Secretary,
Ministry of Defence,
No. 15/5,
Baladaksha Mawatha,
Colombo 03.
4. N.W.E. Karalliyadda,
Chairman,
National Police Commission,

BMICH,
Block 9,
Bauddaloka Mawatha,
Colombo 07.

5. Savithri D. Wijaysekera,
6. Y. L. M. Zawahir,
7. Tilak Collure,
8. Gamini Nawaratne,
9. Asoka Wijayasekera,
10. G. Jeyakumar,

5th to 10th Respondents are,
Members,
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Colombo 07.

11. Nishantha A. Weerasinghe,
Secretary,
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12. The National Police Commission,
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Colombo 07.

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

RESPONDENTS

14. Hon. Justice. Jagath Balapatabendi,
Chairman,
Public Service Commission,
No. 1200/9,
Rajamalwatta Road,
Battaramulla.
15. M.A.B. Daya Senerath,
Secretary,
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ADDED RESPONDENTS

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SC FR NO. 126/2020

A.S.N.T.R.W.M.D.C.B. Ambahera,
No. 117,

Pallealudeniya,
Gelioya.

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SC FR NO. 127/2020

Tikiri Bandaralage Nilan Tharaka Rupasena,
No. 1/20,
Police Quarters,
Richard Pamunuwa,
Matale.

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SC FR NO. 128/2020

E.M.K.C. Ranasinghe,
No. 27/B2/14,
Siyane Uyane,
Yakkala.

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SC FR NO. 129/2020

H.W.T.Rathnajeewa,
"Rathna Sewana",
Atahaula,

Walagedara.

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Vs.

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ADDED RESPONDENTS

BEFORE : **P. PADMAN SURASENA, CJ**
MAHINDA SAMAYAWARDHENA, J
M. SAMPATH K.B. WIJERATNE, J

COUNSEL : S.N. Vijithsingh for the Petitioner.

Fazly Razik DSG, with Nayanthara Balapatabendi SC, for the Respondents.

ARGUED ON : 04-09-2025

DECIDED ON : 30-01-2026

P. PADMAN SURASENA, CJ

Learned Counsel for the Petitioners and the Respondents in all five cases, namely; SC/FR/125/2020, SC/FR/126/2020, SC/FR/127/2020, SC/FR/128/2020 and SC/FR/129/2020; informed Court at the very outset, that Court can amalgamate all these six cases; conduct a consolidated hearing; and then pronounce one Judgment which would be applicable to all the five cases.

Sri Lanka Police, by the Gazette dated 12th June 2015, called for applications for recruitment of Assistant Superintendents of Police. This recruitment was through an open competitive examination. The Petitioners of all these applications are persons who have successfully passed this examination. The Petitioners (in SC/FR/125/2020) have produced this gazette notification marked **P4**. It was the Department of Examinations which had conducted the said examination. After completion of the various stages of the recruitment process, such as; interviews, medical examinations, etc., the National Police Commission by its decision taken on 18th July 2019 had decided to recruit 18 successful candidates whose names appear on the document marked **P9**. The Petitioners are persons who are immediately below the 18th candidate mentioned in **P9**.

However, Sri Lanka Police had recruited only 14 candidates out of the said 18 candidates and appointed them as Assistant Superintendents of Police with effect from 01st October 2019. Balance four persons in the said list of 18 candidates were rejected based on the background information that the police recruitment division had received. Thus, it is the position of the Petitioners that they, being the persons who are next in line after the aforesaid fourteen successful candidates, have had the legitimate expectation to be appointed next, as Assistant Superintendents of Police.

Although, the Petitioners have stated that there is a balance of six vacancies, according to the Petition itself, Sri Lanka Police had rejected only four candidates out of the successful 18 candidates leaving only four vacancies. However, later on, Sri Lanka Police by its decision taken on 05th May 2019, had decided not to proceed to fill these remaining vacancies from the Petitioners. It is this decision that the Petitioners have challenged in these applications.

I observe that Sri Lanka Police had called for applications for the appointment of Assistant Superintendents of Police for which the closing date was set as 13th August 2015. The results

of the said exam according to the results sheet, were released in September 2019. Successful 14 candidates were appointed as Assistant Superintendents of Police with effect from 01st October 2019.

Petitioners sat the open competitive examination and failed to secure a place within the first 18 persons who were selected to be recruited as Assistant Superintendents of Police through the said open competitive examination. I observe that according to **P4** there are many other qualifications that one has to fulfil, for appointment as an Assistant Superintendent of Police. Although at one point of time, Sri Lanka Police had been attempting to appoint the Petitioners to the remaining vacancies, since the Petitioners had not secured a place amongst the first eighteen persons selected, I am of the view that they could not have entertained any legitimate expectation that Sri Lanka Police would still recruit them also as Assistant Superintendents of Police.

In my view, it is natural and it is open for the authority engaged in recruiting officers to decide not to continue to fill the posts until the end of the persons who have been listed as successful in a given examination. This could be for varied reasons. Thus, such candidate cannot be said to have had a legitimate expectation that he or she should necessarily be recruited to fill those vacancies. Indeed, that is exactly what has happened to the four persons at the tail end of the list of 18 persons selected for appointment.

As I have already held that the Petitioners cannot have a legitimate expectation that they should be recruited to fill those vacancies, this matter must stand necessarily disposed on that conclusion alone. However, in any case I would like to make the following observation also in view of the fact that the Petitioners have prayed for a direction on the Respondents to appoint the Petitioners to the posts of Assistant Superintendents of Police with effect from 01st October 2019.

One of the qualifications for any applicant to be appointed as an Assistant Superintendent of Police is, to be a person under 28 years of age. This was presumably as at the closing date for submission of the applications which was 13th August 2015. Admittedly, the Petitioners are persons born in 1988 and 1989. Thus, as at today, the Petitioners are person between 36 to 38 years of age. Therefore, the question arises as to the fitness of the Petitioners as they are now long passed the age of persons who were to be trained for appointment as Assistant Superintendents of Police.

Moreover, if the Petitioners are appointed as Assistant Superintendents of Police with effect from 01-10-2019, they will have to be treated as Assistant Superintendents of Police who have worked in that post for about six years. They may then be qualified to become Superintendents of Police and Senior Superintendents of Police. This they would achieve without even one day's experience which is not at all going to be healthy for the society at large.

Court cannot turn a blind eye to this aspect of the case, particularly because Fundamental Rights jurisdiction is one that will involve the exercise of equitable jurisdiction.

In any case, considering the present age of the Petitioners, I am unable to direct the Respondents to necessarily recruit a person aged between 36 to 38 years and cause that person to undergo a training, rigorous enough to prepare that person for an appointment as an Assistant Superintendent of Police.

The restriction placed on the age of a candidate for recruitment to this post is not without any reason. The reasons are obvious. Training of a person prior to appointment to a senior post in Sri Lanka Police necessarily involves rigorous physical training. This is another disqualification as to why the Petitioners cannot be appointed now as Assistant Superintendents of Police. Accordingly, I hold that the Petitioners are not entitled to succeed with their Petitions. I direct that the Petitions must stand dismissed without cost.

CHIEF JUSTICE

MAHINDA SAMAYAWARDHENA, J

I agree.

JUDGE OF THE SUPREME COURT

M. SAMPATH K.B. WIJERATNE, J

I agree.

JUDGE OF THE SUPREME COURT