

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

In the matter of Applications in terms of Articles 17
and 126 of the Constitution of the Democratic
Socialist Republic of Sri Lanka

Consolidated Judgment relating to SC (FR) Application Nos. 296/2017, 9/2019 and
42/2019

SC (FR) Application No. 296/2017

1. Western Provincial Revenue Service Union,
Department of Revenue,
No. 204, Denzil Kobbekaduwa Mawatha,
Battaramulla.
2. H.R. Prasanna Buddika,
No. 179/14, Mahara, Kadawatha.
3. D.B.U.S. Gunathilake,
No.54, SanthaPitharaWatta,
Yatadola Watta, Mathugama.
4. B.K.S.A Kumara,
No. 54/2, KekiriWatta Road,
Galthude, Panadura.
5. M.C.R. Prasad,
No.486/10, Gonawala, Kelaniya.
6. W.S.J.D.G. Nawarathna,
No. Sisila, Ovitigama, Pugoda.
7. U. Gunawardane,
No.155/11, Hadugoda, Delgoda.
8. S.D Jayaratne,
No.108/4A, Temple Road, Maharagama.
9. T.T Premashantha,

No. 1342/4, Monrovia Place,
Bogahawatta Road, Pannipitiya.

10. D. A Sumana Dedigama,
No. 141/1/S, Seewali Road,
Kurukulawa Road, Ragama.
11. P.P.T Anthony,
No. 70/B, "Asiri", Rukgahathotupola Road,
Aluthgama, Bandaragama.
12. M.V.P Sisira Kumara,
No. 5/1, Gallegedara, Dewalapola.
13. A. Nishantha Gamage,
No. 25/2B, Eksathmawatha,
Mahara, Kadawatha.
14. N.P.A Prasanna,
No. 04, Gamunu Mawatha,
Kalutara-North.
15. W.A.K Fernando,
No.28/12B, Krushimawatha,
Mawathgama, Homagama.
16. D M.U. Kithsiri Ekanayaka,
No.24, Sri Lalankara Mawatha, Mullegama,
Homagama.
17. J. M. D. Mahesh Dayarathne,
No. 245/7, Chandawimala Mawatha,
Thalpathpitiya, Nugegoda.
18. T.A. Y. Pradeep Tennakoon,
No.40/2, Parakandeniya, Imbulgoda.
19. W. Chamaka Asanga,
No. 63, Robert Gunewardene Mawatha,
Thalangama-South, Battaramulla.

PETITIONERS

Vs.

1. K.C. Logeswaran,
Governor, Western Provincial Council
- 1A. Hemakumara Nanayakkara,
Governor, Western Provincial Council
- 1B. M. Azath S. Sally,
Governor, Western Provincial Council
- 1C. Dr Seetha Arambepola,
Governor, Western Provincial Council
- 1D. Marshall of the Air Force Roshan Goonetilleke,
Governor, Western Provincial Council

1, 1A – 1D Respondents at
The Secretariat of the Governor of the
Western Province,
No.109, 5th Floor, Rotunda Building,
No, 119, Galle Road, Colombo 3.

2. M.A.B. Daya Senerath,
Chief Secretary, Western Provincial Council
- 2A. W.V.P. Pradeep Yasarathna,
Chief Secretary, Western Provincial Council
- 2B. J.M.C. Jayanthi Wijethunge,
Chief Secretary, Western Provincial Council

2, 2A & 2B Respondents at
Office of the Chief Secretary – Western Province,
Srawasthi Mandiraya,
No. 32, Sir Marcus Fernando Mawatha,
Colombo 7.

3. Ashoka Jayasekera,
Secretary,
National Salaries and Cadres Commission
- 3A. Anura Jayawickrama Perera,
Secretary, National Salaries and Cadres Commission
- 3B. Chandrani Senaratne,
Secretary and also a Member,
National Pay Commission
4. K. L. L. Wijeratne
- 4A. S. Ranugge,
Chairman
- 4B. Upali Wijayaweera

4th, 4A & 4B Respondents are Chairman,
National Salaries and Cadres Commission
5. Nimal Bandara,
Member, National Salaries and Cadres Commission
- 5A. C.P. Siriwardena,
Member, National Salaries and Cadres Commission
- 5B. Gotabhaya Jayarathne,
Member, National Pay Commission
6. Dayananda Vidanagamachchi,
Member, National Salaries and Cadres Commission
- 6A. Damitha de Zoysa,
Member, National Salaries and Cadres Commission
- 6B. Sujatha Cooray,
Member, National Pay Commission

7. J. Charitha Ratwatte,
Member, National Salaries and Cadres Commission
- 7A. Lalith Kannangara,
Member, National Salaries and Cadres Commission
- 7B. Madura Wehalla
Member, National Pay Commission
8. Prof. Kithsiri Madapatha Liyanage,
Member, National Salaries and Cadres Commission
- 8A. Janaka Sugathadasa,
Member, National Salaries and Cadres
Commission
- 8B. M.S.D. Ranasiri,
Member, National Pay Commission
9. Leslie Shelton Devendra,
Member, National Salaries and Cadres
Commission
- 9A. Chithrangani Wagiswara,
Member, National Salaries and Cadres
Commission
- 9B. Ananda Hapugoda,
Member, National Pay Commission
10. Suresh Shah,
Member, National Salaries and Cadres Commission
- 10A. Chandrani Senaratne,
Member, National Salaries and Cadres Commission
- 10B. Sanjeewa Somaratne,
Member, National Pay Commission

11. Sanath Jayantha Ediriweera,
Member, National Salaries and Cadres Commission
- 11A. Kingsley Fernando,
Member,
National Salaries and Cadres Commission
- 11B. Ajith Nayanakantha,
Member, National Pay Commission
12. V. Regunathan,
Member, National Salaries and Cadres Commission
- 12A. G.S. Edirisinghe,
Member, National Salaries and Cadres Commission
- 12B. Ravi Liyanage,
Member, National Pay Commission
13. Kamal Mustapha,
Member, National Salaries and Cadres
Commission
- 13A. M.C. Wickremesekere,
Member, National Salaries and Cadres Commission
- 13B. Sanath Ediriweera,
Member, National Pay Commission
14. Prof. Gunapala Nanayakkara,
Member, National Salaries and Cadres Commission
- 14A. Palitha Abeykoon,
Member, National Salaries and Cadres Commission
- 14B. Ranjith Senarathna,
Member, National Pay Commission
15. Sujatha Cooray,
Member, National Salaries and Cadres Commission

- 15A. D. Abeysuriya,
Member, National Salaries and Cadres Commission
- 15A. R.M. Amarasekara,
Member, National Pay Commission
16. Gerry Jayawardena,
Member, National Salaries and Cadres Commission
- 16A. Leslie Devendra
Member, National Salaries and Cadres Commission
- 16B. Siri Ranaweera,
Member, National Pay Commission
17. S. Thillainadarajah.
Member, National Salaries and Cadres Commission
- 17A. W.H. Piyadasa,
Member, National Pay Commission
18. Dr. Anura Ekanayake,
Member, National Salaries and Cadres Commission
19. Sembakuttige Swarnajothi,
Member, National Salaries and Cadres Commission
20. P. K. U. Nilantha Piyaratne,
Member, National Salaries and Cadres Commission
21. N. H. Pathirana,
Member, National Salaries and Cadres Commission
22. H. T. Dayananda,
Member, National Salaries and Cadres Commission
23. T. B. Maduwegedera,
Member, National Salaries and Cadres Commission

24. Dr. Wimal Karandagoda,
Member, National Salaries and Cadres Commission

25. Suranga Naullage,
Member, National Salaries and Cadres Commission

3rd – 25th Respondents are at
Room No 2-116, B.M.I.C.H,
Bauddaloka Mawatha, Colombo 7.

26. H.G. Sumanasinghe

26A. Thamara D. Perera

26B. S.H.D. Kaluthanthri

26th, 26A & 26B Respondents are
Director General,
Department of Management Services,
3rd Floor, Ministry of Finance,
The Secretariat, Colombo 1.

27. W.D Somadasa

27A. H.A. Chandana Kumarasingha

27th and 27A Respondents are
Director General of Establishments,
Ministry of Public Administration and
Management, Independent Square, Colombo 7.

28. H.T. Kamal Pathmasiri

28A. S. Hettiarachchi

28th and 28A Respondents are Secretary,
Ministry of Public Administration, Home
Affairs, Provincial & Local Government ,
No. 330, Dr. Colvin R. de Silva Mawatha (Union
Place), Colombo 2

29. M.G.A. Thilakarathne

29A. Thilak Senarath

29th and 29A Respondents are Secretary,
Provincial Public Service Commission of the
Western Province,

30. K. Sarath Gunathilake

30A. Sunil Abeywardena

30B. Udaya Rohan de Silva

30, 30A & 30B Respondents are Chairman,
Provincial Public Service Commission of the
Western Province,

31. Sunil Fernando

31A. H. Sumanapala

31B. Chathurika Wijesinghe

32. S.K. Liyanage

32A. Kanthi Wijethunga

32B. Kanthi Hemamali Wijetunga

33. K. Paranalingam

33A. P.G.H.A.Mahendra Silva

33B. Ruvani Yasoja Hapuarachchi

34. J. Paranamanna

34A. M.I.M. Rezwie

35. A.W .C. Ariyadasa

35A. Naganathan Sivahumaran

36. K.H. Wijethunge

36A. Ziyath Gaffoor

31st – 36A Respondents are Members,
Provincial Public Service Commission of the
Western Province

29th – 36A Respondents are at
No. 109, Main Street, Battaramulla

37. J.J. Rathnasiri

37A. Padmasiri Jayamanna

37B. M.M.P.K. Mayadunne

37th, 37A & 37B Respondents are
Secretary to the Ministry of Public
Administration, Home Affairs, Provincial
Councils and Local Government
Independence Square, Colombo 7

38. G.A.N. Jayantha

38A. D.A.S. Dedigama

38th and 38A Respondents are
Commissioner of Provincial Revenue Service,
Department of the Provincial Revenue Service
of Western Provincial Council,
No.204, Denzil Kobbekaduwa Mawatha,
Battaramulla.

39. Dharmasena Dissanayake,
Chairman,
Public Service Commission

39A. Hon. Justice Jagath Balapatabendi,
Chairman,
Public Service Commission

- 40. Prof. Hussain Ismail
- 40A. Indrani Sugathadasa
- 41. D. Shirantha Wijayatilaka
- 41A. T.R.C.Ruberu
- 42. Dr. Prathap Ramanujam
- 42A. Ahamed Lebbe Mohamed Saleem
- 43. V. Jegarasasingam
- 43A. Leelasena Liyanagama
- 44. Santi Nihal Seneviratne
- 44A. Sudharma Karunaratne
- 44B. Dian Gomes
- 45. S. Ranugge
- 45A. W.H.Piyadasa

- 46. D.L. Mendis
- 46A. Suntharam Arumainayaham
- 47. Sarath Jayathilaka,

40th – 47th Respondents are Members of the
Public Service Commission

39th – 47th Respondents are at
No.177, Nawala Road, Narahenpita Colombo 5

- 48. Hon. Attorney General,
Attorney General's Department,
Hulftsdorp, Colombo 12.

RESPONDENTS

SC (FR) Application No. 9/2019

1. Provincial Revenue Service Executive Officers Unity (Central Province), Revenue Department, 244, Katugastota Road, Kandy

And 5 others

PETITIONERS

- Vs -

1. S. Maithree Gunarathne, Governor, Central Province, Governor's Secretariat, Kandy.

And 32 others

RESPONDENTS

SC (FR) Application No. 42/2019

1. Executive Officers Union, Southern Province Revenue Service, 30, Wakwella Road, Galle

And 43 others

PETITIONERS

- Vs -

1. Keerthi Tennekoon, Governor, Southern Province, The Secretariat of the Governor of the Southern Province, Lower Dickson Road, Galle.

And 40 others

RESPONDENTS

Before: Yasantha Kodagoda, PC, J
Arjuna Obeyesekere, J
K. Priyantha Fernando, J

Counsel: Sanjeeva Jayawardena, PC with Lakmini Warusewithane and Rukshan Senadheera for the Petitioners in SC (FR) Application No. 296/2017

Pulasthi Hewamanne with Harini Jayawardhana and Fadhila Fairoze for the Petitioners in SC (FR) Application No. 9/2019

Manohara De Silva, PC with Boopathi Kahathuduwa, Harithriya Kumarage and Dilmini De Silva for the Petitioners in SC (FR) Application No. 42/2019

Viveka Siriwardena, PC, Additional Solicitor General with Sureka Ahmed, Senior State Counsel for the Respondents in all three applications

Argued on: 2nd April 2024, 24th June 2024, 5th March 2025, 11th March 2025 and 24th June 2025

Written Submissions: Tendered on behalf of the Petitioners in SC (FR) Application No. 296/2017 on 23rd October 2023 and 10th November 2025

Tendered on behalf of the Petitioners in SC (FR) Application No. 9/2019 on 26th August 2025

Tendered on behalf of the Petitioners in SC (FR) Application No. 42/2019 on 27th August 2025

Tendered on behalf of the Respondents on 10th October 2025

Decided on: 5th May 2026

Obeyesekere, J

(1) The 1st Petitioner is a duly registered trade union by the name of Western Provincial Revenue Service Union. While its membership consists of the officers of the Provincial Revenue Service of the Western Province [the Provincial Revenue Service], the 2nd to 9th Petitioners are the office bearers of the 1st Petitioner. The rest of the Petitioners too are officers of the Provincial Revenue Service and members of the 1st Petitioner.

Basis for the Application

- (2) In their petition filed on 22nd August 2017, the Petitioners state that the Provincial Revenue Service and the Sri Lanka Inland Revenue Service [the Inland Revenue Service] to which the officers of the Inland Revenue Department belong, are parallel services and that since the inception of the Provincial Revenue Service in 1991, officers of the Provincial Revenue Service have enjoyed parity of status with those in the Inland Revenue Service.
- (3) The Petitioners filed this application in 2017 when the National Salaries and Cadres Commission refused to place the Petitioners on par with the officers of the Inland Revenue Service serving at the Department of Inland Revenue and grant the Petitioners the same designations, promotional pathways, service conditions, salary structures and allied privileges that officers of the Department of Inland Revenue are entitled to in accordance with the Service Minute of the Inland Revenue Service that was introduced in 2013 [P14]. This decision is reflected in the letter dated 30th May 2017 [P28/R2] sent by the National Salaries and Cadres Commission to the Secretary, Ministry of Provincial Councils and Local Government
- (4) The Petitioners alleged that the said refusal is violative of their fundamental rights guaranteed by Article 12(1) of the Constitution, in that:
 - (a) Members of the Provincial Revenue Service have at all times enjoyed parity of status with those in the Inland Revenue Service;
 - (b) The Petitioners had a legitimate expectation that they would at all times be afforded parity of status with those of the Inland Revenue Service;
 - (c) The said decision of the National Salaries and Cadres Commission is unreasonable, irrational and arbitrary;
 - (d) The National Salaries and Cadres Commission did not follow a fair procedure in that it failed to give the Petitioners a hearing prior to arriving at its decision.

- (5) It is in the above circumstances that the Petitioners sought the following relief:
- (a) A declaration that the Provincial Revenue Service is a parallel and/or corresponding service to the Inland Revenue Service; and/or
 - (b) A declaration that the Petitioners are entitled to be accorded the identical designations and/or posts and/or grades and/or salary scales and/or salary revisions and increments and/or other benefits and privileges as contained in the minute of the Inland Revenue Service.
- (6) There are four issues that need to be determined in this application. The first is whether the Inland Revenue Service and the Provincial Revenue Service are parallel services, or in other words, whether the officers of the two services are similarly circumstanced and equal. The second issue is whether the Petitioners were entitled to entertain a legitimate expectation that they would be accorded the same benefits and privileges as those in the Inland Revenue Service. The third issue is whether, in any event, the reasons attributed by the National Salaries and Cadres Commission for their impugned decision is reasonable. The final issue, irrespective of the answers to the first three issues, is whether the National Salaries and Cadres Commission adopted a fair procedure in arriving at its decision.

Connected applications

- (7) Pursuant to the filing of this application, two further applications were filed, the first being SC (FR) Application No. 9/2019 by officers of the Provincial Revenue Service, Central Province and the second being SC (FR) Application No. 42/2019 by the officers of the Provincial Revenue Service, Southern Province. Since the legal issues arising in all three matters were similar, with the consent of all learned Counsel appearing in these three applications, all three applications were taken up together for the consideration of the granting of leave. Having heard learned Counsel, leave to proceed against the alleged violation of Article 12(1) was granted in all three applications on 8th September 2020.
- (8) When the three applications were taken up for hearing on 2nd April 2024, learned Counsel for all parties agreed that there can be a consolidated hearing of all three applications and that this Court could deliver one judgment which will capture and

relate to all three applications. Accordingly, we heard submissions of the learned President's Counsel and learned Counsel for the Petitioners and the learned Additional Solicitor General for the Respondents. This judgment is based on the pleadings in SC (FR) Application No. 296/2017 and shall be binding on the parties in SC (FR) Application No. 9/2019 and SC (FR) Application No. 42/2019.

13th Amendment to the Constitution and taxation

- (9) The starting point in determining whether the Petitioners are entitled to parity of status with officers of the Inland Revenue Service is the 13th Amendment to the Constitution introduced in 1987.
- (10) While Article 154A provided for the establishment of a Provincial Council for each Province specified in the 8th Schedule to the Constitution, Article 154G(1) provided further that, *“Every Provincial Council may, subject to the provisions of the Constitution, make statutes applicable to the Province for which it is established, with respect to any matter set out in List I of the Ninth Schedule”*, known as the Provincial Council List.
- (11) Items 36:1 to 36:19 of List I specified the different types of taxes that could be levied by a Provincial Council, with Item 36:20 providing the power to resort to other taxation within the Province in order to raise revenue for provincial purposes to the extent permitted by or under any law made by Parliament.
- (12) The Financial Statute of the Western Province, No. 6 of 1990 passed by the Western Province Provincial Council was certified on 29th October 1990. Section 2 thereof provided that, *“For the purpose of this Statute, there shall be appointed a Provincial Commissioner of Revenue and such number of Provincial Deputy Commissioners, Provincial Assessors and such other officers as may be necessary.”* Section 104(1) thereof provided further that the Provincial Commissioner shall be in charge of the administration of the said Statute.
- (13) This is the legal framework for the levying and collection of taxes by the Western Province.

Provincial Public Service

(14) Along with the 13th Amendment, Parliament enacted the Provincial Councils Act, No. 42 of 1987 [the Act].

(15) Section 32 thereof reads as follows:

“(1) Subject to the provisions of any other law the appointment, transfer, dismissal and disciplinary control of officers of the provincial public service of each Province is hereby vested in the Governor of that Province.

(2) The Governor of a Province may, from time to time, delegate his powers of appointment, transfer, dismissal and disciplinary control of officers of the provincial public service to the Provincial Public Service Commission of that Province.

*(3) **The Governor shall provide for and determine all matters relating to officers of the provincial public service, including the formulation of schemes of recruitment and codes of conduct for such officers, the principle to be followed in making promotions and transfers, and the procedure for the exercise and the delegation of the powers of appointment, transfer, dismissal and disciplinary control of such officers. In formulating such schemes of recruitment and codes of conduct the Governor, shall, as far as practicable, follow the schemes of recruitment prescribed for corresponding offices in the public service and the codes of conduct prescribed for officers holding corresponding offices in the public service.***

(16) While Section 33 of the Act provided for the establishment of a Provincial Public Service Commission, in terms of Section 33(8), *“The Governor of a Province shall have the power to alter, vary or rescind any appointment, order of transfer, or dismissal or any other order relating to a disciplinary matter made by the Provincial Public Service Commission of that Province, on appeal or otherwise, or by the Chief Secretary or, any officer of the provincial public service of that Province, to whom such Provincial Public Service Commission has delegated its powers under section 32.”*

(17) Section 32 of the Act reflect what prevailed at that time with regard to public officers in Article 55, and more particularly Articles 55(1), (2), (3) and (4) of the Constitution, which are reproduced below:

“(1) Subject to the provisions of the Constitution, the appointment, transfer, dismissal and disciplinary control of public officers is hereby vested in the Cabinet of Ministers, and all public officers shall hold office at pleasure.

(2) The Cabinet of Ministers shall not delegate its powers of appointment, transfer, dismissal and disciplinary control in respect of Heads of Department.

(3) The Cabinet of Ministers may, from time to time, delegate its powers of appointment, transfer, dismissal and disciplinary control of other public officers to the Public Service Commission. ...

(4) Subject to the provisions of the Constitution, the Cabinet of Ministers shall provide for and determine all matters relating to public officers, including the formulation of schemes of recruitment and codes of conduct for public officers, the principles to be followed in making promotions and transfers, and the procedure for the exercise and the delegation of the powers of appointment, transfer, dismissal and disciplinary control of public officers.”

(18) Thus, while the structure that prevailed within the Government in 1987 vested with the Cabinet of Ministers the power of determining all matters relating to officers of the Public Service, including the formulation of schemes of recruitment and the service minutes for each of the services, when it came to each Province, that power with regard to officers of the Provincial Public Service performing services within the Province was vested with the Governor. The Provincial Public Service Commission exercised the powers of the Governor delegated to it by the Governor, with the Governor being the ultimate authority within the Province in respect of officers coming under the Provincial Public Service.

(19) Section 32(3) of the Act lays emphasis on one important matter, that being in formulating such schemes for public servants within the Province, the Governor shall, **as far as practicable**, follow the schemes of recruitment prescribed for

corresponding offices in the public service. Not identical, not equal, but as far as practicable. This to my mind reflects the legislative intent on striking a balance between the Public Service of a Province and the Public Service of the Government.

- (20) Article 55 has seen many changes since 1978, and while in terms of Article 55(3) as it presently stands and subject to the provisions of the Constitution, the appointment, promotion, transfer, disciplinary control and dismissal of public officers [except heads of department] are vested in the Public Service Commission, Article 55(1) as it stood in 2017 provided that, "*Subject to the provisions of the Constitution, the Cabinet of Ministers shall provide for and determine **all matters of policy relating to public officers.***"
- (21) There is one matter that I wish to advert to, prior to considering the first service minute of the Provincial Revenue Service, that being the financial control that is exercised by the Government over a Province and the nexus it has with the public service of a Province.

Financial control by the Government

- (22) Article 154R has provided for the establishment of a Finance Commission consisting of five members including the Governor of the Central Bank and the Secretary to the Treasury. In terms of Article 154R(3), "*The Government shall, on the recommendation of, and in consultation with the Commission, allocate from the Annual Budget, such funds as are adequate for the purpose of meeting the needs of the Provinces.*"
- (23) In terms of Article 154R(4):
- "It shall be the duty of the Commission to make recommendations to the President as to –*
- (a) the principles on which such funds as are granted annually by the Government for the use of Provinces, should be apportioned between the various Provinces; and*
 - (b) any other matter referred to the Commission by the President relating to Provincial Finance."*

(24) As required by Article 154R(7), *“The President shall cause every recommendation made by the Finance Commission under this Article to be laid before Parliament, and shall notify Parliament as to the action taken thereon.”*

(25) **In Re Thirteenth Amendment to the Constitution and the Provincial Councils Bill** [(1987) 2 Sri LR 312; at pages 327-328], the majority determination held as follows:

*“The 13th Amendment Bill defines those areas of activity where decisions affect primarily persons living in the province. It does not devolve powers over activities which affect people elsewhere or the well-being of Sri Lanka generally. The powers that are conferred on the Provincial Councils are not at the expense of the benefits which flow from political and economic unity of Sri Lanka. Political unity means that Parliament, representing all the people, must remain sovereign over their affairs; and that the government of the day must bear the main responsibility to Parliament for protecting and furthering the interests of all. Economic unity means that the Government must manage the nation's external economic relations with other countries. **The Government must be able to control national taxation, total public expenditure and the supply of money and credit** and the Government must also keep the task of devising national policies to benefit particular parts of the country and of distributing resources among them according to relative need. Resources are distributed not according to where they come from but according to where they are needed. This applies between geographical areas just as much as between individuals. Article 154R(5) mandates the Finance Commission to formulate principles with the objective of achieving balanced regional development in the country. The President is directed to cause every recommendation made by the Finance Commission to be laid before Parliament and to notify Parliament as to the action taken.”* [emphasis added]

(26) That the Government must be able to control total public expenditure and that Parliament shall retain control over public finance at all times as provided for by Article 148 was emphasised in the minority opinion, when it stated that, *“Control over public finance is one of cardinal principles of a Parliamentary democracy. The passing of the Appropriation bill is the most effective control Parliament has over the Executive. This right was won after long struggle.”* [page 382]

- (27) I must also state that Finance in relation to national revenue, monetary policy and external resources, customs, including Public debt of the Government of Sri Lanka, taxes on income, capital and wealth of individuals, companies and corporations, Turnover taxes and stamp duties, except to the extent specified in List I, and any other tax or fee not specified in List I are matters that come within the Reserved List.
- (28) The manner in which the financial requirements of the Provinces are met by the Government has been clearly set out by the Finance Commission in its recommendations submitted to HE the President for 2026. Therein, the Financial Commission has stated *inter alia* as follows:

“It is expected that the Provincial Councils utilize the revenues collected by them to meet the Provincial financial requirements. However, revenue collection is insignificant when the total financial requirement of the Province is concerned. Therefore, the Constitution has provided that adequate funds have to be allocated by the Annual Budget in order to deliver the services of Provincial Councils without disruption.” [Paragraph 2.1]

“Block Grant is provided to meet the recurrent expenditure needs of the Provinces for the purpose of sustaining and improving the service delivery system of the Provincial Councils. The Personal Emoluments (PE) of provincial staff constitute the major portion of Block Grant, because the majority staff of the public service are in the provincial Education and Health sectors. The assessment of salaries and wages is confined to the cadre approved by the Department of Management Services (DMS) and funds required for this category are recommended after a comprehensive need assessment of cadre is carried out.” [Paragraph 2.2.1]

- (29) Thus, the creation of cadre within a service in a Province, the grade at which each employee must be placed, the applicable salary code and the need to maintain equality among all employees within the Province are all matters that come within the “economic unity” of Sri Lanka and brings into play public finance and expenditure. A necessary concomitant in dealing with such matters involving public finance would be the involvement of the Department of Management Services with regard to cadre requirements of the Province and classification of officers within a

Province, and the National Salaries and Cadres Commission or the National Pay Commission [provided such a Commission exists at the relevant time] with regard to remuneration of such cadre including the determination of the applicable salary code in keeping with the functions and duties of each cadre.

The First Service Minute of the Provincial Revenue Service

- (30) The first Service Minute of the Provincial Revenue Service containing the scheme of recruitment, qualifications etc., came into effect on 1st January 1991 [P5]. While there is no dispute between the parties that in respect of designations, salaries etc., P5 mirrored the provisions of the Inland Revenue Service, it is the position of the Petitioners that P5 conferred on officers of the Provincial Revenue Service with a status equal to those in the Inland Revenue Service, and that they entertained a legitimate expectation that they would continue to enjoy this parity of status at all times.
- (31) This would perhaps be an ideal place for me to briefly lay down the law with regard to legitimate expectation. I say briefly for the reason that much has been said about legitimate expectation in a series of landmark judgments of this Court starting from **Dayarathna v Minister of Health and Indigenous Medicine** [(1999) 1 Sri LR 393], followed *inter alia* by **M.R.C.C. Ariyaratne and others v N.K. Illangakoon, Inspector General of Police and others** [SC (FR) Application No. 444/2012; SC Minutes of 30th July 2019], and culminating with **Vavuniya Solar Power (Private) Limited v Ceylon Electricity Board and others** [SC (FR) Application No. 172/2017; SC minutes of 20th September, 2023]. I shall therefore not engage in a lengthy exposition of the law, suffice to state what is relevant to the facts of this application.
- (32) In **Vavuniya Solar Power (Private) Limited v Ceylon Electricity Board and others** [supra], Kodagoda, PC, J stated as follows:

“The doctrine of legitimate expectation is founded upon the principle that an expectation generated due to representations made by or regular practices (procedures) of a public body, should be respected by such public body, and it should conduct itself in accordance with such representations made by itself and its own practices. Justice demands that a public authority be prevented from frustrating an expectation generated by it occasioned either by sudden changes to its governing policy or due to extraneous or collateral reasons.”

“The recognition of this doctrine is founded upon the policy of the law of recognizing and protecting legitimate expectations, arising out of a public authority having undertaken expressly or impliedly, through representations made by itself or by its own practices, to take decisions and or conduct itself in a particular manner in the future. In effect, this doctrine requires public authorities to comply with its own undertakings, the failure of which gives rise to judicial review resulting in judicial pronouncements being made requiring the public authority to conduct itself in the prescribed manner, decide as directed by court and or sanctions being made for having frustrated legitimate expectations.”

“It would thus be seen that, embodied in the doctrine of legitimate expectations, are three key variables. They are –

- (i) a public authority having through representations made by it or by its conduct generated an expectation,*
- (ii) legitimacy of that expectation, and*
- (iii) the protection conferred by law on the expectation that had been generated.*

(33) Kodagoda, PC, J thereafter made the following two important distinctions:

- (a) *“In order to successfully claim relief on the basis of a legitimate expectation that has been frustrated, **the claimant must establish that the representation made by the public authority or its past conduct generated an ‘expectation’ which is justiciable in the eyes of the law.** As recognized in *Desmond Perera and Others v. Karunaratne, Commissioner of National Housing and Others* [(1994) 3 Sri L.R. 316], it was observed by the Court of Appeal that **establishing that the claimant entertained a ‘hope’ or ‘reasonable hope’ was insufficient to successfully claim relief through the doctrine of legitimate expectation.**”*
- (b) *“As to legitimacy of the expectation arising out of a representation made or past practice of a public authority, **the law is concerned only of the expectation the person concerned is entitled to develop, as opposed to the subjective expectation actually entertained in the mind of such person.** Thus, the question to be asked is, what was the expectation the person concerned was entitled by law to develop in his mind by the representation or the conduct of the public authority concerned.” [emphasis added]*

(34) Thus, the position is that for a Court of law to formally recognise that in the circumstances of a particular case there exists a legitimate expectation, there must be an express or specific promise, undertaking or representation made to a class of persons to which a petitioner in that case belongs. What is important and this is critical to this application is that a mere hope in the mind of a petitioner is insufficient.

(35) While P5 does not carry an endorsement that it has been approved by the Governor, it is clear from the letter dated 20th August 1991 [P5A] issued by the Secretary to the Governor that P5 had the approval of the Governor.

(36) P5A reads as follows:

"I refer to the draft of the above minute submitted by you for the approval of Hon. The Governor, Western Province.

Hon. The Governor approves the Minute as submitted by you subject to the following conditions:

1. ***The qualification*** prescribed for the various grades and posts are not lower than those prescribed by the Department of Inland Revenue for equivalent or parallel grades and posts.
2. *The salaries and other emoluments attached to the various posts are not higher than those attached to parallel or equivalent posts, the only exception being the case of the first holder of the post of Provincial Revenue Commissioner as provided for in the Draft Minute submitted.*
3. ***Those officers coming to the Provincial Revenue Department from the Department of Inland Revenue*** will continue to enjoy the same conditions, concessions and privileges they were enjoying at the Department of Inland Revenue, (and) nothing more.
4. ...
5. ..."

(37) It is admitted that:

- (a) the Provincial Revenue Service was initially staffed by officers of the Inland Revenue Department who were attached to the Province on a temporary basis;
- (b) those who were attached to the Provincial Revenue Service were thereafter afforded the opportunity of continuing with the Provincial Revenue Service; and
- (c) those who availed of such opportunity were permanently released to the Provincial Revenue Service **on the same terms and conditions** that they enjoyed while serving at the Department of Inland Revenue. Hence, the need for paragraph 3 of P5A.

(38) The Petitioners have stated that given the administrative exigencies that prevailed at the time of preparation of P5, **the primary objective of P5** was to facilitate and provide for the absorption of officers from the Department of Inland Revenue to the Provincial Revenue Service and to encourage officers from the Inland Revenue Service to join the Provincial Revenue Service. Naturally, those in the Inland Revenue Department would not have opted to join the Provincial Revenue Service unless they were assured of continuing to enjoy the same benefits. The Petitioners have also stated that in order to avoid any anomalies and disparities among different services within the Province, P5 was prepared in a manner that corresponded with the designated hierarchical structure that prevailed in the Department of Inland Revenue at that time. Thus, P5 was issued in that manner in order to address a specific purpose and to achieve a specific objective, that being to facilitate the entry of the officers of the Inland Revenue Service to the Provincial Revenue Service.

(39) These concessions by the Petitioners place in perspective the need to have mirrored in P5, the provisions of the service minute applicable at that time for the officers of the Department of Inland Revenue. It also explains the need to have maintained parity of status between the two Services at the commencement of the Provincial Revenue Service as a stop gap measure. However, to my mind, P5 and P5A could not have and in any event, did not seek to create parallel revenue services between the Province and the Government nor did it serve either as an assurance or as a representation that those who joined the Provincial Revenue Service at a later point

of time would be entitled to benefits which are not less than those in the Inland Revenue Service.

(40) While I have already referred to paragraphs 1, 2 and 3 of P5A, paragraphs 4 and 5 of P5A reads as follows:

“4. The recommendations of any Committee appointed in terms of Clause 12 of the draft Minute submitted must secure the approval of the Governor to be implemented.

5. The Commissioner of Revenue can exercise the discretionary power vested in him in terms of Clause 16 of the draft Minute submitted only with the approval of the Governor.”

(41) To give context to the above two paragraphs of P5A, I shall re-produce Clauses 12 and 16 of P5, which reads as follows:

Clause 12 – “ආදායම් දෙපාර්තමේන්තුවේ විවිධ පන්ති හා ශ්‍රේණිවලට අදාළ නිලධාරීන් අන්තර්ග්‍රහණය කිරීමෙන් හෝ පත් කිරීමෙන් හෝ උද්ගත විය හැකි විශේෂ ගැටළු සහ වැටුප් ගැලපීම හා සම්බන්ධ ප්‍රශ්න නිරාකරණය පිණිස විශේෂ කමිටුවක් ආදායම් කොමසාරිස්වරයාට පත් කළ හැක.”

Clause 16 – “ආදායම් දෙපාර්තමේන්තුවේ කිසියම් තනතුරකට අන්තර්ග්‍රහණය කරනු ලබන හෝ උසස්වීම කරනු ලබන හෝ නිලධාරීන්ගේ පළපුරුද්ද හා සුදුසුකම් සැලකිල්ලට ගෙන, ඔහුට/ඇයට අදාළ වන වැටුප් පරිමාණයේ සම වැටුප් තලයක තැබීමට ආදායම් කොමසාරිස්වරයාට පුළුවන.”

(42) Thus, all decisions relating to qualifications, salaries etc., of the employees of the Provincial Revenue Service were taken by the Governor, in keeping with the provisions of Section 32 of the Provincial Councils Act.

(43) Paragraphs 4 and 5 of P5A sets out the manner in resolving disparities that may arise between the salaries of officers who were originally from the Inland Revenue Service and others in the Province. This is a reflection that officers of the Provincial Revenue Service may have enjoyed better salaries than others of an equal status from a different service for the only reason that, having been officers of the Inland Revenue Service, they had been assured of the remuneration they received as officers of the Inland Revenue Service during their stay at the Provincial Revenue Service. This too confirms that P5 and P5A were issued in such a manner so as to achieve the objective of the Government to establish a Provincial Revenue Service and give effect to the 13th Amendment.

(44) It is therefore clear that P5 had been structured in such a manner so as to facilitate the attachment of a set of officers who were at the time of their attachment enjoying better facilities than what an officer in the Province would have been entitled to. To my mind, P5 does not contain an express or specific promise, undertaking or representation that the Provincial Revenue Service would continue to have parity of status with the Inland Revenue Service in relation to future appointments. While the Petitioners may or may not have hoped for such a scenario at the time they joined the Provincial Revenue Service, the facts and circumstances in which P5 was issued does not support the case of the Petitioners upon which a legitimate expectation can be founded.

First amendment of P5

(45) The Petitioners state that with the passage of time and changing circumstances, the necessity arose to introduce a new Service Minute for the Provincial Revenue Service. While the Petitioners have not explained what these circumstances are, a fresh service minute had been prepared in 2008, with the Petitioners stating that it reflected the provisions of the service minute of the Inland Revenue Service that prevailed at that time.

(46) Although the Petitioners have not divulged details, they claim that the contents of the proposed service minute was discussed with all stakeholders and on the recommendations of the Chief Secretary, Western Provincial Council, was approved by the Governor on 7th April 2009. The said service minute, marked P7, is the service minute that is currently applicable to the Provincial Revenue Service. The Petitioners state that in terms of P7, designations, posts, ranks, salary scales etc., that were applicable to the officers of the Inland Revenue Service applied to those officers in the Provincial Revenue Service with a specific reference in P7 in this regard.

(47) Neither party has adduced any evidence whether P7 resulted in any change in designation of the posts that existed under P5 or whether P7 required additional finances to meet the salaries and other emoluments of the Officers, nor have any party submitted any proof that P7 was approved by the Department of Management Services and/or the National Salaries and Cadres Commission.

(48) Be that as it may, the Petitioners state that:

- (a) P7 was an extension of the legitimate expectation they had arising from P5 that the designations, salary scales and other benefits applicable to those in the Inland Revenue Service would apply to them; and
- (b) P7 was a reiteration that the status quo shall continue to apply to them at all times and that the Respondents will continue to treat the Provincial Revenue Service as a parallel service to the Inland Revenue Service.

(49) I have already stated that P5 was issued to cater to a particular situation and could not have given rise to a legitimate expectation in the minds of the officers of the Provincial Revenue Service. In the absence of specific circumstances that may have arisen after P5 on which such an argument can be supported, I am of the view that P7 could not have placed the Petitioners in a better position than where they were under P5.

New Service Minute of the Inland Revenue Service

(50) The issue that gave rise to this application commenced in 2012 with the policy decision taken in terms of Article 55(1) by the Cabinet of Ministers on 18th April 2012 to restructure and reorganize the Department of Inland Revenue and thereby strengthen the administration of taxes. While the Cabinet Memorandum has not been filed of record, the Cabinet Decision [R1] reads as follows:

“අමාත්‍ය මණ්ඩල පත්‍රිකා අංක 12/0531/504/054 වූ, “රාජ්‍ය පරිපාලන චක්‍රලේඛ අංක: 06/2006 හි විධිවිධාන අනුව ශ්‍රී ලංකා දේශීය ආදායම් සේවා ව්‍යවස්ථාව සංශෝධනය කිරීම” යන මැයෙන් මුදල් හා ක්‍රමසම්පාදන ඇමතිතුමා ඉදිරිපත් කළ 2012-04-17 දිනැති සංදේශය - 2012 අයවැය කථාවේ යෝජිත පරිදි බදු පරිපාලනය ශක්තිමත් කිරීම පිණිස දේශීය ආදායම් දෙපාර්තමේන්තුව කඩිනමින් ප්‍රතිව්‍යුහගත කිරීමේ දැඩි අවශ්‍යතාව අමාත්‍ය මණ්ඩලය විසින් සලකා බලන ලදුව, ප්‍රතිපත්තිමය කරුණක් වශයෙන් පහත සඳහන් කරුණු සඳහා අනුමැතිය දෙන ලදී:

- (i) දේශීය ආදායම් දෙපාර්තමේන්තුවේ බදු නිලධාරීන්ට දැනට පැවරී තිබෙන රාජකාරී කටයුතු රාජ්‍ය කළමනාකරණ සහකාරවරුන් වෙත පැවරීම; සහ
- (ii) බදු නිලධාරී තනතුර අහෝසි කිරීම.

යෝජිත ශ්‍රී ලංකා දේශීය ආදායම් සේවා ව්‍යවස්ථාවේ අන්තර්කාලීන විධිවිධාන ප්‍රකාර අවශ්‍ය සුදුසුකම් සපුරන බදු නිලධාරීන් එකී ශ්‍රී ලංකා දේශීය ආදායම් සේවයේ III ශ්‍රේණියට පත්කිරීම පිණිස වූ සංදේශයේ සඳහන් යෝජනාව, රාජ්‍ය සේවා කොමිෂන් සභාවේ උපදෙස් පරිදි හා එහි අනුමැතිය ද ඇතිව ක්‍රියාත්මක කිරීම සඳහා ප්‍රතිපත්තිමය වශයෙන් අනුමැතිය දෙන ලදී.”

- (51) It must be noted that while the Cabinet of Ministers has emphasised the necessity to restructure the Department of Inland Revenue on a priority basis, the Cabinet decision is silent with regard to whether the Provincial Revenue Service must be similarly restructured.
- (52) In terms of the said decision, a new Service Minute [P14] for the Inland Revenue Service had been prepared by the Public Service Commission and published in Extraordinary Gazette No. 1804/50 dated 5th April 2013 to reflect and give effect to the restructuring of the Inland Revenue Department that took place pursuant to R1. While the existing hierarchical structure of the Inland Revenue Service saw significant changes, some of the changes introduced by P14 included (a) the change in designation of staff grade posts, (b) the change in the Grades of the newly designated posts, and (c) the change of the salary codes applicable to such posts.
- (53) The Petitioners have stated that the rationale behind introducing such substantial revisions to the then existing structure of the Inland Revenue Service was to provide a solution to the longstanding stagnation within the Department of Inland Revenue and to provide reasonable and sufficient opportunities to obtain promotions.
- (54) It would thus be seen that P14 was part of an overall policy decision of the Cabinet of Ministers that took on board (a) significant changes that had taken place within the Department of Inland Revenue, (b) the nature of taxes that had been introduced, (c) the complexity involved in the collection of such taxes, and (d) the circumstances that prevailed at that time with regard to the imposition and collection of taxes.

Proposed Service Minute for the Provincial Revenue Service

- (55) With the introduction of P14, a draft service minute [P16] reflecting the new designations and the hierarchical structure created by P14 was prepared for the Provincial Revenue Service. The Petitioners have stated that the *“said draft service minute was compiled after much deliberation at the Departmental level and the 1st Petitioner Union was actively involved in the entire process.”* That P16 was prepared by the 1st Petitioner is reflected in a letter dated 16th July 2013 [P15] signed by the 38th Respondent, the Commissioner of Revenue for the Western Province. A similar practice had been adopted by the Revenue Services of the other two Provinces.

- (56) I must state that while the Petitioners had a right to be consulted when preparing a service minute applicable to them, the preparation of a service minute is not a function of a trade union but lay within the province of the Provincial Public Service Commission and the Governor. In the absence of any material suggesting otherwise, it appears to me that the whole process of preparing a new service minute had commenced on a wrong footing. I have examined the correspondence that the Petitioners have produced with regard to obtaining approval for P16 and find that while none of the correspondence had been copied to the Provincial Public Service, the said correspondence does not evidence any involvement on the part of either the Provincial Public Service or the Governor of the Western Province in the entire process leading to the decision of the National Salaries and Cadres Commission that is impugned in this application.
- (57) The Petitioners state that by P15, the 38th Respondent had submitted P16 to the Deputy Chief Secretary, Western Province. P16 had thereafter been sent by the Deputy Chief Secretary together with his recommendations to the Director General, Department of Management Services by letter dated 14th November 2013 [P17].
- (58) It appears from letter dated 2nd August 2014 [P19] written by the 38th Respondent to the Deputy Chief Secretary that the Department of Management Services and the National Salaries and Cadres Commission having considered P16 had proposed amendments to the draft Service Minute but that the 38th Respondent was not in agreement with such amendments. Although this demonstrates that the National Salaries and Cadres Commission was involved with the consideration of P16, P19 does not set out the basis of the amendments proposed by the Commission. To my mind, at this stage, the National Salaries and Cadres Commission ought to have engaged directly with the Governor, the Provincial Revenue Service and other stakeholders and afforded the Petitioners a hearing. I have discussed at paragraphs 80 to 94 of this judgment the necessity of having done so.
- (59) P19 was followed by letter dated 28th November 2014 [P22] sent by the Director General [Administration and Human Resources Management] of the Ministry of Finance and Planning inviting the Collective of all Provincial Revenue Service trade

unions for a meeting on 5th December 2014. The minutes of the said meeting are at **P23**.

(60) A further meeting had been held between the Chief Secretary, Western Province, the 38th Respondent and officers of the Provincial Revenue Service on 25th August 2015 [**P24**]. The All Island Provincial Revenue Service Unity had thereafter sent a letter dated 10th August 2016 [**P26**] to the National Salaries and Cadres Commission expressing their concern with the failure to place them on par with the Inland Revenue Service. This had been followed by a further meeting between the Chief Secretary, Western Province, the 38th Respondent and officers of the Provincial Revenue Service on 1st November 2016 [**P24A**] to discuss P16.

(61) By letter dated 30th May 2017 [**P28/R2**], the National Salaries and Cadres Commission had informed the Secretary, Ministry of Provincial Councils and Local Government that the functions performed by the Provincial Revenue Service are different to those performed by the Inland Revenue Service and hence it is unable to agree with the request to amend the Service Minute of the Provincial Revenue Service to match P14.

(62) P28 reads as follows:

“ උක්ත කරුණ සම්බන්ධයෙන් වෘත්තීය සංගම් මගින් දිගින් දිගටම මෙම කොමිෂන් සභාව වෙත ඉල්ලීම් ඉදිරිපත් කරනු ලැබ ඇත. දේශීය ආදායම් දෙපාර්තමේන්තුවේ කාර්ය භාරයට සාපේක්ෂව පළාත් සභාවන්හි කාර්ය භාරය සමාන නොවේ. පවත්නා කාර්ය භාරයට අනුරූපීව දේශීය ආදායම් දෙපාර්තමේන්තුව හා පළාත් ආදායම් දෙපාර්තමේන්තු සඳහා තනතුරු අනුමත කිරීම සිදු කර ඇත.

02. එබැවින්, මධ්‍යම රජයේ දේශීය ආදායම් සේවා ව්‍යවස්ථාවට අනුරූපීව පළාත් ආදායම් සේවා ව්‍යවස්ථාව සංශෝධනය කිරීම පිළිබඳව මෙම කොමිෂන් සභාව එකඟ නොවන බව කාරුණිකව දන්වා සිටිමි.

03. ඒ පිළිබඳව අදාළ අංශ දැනුවත් කරන්නේ නම් මැනවි.”

(63) It is this decision of the National Salaries and Cadres Commission that the Petitioners allege has resulted in the violation of their fundamental rights guaranteed by Article 12(1).

Restructuring of the Inland Revenue Service

- (64) I shall at this stage briefly refer to the changes that were brought about in the Department of Inland Revenue by P14.
- (65) In his affidavit to this Court, the Chairman of the National Pay Commission had stated that prior to the restructuring, the designations of the staff grade posts in the Department of Inland Revenue had been as follows:

Designation	Grade
Commissioner General	-
Commissioner	Class I
Deputy Commissioner	Class II Grade I
Assessor	Class II Grade II
Tax Officer	Class III Grade II/I

- (66) Pursuant to the restructuring, the cadre of Tax Officer had been abolished and their respective duties had been assigned to Management Assistants. The staff grade cadre posts had thereafter been re-designated as follows:

Designation	Grade	Salary Code
Commissioner General	Special	SL3
Deputy Commissioner General	Special	SL3
Senior Commissioner	Special	SL3
Commissioner	I	SL1
Senior Deputy Commissioner	I	SL1
Deputy Commissioner	II	SL1
Assistant Commissioner	III	SL1

(67) The cadre of the Provincial Revenue Service which prevailed at the time P14 was introduced was as follows:

Designation	Grade	Salary Code
Provincial Revenue Commissioner	I	SL1
Deputy Provincial Revenue Commissioner	I	SL1
Assessor/Senior Assessor	III/II	SL1
Tax Officer/ Senior Tax Officer	III/II/1	MN5

(68) It would thus be seen that a Provincial Revenue Commissioner and a Commissioner of the Inland Revenue Service have been placed at the salary code of SL1. While the post of a head of a Provincial Department, whether it be health, education or revenue is an executive grade post with a salary code of SL1, what the Petitioners are seeking are for the Provincial Revenue Commissioner to be re-designated as Senior Provincial Revenue Commissioner and placed in the Special Grade with the salary code SL3, and for corresponding adjustments to be made to the other staff grade posts. This is reflected in the following table:

Designation	Grade	Salary Code
Senior Commissioner of Revenue	Special	SL3
Senior Commissioner	Special	SL3
Commissioner	I	SL1
Senior Deputy Commissioner	I	SL1
Deputy Commissioner	II	SL1
Assistant Commissioner	III	SL1

Article 12(1) of the Constitution

(69) This brings me to the submission of the Petitioners that the Provincial Revenue Service and the Inland Revenue Service are parallel services, that the officers of these two services are equal and therefore, are entitled to the equal protection of the law afforded to every citizen in terms of Article 12(1).

(70) In **W.P.S. Wijerathna v Sri Lanka Ports Authority and others** [SC (FR) Application No. 256/2017; SC minutes of 11th December 2020], Kodagoda, PC, J stated as follows:

“It is well settled law that, at the core of Article 12 of the Constitution is a key concept, namely the concept of ‘equality’. The concept of equality is founded upon the premise that, all human beings are born as equals and are free. Equality confers equal value, equal treatment, equal protection and equitable opportunities to all persons, independent of or notwithstanding various demographic, geographic, social, linguistic, religious and political classifications based on human groupings prevalent in contemporary society, some of which are immutable or born to and others acquired.”

*“The principle which underlines Article 12 is that, **equals must be treated equally, operate equally on all persons, under like circumstances.** Article 12 guarantees equality among equals. **It is violated both by unequal treatment of equals and equal treatment of the unequal.** Indeed, the concept of equality does not involve the idea of absolute equality among human beings. Thus, equality before the law does not mean that persons who are different shall be treated as if they were the same. Article 12 does not absolutely preclude the State from differentiating between persons and things. The State has the power of what is known as ‘classification’ on a basis of rational distinction relevant to the particular subject dealt with. **So long as all persons falling into the same class are treated alike, there is no question of discrimination and there is no question of violating the equality clause. The discrimination that is prohibited is treatment in a manner prejudicial as compared to another person in similar circumstances.** So long as classification is based on a reasonable and a justifiable basis, there is no violation of the constitutional right to equality. What is forbidden is invidious (unfair / offensive / undesirable) discrimination. **The guarantee of equal protection is aimed at preventing undue favour to individuals or class privilege, on the one hand, and at hostile discrimination or the oppression of equality on the other.** Since the essence of the right guaranteed by Article 12 and the evils which it seeks to guard against are the avoidance of designed and intentional hostile treatment, or discrimination on the part of those entrusted with the administering of the same, a person setting up grievances of denial of equal treatment must establish*

*that between persons similarly circumstanced, some were treated to their prejudice and **the differential treatment had no reasonable relevance to the object sought to be achieved.***" [emphasis added]

- (71) The issue then is, whether the two services are parallel and whether their officers are equal.
- (72) It is clear from P28 that the National Salaries and Cadres Commission had declined to place the Petitioners on par with the Inland Revenue Service on the basis that the two services are distinct services and that the functions performed by the two Services are different. Elaborating on this matter, the Chairman of the National Pay Commission has stated that even though the collection of taxes is the broad purpose fulfilled by both Services, the scope of functions assigned to the Inland Revenue Department is much more expansive when compared with the Provincial Revenue Service, in that the number of taxes that are managed by the officers of the Department of Inland Revenue are significantly higher than what is managed by the Provincial Revenue Service.
- (73) The following table provides a clear picture on the taxes that are collected by each of the two Services:

Taxes collected by the Inland Revenue Department	Taxes collected by the Provincial Revenue Department
Income Tax	Stamp Duty
Value Added Tax	Prize Competition Tax
Goods and Services Tax	Pawn Jewellery
Turnover Tax	Mineral Tax
Social Responsibility Tax	
Economic Service Charge	
Betting and Gaming Levy	
Share Transaction Levy	
National Security Levy	
Construction Industry Guarantee Fund Levy	
Nation Building Tax	
Land Tax	
Vehicle Entitlement Tax	
Migrating Tax	

- (74) If I may summarise, not only are the number of the taxing laws that are managed by the Officers of the Inland Revenue Service and the types of taxes that are collected much greater than that of the Provincial Revenue Service, in terms of complexity of the taxes involved and the mode of collection of such taxes, the nature of the duties that need to be performed in the collection of such taxes including the issuing of assessments, considering appeals made against such assessments to the Commissioner General of Inland Revenue and appearing before the Tax Appeals Commission, the volume of work required in order to collect and recover the taxes and overall, in the management of the collection of the said taxes are significantly different to that performed by the Provincial Revenue Service. Furthermore, collection of taxes is not the only function performed by officers of the Department of Inland Revenue. These officers are involved in the formulation of fiscal and taxation policies, the preparation of the annual budget and even in the negotiation of bilateral and free trade agreements. It is these matters that formed the basis for the restructuring of the Department of Inland Revenue and resulted in P14.
- (75) I must of course state that this Court does not for a moment underestimate or not duly recognise the immense contribution made by the officers of the Provincial Revenue Service in the collection of taxes required for the Province, but the reality is such that the functions performed by the officers of the Inland Revenue Service in order to reach the revenue targets set for it by the Government is far more complex and much greater.
- (76) This brings me to another important factor that weighs against the Petitioners. It is admitted by the Petitioners that the Business Turnover Tax [BTT] that was collected by the Provincial Revenue Service was abolished in 2010. According to the minutes of the meeting held on 5th December 2014 [P23], this is said to reflect a 90% drop of the work performed by the Provincial Revenue Service. Even though the Petitioners argue that this change did not result in an overall drop in the quantum of revenue collected due to the substantial increase in the revenue generated from the imposition of stamp duty, what is important is not the quantum of revenue collected but the fact that the work load of the Provincial Revenue Service witnessed a significant drop.

(77) What all these factors establish is that even though both the Provincial Revenue Service and the Inland Revenue Service engage in the collection of taxes, their functions are substantially different. Hence, I am in agreement with the National Salaries and Cadres Commission that as at the time of filing this Application, the two services were not equal. I am therefore of the view that the complaint of the Petitioners that they have been treated differently do not attract the provisions of Article 12(1) of the Constitution.

Reasonableness of the decision

(78) The threshold for determining whether a decision of a public authority is reasonable in the particular circumstances of that case was laid down by Lord Greene in **Associated Provincial Picture Houses Limited v Wednesbury Corporation** [1948 1 KB 223]. While a slightly liberal approach was adopted by Lord Diplock in **Secretary of State for Education and Science v Metropolitan Borough Council of Tameside** [1977 AC 1014] followed by a test close to Wednesbury in the **Council of Civil Service Unions v Minister for the Civil Service** [1985 AC 374][the GCHQ case], the following passage in **R v Chief Constable of Sussex (Ex parte International Trader's Ferry Ltd)** [(1998) UKHL 40] reflects to my mind a more balanced approach in determining whether a decision is reasonable:

*"Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation [1948] 1 KB 223, an apparently briefly--considered case, might well not be decided the same way today; and the judgment of Lord Greene M.R. twice uses (at 230 and 234) the tautologous formula "so unreasonable that no reasonable authority could ever have come to it." Yet judges are entirely accustomed to respecting the proper scope of administrative discretions. In my respectful opinion they do not need to be warned off the course by admonitory circumlocutions. When, in Secretary of State for Education and Science v. Tameside Metropolitan Borough Council [1977] A.C. 1014, the precise meaning of "unreasonably" in an administrative context was crucial to the decision, the five speeches in the House of Lords, the three judgments in the Court of Appeal and the two judgments in the Divisional Court all succeeded in avoiding needless complexity. **The simple test used throughout was whether the decision in question was one which a reasonable authority could reach. The converse was described by Lord Diplock as "conduct which no***

sensible authority acting with due appreciation of its responsibilities would have decided to adopt." These unexaggerated criteria give the administrator ample and rightful rein, consistently with the constitutional separation of powers." [emphasis added]

- (79) Applying the above test, I am unable to conclude on the material that is before me that the refusal by the National Salaries and Cadres Commission to grant the Petitioners the same designations, salary codes etc., as those in the Inland Revenue Service is unreasonable.

Procedural fairness

- (80) This brings me to the final submission of the Petitioners, that being the failure on the part of the National Salaries and Cadres Commission to have afforded the Petitioners a hearing prior to arriving at P28. I am mindful that in view of my conclusion that the decision of the National Salaries and Cadres Commission was reasonable, one may argue that even if a hearing had been given, the ultimate result would be the same. I would however hesitate to adopt such an approach and would exercise the discretion vested in this Court in favour of considering whether the failure on the part of the National Salaries and Cadres Commission to act with procedural fairness towards the Petitioners resulted in a violation of their fundamental rights guaranteed by Article 12(1) since I strongly feel that principles of good governance and the rule of law must be upheld at all times. I am fortified in doing so by the maxim *Qui aliquid statuerit parte inaudita altera, aequum licet dixerit, haud aequum fecerit* which signifies that the procedure of decision making is as important as the decision itself and that even if the final decision is correct on the merits, the act of denying a party the right to be heard is inherently unjust.
- (81) When one considers the events that have taken place since the introduction of P14 including the correspondence exchanged between the parties to which I have referred to in paragraphs 55 to 62 of this judgment, I am satisfied that the National Salaries and Cadres Commission was aware of the issues raised by the Petitioners. However, the National Salaries and Cadres Commission and the Petitioners were at significant variance on the core issue which led the Petitioners to request, by their letter dated 10th August 2016 [P26] for an opportunity to make oral representations relating to their grievance.

- (82) The National Salaries and Cadres Commission that took the impugned decision was established by HE the President in terms of the powers vested in him under Article 33 of the Constitution. The Presidential Directive appointing the members of the Commission had been published in Extraordinary Gazette No. 1956/27 dated 3rd March 2016. While the terms of reference of the Commission had been set out in detail in such Directive, its mandate, in a nutshell, was *“to advise and assist the Government in the formulation and implementation of a National Wage Policy by conducting a cadre assessment and reviewing all remuneration structures including the salaries and wages in the Public Sector in order to facilitate due fulfilment of manpower needs in the Public Sector and the Private Sector as a whole, aimed at enhancing efficiency and productivity of the Public Sector in duly achieving the aspirations of the people within the framework of good governance.”*
- (83) The said Directive has proceeded to specify *inter alia* that the Commission shall, (a) review the currently sanctioned staff for each institution in the public sector as a whole including the Provincial Councils and propose an optimal staff for each such institution, and (b) make recommendations for the introduction of a suitable salaries and wages structure for the public service including the Provincial Public Service.
- (84) Thus, with the responsibility of advising the Government on salaries of the Public Service including the Provincial Public Service being with the National Salaries and Cadres Commission and the Commission therefore being at that time the body that was required to consider the grievance of the Petitioners which revolved on their designations and their remuneration and with it their dignity of office, I am of the view that fairness demanded that the principles of natural justice be adhered to and that the Commission afford the Petitioners an opportunity of making oral representations **since the Petitioners were entitled to a reasoned consideration of their grievance.**

(85) The importance of natural justice and why Courts insist upon it have been captured in 'Administrative Law' by H.W.R. Wade and C.F. Forsyth [11th Edition; pages 373 and 374] in the following manner:

"Just as the courts can control the substance of what public authorities do by means of the rules relating to reasonableness, improper purposes, and so forth, so through the principles of natural justice they can control the procedure by which they do it. In so doing they have imposed a particular procedural technique on government departments and statutory authorities generally. The courts have, in effect, devised a code of fair administrative procedure based on doctrines which are an essential part of any system of administrative justice.

Procedure is not a matter of secondary importance. As governmental powers continually grow more drastic, it is only by procedural fairness that they are rendered tolerable. A judge of the United States Supreme Court has said: 'Procedural fairness and regularity are of the indispensable essence of liberty. Severe substantive laws can be endured if they are fairly and impartially applied. [Shaughnessy v United States, 345 US 206 (1953) (Jackson J)].

One of his colleagues said: 'The history of liberty has largely been the history of the observance of procedural safeguards.' [McNabb v United States, 318 US 332 (1943) (Frankfurter J)]

It is true that the rules of natural justice restrict the freedom of administrative action and that their observance costs a certain amount of time and money. But time and money are likely to be well spent if they reduce friction in the machinery of government; and it is because they are essentially rules for upholding fairness and so reducing grievances that the rules of natural justice can be said to promote efficiency rather than impede it. Provided that the courts do not let them run riot, and keep them in touch with the standards which good administration demands in any case, they should be regarded as a protection not only to citizens but also to officials. Moreover, a decision which is made without bias, and with proper consideration of the views of those affected by it, will not only be more acceptable; it will also be of better quality. Justice and efficiency go hand in hand, so long at least as the law does not impose excessive refinements."

- (86) The nexus between the duty to act fairly and observance of the principles of natural justice has been explained in a very early edition of **Judicial Review of Administrative Action** by **De Smith** as follows: [4th Edition; J.M. Evans; at pages 238-239]

“That the donee of a power must “act fairly” is a long-settled principle governing the exercise of discretion, though its meaning is inevitably imprecise. Since 1967 the concept of a duty to act fairly has often been used by judges to denote an implied procedural obligation. In general it means a duty to observe the rudiments of natural justice for a limited purpose in the exercise of functions that are not analytically judicial but administrative. Given the flexibility of natural justice, it may not have been strictly necessary to use the term “duty to act fairly” at all, but its usage is now firmly established in the judicial vocabulary. Its value has lain in assisting the extension of implied procedural obligations to the discharge of functions that are not analytically judicial, and in emphasizing that acting in accordance with natural justice does not mean forcing administrative procedures into a straitjacket. The comparatively recent emergence of this use of the “duty to act fairly” may also enable the courts to tackle constructively procedural issues that have not traditionally been regarded as part of the requirements of natural justice.”

- (87) Mark Fernando, J observed in **Gamini Dissanayake v M. C. M. Kaleel and Others** [(1993) 2 Sri LR 135; at page 182] that, *“a decision made by an unbiased tribunal, after duly considering the views of those likely to be affected by it, is not only **more likely to be correct, but will be more acceptable and of better quality. Fairness to the individual facilitates a better decision by the tribunal.** The duty to give a fair hearing is as much a canon of good administration as of good legal or judicial procedure ...”*. [emphasis added]
- (88) In **Harin Fernando v Samagi Jana Balawegaya and others** [SC Expulsion No. 1/2023; SC minutes of 9th August 2024], it was held as follows:

“It is important that individuals are provided with the opportunity to participate in the decision making process prior to decisions affecting their rights being taken by public authorities and/or authorities vested with statutory power. This would promote the quality, accuracy and rationality of such process, and enhance the

legitimacy thereof while at the same time improving the quality of decisions made by public authorities. As stated in De Smith's Judicial Review [Eighth edition, 2018] "Procedural justice aims to provide individuals with a fair opportunity to influence the outcome of a decision and so ensure the decision's integrity" [page 341] and "assist in achieving a sense that justice has both been done and seen to be done" [page 342]."

- (89) Although many of the cases where our Courts have held that a person must be afforded a right to respond prior to a decision affecting the rights of such person are taken dealt with inquiries involving two parties, the principle laid down is equally applicable to a case such as this application.
- (90) Some laws contain provisions that specifically require a hearing to be given while some laws may go a step further and specify the procedure that should be followed in affording a hearing and the nature of such hearing. There are many laws that are completely silent with regard to the requirement for a hearing. The right of a party to be heard prior to a decision affecting his/her rights being taken even where the Statute is silent on such a requirement was considered over 150 years ago in the case of **Cooper v Wandsworth Board of Works** [(1863) 14 CB Reports (NS) 180] where Byles, J. stated that, ". . . a long course of decisions, beginning with *Dr. Bentley's case*, and ending with some very recent cases, establish that, although there are no positive words in a statute requiring that the party shall be heard, yet the justice of the common law will supply the omission of the legislature."
- (91) In **Ranjith Flavian Wijeratne v Asoka Sarath Amarasinghe** [SC (Appeal) No. 40/2013; SC Minutes 12th November 2015] Priyantha Jayawardena, PC, J held that, "*The question whether the requirements of natural justice have been met by the procedure adopted in any given case depends to a greater extent on the facts and circumstances of the case in point.... Tucker L.J. held in the case of Russell v. Duke of Norfolk and Others (1949) 1 All E.R. 109 'There are no words which are of universal application to every kind of inquiry and every kind of domestic tribunal. The requirements of natural justice must depend on the circumstances of the case, the nature of the inquiry, the rules under which the tribunal is acting, the subject matter that is being dealt with, and so forth.'*"

(92) It was held in Harin Fernando v Samagi Jana Balawegaya and others [supra] as follows:

*“That procedural fairness is not frozen at any moment of time and is a ‘constantly evolving concept’ [per Lord Bingham in Regina v H and Others [(2004) 2 AC 134] has been emphasised in **De Smith’s Judicial Review** [supra; page 407] where the authors have stated as follows:*

“The content of procedural fairness is infinitely flexible. It is not possible to lay down rigid rules and everything depends on the subject matter. The requirement necessary to achieve fairness range from mere consultation at the lower end, upwards through an entitlement to make written representations, to make oral representations, to a fully-fledged hearing with most of the characteristics of a judicial trial at the other extreme. What is required in a particular case is incapable of definition in abstract terms. As Lord Bridge has put it [vide Lloyd v McMohan [(1987) A. C. 625 at 702]]:

*“the so-called rules of natural justice are not engraved on tablets of stone. To use the phrase which better expresses the underlying concept, what the requirements of fairness demand when anybody, domestic, administrative or judicial, has to make a decision which will affect the rights of individuals **depends on the character of the decision-making body, the kind of decision it has to make and the statutory or other framework in which it operates.**”*
[emphasis added]

(93) If I may reiterate, the National Salaries and Cadres Commission was required to take a decision affecting the rights of Officers of the Revenue Service of all nine Provinces. Their designations and their remuneration meant the whole world to the Petitioners and it was important that their dignity of service was maintained. Although the two services were different and I am satisfied with the reasonableness of the decision of the National Salaries and Cadres Commission, as **De Smith** puts it, *“The Wednesbury reserve has no place in relation to procedural propriety”* [supra; page 387]. I am therefore of the view that the Petitioners ought to have been given a hearing in order to better appreciate their side of the story and thereafter to have sought a policy directive from the Cabinet of Ministers, instead of closing the issue with P28.

(94) I say so for the following three reasons:

- (a) The first is the mandate given to the National Salaries and Cadres Commission, which I have referred to in paragraphs 82 and 83 of this judgment, wherein it was the duty of the Commission to advise the Government in the formulation and implementation of a National Wage Policy and make recommendations for the introduction of a suitable salaries and wages structure for the public service including the Provincial Public Service.
- (b) The second is that the Act required the Governor to maintain parity as *far as practicable* and thus, given the sensitivity of maintaining a balance between the Province and the Government, this is a matter that ought to have been referred to the Cabinet of Ministers for a policy decision to be taken in terms of Article 55(1).
- (c) The third reason is that on previous occasions, allowances that were paid to officers of the Inland Revenue Service have been extended to the Provincial Revenue Services, as well, by the Cabinet of Ministers – vide P10.

Conclusion

(95) In the above circumstances, I am of the view that by its failure to act with procedural fairness in arriving at its decision and grant the Petitioners a fair hearing as was required by the circumstances of these matters, the fundamental rights of the Petitioners guaranteed by Article 12(1) have been violated by the 4th – 25th Respondents in SC (FR) Application No. 296/2017, being the members of the National Salaries and Cadres Commission who held office at the time the impugned decision was taken. I accordingly grant a declaration that the fundamental rights of the Petitioners guaranteed by Article 12(1) have been infringed by the 4th – 25th Respondents.

(96) By way of a motion filed on 27th April 2026, the learned Additional Solicitor General has brought to our attention that the National Salaries and Cadres Commission was wound up on 31st March 2023 and that its functions have been handed over to the Department of Management Services and the Ministry of Public Administration.

(97) That should not however prevent the grievance of the Petitioners from being addressed by the Cabinet of Ministers by way of a policy decision. This judgment is

based on the pleadings before this Court which reflects the state of affairs that existed in 2017. Much water is likely to have flown under the bridge since then and the circumstances and the state of affairs may have changed. Furthermore, it is important that the State maintains the dignity of service that the Petitioners are entitled to and ensure that there is no diminution of their service, while being mindful of the status and dignity of the Inland Revenue Service of the Government.

- (98) By way of guidance, I point out that, (a) the designations, (b) salary structures, (c) other emoluments, (d) conditions of employment, and (e) promotional prospects of members of the several Provincial Revenue Services, must be determined founded upon applicable and relevant objective criteria, such as the nature and the volume of work to be assigned to members of such Service. While the determination of such factors must be linked to a comparison of such factors with those members of the Inland Revenue Service of the Government, it need not necessarily be the same. Furthermore, should there be a significant variation of such factors between the several Revenue Services of each Province, it would be lawful for there to be a variation of such factors between such Provincial Revenue Services. What is necessary is for such decisions to be taken objectively, in good faith and for the purpose of ensuring equality.
- (99) Bearing in my mind that in terms of Section 32 of the Provincial Councils Act, the responsibility of preparing a Service Minute for the respective Revenue Service is with the Governor of such Province, I direct the Governors of the Western Province, Central Province and Southern Province [the 1st Respondent in all three applications] to act in the following manner, and to do so within six months of this Judgment:
- (a) Call for written representations from the Petitioners and other Officers of the Provincial Revenue Service of their respective Provinces;
 - (b) Grant the Petitioners and others an oral hearing to make representations on their behalf;
 - (c) Consider their position as well as the position of the Officers of the entire Provincial Revenue Service in consultation with all relevant stakeholders including the Finance Commission, the Secretary, Ministry of Finance, the Secretary, Ministry of Public Administration [a Respondent in all three

applications] and the Director General, Department of Management Services [a Respondent in all three applications];

- (d) Prepare and submit their recommendations to the Secretary, Ministry of Public Administration;
- (e) To do so, mindful of the status and work responsibilities of the Inland Revenue Service of the Government, and in that regard take necessary steps to consider the views of members of the Inland Revenue Service of the Government.

(100) I wish to observe that the guidance contained in paragraph 98 of this Judgment may necessitate a combined approach being adopted with regard to the respective Revenue Services of the several Provinces. Thus, the respective Governors should, in the view of this Court, consult each other and determine the procedure to be followed.

(101) The Secretary, Ministry of Public Administration shall thereafter apprise the Minister of Public Administration of such recommendations and take appropriate steps to seek a policy decision in this regard from the Cabinet of Ministers.

(102) In view of the foregoing, I allow all three Applications.

(103) I make no order with regard to costs.

JUDGE OF THE SUPREME COURT

Yasantha Kodagoda, PC, J

I agree

JUDGE OF THE SUPREME COURT

K. Priyantha Fernando, J

I agree.

JUDGE OF THE SUPREME COURT