

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

In the matter of an application under and in terms of Article 17 read with Article 126(2) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

SC (FR) Application No: 158/2012

1. Kuruppu Mullage Priyantha,
No. 40, MDH Pura,
Thalangama South,
Pelawatta, Battaramulla.
2. Nimal Amarasiri Meegammana,
No. 64, Heennakade
Owilikandha, Matale.
3. Habarakadage Chandrapala,
No. 337/A2, Mati Imbuwa,
Angampitiya, Padukka.

PETITIONERS

Vs.

1. Sri Lanka Transport Board
2. Chairman,
Sri Lanka Transport Board
3. D.A.P. Senevirathne
Chief Executive Officer
- 3A. R.V.D. Piyathilake
- 3B. P.D. Balasooriya
- 3C. Sagara H. Waduge
- 3D. Mahesh Karunathilake

3 – 3D Respondents - Chief Executive Officer,
Sri Lanka Transport Board

THE CAPTION GOES ON TILL PAGE 26 – I HAVE NOT ANNEXED THOSE PAGES TO THE DRAFT

4. L.A. Wimalarathne,
Vice Chairman, Director
- 4A. Bandula Dias,
Vice Chairman, Director
- 4B. Ramal Siriwardhane,
Chairman/Director
- 4C. K.D. Karunaratne
5. S.B. Udawatte
- 5A. B.G.B.P. Jayasiri
- 5B. N.W. Nathavitharana
- 5C. Ruwan R. Thilakarathne
6. Ivan Tissera
- 6A. H.H. Erantha Priya Sudesh De Silva
- 6B. D.C.W. Hapugoda
- 6C. P.H.A.S. Wijerathne
7. Prasanna Kumara de Silva
- 7A. J.M. Thilakarathne Banda
- 7B. A.D. Jayasekara
- 7C. J.M. Thilakarathne Banda
- 7D. N. Nathavitharana
8. Nihal Jayathilake
- 8A. M. Nathawitharana
- 8B. H.M.A. Piyasudes De Silva
- 8C. B.G.B.P. Jayasiri

8D. A.P.L.P. Samarasinghe

8E. Buddhika Iddamalgoda

8F. Nurajith Singh

4th to 8F Respondents all
Directors of the Sri Lanka Transport Board.

9. Thisani Thenabadu

9A. A.K.C. Dhammika Silochana

9B. A.K.T.D. Thilochana

9C. O.W.D. Nimasha Ayanthi

9th – 9C Respondents are
Secretary of the Sri Lanka Transport Board

10. U.R. Perera

10A. Premalal Peiris

10B. H.G.Samantha Kumara

10C. Champika Malkanthi

10th – 10C Respondents are
Chief Human Resources Manager,
Sri Lanka Transport Board.

11. M.S.S. Vaidyathilake,
Chief Finance Manager

11A. Sumith Hettiarachchi,
Chief Finance Manager (Acting)

11B. Chandana Kumara Herath,
Chief Human Resources Manager

12. N.K.C. Wijayasiri Silva,
Manager, Approved Provident Fund

12A. Bandula De Silva,

Manager, Approved Provident Fund

13. S.M. Sunila Malkanthi,
Accounting Officer/Treasurer of the
Approved Provident Fund
14. B.A.B. Jayasinghe,
Secretary of the Approved Provident Fund
15. Nimal Abeysiri
16. H.M. Chandrasiri Perera
17. D. Lakshman Nanayakkara
18. K.P. Kithsiri
19. S. Ranasinghe
20. H.K. Dissanayake

9th to 20th Respondents all members of the
Committee of Management of the
Approved Provident Fund

1st – 20th Respondents at
No. 200, Kirula Road, Colombo 5.

21. Hon. Prime Minister D.M. Jayaratne,
Minister of Buddhasasana and Religious
Affairs
22. Hon. Ratnasiri Wickremanayake,
Minister (Senior) for Good Governance And
Infrastructure
23. Hon. D.E.W. Gunasekara,
Minister (Senior) for Human Resources
24. Hon. Athauda Seneviratne,
Minister (Senior) for Rural Affairs
25. Hon. P. Dayaratne,
Minister (Senior) for Food Security
26. Hon. A.H.M. Fowzie,
Minister (Senior) for Urban Affairs
27. Hon. Milroy Fernando,
Minister (Senior) for Social Servies

28. Hon. S.B. Navinne,
Minister (Senior) for Consumer Welfare
29. Hon. Piyasena Gamage,
Minister (Senior) for National Resources
30. Hon. (Prof.) Tissa Vitharana,
Minister (Senior) for Scientific Affairs
31. Hon. Dr. Sarath Amunugama,
Minister (Senior) for International
Monetary Corporation.

22nd to 31st Respondents at
Secretariat for Senior Ministers,
No. 356B, (Carlwil Place),
Galle Road, Colombo 3.

32. Hon. Nimal Siripala de Silva,
Minister of Irrigation and Water Resources
Management
33. Hon. Maithripala Sirisena,
Minister of Health
34. Hon. A.D. Susil Premajayantha,
Minister of Petroleum Industries
35. Hon. Arumugam Thondaman,
Minister of Livestock and Rural Community
Development
36. Hon. Dinesh Gunawardena,
Minister of Water Supply and Drainage
37. Hon. Douglas Devananda,
Minister of Traditional Industries and
Small Enterprise Development
38. Hon. A.L.M. Athallah,
Minister of Local Government and Provincial
Councils
39. Hon. Abdul Rishad Bathiudeen,

Minister of Industry and Commerce

40. Hon. Patali Champika Ranawaka,
Minister of Power and Energy
41. Hon. Wimal Weerawansa,
Minister of Construction, Engineering
Services, Housing and Common Amenities
42. Hon. Rauff Hakeem,
Minister of Justice
43. Hon. Basil Rajapaksa,
Minister of Economic Development
44. Hon. Vasudeva Nanayakkara,
Minister of National Languages and Social
Integration
45. Hon. S.B. Dissanayake,
Minister of Higher Education
46. Hon. (Prof.) G.L. Peiris,
Minister of External Affairs
47. Hon. W.D.J. Seneviratna,
Minister of Public Administration and Home
Affairs
48. Hon. Mrs. Sumedha G. Jayasena,
Minister of Parliamentary Affairs
49. Hon. Jeevan Kumaranatunga,
Minister of Postal Services
50. Hon. Mrs. Pavithra Wanniarachchi,
Minister of Technology and Research
51. Hon. Anura Priyadarshana Yapa,
Minister of Environment
52. Hon. Tissa Karalliyadda,
Minister of Child Development and Women's
Affairs

53. Hon. Gamini Lokuge,
Minister of Labour And Labour Relations
54. Hon. Bandula Gunawardena,
Minister of Education
55. Hon. Mahinda Samarasinghe,
Minister of Plantation Industries
56. Hon. (Dr.) Rajitha Senaratne,
Minister of Fisheries and Aquatic Resources
Development
57. Hon. Janaka Bandara Tennakoon,
Minister of Lands and Land Development
58. Hon. Felix Perera,
Minister of Social Services
59. Hon. R.M.C.B. Ratnayake,
Minister of Private Transport Services
60. Hon. Mahinda Yapa Abeywardena,
Minister of Agriculture
61. Hon. (Dr) Keheliya Rambukwella,
Minister of Mass Media and Information
62. Hon. Kumara Welgama,
Minister of Transport
63. Hon. Dallus Alahapperuma,
Minister of Youth Affairs & Skills Development
64. Hon. Johnston Fernando,
Minister of Co-operative and Internal Trade
65. Hon. Chandrasiri Gajadeera,
Minister of Rehabilitation and Prison Reforms
66. Hon. Salinda Dissanayake,
Minister of Indigenous Medicine,
67. Hon. Reginald Cooray,
Minister of Minor Export Crop Promotion

68. Hon. Dilan Perera,
Minister of Foreign Employment Promotion &
Welfare
69. Hon. Jagath Pushpakumara,
Minister of Coconut Development & Janata
Estate Development
70. Hon. T.B. Ekanayake,
Minister of Culture & Aesthetic Affairs
71. Hon. Hon. Mahinda Amaraweera,
Minister of Disaster Management
72. Hon. S.M. Chandrasena,
Minister of Agrarian Services & Wildlife
73. Hon. M.H. Gunarathne Weerakoon,
Minister of Resettlement
74. Hon. (Dr.) Mervyn Silva,
Minister of Public Relations & Public Affairs
75. Hon. Mahindananda Aluthgamage,
Minister of Sports
76. Hon. Dayashritha Tissera,
Minister of State Resources and Enterprise
Development
77. Hon. Ranjith Siyambalapitiya,
Minister of Telecommunication &
Information, Technology
78. Hon. (Dr.) Jagath Balasooriya,
Minister of National Heritage
79. Hon. Lakshman Senevirathne,
Minister of Productivity Promotion
80. Hon. Naveen Dissanayake,
Minister of Public Management Reforms
81. Hon. Priyankara Jayaratne,

Minister of Civil Aviation

82. Mr. Sumith Abeysinghe

82A. Mr. A. Amarasekara

82B. Mr. W.M.D.J. Fernando,
Secretary to the Cabinet of Ministers

32nd - 82nd Respondents at Office of the
Cabinet of Ministers, Republic Square,
Sir Baron Jayatilleke Mawatha, Colombo 01.

83. Secretary,
Ministry of Transport

83A. Secretary,
Ministry of Internal Transport

84. Commissioner General of Labour,
Ministry of Labour and Labour Relations

85. Dr. P.B. Jayasundera

85A. Dr. R.H.S. Samaratunga

85B. S.R. Attygalle

85th – 85B Respondents are
Secretary to the Treasury and Secretary of
Ministry of Finance & Planning, Ministry of
Finance & Planning, the Secretariat Building,
Colombo 1.

86. Hon. Attorney General,
Colombo 12

RESPONDENTS

1. Hon. Ranil Wickremasinghe,
Minister of Policy Planning, Economic Affairs,
Child, Youth and Cultural Affairs

2. Hon. Ravi Karunanayake,
Minister of Finance

3. Hon Mangala Samaraweera,
Minister of Foreign Affairs
4. Hon. Wijeyadasa Rajapakshe,
Minister of Justice
Minister of Buddha Sasana
5. Hon. D. M. Swaminathan,
Minister of Rehabilitation, Resettlement,
Reconstruction and Hindu Affairs
6. Hon. John Amaratunga
Minister of Tourism and Christian Affairs
7. Hon. Gamini Jayawickrama Perera,
Minister of Sustainable Development and
Wildlife
8. Hon. Lakshman Kiriella,
Minister of Universities, Education and
Highways
9. Hon. Tilak Marapana,
Minister of Law & Order and Prison Reforms
10. Hon. Rajitha Senaratne,
Minister of Health, Nutrition and Indigenous
Medicine
11. Hon. Vajira Abeywardena,
Minister of Internal Affairs
12. Hon. S. B. Nawinne,
Minister of Internal Affairs Cultural Affairs
and Wayamba Development
13. Hon. P. Harrison,
Minister of Rural Economic Affairs
14. Hon. R. M. Ranjith Madduma Bandara,
Minister of Public Administration and
Management
15. Hon. Gayantha Karunathilaka,

Minister of Media

16. Hon. Sajith Premadasa,
Minister of Housing and Development
17. Hon. Arjuna Ranatunga,
Minister of Ports and Naval Affairs
18. Hon. Chandrani Bandara Jayasinghe,
Minister of Women and Child Affairs
19. Hon. Thalatha Atukorale,
Minister of Foreign Employment
20. Hon. Akila Viraj Kariyawasam,
Minister of Education
21. Hon. Sagala Ratnayaka,
Minister of Southern Development
22. Hon. Harin Fernando,
Minister of Telecommunications and Digital
Infrastructure
23. Hon. Daya Gamage,
Minister of Primary Industries
24. Hon. Malik Samarawickrama,
Minister of Development Strategy and
International Trade
25. Hon. Kabir Hashim,
Minister of Public Enterprise Development
26. Hon. Navin Dissanayake,
Minister of Plantation Industries
27. Hon. M. H. A. Haleem,
Minister of Postal and Muslim Affairs
28. Hon. M. K. A. D. S. Gunawardana,
Minister of Lands
- 28(a) Hon. John Amarathunga,
Minister of Lands

29. Hon. Rauff Hakeem,
Minister of City Planning and Water Supply
30. Hon. Champika Ranawaka,
Minister of Megapolis and Western
Development
31. Hon. Risad Badhiutheen,
Minister of Industry and Commerce
32. Hon. Mano Ganesan,
Minister of National Dialogue
33. Hon. Palani Digambaran,
Minister of Estate Infrastructure
Development
34. Hon. Nimal Siripala de Silva,
Minister of Transport
35. Hon. S. B. Dissanayake,
Minister of Social Empowering and Welfare
36. Hon. John Seneviratne,
Minister of Labour and Trade Union Relations
37. Hon. Faiszer Musthapha,
Minister of Local Government
38. Hon. Anura Priyadharshana Yapa,
Minister of Disaster Management
39. Hon. Vijith Vijayamuni Soysa,
Minister of Irrigation and Water
Management
40. Hon. Susil Premajayanth,
Minister of Technology, Technology
Education and Employment
41. Hon. Mahinda Samarasinghe,
Minister of Skills Development and
Vocational Training

42. Hon. Mahinda Amaraweera,
Minister of Fisheries and Aquatic Resources
43. Hon. Ranjith Siyambalapitiya,
Minister of Power and Renewable Energy
44. Hon. Duminda Dissanayake,
Minister of Agriculture
45. Hon. Chandima Weerakkody,
Minister of Petroleum Resources
Development
46. Hon. Dayasiri Jayasekara,
Minister of Sports

C/O Secretary to the Cabinet of the Ministers
Republic Square, D.B. Jayathilake Mawatha,
Colombo 01

47. Hon. Sarath Fonseka,
Minister of Regional Development,

ADDED RESPONDENTS

1. Hon. Maithripala Sirisena,
Minister of National Integration &
Reconciliation, Defence and Mahaweli
Development & Environment
2. Hon. Ranil Wickremesinghe,
Minister of National Policies and Economic
Affairs
3. Hon. John Amaratunga,
Minister of Tourism Development and
Christian Religious Affairs
4. Hon. Gamini Jayawickrama Perera,
Minister of Sustainable Development and
Wildlife, Buddhasashana
5. Hon. Nimal Siripala De Silva,
Minister of Transport and Civil Aviation

6. Hon. Thilak Marapana,
Minister of Foreign Affairs and Development
Assignments
7. Hon. S.B. Dissanayake,
Minister of Social Empowerment, Welfare and
Kandyan Heritage
8. Hon. W.D.J. Seneviratne,
Minister of Labour, Trade Union Relations and
Sabaragamu Development
9. Hon. Lakshman Kiriella,
Minister of Higher Education and Highways
10. Hon. (Dr.) Sarath Amunugama,
Minister of Special Assignments
11. Hon. Rauff Hakeem,
Minister of City Planning and Water Supply
12. Hon. Anura Priyadharshana Yapa,
Minister of Disaster Management
13. Hon. A.D. Susil Premajayantha,
Minister of Science Technology and Research
14. Hon. (Dr.) Rajitha Senaratne,
Minister of Health, Nutrition and Indigenous
Medicine
15. Hon. Mangala Samaraweera,
Minister of Finance and Mass Media
16. Hon. Chandima Weerakkodi
Minister of Skills Development and Vocational
Training
17. Hon. Vajira Abeywardana,
Minister of Home Affairs
18. Hon. S.B. Navinne,
Minister of Internal Affairs, Wayamba
Development and Cultural Affairs

19. Hon. Rishad Bathiudeen,
Minister of Industry and Commerce
20. Hon. Patali Champika Ranawaka,
Minister of Megapolis and Western
Development
21. Hon. Mahinda Amaraweera,
Minister of Fisheries and Aquatic Resources
Development
22. Hon. Navin Dissanayake,
Minister of Plantation Industries
23. Hon. Ranjith Siyambalapitiya,
Minister of Power and Renewable Energy
24. Hon. Duminda Dissanayake,
Minister of Agriculture
25. Hon. Vijith Vijayamuni Zoysa,
Minister of Irrigation and Water Resources
Management
26. Hon. (Mrs.) Thalatha Atukorale,
Minister of Justice and Foreign Employment
27. Hon. P. Harrison,
Minister of Rural Economy
28. Hon. Kabir Hashim,
Minister of Public Enterprise Development
29. Hon. Ranjith Madduma Bandara,
Minister of Public Administration and
Management
30. Hon. Sajith Premadasa,
Minister of Housing and Construction
31. Hon. Mahinda Samarasinghe,
Minister of Ports and Shipping
32. Hon. Gayantha Karunathilaka,
Ministry of Lands and Parliamentary Reforms

33. Hon. U. Palany Thigambaram,
Minister of Hill Country New Villages,
Infrastructure and Community Development
34. Hon. (Mrs.) Chandrani Bandara,
Minister of Women and Child Affairs
35. Hon. Akila Viraj Kariyawasam,
Minister of Education
36. Hon. M.H.A. Haleem,
Minister of Posts, Postal Services and Muslim
Religious Affairs
37. Hon. Faiszer Musthapha,
Minister of Provincial Counsel and Local
Government
38. Hon. D.M. Swaminathan,
Minister of Provincial Counsel and Local
Government
39. Hon. Arjuna Ranathunga,
Minister of Petroleum Resources Development
40. Hon. Dayasiri Jayasekara,
Minister of Sports
41. Hon. Sagala Ratnayaka,
Minister of Law & Order and Southern
Development
42. Hon. Harin Fernando,
Minister of Telecommunication and Digital
Infrastructure
43. Hon. Mano Ganesan,
Minister of National Co-existence Dialogue and
Official Languages
44. Hon. Daya Gamage,
Minister of Primary Industries
45. Hon. Malik Samarawickrama,

Minister of Development Strategies and International Trade

46. Hon. Field Marshal Sarath Fonseka,
Minister of Regional Development

**ADDED RESPONDENTS COMPRISING OF THE
CABINET MINISTERS AS PRESENTLY CONSTITUTED**

01. Hon. Maithripala Sirisena,
Minister of Defence and Mahaweli
Development & Environment
02. Hon. Ranil Wickremesinghe,
Minister of National Policies and Economic
Affairs
03. Hon. John Amaratunga,
Minister of Tourism Development and
Christian Religious Affairs
04. Hon. Gamini Jayawickrama Perera,
Minister of Buddhasashana
05. Hon. Nimal Siripala De Silva,
Minister of Transport and Civil Aviation
06. Hon. Mangala Samaraweera,
Minister of Finance and Mass Media
07. Hon. Lakshman Kiriella,
Minister of Public Enterprise and Kandy City
Development
08. Hon. (Dr.) Sarath Amunugama,
Minister of Science, Technology Research,
Skills Developments and Vocational Training
and Kandyan Heritage
09. Hon. Rauff Hakeem,
Minister of City Planning and Water Supply
10. Hon. Thilak Marapana,
Minister of Foreign Affairs

11. Hon. (Dr.) Rajitha Senaratne,
Minister of Health, Nutrition and Indigenous
Medicine
12. Hon. Mahinda Samarasinghe,
Minister of Ports and Shipping
13. Hon. Vajira Abeywardana,
Minister of Home Affairs
14. Hon. S.B. Navinne,
Minister of Internal Affairs, and Wayamba
Development
15. Hon. Rishad Bathiudeen,
Minister of Industry and Commerce
16. Hon. Patali Champika Ranawaka,
Minister of Megapolis and Western
Development
17. Hon. Mahinda Amaraweera,
Minister of Agriculture
18. Hon. Navin Dissanayake,
Minister of Plantation Industries
19. Hon. Ranjith Siyambalapitiya,
Minister of Power and Renewable Energy
20. Hon. Duminda Dissanayake,
Minister of Irrigation and Water Resources
and Disaster Management
21. Hon. Vijith Vijayamuni Zoysa,
Minister of Fisheries & Aquatic Resources
Development and Rural Economic Affairs
22. Hon. Dr. Wijeyadasa Rajapakshe,
Minister of Higher education and Cultural
Affairs,
23. Hon. P. Harrison,
Minister of Social Empowerment

24. Hon. Kabir Hashim,
Minister of Highways and Road Development
25. Hon. Ranjith Madduma Bandara,
Minister of Public Administration and
Management and Law & Order
26. Hon. Gayantha Karunathilaka,
Ministry of Lands and Parliamentary Reforms
27. Hon. Sajith Premadasa,
Minister of Housing and Construction
28. Hon. Arjuna Ranathunga,
Minister of Petroleum Resources Development
29. Hon. U. Palany Thigambaram,
Minister of Hill Country New Villages,
Infrastructure and Community Development
30. Hon. (Mrs.) Chandrani Bandara,
Minister of Women and Child Affairs
31. Hon. (Mrs.) Thalatha Atukorale,
Minister of Justice and Prison Reforms
32. Hon. Akila Viraj Kariyawasam,
Minister of Education
33. Hon. M.H.A. Haleem,
Minister of Posts, Postal Services and Muslim
Religious Affairs
34. Hon. Faiszer Musthapha,
Minister of Provincial Council, Local
Government and Sports
35. Hon. D.M. Swaminathan,
Minister of Re settlement, Rehabilitation,
Northern Development and Hindu Religious
Affairs
36. Hon. Sagala Ratnayaka,
Minister of Youth Affairs, Project Management
and Southern Development

37. Hon. Harin Fernando,
Minister of Telecommunication, Digital
Infrastructure and Foreign Employment
38. Hon. Mano Ganesan,
Minister of National Integration, Reconciliation
and Official Languages
39. Hon. Daya Gamage,
Minister of Social, Welfare and Primary
Industries
40. Hon. Malik Samarawickrama,
Minister of Development Strategies and
International Trade
41. Hon. Field Marshal Sarath Fonseka,
Minister of Sustainable Development, Wildlife
and Regional Development
42. Hon. Ravindra Samaraweera,
Minister of Labor and Trade Union Relations

**ADDED RESPONDENTS COMPRISING OF THE
CABINET MINISTERS AS PRESENTLY CONSTITUTED**

1. Honourable Ranil Wickremasinghe,
Prime Minister
Minister of National Policies, Economic Affairs,
Resettlement & Rehabilitation, Northern
Province Development, Vocational Training &
Skills Development and Youth Affairs
2. Honourable John Amarathunga,
Minister of Tourism Development, Wildlife
and Christian Religious Affairs,
3. Honourable Gamini Jayawickrema Perera,
Minister of Buddhasasana & Wayamba
Development,
4. Honourable Mangala Samaraweera,
Minister of Finance and Mass Media,

5. Honourable Lakshman Kiriella,
Minister of Public Enterprise, Kandyan
Heritage and Kandy Development,
6. Honourable Rauff Hakeem,
Minister of City Planning, Water Supply and
Higher Education
7. Honourable Thilak Marapana,
Minister of Foreign Affairs,
Republic Building,
8. Honourable (Dr) Rajitha Senaratne,
Minister of Health, Nutrition and Indigenous
Medicine,
9. Honourable Ravi Karunanayake,
Minister of Power, Energy and Business
Development,
10. Honourable Vajira Abeywardena,
Minister of Internal & Home Affairs and
Provincial Council & Local Government
11. Honourable Rishad Bathiudeen,
Minister of Industry & Commerce,
Resettlement of Protracted Displaced Persons
and Co-Operative Development,
12. Honourable Patali Champika Ranawaka,
Minister of Megapolis and Western
Development,
13. Honourable Navin Dissanayake,
Minister of Plantation Industries,
14. Honourable P. Harison,
Minister of Agriculture, Rural Economic
Affairs, Livestock Development, Irrigation and
Fisheries & Aquatic Resources Development
15. Honourable Kabir Hashim,
Minister of Highways & Road Development
and Petroleum Resources Development,

16. Honourable Ranjith Madduma Bandara,
Minister of Public Administration & Disaster
Management,
17. Honourable Gayantha Karunathilaka,
Minister of Lands and Parliamentary Reforms,
18. Honourable Sajith Premadasa,
Minister of Housing, Construction and Cultural
Affairs,
19. Honourable Arjuna Ranatunga,
Minister of Transport and Civil Aviation,
20. Honourable U. Palani Digambaram,
Minister of Hill Country New Villages,
Infrastructure and Community Development,
21. Honourable (Mrs.) Chandrani Bandara,
Minister of Women & Child Affairs and Dry
Zone Development,
22. Honourable (Mrs.) Thalatha Atukorale,
Minister of Justice & Prison Reforms,
23. Honourable Akila Viraj Kariyawasam,
Minister of Education,
24. Honourable M.H.A. Haleem,
Minister of Postal Services and Muslim
Religious Affairs,
25. Honourable Sagala Ratnayake,
Minister of Ports & Shipping and Southern
Development,
26. Honourable Harin Fernando,
Minister of Telecommunication, Foreign
Employment and Sports
27. Honourable Mano Ganesan,
Minister of National Integration, Official
Languages, Social Progress and Hindu
Religious Affairs

28. Honourable Daya Gamage,
Minister of Labour, Trade Union Relations and
Social Empowerment,
29. Honourable Malik Samarawickrema,
Minister of Development Strategies and
International Trade,

**ADDED RESPONDENTS COMPRISING OF THE
CABINET MINISTERS AS PRESENTLY CONSTITUTED**

1. Hon. Mahinda Rajapakse,
Minister of Finance, Economy and Policy
Development, Minister of Buddhasasana,
Cultural and Religious Affairs, Minister of
Urban Development, Water
2. Hon. Nimal Siripala De Silva,
Minister of Justice, Human Right & Legal
Reforms
3. Hon. Arumugan Thondaman,
Minister of Community Empowerment and
Estate Infrastructure Development
4. Hon. Dinesh Gunawardena,
Minister of Foreign Relations, Skills
Development, Employment and Labour
Relations
5. Hon. Douglas Devananda,
Minister of Fisheries & Aquatic Resources
6. Hon. (Mrs.) Pavithra Devi Wanniarachchi,
Minister of Women & Child Affairs and Social
Security, Healthcare and Indigenous Medical
Service
7. Hon. Bandula Gunawardena,
Minister of Information and Communication
Technology, Higher Education, Technology and
Innovation

8. Hon. Janaka Bandara Tennakoon,
Minister of Public Administration, Home
Affairs, Provincial Councils & Local
Government
9. Hon. Chamal Rajapakse,
Minister of Mahaweli, Agriculture, Irrigation
and Rural Development, Internal Trade, Food
Security and Consumer Welfare
10. Hon. Dullas Alahapperuma,
Minister of Education, Sport &
Youth Affairs
11. Hon. Johnston Fernando,
Minister of Roads and Highways, Ports &
Shipping
12. Hon. Wimal Weerawansa,
Minister of Small & Medium Business and
Enterprise Development, Industries and
Supply Chain Management
13. Hon. Mahinda Amaraweera,
Minister of Passenger Transport Management
Minister of Power & Energy
14. Hon. S.M.Chandrasena,
Minister of Environment and Wildlife
Resources, Lands & Land Development
15. Hon. Ramesh Pathirana,
Minister of Plantation Industries and Export
Agriculture
16. Hon. Prasanna Ranatunga,
Minister of Industrial Export and Investment
Promotion, Tourism and Civil Aviation

**ADDED RESPONDENTS COMPRISING OF THE
CABINET MINISTERS AS PRESENTLY CONSTITUTED**

1. Hon. Mahinda Rajapaksa
Minister of Finance
Minster of Buddha Sasana, Religious and
Cultural Affairs
2. Hon. Nimal Siripala De Silva,
Minister of Labour,
3. Hon. Prof. G.L Peiris,
Minister of Education
4. Hon. Pavithradevi Wanniarachchi,
Minister of Health
5. Hon. Dinesh Gunawardana,
Minister of Foreign Relations
6. Hon. Douglas Devananda,
Minister of Fisheries
7. Hon. Gamini Lokuge,
Minister of Transport
8. Hon. Bandula Gunawardana,
Minister of Trade
9. Hon. R.M.C.B. Rathnayake,
Minister of Wildlife and Forest Conservation
10. Hon. Janaka Bandara
Tennakoon,
Minister of Public Services, Provincial
Councils and Local Government
11. Hon. Keheliya Rambukwella,
Minister of Mass Media
12. Hon. Chamal Rajapaksa,
Minister of Irrigation
13. Hon. Dullas Alahapperuma,
Minister of Power
14. Hon. Johnston Fernando,
Minister of Highways

15. Hon. Wimal Weerawansa,
Minister of Industries
16. Hon. Mahinda Amaraweera,
Minister of Environment
17. Hon. S.M. Chandrasena,
Minister of Land
18. Hon. Mahindananda Aluthgamage,
Minister of Agriculture
19. Hon. Vasudeva Nanayakkara,
Minister of Water Supply
20. Hon. Udaya Prabhath Gammanpila,
Minister of Energy
21. Hon. Ramesh Pathirana,
Minister of Plantation
22. Hon. Prasanna Ranatunga,
Minister of Tourism
23. Hon. Rohitha Abeygunawardena,
Minister of Ports and Shipping
24. Hon. Namal Rajapaksa,
Minister of Youth and Sports Affairs
25. Hon. M.U.M. Ali Sabry PC,
Minister of Justice

**ADDED RESPONDENTS COMPRISING OF THE
CABINET MINISTERS AS PRESENTLY CONSTITUTED**

01. Hon. Basil Rajapaksa,
Minister of Finance
02. Hon. Sarath Weerasekara
Minister of Public Security

**ADDED RESPONDENTS COMPRISING OF THE
CABINET MINISTERS AS PRESENTLY CONSTITUTED**

Before: S. Thurairaja, PC, J
Janak De Silva, J
Arjuna Obeyesekere, J

Counsel: Saliya Peiris, PC with Anjana Ratnasiri for the Petitioners

Senaka De Saram with Tharindu Balasuriya for the 1st – 20th Respondents

Kanishka De Silva Balapatabendi, Deputy Solicitor General for the 31st – 132nd Respondents

Argued on: 30th October 2024

Written Tendered on behalf of the Petitioners on 6th September 2023

Submissions:

Tendered on behalf of the 1st – 20th Respondents on 28th May 2024 and 7th January 2025

Tendered on behalf of the 84th Respondent on 29th July 2022 and 8th November 2024

Decided on: 11th March 2026

Obeyesekere, J

- (1) The Petitioners are employees of the 1st Respondent, Sri Lanka Transport Board. Together with several other employees of the 1st Respondent, the Petitioners were members of the Approved Provident Fund of the Sri Lanka Transport Board [**the Approved Provident Fund**].
- (2) On 23rd November 2011, the Cabinet of Ministers had approved the proposals contained in the Cabinet Memorandum [**P17**] submitted by the Minister of Labour that the approval granted by the Commissioner General of Labour [the Commissioner General] in terms of Section 27(2) of the Employees Provident Fund Act, No. 15 of 1958, as amended [**the EPF Act**] for the Approved Provident Fund be revoked and for the funds available in the Approved Provident Fund be transferred *inter alia* to the Employees Provident Fund established under the EPF Act.

- (3) Aggrieved by the said decision of the Cabinet of Ministers [**P21**], the Petitioners filed this application on 26th March 2012, complaining that the said decision is a violation of their fundamental rights guaranteed under Article 12(1) of the Constitution and seeking *inter alia* the following relief:
- (a) Quash the said decision of the Cabinet of Ministers and the consequential directives;
 - (b) A declaration that the Approved Provident Fund be restored and for funds which have already been transferred to the Employees Provident Fund to be re-transferred to the Approved Provident Fund; and
 - (c) A declaration that the calculation of the rate of interest payable on their contributions to the Approved Provident Fund be at a rate higher than what is paid to members of the Employees Provident Fund.
- (4) On 2nd September 2016, the Petitioners filed an amended petition seeking *inter alia* the following relief:
- (a) A declaration that the decision of the Cabinet of Ministers is contrary to law;
 - (b) A declaration that interest on their contributions to the Approved Provident Fund be calculated at the rate of 18% per annum; and
 - (c) A declaration that the balances lying to their credit in the Approved Provident Fund should have been transferred to the Employees Provident Fund without deducting their liabilities arising from the loans that they have taken.
- (5) Leave to proceed for the alleged infringement of Article 12(1) was granted on 26th January 2022.
- (6) The primary argument of the learned President's Counsel for the Petitioners was that the power to revoke the approval granted by the Commissioner General to a provident fund is vested with the Commissioner General but that by permitting the Cabinet of Ministers to take the said decision, the Commissioner General has allowed himself to be dictated to by the Cabinet of Ministers and that the Commissioner General has thereby abdicated the statutory duty vested in him by

Section 27(10) of the EPF Act. The other relief sought by the Petitioners is contingent upon a finding by this Court that the decision of the Cabinet of Ministers is violative of the fundamental rights of the Petitioners guaranteed under Article 12(1).

- (7) While submitting that the impugned decision was in fact taken by the Commissioner General, the learned Counsel for the 1st Respondent and the learned Deputy Solicitor General appearing for the Commissioner General raised an objection that this application has not been filed within the stipulated period of one month from the decision of the Cabinet of Ministers and that this application is therefore liable to be dismissed *in limine*. The Petitioners do not dispute that the application has been filed outside the time period specified in Article 126(2) but claim that the infringement complained of is a continuing infringement and hence, the time bar shall not apply. Thus, I cannot rule on the said objection in isolation of the facts of this application.
- (8) I shall at the outset refer to the circumstances that led to the impugned decision in order to place in its proper perspective the respective positions of the parties.

The Approved Provident Fund

- (9) The predecessor of the 1st Respondent, the Ceylon Transport Board had been established by Section 2 of the Motor Transport Act, No. 48 of 1957, as amended. Section 6 thereof contained the powers of the Ceylon Transport Board and in terms of Section 6(1)(iv), the Board had the power to establish a provident fund for its employees. It is admitted that the provident fund which is the subject matter of this application was established under the Motor Transport Act.
- (10) Provisions with regard to a provident fund or a contributory pension scheme established prior to the enactment of the Act is found in Section 27 of the EPF Act. Accordingly, the Commissioner General is empowered to declare such a scheme that existed prior to 1958 as an approved provident fund provided he is of the opinion that such fund or scheme satisfies the prescribed requirements and that it is expedient that such fund or scheme should be declared to be an approved provident fund. That process having been followed, the aforementioned Provident Fund established under the Motor Traffic Act has been declared as an approved provident fund under the EPF Act [i.e. the Approved Provident Fund].

- (11) The Motor Transport Act was repealed by the Transport Board Law, No. 19 of 1978. In terms of Section 8(1)(iv) thereof, the Central Board had the power to establish a provident fund. In terms of Section 25(c), the Provident Fund established and maintained by the Ceylon Transport Board under the Motor Transport Act shall be deemed to be a provident fund established and maintained by the Central Board for the officers and servants. Even though the Transport Board Law was repealed by the Sri Lanka Transport Board Act, No. 27 of 2005, the latter Act too recognised the Approved Provident Fund.

Decision to revoke the declaration

- (12) The powers that the Commissioner General could exercise over an approved provident fund have been set out in Section 27 of the EPF Act. In terms of Section 27(10) thereof:

“Where the Commissioner is dissatisfied with the management of any approved provident fund or approved contributory pension scheme, he may revoke the declaration made under subsection (1) or subsection (2) of this section in respect of that fund or scheme, and, if such declaration is revoked, he shall in writing (a) communicate the revocation to the administrators of that fund or scheme, and (b) direct those administrators to transfer to the Employees' Provident Fund all such contributions and interest thereon as have been paid to that fund or scheme, and those administrators shall comply with the Commissioner's direction.”

- (13) I have already stated that the primary argument of the learned President's Counsel for the Petitioners was that with the power to revoke the approval granted to the Approved Provident Fund being vested with the Commissioner General, he has abdicated his power by permitting the Cabinet of Ministers to take the decision to revoke the declaration relating to the Approved Provident Fund.

- (14) The position of the learned Deputy Solicitor General appearing for the Commissioner General was that the decision was in fact taken by the Commissioner General. She submitted that the Commissioner General had received several complaints in 2011 [R1 – R4] that the affairs of the Approved Provident Fund are being mismanaged by

the Committee of Management of the Approved Provident Fund [the Committee] in that large sums of money are being used for purposes that are not permitted and that the Commissioner General had summoned the Chairman of the Committee on several occasions to inquire into such complaints. On 18th August 2011, the Commissioner General had issued a directive to the Chairman of the Committee informing him that he has been apprised of a decision to transfer a sum of Rs. 2.4 billion from the Approved Provident Fund for a purpose which was not permitted and therefore to immediately suspend the transfer of such monies.

- (15) The Employees Provident Fund Division of the Department of Labour had thereafter inquired into the affairs of the Approved Provident Fund and recommended the following:
- (a) To act in terms of Section 27(10) and revoke the declaration granted recognising the Approved Provident Fund;
 - (b) Communicate the decision pertaining to the revocation to the administrator of the Approved Provident Fund; and
 - (c) Direct the administrator of the Approved Provident Fund to transfer to the Employees Provident Fund all such contributions and interest thereon as have been paid to the Approved Provident Fund.
- (16) The above recommendations which are in accordance with Section 27(10) of the EPF Act have been communicated in writing on 30th August 2011 to the Commissioner General [R6], who in turn has communicated such decision to the Secretary, Ministry of Labour by his letter dated 8th September 2011 [R7].
- (17) It is only thereafter that the Minister of Labour presented the Cabinet Memorandum dated 21st October 2011 [P17] seeking a policy decision from the Cabinet of Ministers to *inter alia* revoke the declaration made by the Commissioner General recognising the Approved Provident Fund in terms of Section 27(10) and to transfer all contributions and interest thereon that have been contributed by the members including the Petitioners to the Employees Provident Fund.

(18) I must state that the above proposals in P17 are consistent with Section 27(11) which provides as follows:

*“The Monetary Board shall, where the administrators of an approved provident fund or approved contributory pension scheme have complied with a direction issued by the Commissioner under subsection (10) of this section, **open an individual account in the Employees' Provident Fund for each employee who was a contributor to that approved provident fund or approved contributory pension scheme when such administrators complied with such direction, and shall credit to that individual account such part of the sum transferred from that approved provident fund or approved contributory pension scheme to the Employees' Provident Fund in compliance with the Commissioner's direction as was to the credit of that employee's account in that approved provident fund or approved contributory pension scheme.**”*

(19) Having considered P17, the Cabinet of Ministers granted policy approval on 23rd November 2011 [P21] to the first three recommendations of the Minister of Labour in P17. The Commissioner General had thereafter issued letter dated 2nd December 2011 [R8] to the 1st Respondent revoking the declaration of the Approved Provident Fund with effect from 1st December 2011 and a further directive in terms of Section 27(10)(b) to the administrator of the Approved Provident Fund to transfer to the Employees Provident Fund all such contributions that have been made to the Approved Provident Fund by its members including the Petitioners together with the interest that had accumulated on such contributions.

(20) In transferring funds to the Employees Provident Fund, the 1st Respondent has included the contribution made by each member together with interest thereon but had set off the loans that the Petitioners have taken. The Petitioners however have not impugned R8 in their amended petition, and hence, in transferring the monies lying to the individual credit of each Petitioner, whether the outstanding loan balances of such members could have been deducted is not a matter that can be gone into in this application.

- (21) It is in the above factual circumstances that the learned Deputy Solicitor General submitted that the genesis of the decision in P21 can be traced to the complaints that were received by the Commissioner General of mismanagement of funds of the Approved Provident Fund, and that the decision in R8 was arrived at independently by the Commissioner General. She submitted further that any decision in terms of Section 27(10) of the Act must be taken carefully especially in view of the important role played by the Sri Lanka Transport Board and that policy approval of the Cabinet of Ministers has been sought since cohesive action was required prior to such an important decision being taken.
- (22) I have carefully considered the sequence of events leading to P17 and I am satisfied that the decision to revoke the declaration made in favour of the Approved Provident Fund is a decision of the Commissioner General and that by seeking policy approval of the Cabinet of Ministers, the Commissioner General has neither abdicated his statutory role nor been dictated to.
- (23) In view of the above conclusion, the necessity for me to consider the objection that this application is time-barred does not arise. However, I must state that the violation complained of is not of a continuing nature and the Respondents were entitled to succeed with its objection that the application has not been filed within one month of the infringement since the decision of the Cabinet of Ministers had been taken on 23rd November 2011 and R8 had been issued on 2nd December 2011 whereas this application had been filed only on 26th March 2012.

Transfer of funds towards gratuity payments

- (24) There is one other matter that I wish to advert to. It is admitted that a sum of Rs. 1.5 billion had been remitted by the Government towards meeting the gratuity obligations of the 1st Respondent. By P21, the Cabinet of Ministers had directed that any balance sums of money remaining after the transfer of the contributions of the members of the Approved Provident Fund to the Employees Provident Fund be utilised for the payment of gratuity of the employees of the 1st Respondent. It was submitted by the Petitioners that the said direction is illegal. However, by an order made on 20th February 2013, this Court has granted permission for the excess funds

to be appropriated towards meeting the gratuity obligations of the 1st Respondent, and hence the said decision cannot be reviewed at this stage.

(25) In terms of an audit carried out in respect of the funds of the Approved Provident Fund, even though the total value of the Fund as at 1st December 2011 was Rs. 4.95 billion, the aggregate value of the contributions of the members together with interest which is the sum of money that the Petitioners and other members of the Approved Provident Fund are entitled to was Rs. 1.55 billion. This latter sum of money has been transferred to the Employees Provident Fund thus securing the interests of the Petitioners.

Conclusion

(26) In the above circumstances, I am of the view that the fundamental rights of the Petitioners guaranteed under Article 12(1) have not been infringed by the Respondents. This application is accordingly dismissed, without costs.

JUDGE OF THE SUPREME COURT

S. Thirairaja, PC, J

I agree

JUDGE OF THE SUPREME COURT

Janak De Silva, J

I agree

JUDGE OF THE SUPREME COURT