

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

*In the matter of an application under and
in terms of Articles 17 and 126 of the
Constitution of the Democratic Socialist
Republic of Sri Lanka*

SC/FR/333/2019

1. P.R.S.N.K. Peramune,
Peramuna Sewana, Kehelpannala.
2. R.M.S. Rajapaksha,
A6, Kew Road, Police Quarters,
Colombo 2, National Academy.
3. R.R. Senarathna Aasiri, Dabulla,
Udagadeniya, Rabukkana.
4. Palihawadana Ananda Janaka,
456/2, Keselwaththa, Goonahena.
5. J.M.T. Jayasundara,
83, Green Village, Thorayaya,
Kurunagala.
6. L. Vinsan Silva,
No. 61, New House Complex, Ampara.
7. H.M.S.U.B. Welagedara,
Rikillagama, Wallewa.
8. P.M.A. Champa Kumari,
H01/6, Andasan Flats, Narahenpita.
9. B.N. Deepika,
38/13, Police Quarters, Kollupitiya.
10. S.H.K.S. Subasingha,
94, Police Quarters, Mirihana.
11. C.R.R.R. Fistroy,
Nawakkaduwa, Mamkuliya, Puttalam.

12. P. Sugathadasa,
Galketiyawa, Kaluthara South.
13. D.V.B.W. Jayawardana
1/11, Police Quarters, Police College.
14. W.S. Sunil Shantha
Galappaththi Niwasa, Mahawewa Road,
Madawachchiya.
15. A. Senannayaka,
Maddegama, Kiridiwela.
16. W.K.A.D.J. Marcus,
D10, Bangalawaththa, Boogoda.
17. M.S.P.S. Perera,
34/8, Pethigethanna, Menilhinna.
18. A.W. Somarathna, Isuru,
Pichchawela Road, Maravila.
19. D.S.D. Fernando,
No.179/1, Pani Abagahawaththa,
Kaludawala, Panadura.
20. D.M.D. Dasanayaka,
No.424, Jayanthi Pedesa, Kirillawala,
Kadawatha.
21. M.P.N. Piyathissa,
B3, PHQ, Colombo 05.
22. M.A. Sumith Shantha
68/2, Iddamaldeniya, Guruwala, Dompe.
23. A.K.U.P. Wimalarathna
225/325, BG2, Police Quarters (PSD),
Maligawaththa.
24. M.V.C.P. De Silva,
50/9, Bandaranayaka Mawatha, Kandy.
25. H.S. Priyankara Perera,
1118, Mathugama Road, Nagoda,
Kalutara.

26. E.S.S.P. Dissanayaka,
Shanthi Niwasa,
Wewalla, Bogamulla.
27. S. De Silvi,
9G, Aloka Mawatha, Hiyakada Road,
Kahathuduwa.
28. M.G.R.S. Wijerathna,
38/1, Dahigamuwa, Kurunagala.
29. H.M.R.D. Herath,
Thilina Mawatha, Malwana,
Kanaththawewa.
30. H.M.K.S. Herath,
278, Greenwood, Polgahawela.
31. L.A.J. Lokusingha,
Daham Thotawaththa Road, Ahungalla.
32. M.R.P. Meegoda,
187, Ihalayagoda, Gampaha.
33. K.R. Dissanayaka,
Beligollawaththa, Nadeniya, Higula.
34. S. Weerasingha,
77/16/1, Police Quarters, Asgiriya.
35. S.M.L. Abeyrathna,
184/2, Thiththabaddara, Weralla,
Kothmale.
36. M. Wimalarathna,
264, Elawella, Wallampitiya, Horana.
37. K.D.H. Bandula,
53, Rathupasthatiya, Bibila.
38. H.A Sumanasena,
69-B, Pahalawaththa, Hadigama,
Piliyandala.
39. W.K. Kularathna,
Pathum Nugagala Mawatha, Hiniduma.

40. A.P. Gunarathna,
Welekade, Thalpasbamme, Polpithigama.
41. T.G. Wijekoon,
7-B, Kirimetiya, Menikdiwela.
42. K.P.U.K. Suraweera,
Salmal Uyana, Henagama, Gampaha.
43. W.H.K.A. Puspakumara,
3/6, Police Quarters, Maligawaththa.
44. L.R.H. Liyanaarachchi,
45-B, Diyawela, Kiridiwela.
45. W.M.G.L. Sirisena,
Weeravila, Diganathanan, Bandarawela.
46. J.D.M.J. Jayakodi,
70, Perapitiya, Walapane.
47. K.P. Ariyathilaka,
Galabadagedara, Galaboda, Thihagoda.
48. P.D. Wijedasa,
184, Thissapura, Ampara.
49. W.K.S. Wasanthakumara,
189, Kirikiththa, Weliweriya.
50. H. Karunarathna,
15, Namal Uyana, Kirindiwela.
51. R.A.T. Ranasingha,
L5, Police Quarters, Colombo.
52. M.G.S.K. Weerasingha,
C-11, Police Quarters, Maradana.
53. B.P.S. Jayawicrama,
Galkaruwaththa, Rabukkana.
54. H.M.E.K.G. Mudiyanse,
1/1, 13 Kanuwa, Madukotanara,
Badalkubura.
55. P.P. Priyadarsana,
340, Kamp Waththa, Boossa.

56. G. Athuladewa,
No.1 Atawila, Palathota,
Kaluthara South.
57. K.D.N.P. Samankumara,
214/A, Boopaththa, Urapola.
58. S.M.R. Suraweera,
Padawiya Road, Madawachchiya.
59. W.A.W. Waduwwawala
22/4, Wanaluwawa, Gampaha.
60. W.H.A.S.C. Sumanaweera
91, Saragama, Kurunegala.
61. K.M.A. Gunarathna,
51, Walau Waththa, Kithhatiyamada,
Mathara.
62. P.V.K. Chandrarathna,
162-5/6, 2nd Cross Street, Mahabellana,
Alubomulla.
63. C.M.P.U. Chandrasekara,
A/8, Police Quarters, Maradana.
64. M.C. Rathnayaka,
1, C.G.R. Quarters,
Jayanthi Mawatha,
Anuradapura.
65. H.M. Ibrahim,
280/4, Police Quarters,
Anuradapura.
66. W.M.G. Wijewardana,
38/11, Siyabalasouth,
Sapugaskanda.
67. A.P. Ediriweera,
162C/4, Police Quarters, Colombo 2.
68. J.M. Piyasena,
Gunasewana, Moogiya, Bibila.

69. S.R. Shantha Siriyalal,
No.51, Sadun Uyana, Alviswaththa,
Kaluthra South.
70. A.L.U. Amarasingha,
513/12, Karunapatumaga
Heenkenda, Ragama.
- Petitioners

Vs.

1. Pujith Jayasundara
Inspector General of Police,
Official Residence of the Inspector
General of Police, Wijerama Road,
Colombo 7.
- 1A. C.D. Wickramaratne
Inspector General of Police
Police Head Quarters,
Colombo 1.
- 1B. T.M.W.D. Thennakoon
Inspector General of Police,
Police Head Quarters,
Colombo 1.
2. C.D. Wickramaratne,
Acting Inspector General of Police, Police
Head Quarters, Colombo 1.
3. K.W.E. Karalliyadda, Chairman.
- 3A. Lalitha Ekanayake,
Chairman,
4. Savithri D Wijesekera,
Member,
- 4A. D.K. Renuka Ekanayake,
Member,

5. Mr. Y. L.M. Zawahir,
Member,
- 5A. Sarath Gamini de Silva,
Member,
- 5B. A.A.M. Illiyas,
Member,
6. Mr. Tilak Collure,
Member,
- 6A. Dilshan Kapila Jayasuriya,
Member,
7. Mr. Gamini Nawarathne,
Member,
- 7A. Kanapathipillai Karunaharan,
Member,
8. Mr. Ashoka Wijethilaka,
(ceased to hold office)
Member,
9. Mr. G. Jeyakumar,
(ceased to hold office)
Member,
10. Mr. Nishantha A. Weerasinghe,
Secretary,
- 10A. Tamara de Perera,
Secretary,
All of National Police Commission,
(BMICH) Premises,
Block 9, Colombo 7.
- 10(i). Hon. Justice Jagath
Balapatabendi,
Chairman,
Public Service Commission.
- 10(ii). Mrs. Indrani Sugathadasa
- 10(iii). Mr. V. Shivagnanasothy

- 10(iv). Dr. T.R.C. Ruberu
- 10(v). Mr. Ahamod Lebbe
Mohamed Saleem.
- 10(vi). Mr. Leelasena Liyanagama
- 10(vii). Mr. Dian Gomes
- 10(viii). Mr. Dilith Jayaweera
- 10(ix). Mr. W.H.Piyadasa
Public Service Commission,
No. 1200/9,
Rajamalwatta Road,
Battaramulla,
10(i) to 10(ix) ceased to hold office
- 10(x). Mr. M. A. B. Daya Senarath
Secretary,
Public Service Commission
No. 1200/9,
Rajamalwatta Road,
Battaramulla.
11. M.L.D.W.K. Jayasekera
211A, School Road,
Galagedara,
Padukka.
12. Prasad Ranasinghe,
Superintendent of Police,
Director Human Resource
Management,
Police Head Quarters,
Colombo 1.
13. Hon. Attorney General,
Attorney-General's Department,
Colombo 12.
- Respondents

Before: Hon. Chief Justice P. Padman Surasena
Hon. Justice Mahinda Samayawardhena
Hon. Justice Sampath K.B. Wijeratne

Counsel: Uditha Egalahewa, P.C., with Damitha Karunaratna for
the Petitioners.
Faiszer Musthapha, P.C., with Ian Fernando and Shaheeda
Barrie for the 11th Respondent.
Viveka Siriwardena, P.C., A.S.G., for the 1st to 10th, 12th and
13th Respondents.

Argued on: 30.06.2025

Written submissions:

By the Petitioners on 28.08.2024 and 28.08.2026.

By the 11th Respondent on 15.03.2023 and 28.08.2025.

Decided on: 08.09.2026

Samayawardhena, J.

Seventy-one Petitioners, who were Sub-Inspectors of Police at the time material to this application, instituted these proceedings in this Court on 26.08.2019. They named, *inter alia*, the Inspector General of Police, the National Police Commission, the police officer whose promotion and the backdating thereof are impugned in this application (cited as the 11th Respondent), and the Attorney General as Respondents. The Petitioners seek a declaration that their fundamental right to equal protection of the law guaranteed by Article 12(1) of the Constitution has been infringed by one or more of the Respondents. They further seek declarations that the decisions reflected in documents marked P2, P3 and P6 annexed to the petition, relating to the grant, backdating and consequential promotions in question, are illegal, null and void, and of no force or avail in law.

I must mention that it was brought to the attention of Court that a similar application bearing No. SC/FR/18/2020 had been filed in this Court. However, in their post-argument written submissions, the Petitioners expressly stated that they were not parties to that application and invited this Court to determine the present application independently. I shall therefore proceed to consider this application on its own merits.

I shall now briefly set out the Petitioners' case.

The Petitioners state that they together with the 11th Respondent were promoted to the rank of Sub-Inspector of Police with effect from 11.07.2007 pursuant to directions issued by the National Police Commission.

The Petitioners further state that, by RTM 758 dated 26.07.2019 marked P2, the Inspector General of Police communicated that the National Police Commission, by letter bearing reference No. NPC/ED/NG/PR/07/SI/40/2019 dated 22.07.2019, had decided to backdate the promotion of the 11th Respondent to the rank of Sub-Inspector of Police from 11.07.2007 to 22.12.2001.

The letter of the National Police Commission referred to in RTM 758 has been produced by the Petitioners as P3. According to P3, senior police officers had, in 2001, recommended that the 11th Respondent be granted a special promotion from the rank of Police Sergeant to the rank of Sub-Inspector of Police with effect from 22.12.2001. However, owing to certain administrative lapses within the Police Department, that recommendation had not been implemented and the special promotion had not been granted. P3 further reveals that, upon a request subsequently made by the 11th Respondent, the National Police Commission considered the matter and decided to rectify that omission by backdating his promotion to the rank of Sub-Inspector of Police from 11.07.2007 to 22.12.2001.

The Petitioners state that they came across an appeal dated 01.07.2019 made by the 11th Respondent to the National Police Commission seeking to have his promotion to the rank of Sub-Inspector of Police backdated to 22.12.2001. The Petitioners seek to challenge the legality of a decision taken by the National Police Commission upon a consideration of the material placed before it. Yet, whilst acknowledging that several documents accompanied the appeal submitted by the 11th Respondent, the Petitioners have chosen to produce only the appeal and two annexures, without offering any explanation for the omission of the remaining documents. This assumes particular significance because the National Police Commission arrived at its decision after considering the entirety of the material placed before it. This selective disclosure is unsatisfactory. A litigant invoking the fundamental rights jurisdiction of this Court is under a duty to make full and frank disclosure of all material facts and documents relevant to the complaint.

One of the documents tendered by the Petitioners is a letter dated 05.06.2011 addressed to the Senior Deputy Inspector General of Police, Western Province by the 11th Respondent. The other is the response of the said Senior Deputy Inspector General strongly recommending that the promotion of the 11th Respondent to the rank of Sub-Inspector of Police be backdated to 22.12.2001, consistent with the recommendation previously made by senior police officers.

The principal complaint of the Petitioners in this regard is that the said Senior Deputy Inspector General of Police, who made the recommendation in favour of the 11th Respondent in 2011, subsequently became a member of the National Police Commission and participated in the decision reflected in P2. He has been cited as the 8th Respondent.

I am unable to attach any significance to this circumstance. When the recommendation was made in June 2011, it could hardly have been anticipated that such officer would subsequently be appointed to the National Police Commission and be called upon to consider the matter

in that capacity. More importantly, there is no material before Court to suggest that the participation of the 8th Respondent vitiated the decision-making process or improperly influenced the other members of the National Police Commission. The impugned decision was not taken by the 8th Respondent acting alone. It was a decision of a multi-member constitutional body. In the absence of any evidence demonstrating bias, improper influence, or a failure on the part of the Commission to independently evaluate the material placed before it, I am unable to conclude that the participation of the 8th Respondent rendered the decision unlawful.

The recommendation made by the Senior Deputy Inspector General of Police clearly sets out the basis upon which he supported the request of the 11th Respondent. He stated, *inter alia*, that the 11th Respondent had served as his Personal Assistant during his tours of duty in different commands, a position ordinarily entrusted to officers of considerably higher rank, often Chief Inspectors of Police. He further recorded that, over a period of approximately five years, the 11th Respondent had demonstrated exceptional competence, loyalty, dependability, integrity and dedication to duty. The recommendation expressly states that those qualities had given him the confidence to entrust the 11th Respondent with responsibilities well beyond those ordinarily assigned to an officer of his rank. On that basis, he strongly recommended that the 11th Respondent be granted the special promotion with effect from 22.12.2001.

The appeal submitted by the 11th Respondent to the National Police Commission provides further background. He states that, after being promoted to the rank of Police Sergeant, he continued to serve in the Personal Division and thereafter in the Secretariat of the Inspector General of Police under the Staff Deputy Inspector General of Police, discharging duties and responsibilities beyond those ordinarily associated with his rank. According to him, his dedication, commitment and performance prompted the then Inspector General of Police, Mr.

Lucky Kodituwakku, to direct the then Staff Deputy Inspector General of Police, Mr. Kombalawithana, to submit a report on his suitability for a special promotion to the rank of Sub-Inspector of Police. The report submitted by the Staff Deputy Inspector General of Police strongly recommended such promotion. However, due to administrative difficulties and subsequent developments affecting the office of the Inspector General of Police, including the demise of Mr. Lucky Kodituwakku and the subsequent resignation of Dr. Mahinda Balasooriya from the office of Inspector General of Police, the recommendation was not implemented. According to the 11th Respondent, it was these circumstances that resulted in the delay in giving effect to the recommendation made in his favour.

The material placed before Court indicates that the 11th Respondent did not abandon his claim. Following his eventual promotion to the rank of Sub-Inspector of Police with effect from 11.07.2007, he renewed his previous recommendation by letter dated 05.06.2011. That request was strongly supported by the Senior Deputy Inspector General of Police, Western Province. Thereafter, further administrative complications intervened and the matter remained unresolved until it was considered by the National Police Commission in 2019.

What emerges from the material before Court is not a belated attempt by the 11th Respondent to secure an undeserved advantage. Rather, it reveals a consistent effort over many years to obtain the implementation of a recommendation originally made in his favour in 2001. The documents produced by both parties demonstrate that the claim of the 11th Respondent did not originate in 2019. On the contrary, it had been repeatedly pursued by him and consistently supported by senior police officers over a period spanning nearly two decades. This history lends considerable support to the position that the National Police Commission was addressing a long-standing grievance arising from an administrative omission rather than conferring a fresh and arbitrary benefit upon the 11th Respondent.

Significantly, the Petitioners themselves accept that special promotions may lawfully be granted to police officers who satisfy the criteria laid down in the relevant Police Gazette Notification dated 14.11.1984, the relevant provisions of which have been produced as P5. Accordingly, the dispute before Court is not whether special promotions can be granted. Rather, the question is whether the 11th Respondent satisfied the criteria necessary to warrant such a promotion.

The 11th Respondent has produced the relevant Police Departmental Orders marked R6. Part IV thereof under “Special Promotions” provides as follows:

“The Inspector General may, at his discretion, in very special cases deserving of immediate promotion for gallantry, outstanding good work, or outstanding performances in any activity which brings credit to the country and enhances the reputation of the Police Service, promote any Police Officer to any rank or grade commensurate with the gallantry, work, or performance, as the case may be.”

The claim of the 11th Respondent is founded upon what the Departmental Orders describe as “outstanding good work”. In support of that claim, the 11th Respondent has produced a substantial body of documentary material, including documents marked R26 to R36. These documents contain strong commendations and recommendations issued by several Inspectors General of Police, Senior Deputy Inspectors General of Police and Deputy Inspectors General of Police over a considerable period of time. They consistently describe the 11th Respondent as an exceptionally dedicated, trustworthy, efficient and hardworking officer. The documents further reveal that he received special increments and other forms of official recognition in appreciation of his performance and commitment to duty.

Having examined those documents, I am unable to accept the Petitioners’ contention that the recommendation made in favour of the 11th Respondent was actuated by extraneous considerations, arbitrary, or

unsupported by objective material. On the contrary, the documents disclose a sustained and consistent pattern of recognition by successive superior officers. It is not for this Court to substitute its own assessment for that of the superior officers. It is sufficient that the material placed before Court provides a rational basis for the recommendation that the 11th Respondent had rendered service of an exceptional nature warranting consideration for special promotion under the relevant Departmental Orders.

The documentary material produced by the 11th Respondent further demonstrates that the recommendation made in his favour was neither isolated nor executed at the whims and fancies of the senior police officers.

It is significant that the Petitioners do not claim that they themselves had rendered comparable service or that they had satisfied the criteria applicable to special promotions under the relevant Departmental Orders but had nevertheless been denied such promotions. The material before Court suggests that the recommendation made in favour of the 11th Respondent was founded upon circumstances considered by the relevant authorities to be exceptional.

Article 12(1) guarantees equality among persons who are similarly circumstanced. It does not require identical treatment of persons whose circumstances are materially different. Indeed, Article 12(1) is offended not only when equals are treated unequally, but also when unequals are treated equally, for to treat unequals equally is itself a denial of equality.

This principle has been consistently recognised by this Court in a long line of decisions, including the Five-Judge Bench decision in *Ramuppillai v. Festus Perera, Minister of Public Administration, Provincial Councils and Home Affairs* [1991] 1 Sri LR 11, *Ragunathan v. Jayawardene, Secretary, Ministry of Transport and Highways* [1994] 2 Sri LR 255 and *Kanapathipillai v. Sri Lanka Broadcasting Corporation* [2009] 1 Sri LR 406.

Having examined the entirety of the material placed before Court, I am unable to conclude that the decision of the National Police Commission reflected in P2 and P3 was arbitrary, irrational, *mala fide* or otherwise unlawful. The material before Court discloses that a recommendation for the special promotion of the 11th Respondent had in fact been made in 2001 as permitted by the Police Departmental Orders, that the recommendation was supported by senior police officers, that the matter remained unresolved due to administrative lapses within the Police Department, and that the 11th Respondent consistently pursued the implementation of that recommendation over a prolonged period of time.

Whether another decision-maker may have reached a different conclusion is not the question before this Court. The question is whether the decision actually taken was so arbitrary, irrational or unreasonable as to warrant judicial intervention under Article 12(1) of the Constitution. In my view, it was not.

Although the Petitioners submitted that this Court should decide this case on its own merits, it is appropriate, for the sake of completeness, to refer to the decision of this Court in SC/FR/18/2020, decided on 07.09.2022, mentioned earlier in this judgment. In the said case, this Court held that the “*backdating of the SI promotion of the 11th Respondent on an alleged special scheme is valid*”. However, the Court proceeded to consider whether “*when backdating the promotion of the 11th Respondent to the rank of IP, the service performed by the 11th Respondent as an SI is appreciated twice under two promotion schemes; the special promotion scheme and the Merit and seniority scheme*”, and concluded that the subsequent promotion to the rank of Inspector of Police under the time-based promotion scheme was unjustifiable on the basis that a police officer cannot derive a double benefit “*under two promotion schemes in respect of the same position*”. In elaborating its reasoning, the Court observed that “*the 11th Respondent satisfying the requirements under two different promotion schemes cannot be extended to gain the advantages*

of a particular promotion twice when the majority of the candidates received such benefits only once in a lifetime.”

With the greatest respect, I am unable to agree with that reasoning. The 11th Respondent was not seeking to derive a double benefit under two promotion schemes in respect of the same rank. While his claim for a Special Promotion under the Departmental Orders remained pending, he was promoted to the rank of Sub-Inspector of Police on merit and seniority basis with effect from 11.07.2007. Thereafter, the National Police Commission backdated that promotion to 22.12.2001 upon being satisfied that the Special Promotion had been delayed solely due to administrative lapses on the part of the Police Department. His subsequent promotion to the rank of Inspector of Police was granted under a separate time-based promotion scheme applicable to that rank. These two were distinct promotions to different ranks under different promotion schemes.

It is difficult to reconcile the conclusion that the backdating of the promotion to the rank of Sub-Inspector from 11.07.2007 to 22.12.2001 was lawful, while at the same time holding that, for the purpose of determining eligibility for the subsequent promotion to the rank of Inspector of Police, the corrected date of 22.12.2001 shall be disregarded and the original date of 11.07.2007 be treated as operative. Such an interpretation would deprive the lawful backdating of its practical effect and render the correction largely illusory.

Once the backdating of the promotion of the 11th Respondent to the rank of Sub-Inspector of Police is accepted as lawful and justified, it necessarily follows that he became entitled to the consequential promotions thereafter granted to the ranks of Inspector of Police and Chief Inspector of Police under the time-based promotion schemes generally applicable to police officers, and those consequential promotions do not warrant the intervention of this Court.

For the aforesaid reasons, this application is dismissed. I make no order as to costs.

Judge of the Supreme Court

P. Padman Surasena, C.J.

I agree.

Chief Justice

M. Sampath K.B. Wijeratne, J.

I agree.

Judge of the Supreme Court