

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

In the matter of an application under
and in terms of Article 12(1)
read with Articles 17 and 126 of the
Constitution of the Democratic Socialist
Republic of Sri Lanka.

S.C. (FR) No. 244/2017

1. Ranasinghe Arachchige Nadeesha
Seuwandi Ranasinghe
No.130D, "Saman",
Walpola Road,
Ragama.
2. Mohamed Huwais Mohamed Naleef
No.07,
Salawatta Lane,
Wellampitiya

Petitioners

Vs.

1. Ceylon Petroleum Storage Terminals
Limited,
Oil Installation,
Kolonnawa.
2. Chairman,
Ceylon Petroleum Storage Terminals
Limited,
Oil Installation,

Kolonnawa.

3. Managing Director,
Ceylon Petroleum Storage Terminals
Limited,
Oil Installation,
Kolonnawa.
4. P.D.P. Dharmawansa,
Deputy General Manager
(HR and Admin),
Ceylon Petroleum Storage Terminals
Limited,
Oil Installation,
Kolonnawa.
5. W.V.S.A. Fonseka,
Chief Accountant,
Ministry of Petroleum Resources
Development,
No.80, Sir Ernest de Silva Mawatha,
Colombo 07.
6. D.M.H.B.Dasanayake,
Manager (Internal Audit),
Ceylon Petroleum Storage Terminals
Limited,
Oil Installation,
Kolonnawa.
7. K.M.N.A. C. Perera,
Human Resource Manager,
Ceylon Petroleum Storage Terminals
Limited,
Oil Installation,
Kolonnawa
8. Manoj Siriwardene,
Senior Deputy Manager (Finance),

Ceylon Petroleum Storage Terminals
Limited,
Oil Installation,
Kolonnawa.

9. R.M.S.K.Rathnayake (11536),
10. R.M.S.M.T. Mahanama (14104),
11. D.R. C.S. Thennakoon (14629),
12. E.G.C.B. Ellegama (16096),
9th to 12th Respondents all of and to be
served through the Manager (Internal
Audit),
Ceylon Petroleum Storage Terminals
Limited,
Oil Installation, Kolonnawa.
13. Hon. Attorney General,
Attorney General's Department,
Colombo 12.

Respondents

Before : Mahinda Samayawardhena, J
K. Priyantha Fernando, J
Menaka Wijesundera, J

Counsel : Harsha Fernando, PC with Chamith Senanayake, Yohan
Cooray and Thenura Samarasuriya instructed by Jagath
Thalgaswattage for the Petitioners.

Sanjeewa Jayawardhana, PC with Charitha Rupasinghe
instructed by Sujeewa Kumari for the Respondent.

Navodi De Zoysa, SC for the Hon. Attorney General

Written

Submissions : Written submissions on behalf of the Petitioners on 15th of November 2022.

Written submissions on behalf of the 1st to 4th and 6th, 8th to 12th Respondents on 4th of November 2022.

Further written submissions on behalf of the Petitioners on 15th of October 2025.

Argued on : 09.09.2025

Decided on : 18.12.2025

MENAKA WIJESUNDERA, J.

The instant matter refers to an application filed by two Petitioners namely Nadeesha Ranasinghe, the 1st Petitioner and Mohamed Naleef, the 2nd Petitioner, who have been serving in the capacity of Audit Clerks Grade B-2 at the Ceylon Petroleum Storage Terminals Limited (CPSTL).

They allege a violation of their fundamental rights under Articles 12(1) and 14(1)(g) of the Constitution, arising from the denial of their promotions to the post of Management Assistant (Audit) – Grade B1.

Before the instant matter was supported for leave, the Respondents have taken up the objection of this matter being in violation of article 126(2) of the Constitution but this Court having heard both parties had delivered a very comprehensive order by her ladyship Justice Murdu Fernando, who had overruled the said preliminary objection on 22.02.2019 on the basis that according to section 13(1) of the Human Rights Commission Act No. 21 of 1996;

“Time would not run during the pendency of proceedings before the Human Rights Commission and such time will not be taken in to account computing the period of one month within which an application may be made to this Court in terms of Article 126 (2) of the Constitution.”

Thereafter, the matter has been supported for leave and on 03.03.2020, this Court has granted leave on the basis of article 12(1) of the Constitution.

The grouse of the Petitioners is that they were treated differently by the 1st to the 8th Respondents as opposed to the 9th to the 12th Respondents.

The Petitioners state that they were duly qualified and more suited than the 9th to 12th Respondents, who were promoted instead. Both Petitioners claim that they have long, unblemished service records, the 1st Petitioner with 17 years of service (letters of appointment marked as P1A – P1D) and the 2nd Petitioner with 20 years (letters of appointment marked as P2A – P2E).

Both had been promoted progressively through the service and were eligible for the next promotion to Management Assistant (Audit) – Grade B1.

The CPSTL had issued a notice dated 09.08.2016, calling for applications for the said promotion (marked P3A, P3B). The Petitioners had applied, and had been called for an interview on 20.01.2017 (marked P5A, P5B), and had faced the interview and the panel had comprised 4th to 8th Respondents.

They allege that the interviews were not properly conducted, and insufficient time was not taken to assess the candidates.

The 9th to 12th Respondents had been appointed on promotion to Management Assistant (Audit) – Grade B1 with effect from 01.02.2017, while the Petitioners had not been informed of the results. Upon inquiry under provisions of the Right to Information Act No. 12 of 2016, the Petitioners had obtained the consolidated mark sheets (P8), which, according to them, reveal arbitrary and discriminatory marking in deviation from the official marking scheme (P6).

In ***Perera v Monetary Board of the Central Bank of Sri Lanka***, Amerasinghe J emphasized the need for transparency in recruitment:

“Transparency in recruitment proceedings would go a long way in achieving public expectations of equal treatment. The selection of a person must be viewed as a serious matter requiring a thoroughgoing consideration of the need for the services of an officer, and a clear formulation of both the basic qualities and qualifications necessary to

perform the services, and the way in which such qualities and qualifications are to be established.”

The Petitioners contend that they should have been awarded additional marks for educational qualifications, work-related training, and extracurricular activities -sports. All this is included in their applications marked as P4A, P4B.

The 1st Petitioner, being an AAT qualified candidate and a recognized badminton player for CPSTL, and the 2nd Petitioner, holding a Diploma in Management – OUSL, Certificate in Entrepreneurship and pursuing a degree, allege that their qualifications and training were overlooked. Instead, higher marks were unduly awarded to the 9th to 12th Respondents.

The 1st Petitioner states that she has participated in work related training programs and represented CPSTL. She was given only 7 marks, whilst the 10th and 12th obtained 9.5 marks though they do not have any additional sports qualifications, to the best of Petitioners knowledge.

The 2nd Petitioner received 9 marks under Additional work-related training/sports category in 2014 and had completed further work-related trainings in 2015 & 2016. Accordingly, more than 9 marks should have been awarded; however, only 7 marks were awarded to him, which is less than what was even awarded in 2014. (marked as P8, P12B)

The Petitioners argue that if the proper scheme (P6) had been applied, their marks would have exceeded those of the 9th to 12th Respondents, entitling them to promotion on merit. They allege the promotions were made in an arbitrary and discriminatory manner, violating their rights to equality before the law and freedom to engage in their lawful occupation.

Article 12(1) of the Constitution reads as follows:

“All persons are equal before the law and are entitled to the equal protection of the law.”

Subba Rao J. said in **State of U.P. v Deoman** (1960) S.C. 1125 at 1134-

"All persons are equal before the law is a fundamental of every civilized Constitution. Equality before law is a negative concept; equal protection of law is a positive one. The former declares that everyone is equal before the law, that no one can claim special privileges and that all classes are subjected to the ordinary law of the land; the latter postulates an equal protection of all alike in the same situation and under like circumstances".

The phrase "*equality before the law*" appears in nearly all written constitutions and is derived from English law. In contrast, the term "*equal protection of the law*" first appeared in the Fourteenth Amendment to the Constitution of the United States. Both expressions are employed in the Constitution of Sri Lanka, as they are in the Indian Constitution.

Article 14 of the Indian Constitution provides: "*The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.*" It is important to observe that, in the Indian context, this prohibition against inequality applies solely to the State. However, no such limitation exists under the Sri Lankan Constitution.

Both terms "*equality before the law*" and "*equal protection of the law*" are also found in Article 7 of the Universal Declaration of Human Rights, which states: "*All are equal before the law and are entitled without any discrimination to equal protection of the law.*" Similarly, Article 26 of the International Covenant on Civil and Political Rights contains both expressions.

The notion of *equality before the law* is regarded as a negative concept, denoting the absence of special privileges for any individual and the equal subjection of all persons to the ordinary law. On the other hand, *equal protection of the law* is considered a more affirmative concept, connoting the equal application of the law in similar circumstances.

Sir Ivor Jennings, in the book *Law of the Constitution* (5th Edition, University Press 1964) pg 56, viewed equal treatment as encompassed within the idea of equality before the law, stating: "*Equality before the law means that among equals, the law should be equal and should be equally administered, that like should be treated alike.*" The underlying aim of both expressions is clearly the attainment of equal justice.

A. V. Dicey, asserting equality before the law to be a corollary of the famous doctrine of the rule of law, emphasized that it means,

'The supremacy or predominance of law as distinguished from mere arbitrariness (... It means again, equality before the law or equal subjection of all classes to the ordinary law of the land administered by the ordinary law courts (... It means that in England no man is above the law but everyman, whatever his rank or condition may be, is subject to the ordinary law of the land.'

In this case, the Petitioners invoked the jurisdiction of this Court seeking declarations of rights violations, annulment of the promotions of the 9th to 12th

Respondents, and a direction either to promote the Petitioners directly with corrected marks, or to order fresh interviews with proper marking.

The Respondents categorically deny that the Petitioners' fundamental rights under Article 12(1) have been infringed. They assert that all actions were taken bona fide, fairly, reasonably, transparently, and in the best interests of the 1st Respondent company.

The Respondents have alleged that the Petitioners have failed to name all necessary parties to the application and since the reliefs sought would directly affect their rights, failure to include them renders the application defective and warrants dismissal *in limine*.

Furthermore, the Respondents have also stated that at the time of the promotions, vacancies existed were duly filled.

The Respondents have further averred that the promotions were decided under the marking scheme in force since 1999 (P6) and that the Petitioners wrongly relied on a later marking scheme (P16/1R-3), introduced in 2018, which is irrelevant to the interviews in 2017.

Marks were allocated consistently and fairly under P6. The Petitioners themselves had been previously assessed under the same scheme.

The Respondents had further stated that the interview notices (P3A & P3B) required applicants to produce all certificates at the interview but that the Petitioners failed to do so and are now attempting to rely on documents obtained after the interviews (e.g. P10T dated 16.05.2017, which is post-interview). Marks were allocated only for documents available in personnel files or produced at the interview.

Marks have been given only for the highest qualification to ensure fairness.

The 1st Petitioner had failed certain AAT subjects (P10D) and the 2nd Petitioner's diploma was not in the relevant field of accounting. His Bachelor of Management degree was incomplete and it states that he has not fulfilled all the requirements (marked as P11J).

Thus, they were awarded marks strictly according to the scheme. Marking sheets produced marked 1R2(i)- 1R2(xii).

In the case of **Perera v Cyril Ranatunga, Secretary Defence (1993) 1 Sri LR 39**, Kulatunga J cited with approval a dictum of the Indian Supreme Court in **Jaisinghani v Union of India AIR 1967 SC 1427, 1431**:

“The concept of equality in the matter of promotion can be predicated only when the promotees are drawn from the same source. If the preferential treatment of one source in relation to the other is based on the differences between the said two sources, and the said differences have a reasonable relation to the nature of the office or offices to which recruitment is made, the said recruitment can legitimately be sustained on the basis of a valid classification.”

A structured system (1R5) had been used to allocate marks, with priority for AAT/Chartered qualifications and relevant audit-related training.

Therefore, according to the Respondents, the Petitioners had received marks according to their qualifications, such as allocating 1.5 marks for AAT Stage 2. Similarly, out of the 9th to 12th Respondents, one of them had been denied marks where their certificates were irrelevant or incomplete.

Hence, the marking scheme in P6 has been consistently applied since 1999.

The Respondents further state that the performance at the interview by the applicants also have a substantial impact on the marks received by each candidate.

As such, the allegation of arbitrary and discriminatory marking is vehemently denied by the Respondents.

On the merits of the submissions put forward by both parties orally and in writing this Court finds that the marking scheme in force at the time had been P6 and that it must be followed until it is set aside by the government regulation.

The interview board cannot take cover from the fact that the personal performance of each candidate depends on the final marks obtained by each candidate but what one must be mindful is that when certain marking schemes had been put in place, it must be followed and then thereafter, each individual performance at the interview, by each candidate, can be added to those that had already been put in place for the academic and educational qualifications.

But on the submissions made by the Respondents, it has been placed before this Court that, according to P6, which has been the marking criteria for the appointments of the Respondents who had been selected at the interview, the Petitioners abovenamed had fallen behind because they had not made available their academic certificates, which they claim that they possess and also their performance at the interview had not been in their favour.

Hence, as the interview board has a certain discretion to add marks for the performance at the interview, the Petitioners had not been able to obtain the same, in spite of the fact of failing to produce certificates they claim to have.

As such, in view of P6 and other material, I see no violation of the 1st and 2nd Petitioners' rights under article 12(1) of the Constitution and as such, the instant application is dismissed without costs.

JUDGE OF THE SUPREME COURT

Mahinda Samayawardhena, J

I agree.

JUDGE OF THE SUPREME COURT

K. Priyantha Fernando, J

I agree.

JUDGE OF THE SUPREME COURT