

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/FR/18/2019

1. Eramudugoda Gamage Ranjith Saratchandra
No. 240/3/B, Weera Mawatha,
Depanama, Pannipitiya.
2. Magage Kelum Thushara
122/25/A, Pragathi Mawatha,
Pannipitiya.
3. S.A.D. Dinesh Kumar
No. 127, Moragoda, Gampaha.
4. G.D.H. Kumar
"Saumya", SuwandachchiMulla, Payagala
5. K.H.D. Chandrika
1B, Gangarama Road, Wewala, Piliyandala.
6. M.M. Chandani
"Samagiya", Linton Watte,
Palathota,
Kalutara South
7. M.M.D. Mandalawaththa
No. 2, "Nihathamani",
Kalagedihena.
8. W.M. Kanchana Wickramasinghe
No. 1A, Minuwangoda Road,
Dunagaha.
9. P.D.L.S. Malkanthi
No. 74, Pattiyagama, Pugoda.
10. P. Dilhani Edirimanna
No. 6A, Mangala Mawatha, Minuwanpithya,
Panadura.
11. K.T.U. Priyankara Kudathanthiri
No. 145 /12, WAlawatte, Weliveriya.
12. T.N.D. Lamabadusuriya
22/4 / A, Jayanthi Mawatha, Piliyandala
13. M.K.S. Buddhika Wijerathna
No. 225 /B, Bopatta, Urapola.
14. A. M. Dayananda Attanayeka
No 26, Thorapitiya, Pallewela

PETITIONERS

Vs.

1. A.J.M. Musammil
Hon. Governor,
10th Floor, No. 628,
Janajaya Building, Nawala Road, Rajagiriya

1(a) Seetha Arabepola

Hon. Governor,

1(b) Mr. Roshan Goonetilleke

Hon. Governor,

1(a) and 1(b) both of Governor's Office, 10th Floor,
No:204, Denzil Kobbekaduwa Mawatha,
Battaramulla.

2. W.V.P.P. Yasarathne

Chief Secretary,

Chief Secretary's Office (WP),

"ShrawasthiMandiraya",

No. 32, Sir Marcus Fernando Mawatha,
Colombo 07.

2(a) J.M.C. Jayanthi Wijetunga,

Chief Secretary,

Chief Secretary's Office (WP),

4th floor, No. 204, Denzil Kobbekaduwa Mw.,
Battaramulla.

3. W.M.D.N. Ranasinghe,

Deputy Chief Secretary (Engineering),

Chief Secretary's Office (WP),

"ShrawasthiMandiraya",

No. 32, Sir Marcus Fernando Mawatha,
Colombo 07

3(a) A.A.P.S.K. Karunaratne,

Deputy Chief Secretary (Engineering),

Chief Secretary's Office (WP),

5th floor, No. 204, Denzil Kobbekaduwa Mw.,
Battaramulla.

4. K.K.S.M. Wijesekara,

Director - Buildings,

Chief Secretary's Office (WP),

"Shrawasthi Mandiraya",

No. 32, Sir Marcus Fernando Mawatha
Colombo 07

4(a) R.P. Gunawardhana

Director - Buildings,

Chief Secretary's Office (WP),

5th floor, No. 204, Denzil Kobbekaduwa Mw.,
Battaramulla.

5. Premadasa Kodithuwakku

Chairman

5(a) U.R.de Silva, P.C.

Chairman

6. Sunil Abeywardena

Member

6(A) Mrs. Kanthi Wijethunga

Member

7. Kanthi Hemamali Wijethunga

Member

- 7(A) Mrs. Chaturika Wijesinghe
Member
8. N.U.M. Ameen
Member
- 8(A) Ruwani Yasoja Hapuarachchi
Member
9. T. Muthukumaraswami
Member
- 9(A) N. Sivahumaran
Member
- 9(i) Samsudeen Liyavudeen
Member
- 9(ii) Nelum Shayamain Madurasinghe
Member

5(a) to 9(iii) are all of ;
Provincial Public Service Commission,
10th floor, No.628, Janajaya Building, Nawala road,
Rajagiriya

10. Chandrani Samarakoon
Secretary,
10(a) Thilak Senarat
Secretary,

10 and 10(a) both of;
Provincial Public Service Commission,
No 109, Main Street, Battaramulla.

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

RESPONDENTS

12. J.K.D.B Samarasekara
No 216/3, 5th Lane, New Town, Badugama,
Mathugama.
13. M. Nayomi Fernando
No 1/1, Poruwadanda.
14. M.U.P. Perera
No 16/A, Kulathunga Road, Panadura.
15. I.A.D.G.P. Thilakarathana
No 33/D, Cemetery Road, Ambalangoda,
Polgasowita.
16. M.A.D. Nilanthi
No 32/7, Thanayam Waththa, Bandaragama.
17. S.N.D. Pitadeniya
No 544/1/1, Mankada Road, Eswatatta Road,
Puwakpitiya.
18. R.T. Perera
No 120/A, Pollonnaruwa,

- Gonapola Junction.
19. K.S.P. Kumarasena
No 143/6/B, Weniwelkettiya, Wendesiwaththa,
Nagoda.
 20. B.D.A.D. Balasuriya
No 273 C, Gorokgoda,
Millewa, Horana.
 21. D.I.S Pulleperuma
No.25/C, Harmony Gardens,
Dharmayathana Mawatha, Hokandara South.

ADDED RESPONDENTS

***Eramudugoda Gamage Ranjith Saratchandra and Others v A.J.M. Musammil, the Governor
of the Western Province and Others***
Case No. SC/FR/18/2019

Before: Janak De Silva, J.

Dr Sobhitha Rajakaruna, J.

Menaka Wijesundera J.

Counsel: Uditha Egalahewa, PC with Ranga Dayananda for the Petitioners

Rajitha Perera, DSG for the 1st, 2nd, 10th and 11th Respondents

Viraj Bandaranayake for the 12th to 20th Added Respondents

Written Submissions: Petitioners - 22 December 2025

12th to 20th Added Respondents - 27 November 2025

Argued on: 28 October 2025

Decided on: 17 July 2026

Judgement

Dr Sobhitha Rajakaruna J.

The Petitioners are Grade I Technical Officers (Civil) in the Technological Service of the Western Province, serving in the Western Province Public Service. They claim that each Petitioner has successfully fulfilled the prescribed qualifications for promotion, including

passing the Third Efficiency Bar ('EB') Examination, thereby becoming eligible for promotion from Grade I to the Special (Supra) Grade.

The Petitioners invoked the Fundamental Rights jurisdiction of the Supreme Court to challenge the Respondents' decision to cancel the backdating of their promotions from Grade II to Grade I, together with the consequential promotions from Grade I to the Special (Supra) Grade. They contend that the impugned decisions ('P16', 'P17a' and 'P17b') are arbitrary, irrational, mala fide, illegal, and ultra vires.

Overview of the Petitioners' Position

The Petitioners submitted that the recruitment and promotional framework governing the Sri Lanka Technological Service was initially regulated by the respective Service Minute of 2006, which was subsequently superseded by the revised Service Minute published in 2015. They further submitted that promotions within the Technological Service of the Western Province are presently governed by the Service Minute applicable specifically to the Western Province Technological Service.

The Petitioners contended that the recruitment scheme applicable to the post of Technical Officer (Civil) in the Western Province Public Service, originally introduced in 2005, was replaced by a revised scheme of recruitment scheme issued in 2017. They submitted that, having been promoted to Class IIA by January 2007, each of the Petitioners became eligible to sit the prescribed Departmental Examination, the successful completion of which, together with the fulfilment of the other prescribed requirements, would have rendered them eligible for promotion to Class I upon the completion of four years of service.

The Petitioners further submitted that although the prescribed Departmental Examination was conducted in 2007 and all the Petitioners had completed the relevant EB Examination, promotion to Class I nevertheless remained conditional upon passing the Departmental Examination. They acknowledged that none of the Petitioners passed the Departmental Examination held in 2007, while the 4th Petitioner was unable to sit the Examination owing to exceptional personal circumstances arising from the need to care for his seriously ill mother.

The Petitioners further contended that, notwithstanding the requirement that both the Departmental and EB Examinations be conducted annually, no Departmental Examination was held between 2007 and 2016. They submitted that this prolonged omission effectively stalled their promotional prospects. They further asserted that, despite making repeated representations to the Provincial Public Service Commission requesting that the prescribed Departmental Examination be conducted, the said Commission failed to do so. According to the Petitioners, this delay caused them substantial prejudice by enabling officers junior to them to become eligible for promotion, thereby adversely affecting their seniority and promotional prospects.

The Petitioners submitted that in December 2016, the Commissioner General of Examinations called for applications for the Departmental Examination scheduled to be held in April 2017. Although some of the Petitioners applied to sit the Examination, they ultimately did not do so, as they had already been promoted to Class I in September 2015. They further contended that the applicable Service Minute contained no provision authorising the retrospective backdating of promotions following the successful completion of a Departmental Examination.

The Petitioners further submitted that the 3rd Respondent recommended their promotion to the Special Grade on a supernumerary, personal-to-holder basis. They questioned the necessity for such an arrangement, contending that substantive vacancies in the Special Grade were already available and that several Petitioners had, for a considerable period, been performing the duties attached to the Special Grade without receiving the corresponding salary and allowances.

The Petitioners further averred that, following numerous representations made on their behalf, the 1st Respondent resolved to grant retrospective effect to their promotions to Class I with effect from 3 January 2012 and to promote them to the Special Grade with effect from 3 January 2018. They submitted that this decision ('P12') was duly communicated to the relevant authorities and that each Petitioner thereafter received a formal letter confirming his promotion to Class I with retrospective effect.

The Petitioners also submitted that their professional association subsequently made further representations to the 1st Respondent requesting the implementation of the

approved promotions to the Special Grade, whilst also seeking retrospective effect for promotions to Class I from 2009 and to the Special Grade from 2015.

According to the Petitioners, the earlier decision ('P12') granting retrospective effect to their promotions was subsequently reversed by a letter dated 19 November 2018 ('P16'), whereby the Secretary to the 1st Respondent informed the relevant authorities that the approval for retrospective promotions had been revoked and directed that future promotions be granted only upon the successful completion of the prescribed Departmental Examination. The Petitioners submitted that they were formally informed of this decision in December 2018 and maintained that the revocation was arbitrary, unexpected, and prejudicial, and that it unlawfully defeated their accrued rights and legitimate expectations.

Finally, the Petitioners contended that the Respondents sought to fill vacancies in the Special Grade on the basis of the results of the Departmental Examination, notwithstanding that Clause 10 of the applicable Service Minute ceased to permit such appointments upon the expiry of the transitional period on 1 June 2018. They submitted that the impugned actions were contrary to the governing Service Minute and were therefore unlawful.

The Argument of the 12th to 20th Added Respondents

The 12th to 20th Added Respondents are Class I Technical Officers (Civil) of the same Technology Service of the Western Province who belongs to the Provincial Public Service. They strongly contend that the Petitioners' assertion that they were denied an opportunity to sit the Second Departmental Examination during the period from 2007 to 2016 is wholly false. They submit that the documents marked 'AR12', 'AR8(b)', and 'AR8(c)' clearly establish that the Second Departmental Examination was conducted in the year 2010, particularly during the period from 26 June 2010 to 24 July 2010. These Respondents further submit that the Petitioners have deliberately suppressed the fact that the said Examination was held in 2010, as well as the Examination held in 2015, in which some of the Petitioners sat and failed, while others failed to appear. They rely on the document marked '2R8', annexed to the Statement of Objections of the 2nd Respondent, in support of this contention.

The 12th to 20th Respondents further submit that the Petitioners, who had been promoted to Class IIA by the year 2005, had opportunities to sit the Second Departmental Examination conducted in 2007 and 2010, as well as the Examination held during 2015–2016, applications for which had been called in the year 2012. They emphasise that, except for the 4th Petitioner, all the Petitioners sat the Examination conducted in 2007 and failed. They further state that some of the Petitioners also sat the Second Departmental Examination conducted by the Department of Examinations between 26 June 2010 and 24 July 2010 and failed. Accordingly, these Respondents contend that the Petitioners either failed to avail themselves of the opportunities afforded to them to sit the relevant Examinations or, having done so, failed to satisfy the prescribed requirements. In contrast, the 12th to 20th Respondents submit that they diligently availed themselves of every opportunity to sit the Examinations conducted between 2007 and 2015.

With regard to the disputed document marked 'P12', by which the Petitioners' promotions were purportedly backdated (by the 1st Respondent), the 12th to 20th Respondents submit that officers who have duly passed the prescribed Departmental Examinations cannot be equated with officers who have failed to do so, as the two categories are not similarly situated. Accordingly, they contend that the subsequent decision to cancel 'P12' cannot be characterised as irrational, arbitrary, or unreasonable. They further submit that, when the 2nd Respondent instructed the Provincial Public Service Commission to promote the Petitioners to Class I notwithstanding their failure to pass the Second Departmental Examination, the 12th to 20th Respondents were afforded no opportunity to present their objections or grievances to the 1st Respondent.

The 12th to 20th Respondents further state that, upon becoming aware of the decision embodied in 'P12', the 12th Respondent, acting on behalf of all officers who had successfully completed the prescribed Departmental Examinations, lodged a complaint with the Parliamentary Commissioner for Administration (Ombudsman), drawing attention to the prejudice that would be caused to those officers if the Petitioners were granted retrospective promotions without having fulfilled the requisite qualifications.

These Respondents further submit that the Ombudsman correctly concluded that the decision of the 1st Respondent to direct the Western Province Public Service Commission to promote the Petitioners to Class I with retrospective effect, despite their failure to satisfy

the prescribed qualifications, was contrary to the applicable Rules and Regulations and was made in excess of the powers vested in the 1st Respondent.

Accordingly, the 12th to 20th Respondents contend that, had the Petitioners, who had not passed the Second Departmental Examination, been promoted to Class I with effect from 03 January 2012, the 12th to 20th Respondents, who had duly fulfilled all the prescribed qualifications and successfully passed the requisite Departmental Examinations, would have suffered grave prejudice and inequitable consequences, notwithstanding their diligence and compliance with the applicable requirements.

Summary of the Submissions made on behalf of the 1st, 2nd, 10th, and 11th Respondents

The 1st, 2nd, 10th, and 11th Respondents submit that the Petitioners' grievance arises not from any unlawful or arbitrary administrative action, but from their failure to satisfy the statutory requirements governing promotion within the Technological Service of the Western Province. They contend that promotions are governed by the applicable Service Minutes and the relevant Recruitment Scheme, which prescribe the qualifications and procedures for promotion from one grade to another.

These Respondents submit that the Petitioners failed to fulfil the prescribed requirements for accelerated promotion to Class I, as they did not successfully complete the requisite Second Departmental Examination. While acknowledging that the Departmental Examination was first held in 2007, they contend that the Petitioners either failed the Examination or failed to avail themselves of subsequent opportunities to sit it. They further submit that the Petitioners were eventually promoted to Class I in 2015 through the alternative promotional pathway available to officers who had completed the requisite period of satisfactory service.

Concerning the decision marked 'P12', the 1st, 2nd, 10th and 11th Respondents submit that, although a decision was initially taken to retrospectively backdate the Petitioners' promotions to Class I, that decision generated objections from officers whose promotional prospects would thereby be adversely affected. They state that complaints were made to the Governor and to the Ombudsman, following which the legality of the decision was reviewed. Upon consideration of the Ombudsman's recommendations and the applicable statutory framework, the Respondents decided to revoke the decision contained in 'P12' and thereby the Provincial Public Service Commission issued the letter dated 04 December

2018 marked 'P17a' requiring that promotions be effected only upon satisfaction of the prescribed qualifications.

The Respondents further contend that the Petitioners cannot rely on Clause 177 of the Procedural Rules of the Western Provincial Public Service to justify retrospective promotions, as that provision applies only where an officer has qualified for promotion in all respects and the delay is attributable solely to administrative circumstances. They submit that, since the Petitioners had not successfully completed the prescribed Departmental Examination, they had not fulfilled all the statutory qualifications necessary for promotion, rendering Clause 177 inapplicable.

The 1st, 2nd, 10th and 11th Respondents deny that the issuance of 'P16' infringed the Petitioners' rights under Articles 12(1) or 14(1)(g) of the Constitution. They submit that the impugned decision was reached following due consideration of representations made by affected officers, inquiries conducted by the Ombudsman, and deliberations by the Provincial Public Service Commission. Accordingly, they contend that the decision to revoke the retrospective promotions was lawful, reasonable, and consistent with the governing statutory framework, and that the Petitioners have failed to establish any arbitrary, discriminatory, or unlawful administrative action warranting the grant of relief.

Analysis

The Respondents drew the attention of the Court to the Report dated 20 February 2017, marked 'P6'. This Report was prepared by a retired officer of the Sri Lanka Administrative Service and concerns the rectification of the promotion process in the Western Province Technical Service, which was necessitated by the non-conduct of Departmental Examinations.

The said Report states that although the Examinations were held late, it is clear that 16 out of the 17 officers had two opportunities each, and one officer had three opportunities, to sit for the Second Departmental Examination during their ten years in Grade II A to qualify for promotion to Grade I. However, according to the reported information, some officers did not avail themselves of these opportunities, and from the dates of their promotion to Grade I, it is evident that even those who did appear were unable to pass. The Report therefore concludes that it is not

possible to attribute the situation to the Examinations not being held at the appropriate time.

The Report further notes that, despite this, a trade union's letter to the 1st Respondent dated 13 July 2016 requested relief on grounds of injustice due to the non-conduct of the Examinations. Nevertheless, according to the information in paragraphs 68, 69, 70, 71, and 72 of the said Report, these Officers (including Petitioners) did not appear for the delayed Examinations, and most of those who did appear failed them.

Similarly, I need to draw my attention to the Ombudsman's letter dated 02 July 2018, marked as '2R9', addressed to the 1st Respondent, which was issued after an inquiry into a complaint made by the 12th Added Respondent on the same grounds alleged in the instant Application on behalf of the 12th to 20th Added Respondents.

The Ombudsman, in commenting on the impugned decision of the 1st Respondent, observed that it was evident that, out of the 20 officers concerned, 16 had been promoted notwithstanding certain deficiencies in satisfying the prescribed requirements. However, since the Complainant had passed the prescribed Departmental Examinations and had been promoted to Grade I prior to those 16 officers, the Ombudsman recommended that the Complainant's promotion be backdated to the date on which he was promoted to Grade I, namely 16 March 2011, and that his period of service be reckoned accordingly. The Ombudsman further recommended that, having passed the relevant Departmental Examinations, the Complainant be promoted to the Special Grade in a manner that would do justice to him, and that officers who had passed the prescribed Departmental Examinations be placed senior to those who had not.

The Ombudsman further observed that confusion has arisen with the non-fulfilment of the requirements by the respective 16 officers who failed the relevant Examinations. It was also observed from the decisions of the 1st Respondent dated 12 February 2018 that there are no difficulties in understanding the relevant Clauses regarding the promotion of those technical officers, and that no decision has been taken to amend such Clauses of the Service Minute. The Ombudsman observed that what subsequently happened was, the authorities, despite the existence of the said Clauses, took steps to favour the 16 officers

concerned, and that such action should be considered "ultra vires" under administrative law. The Ombudsman further observed that it is the opinion of all those who know the law that such an action is null and void before the law.

Upon careful perusal of the documents and other evidence placed before the Court, it is observed that, the Provincial Public Service Commission and the Ombudsman have identified that, the Petitioners had not sat for the 2nd Departmental Examinations or passed them, even though they had the opportunity. Therefore, if they were given such opportunity and treated as if they had passed, it would cause prejudice to Officers like 12th-20th Added Respondents who have passed the Examinations with a legitimate expectation that they would be promoted to Class I upon passing.

Moreover both parties have relied on Clause 177 of the Procedural Rules of the Western Provincial Public Service published in Gazette Extraordinary No. 1898/4 dated 19 January 2015, marked 'P17(d)'. The said Clause 177 provides as follows:

"Notwithstanding Section 24, in a case where the decision on the promotion in a grade of any service is taken late due to any unavoidable reason, the Appointing Authority shall proceed to grant the promotion to that officer with effect from that due date, if it appears to the Appointing Authority that the officer in the relevant Provincial Public Service is not in any way responsible for such delay, whether or not he is engaged in the Provincial Public Service, has retired, or has died. If, after the relevant verification of the claim for such promotion, it is established that the officer had fulfilled all the necessary qualifications for the relevant promotion on the due date, the Appointing Authority shall act to grant the promotion to that officer with effect from that due date."

The Petitioners contend that the delay in conducting the relevant Departmental Examinations attracted the operation of Clause 177 and thereby justified the decision of the 1st Respondent to retrospectively backdate their promotions. In particular, they rely on the words, *"in a case where the decision on the promotion in a grade of any service is taken late due to any unavoidable reason, the Appointing Authority shall proceed to grant the promotion to that officer with effect from that due date, if it appears to the Appointing Authority that the officer in the relevant Provincial Public Service is not in any way responsible for such delay."*

Having considered Clause 177 in its entirety, together with the other provisions of 'P17(d)', I am unable to agree with the Petitioners' interpretation. In my view, Clause 177 contemplates a situation where an officer has already fulfilled all the prescribed qualifications for promotion and the grant of such promotion has been delayed solely due to unavoidable administrative reasons. The provision cannot be invoked where the officer has not satisfied the essential qualifications required for promotion.

Clause 5 of the Scheme of Recruitment, marked 'P3(c)', prescribes the qualifications required for promotion from Class II-B to Class II-A, from Class II-A to Class I, and from Class I to the Supra Grade. In terms of Clause 5(B) of 'P3(c)', promotion from Class II-A to Class I is available through either of the following two avenues:

- (a) four years of satisfactory service together with a pass in the relevant Efficiency Bar Examination and a pass in the prescribed Departmental Examination; or
- (b) ten years of satisfactory service together with a pass in the relevant Efficiency Bar Examination, notwithstanding the absence of a pass in the prescribed Departmental Examination.

Accordingly, the Scheme of Recruitment clearly recognises two distinct categories of officers for the purpose of promotion to Class I: those who have successfully passed the prescribed Departmental Examination and those who have not. The promotional scheme accordingly differentiates between these two categories by prescribing separate eligibility criteria.

The Petitioners in the instant Application did not possess the qualification of having passed the prescribed Departmental Examination at the time they sought retrospective promotions. In these circumstances, the mere fact that there had been delays in conducting the Departmental Examinations cannot, by itself, justify the grant of the relief sought. Furthermore, the 12th to 20th Added Respondents have advanced cogent grounds demonstrating that the retrospective backdating of the Petitioners' promotions, without any amendment to the applicable Scheme of Recruitment or the governing Service Minute, would seriously prejudice officers who had duly fulfilled the prescribed Examination requirements. This consequence was correctly recognised by both the Provincial Public Service Commission and the Ombudsman. I therefore find no fault with the decision of the 1st Respondent and the Provincial Public Service Commission to

revoke the decision contained in 'P12' by issuing the documents marked 'P16', 'P17a' and 'P17b'.

I must emphasise that the jurisprudence of this Court establishes that the constitutional guarantee of equality embodied in Article 12(1) requires the Court to pursue objective justice rather than merely remedy the grievance of the party alleging unequal treatment. In *Wickremasinghe v. Ceylon Petroleum Corporation and Others* (SC/FR/304/98 SC Minutes 6 December 2000), S. N. Silva CJ observed that the reasonableness underpinning the guarantee of equality "has to be judged on an objective basis which stands above the competing claims of parties", cautioning that the guarantee of equality should not be applied in a manner that "finally produce[s] iniquitous consequences." The Court recognised that executive action may inevitably confer benefits on some while imposing burdens upon others, and that equality cannot therefore be assessed solely from the subjective perspective of the person alleging discrimination. The proper inquiry is whether the impugned action is reasonable, non-arbitrary, and bears a rational relationship to the purpose sought to be achieved.

This principle was reaffirmed in *E.G.R.M.N.N.K. Rathnayaka and Others v. Jagath Balapatabendi and Others* (SC/FR/16/2021 SC Minutes 26 November 2025), where His Lordship Justice Arjuna Obeyesekere, referring to the judgment of His Lordship Justice Yasantha Kodagoda PC in *W.P.S. Wijerathna v. Sri Lanka Ports Authority* (SC/FR/256/17 SC Minutes 11 December 2020), held that Article 12(1) does not preclude differential treatment between persons who are otherwise similarly situated, where such differentiation rests upon a reasonable and rational basis.

Read together, these authorities make it abundantly clear that the judicial function is not merely to vindicate the interests of an aggrieved party, but to ensure that justice is administered consistently with the constitutional conception of equality. That conception requires objective, rational, and proportionate treatment of all persons affected by administrative action, rather than the advancement of one competing interest at the expense of another.

Conclusion

Having carefully considered the pleadings, written submissions, documentary material placed before the Court, and the submissions of learned Counsel for all parties, I am of the

view that the Petitioners have failed to establish that the impugned decision contained in 'P16' infringes their fundamental rights guaranteed under Article 12(1) of the Constitution.

The evidence before the Court demonstrates that the Petitioners had not fulfilled all the statutory qualifications required for accelerated promotion to Class I at the time the decision reflected in 'P12' was made. Although the Petitioners sought to attribute their predicament solely to the delay in conducting the prescribed Departmental Examinations, the material placed before Court establishes that opportunities had in fact been afforded to them to sit the relevant Examinations and that several of the Petitioners either failed those Examinations or failed to avail themselves of such opportunities. Consequently, the Petitioners cannot invoke the said Clause 177 of the Procedural Rules of the Western Provincial Public Service to justify retrospective promotions, since that provision applies only where an officer has fulfilled all the prescribed qualifications and the delay in granting promotion is attributable solely to unavoidable administrative reasons.

It is also evident that the decision embodied in 'P12' to retrospectively backdate the Petitioners' promotions was made without any legal foundation in the applicable Scheme of Recruitment, the governing Service Minute, or the Procedural Rules of the Western Provincial Public Service. The said decision appears to have been taken on an ad hoc basis in response to representations made on behalf of the Petitioners regarding the alleged delay in conducting the Departmental Examinations, rather than in accordance with the governing statutory framework. Such a decision had the effect of conferring upon the Petitioners a benefit to which they were not legally entitled, whilst simultaneously prejudicing officers who had duly complied with the prescribed requirements and had legitimately expected that promotions would be granted in accordance with the applicable Scheme of Recruitment.

The Provincial Public Service Commission, having reconsidered the legality of 'P12' in the light of the applicable legal framework, the objections of the affected officers, and the recommendations of the Ombudsman, acted lawfully and reasonably in revoking the said decision by issuing 'P17a'. In the circumstances of this case, I take the view that the revocation of an administrative decision that was itself made without legal authority cannot, constitute arbitrary or discriminatory executive or administrative action. On the contrary, 'P16', 'P17a' and 'P17b' restored compliance with the governing Scheme of

Recruitment and the Service Minute, thereby ensuring equal treatment of all officers in accordance with the law.

For all the foregoing reasons, I hold that the Petitioners have failed to establish any infringement or imminent infringement of their fundamental rights guaranteed under Article 12(1) of the Constitution due to the disputed decisions of the 1st Respondent or the 2nd to 11th Respondents. Accordingly, this Application is dismissed. In the circumstances of this case, I make no order as to 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