

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

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

**S.C. FR Application No.
179/2015**

1. Weerakkody Arachchilge Janaka Kumara
Senadheera,
239 C, Ihalakaragahamuna,
Kadawatha,

PETITIONER

vs

1. Hon. John Amaratunga,
Minister of Public Order & Christian
Religious Affairs,
13th Floor, 2nd Stage,
“Sethsiripaya”, Battaramulla.
- 1(a). Hon. Sagala Rathnayaka,
Minister of law & Order and Southern
Development,
No.150, Temple Trees, Galle Road,
Colombo 03.
- 1(b). Hon. Chamal Rajapaksha,
State Minister of Internal Security, Home
Affairs and Disaster Management,
"Nila Medura", Elvitigala Mawatha,
Narahenpita,
Colombo 05.
2. Mr. T.M.K.B. Tennakoon,
Secretary to the Ministry of Public Order &
Christian Religious Affairs,
13th Floor, 2nd Stage,

"Sethsiripaya", Battharamulla.

2(a). Mr. Jagath P Wijeweera,
Secretary to the Ministry of Law & Order
and Southern Development,
13th Floor, 2nd Stage,
" Sethsiripaya", Battharamulla.

2(b). Major General (Retd)
Mr. G.D.H. Kamal Gunarathne,
Secretary to the State Ministry of Internal
Security, Home Affairs and Disaster
Management,
"Nila Medura", Elvitigala Mawatha,
Narahenpita,
Colombo 05.

3. Mr. Jagath Abesirigunawaradana,
Senior Deputy Inspector General of Police
(Support Service),
(Board Chairman)
Police Headquarters, Colombo 01.

4. Mr. Gamini Dissanayaka,
Senior Deputy Inspector General of Police,
Central Province, (Board Member)
Former S/DIG Crimes & legal Range,
Senior DIG 'S Office, Kandy.

5. Mr. L.H.G Cooray,
Senior Superintendent of Police
Commandant, (Board Member)
Police Field Force Headquarters, Colombo
05.

6. Mr. Donald Murage,
Senior Assistant Secretary, (Board Member)
Ministry of Public Order & Christian
Religious Affairs,
13th Floor, 2nd Stage,
"Sethsiripaya", Battharamulla.

6(a). Mrs. Sakunika de Sumathipala,

Senior Assisant Secretary,
(Board Member)
State Ministry of Internal Security, Home
Affairs and Disaster Management,
“Nila Medura”
Elvitigala Mawatha,
Naranhenpita,
Colombo 05.

7. Mr. W.L.I.O.M.B.A.S Gunathilake,
Assistant Secretary, (Board member)
Ministry of Public Order & Christian
Religious Affairs,
13 Floor, 2nd Stage,
" Sethsiripaya", Battharamulla.

8. Mr. N.K. Illangakoon,
Inspector General of Police,
Police Headquarters,
Colombo 1.

8(a). Mr. P.S.B. Jayasundara,
Inspector General of Police,
Police Headquarters,
Colombo 1.

8(b). Mr. C.D. Wickramarathna,
Act. Inspector General of Police,
Police Headquarters,
Colombo 1.

9. Mr. P. M. H. B. Siriwardena,
Director-Personnel,
(Human Resource Development)
Senior Superintendent of Police,
Police Head Quarters,
Colombo 01.

9(a). Mr. Ujith Liyanage, Director-Personnel,
Senior Superintendent of Police, Police
Head Quarters,
Colombo 01.

10. Mr. P A UR Galgamuwa,
Senior Superintendent of Police, Former
Director -Personnel,
Director-Statistics & Acting Director M&D
Division,
Police Head Quarters,
Colombo 01.
11. The Hon. Attorney-general,
Attorney- General's Department,
Colombo 12.

RESPONDENTS

12. Professor Siri Hettige - Chairman
13. Mr. Tilak Kollure - Senior Administration
Officer
14. Mr. Frank de Silva - Member
15. Ms. Sawithri Darshani Wijesekara -
Member
16. Mr. P.H. Manatunge - Member
17. Mr. Anton Jeganathan - Member
18. Mr. Y.L.M. Sawahir – Member

12th to 18th All of National Police Commission,
Block 09, B.M.I.C.H,
Bauddaloka Mawatha,
Colombo 07.

Added Respondents

19. Mr. K.W.E Karalliyadda - Chairman
20. Ms. Sawithri Darshani Wijesekara Member
21. Mr. Y.L.M. Sawahir – Member
22. Mr. Tilak Kollure - Member
23. Mr. Gamini Nawarathna -Member
24. Mr.Asoka Wijetilleka - Member
25. Mr.G.Jayakumar - Member

All of National Police Commission,

Block 09, B.M.I.C.H,
Buddhaloka Mawatha,
Colombo 07.

Added Respondents

BEFORE

: P. Padman Surasena, C.J.
Mahinda Samayawardena, J.
M. Sampath K. B. Wijeratne J.

COUNSEL

: Dr. Romesh de Silva, P.C. with Sugath Caldera
instructed by Dinesh Vidanapathirana
Associates for the Petitioner.

Nirmalan Wigneshwaran, DSG for the
Respondents.

ARGUED ON

: 04.09.2025

DECIDED ON

: 31.08.2026

M. Sampath K. B. Wijeratne J.

Introduction

The Petitioner invoked the jurisdiction of this Court under Article 126 of the Constitution, alleging that his fundamental rights guaranteed under Articles 12, 12(1), and 14(1)(g) of the Constitution had been infringed by the failure to promote him to the rank of Chief Inspector of Police during the 2015 round of promotions. Upon hearing the submissions of the parties, this Court granted leave to proceed only in respect of the alleged infringement of Article 12(1) of the Constitution¹.

The facts giving rise to this application are as follows:

¹ Journal entry dated 02.12.2026.

The Petitioner joined the Police Department on or about June 7, 1989 as a Reserve Sub-Inspector of Police and was subsequently promoted to the rank of Inspector of Police in the Reserve Service. Thereafter, upon the recommendation of the Director of Traffic, he was absorbed into the Regular Service, but only to the rank of Sub-Inspector of Police. Subsequently, in 2006, pursuant to a policy decision, all officers serving in the Reserve Service were absorbed into the Regular Service in the respective ranks they had held in the Reserve Service.

Following the institution of several fundamental rights applications before this Court, a total of 164 Sub-Inspectors of Police, including the Petitioner, were promoted to the rank of Inspector of Police with effect from February 1, 2006, with a view to redressing the grievances of officers who had been absorbed into the Regular Service prior to the general absorption in 2006. Although the Petitioner had not, at that time, completed the requisite eight years of service in the rank of Sub-Inspector of Police in the Regular Service, he was nevertheless promoted with effect from February 1, 2006, upon being given benefit of the period of service rendered by him in the Reserve Service.

The Petitioner's alleged grievance arises out of the promotions effected during the first quarter of 2015. The Petitioner contends that he was not awarded an additional 15.5 marks to which he claims he was entitled, based on his length of service, titles, and rewards, as well as his performance at the interview. Consequently, he alleges that his final score was erroneously computed, resulting in his non-promotion.

According to the Petitioner, he was not awarded 7.5 marks in respect of the period during which he served in the rank of Inspector of Police in the Reserve Service, namely from April 16, 1998 to October 15, 1999. The 8th Respondent stated that the Petitioner was promoted to the rank of Inspector of Police in the Reserve Service on April 16, 1998 and was thereafter appointed to the Regular Force in the rank of Sub-Inspector of Police on October 15, 1999. He subsequently attained the rank of Inspector of Police in the Regular Force with

effect from February 1, 2006. The 8th Respondent further observed that, for the purpose of the interview, the Petitioner's period of service was computed from February 1, 2006, being the effective date of his appointment as Inspector of Police in the Regular Force, in accordance with the applicable marking scheme, and not from April 16, 1998, the date on which he was promoted to the rank of Inspector of Police in the Reserve Service.

In the absence of any specific criterion in the relevant circular requiring the inclusion of service in the Reserve Service for the purpose of promotion to the rank of Chief Inspector of Police, to insist upon the inclusion of such service would amount to according the Petitioner preferential treatment based on a criterion not contemplated by the circular.

Further, as already observed, the Petitioner's previous service in the Reserve Service had already been taken into account when he was promoted to the rank of Inspector of Police with effect from February 1, 2006. Accordingly, he had already received the benefit of that period of service for the purpose of his promotion.

In *Egoda Weerasekarage Thilak and Others vs Nanda Mallawarachchi and Others*,² which arose on facts materially identical to those in the present case, Thurairajah P.C., J. observed:

“Although the National Police Commission had approved a recommendation by the Inspector General of Police to add past periods of service in the Reserve Force to the service of all police officers absorbed into the Regular Force prior to 24th February 2006 (P10A, P10B, and P10C), the Petitioners' past service had already been considered at the time they were promoted to the rank of Inspector of Police with effect from 01st February 2006. The Petitioners and others who were absorbed into the Regular Force in

² SC/FR/47/2014, SC Minutes of 28 March 2025

1999 as Sub-Inspectors of Police under 2RI were not entitled to have their past service in the Reserve Force recognised again because that period had already been accounted for in their earlier promotion. Permitting the same period of past service to be repeatedly relied upon for subsequent promotions would allow an infinite cycle of recognition, which is impermissible.”

The Petitioner further contends that he was not awarded the marks to which he was entitled in respect of his academic and professional qualifications. According to the Petitioner, the following additional marks ought to have been awarded: *‘for services in Special Units the Petitioner should have been given 2 more marks, which has not been given’, ‘for good entry Rewards in traffic units 2 more marks should have been given’, ‘For 1998 SAARC - IG'S Commendations 2 marks should have been given’, ‘President's commendation for the General Election held in 2000, 2 marks should have been given’*

The 8A Respondent has explained the reasons for not awarding the additional marks claimed by the Petitioner in the following manner:

- a. The Petitioner had only 42 traffic good entries at the time of the interview
- b. The Petitioner was given 1 mark for Special Rewards over 25,000 in terms of the marking scheme. However, the Petitioner is not entitled to claim points for the rewards received from Customs;
- c. The Petitioner has served as Acting OIC A1 from 06.11.2008 to 13.07.2009 at the Traffic Headquarters in the Rank of IP. Therefore, the Petitioner is only entitled to 1 mark. As the Petitioner has served 09 months in the State Intelligence (26.07.2011 - 15.04.2012,) the Petitioner would be entitled to 0.5 marks. Thus, the Petitioner is entitled to 1.5 marks in total under this heading; and the Supplies Division is not a 'Specialized Division' as per Item 2.4.1 of the Marking Scheme (P18) and therefore no marks are awarded.

- d. The marking scheme (P18) item 06 stipulates the marks awarded for the completion of Diploma courses. The Petitioner stated that he has received 02 and 01 marks respectively for Diploma courses completed which are over 90 and 50 hours respectively. The application submitted by the Petitioner himself (P14), states that the Petitioner has not completed any Diploma course over 90 or 50 hours. Therefore, the Petitioner is not entitled to the 03 marks awarded and they should be deducted from the total marks awarded.
- e. The Petitioner has been awarded two commendations by the President and the Inspector General of Police (P17(a) and P17(b)). Under the Marking Scheme (P18), 1.5 marks must be awarded to the Petitioner for each Commendation. However, it does not make a difference in the total marks of the Petitioner, as the 03 marks that ought to have been awarded here will substitute the 03 marks that the Petitioner was awarded for Diplomas that should be deducted
- f. The Petitioner claims that an additional 02 marks should be awarded to him as he was awarded a "Meritorious" Medal, notified in Police Gazette No. 17/11 dated 22/06/2011. The Marking Scheme (P18) under Item 04 lists the medals which are recognized for the purposes of awarding marks. Under Item 04, "Meritorious" Medals are not recognized as giving applicants who have received the said medal any marks. Although the Application by the Petitioner (P14) requires applicants to disclose if they have been awarded a "Meritorious" Medal, but the Marking Scheme, upon which all marks are awarded, does not award any marks to recipients of the "Meritorious" Medal.

The Petitioner further contends that he ought to have been awarded higher marks for his performance at the interview. However, where the marks awarded by an interview board are challenged, the Court would not assume the role of a superior interview board comprising experienced professionals in the relevant field, for the purpose of re-evaluating candidates or substituting its own assessment as to the suitability of candidates for promotion. The intervention of the Court is

limited to instances where it is established that the process was arbitrary, discriminatory, unreasonable, or vitiated by mala fides.

Upon a perusal of the documents annexed to the Petition, this Court is of the view that no discrimination has been caused to the Petitioner in the award of marks. In my view, the Petitioner has failed to establish, by any material placed before this Court, any gross violation of the selection process.

In the instant case, the Petitioner has also failed to identify the Police officers who were promoted to the rank of Chief Inspector of Police in 2015 and who would be affected by the relief sought. The necessity of joining all parties who may be adversely affected was aptly articulated by Thurairajah P.C., J. in ***Egoda Weerasekarage Thilak and Others vs Nanda Mallawarachchi and Others (Supra)*** in the following terms:

“However, while state functionaries such as the Inspector General of Police and other relevant officials have been named as Respondents, the police officers who were successfully promoted in 2013, including those who were absorbed into the Regular Force in 2006 and subsequently promoted, have not been made parties to the proceedings.

The failure of the Petitioners to name these officers as Respondents is a significant procedural flaw, as any relief granted in favour of the Petitioners would necessarily affect the rights, status, and seniority of those already promoted. Granting such relief would not only disrupt the existing hierarchy within the police force but would also call into question the legitimacy of prior promotions, potentially leading to administrative uncertainty and further litigation.”

The instant application of the Petitioner is fundamentally flawed, as he has failed to join as Respondents the Police officers who were promoted to the rank of Chief Inspector of Police in 2015. The non-joinder of such officers renders the

application defective, as any order affecting their vested rights would be made without affording them an opportunity to be heard.

For the reasons adumbrated in this judgment, I hold that the Petitioner has failed to establish that his fundamental rights guaranteed under Article 12(1) of the Constitution have been violated by the Respondents.

Accordingly, this application is dismissed. In the circumstances, I make no order as to costs.

JUDGE OF THE SUPREME COURT

P. Padman Surasena, C.J.

I agree.

CHIEF JUSTICE

Mahinda Samayawardhena, J.

I agree.

JUDGE OF THE SUPREME COURT