

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

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

1. T.F.Razeen
No.74/1/1, Kandy Road,
Madawala Bazaar.

2. A.L. Nazeer Ghany
381, Main Street
Natpiddimunai 2
Kalmunai.

S.C. (F/R) Application No. 383/2009

3. Z. Thasleen
533 - A/1, V.H. Road
Sainthamaruthu 14

PETITIONERS

Vs.

1. S. Thillainadarjah

2. S. Jesunesan

3. K. Mohamed Thamby

4. Lakshmi Kaluarachchi

5. Mrs. W.P.R.Silva

6. H.M.T.B.Herath
All members of the
Interview Board, Ministry of Education
Isurupaya, Battaramulla.

7. H.M. Gunasekara
Secretary Ministry of Education
Isurupaya, Battaramulla.
(Substituted 7th Respondent)
- 7A. U.R. Senevirathne,
Secretary Ministry of Education
Isurupaya, Battaramulla.
(Substituted 7A Respondent)
- 7B. Sunil Hettiarachchi
Secretary Ministry of Education
Isurupaya, Battaramulla.
(Substituted 7B Respondent)
- 7C. N.M.M. Chithrananda
Secretary Ministry of Education
Isurupaya, Battaramulla.
(Substituted 7C Respondent)
- 7D. M.Nihal Ranasinghe
Secretary, Ministry of Education
Isurupaya, Battaramulla.
(Substituted 7D Respondent)
- 7E. Mrs. Wasantha Perera
Secretary, Ministry of Education
Isurupaya, Battaramulla.
(Substituted 7E Respondent)
- 7F. Mr. K.M.G.S.N. Kaluwewa
Secretary, Ministry of Education
Isurupaya, Battaramulla.
8. Justice P.R.P.Perera
Chairman, Public Service Commission
(Former Chairman)

9. Prof. Dayasiri Fernando
Member, Public Service Commission
(Former member)
10. W.P.S. Jayawardene
Member, Public Service Commission
(Former member)
11. Palitha M.Kumarasinghe,
Member, Public Service Commission
(Former member)
12. Prof. M.S. Mookiah,
Member, Public Service Commission
(Former member)
13. Prof. M. Rohanadeera,
Member, Public Service Commission
(Former member)
14. Gunapala Wickramaratne,
Member, Public Service Commission
(Former member)
15. Mrs. S.A. Wijeratne
Member, Public Service Commission
(Former member)
16. Dr. Bernard Zoysa
Member, Public Service Commission
(Former member)
17. Mrs. H.D.L. Gunawardena,
Secretary, Public Service Commission
(Former Secretary)

8th to 17th all of the office of the
Public Service Commission
356 B, Carlwil Place, Galle Road, Colombo 3.

18. J. Uthayakumar
Senkuntha Lane
Thirunelvely East, Jaffna.
19. S. Laleesan
Hospital Lane,
Atchuvely
20. R. Sathiya
Punnalaikadduvan South
Chunnakam.
21. M.H.A.F.R. Shafee
100, Moor Street
Kalutara South
22. A.G. Fousul Haniya
Fous - Mahal
Negama
Negamapaha.
23. N.Gnanavel
66/2-2/1, Joseph Diase Lane
Colombo 15
24. T.Elankumaran
Church Road,
Varany
25. M.C. Fathima Risviya
1N/1, Mathrasa Road,
Kalmunaikudy
26. V. Karunalingm
135, Kannathiddy Road,
Jaffna.
27. H.Subitha
Tholpuram West, Chulipuram

28. B. Danabalan

29. C. Nagendra

Both (28th and 29th Respondents) of
National College of Education,
Jaffna

30. Hon. Attorney - General,
Attorney - General's Department,
Colombo 12.

RESPONDENTS

31. Dayasiri Fernando, Chairman,
(Former Chairman)

32. Palitha M. Kumarasinghe, Member,
(Former Member)

33. S.C. Mannapperuma, Member,
(Former Member)

34. Ananda Senevirathne, Member,
(Former Member)

35. N.H. Pathirana, Member,
(Former Member)

36. S. Thillai Nadaraja, Member,
(Former Member)

37. M.D.W. Ariyawansa, Member,
(Former Member)

38. A. Mohommed Nahiya, Member,
(Former Member)

39. Sirimavo A. Wijerathne, Member,
(Former Member)

31st to 39th Respondents, Chairman and the Members of the Public Service Commission, No.177, Nawala Road, Narahenpita, Colombo 05.

ADDED RESPONDENTS

- 40. Justice Sathya Hettige
Chairman
Public Service Commission
- 41. S.C. Mannapperuma
Member, Public Service Commission
- 42. Ananda Seneviratne
Member, Public Service Commission
- 43. N.H.Pathirana
Member, Public Service Commission
- 44. S.Nadaraja
Member, Public Service Commission
- 45. S.A.Mohamed Nahiya
Member, Public Service Commission
- 46. Kanthi Wijethunga
Member, Public Service Commission
- 47. Sunil S. Sirisena
Member, Public Service Commission
- 48. I.N..Zoysa Gunasekara
Member, Public Service Commission
- 49. T.M.L.C. Senaratne
Secretary, Public Service Commission

40th to 49th Respondent all of the office of the Public Service Commission, No.177, Nawala Road, Colombo 05.

ADDED RESPONDENTS

50. Dharmasena Dissanayaka, Chairman,

51. A. Salam Abdul Waid, Member,

52. D. Shirantha Wijayatilaka, Member,

53. Prathap Ramanujam, Member,

54. V. Jegarasasingam, Member,

55. Santi Nihal Seneviratne, Member,

56. S. Ranugge, Member,

57. D.L. Mendis, Member,

58. Sarath Jayathilaka, Member,

59. H.M.G. Senevirathne
Secretary, Public Service Commission

50th to 59th Respondents, Chairman, the Members and Secretary of the Public Service Commission, No.177, Nawala Road, Narahenpita, Colombo 05.

ADDED RESPONDENTS

60. Professor Hussain Ismail
Member, Public Service Commission,
No:1200/9, Rajamalwatte Road,
Battaramulla.

61. Mrs. Sudharma Karunarathna
Member
Public Service Commission
No: 1200/9, Rajamalwatte Road,
Battaramulla.

62. Mr. G.S.A. de Silva PC
Member
Public Service Commission
No: 1200/9, Rajamalwatte Road,
Battaramulla.

ADDED RESPONDENTS

63. Hon. Justice Jagath Balapatabendi
Chairman, Public Service Commission

64. Mr. M.A.B. Daya Senerath
Secretary, Public Service Commission.

65. Mrs. Indrani Sugathadasa
Member, Public Service Commission.

66. Dr. T.R.C. Ruberu
Member, Public Service Commission.

67. Ahamad Lebbe Mohamad Saleem
Member, Public Service Commission.

68. Mr. Leelasena Liyanagama
Member, Public Service Commission.

69. Mr. Dian Gomes
Member, Public Service Commission.

70. Mr. Dilith Jayaweera
Member, Public Service Commission.

71. Mr. W.H.Piyadasa
Member, Public Service Commission.

72. Mr. Suntharam Arumaiyaham
Member, Public Service Commission.

63rd to 72nd Respondents, Chairman, Secretary
and the Members of the Public Service
Commission, No. 1200/9, Rajamalwatta Road,
Battaramulla.

ADDED RESPONDENTS

73. Sanath J. Ediriweera,
Chairman,
Public Service Commission of Sri Lanka,
No. 1200/9,
Rajamalwatta Road,
Battaramulla.

74. W.H.M.M.C.K. Dayaratne,
Secretary,
Public Service Commission of Sri Lanka,
No. 1200/9,
Rajamalwatta Road,
Battaramulla.

75. N.H.M. Chithrananda,
Member,
Public Service Commission of Sri Lanka,
No. 1200/9,
Rajamalwatta Road,
Battaramulla.

76. G.S.A. De Silva, P.C.
Member,
Public Service Commission of Sri Lanka,
No. 1200/9,
Rajamalwatta Road,
Battaramulla.

77. Dr. A.D.N. de Zoysa,
Member,

Public Service Commission of Sri Lanka,
No. 1200/9,
Rajamalwatta Road, Battaramulla.

78. S.M. Mohamed,
Member,
Public Service Commission of Sri Lanka,
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Rajamalwatta Road,
Battaramulla.

79. Ranjani Nadarajapillai,
Member,
Public Service Commission of Sri Lanka,
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Rajamalwatta Road,
Battaramulla.

80. C. Pallegama,
Member,
Public Service Commission of Sri Lanka,
No. 1200/9,
Rajamalwatta Road,
Battaramulla.

81. M.B.R. Pushpakumara,
Member,
Public Service Commission of Sri Lanka,
No. 1200/9,
Rajamalwatta Road,
Battaramulla.

82. Prof. N. Selvakumaran,
Member,
Public Service Commission of Sri Lanka,
No. 1200/9,
Rajamalwatta Road,
Battaramulla.

ADDED RESPONDENTS

Before: Hon. Janak De Silva, J.
Hon. Mahinda Samayawardhena, J.
Hon. Arjuna Obeyesekere, J.

Counsel: Thushani Machado for the Petitioners
Kanishka de Silva, DSG for the Respondents

Written Submissions: 17.01.2023 and 14.07.2025 by the Petitioners
10.05.2023 and 15.07.2025 by the Respondents

Argued on: 09.06.2025

Decided on: 17.09.2026

Janak De Silva, J.

The 1st Petitioner was appointed to the Sri Lanka Teachers' Service (SLTS) Class 3 Grade II as a Primary Teacher with effect from 20.04.1998 and was subsequently promoted to SLTS Class 2 Grade II with effect from 05.04.2006.

The 2nd Petitioner was appointed as an Assistant Teacher with effect from 01.12.1992 and was thereafter promoted to SLTS Class 2 Grade I with effect from 01.04.2003.

The 3rd Petitioner was appointed as an Assistant Teacher with effect from 02.05.1995 and was thereafter promoted to SLTS Class 2 Grade I with effect from 08.05.2004.

By Gazette Extraordinary No. 1410 dated 09.09.2005, applications were invited to fill vacancies in Class 3 of the Sri Lanka Teacher Educators' Service (SLTES) in several subject areas, including "Primary Education" and "Professional Subjects", in both the Sinhala and Tamil media.

Pursuant to the said Gazette notification, the 1st Petitioner submitted an application for appointment in the Tamil medium, indicating "Primary Education" as his first preference and "Professional Subjects" as his second preference. The 2nd and 3rd Petitioners likewise applied in the Tamil medium, indicating "Professional Subjects" as their first preference and "Primary Education" as their second preference.

Interviews were conducted during the months of January and February 2007 by an Interview Board comprising the 1st to the 6th Respondents. Upon completion of the selection process, the 18th to the 29th Respondents were selected for appointment to Class 3 of the SLTES.

By this application, the Petitioners seek, *inter alia*, a direction that they be appointed to Class III of the SLTES with effect from the same date on which the 18th to the 29th Respondents were appointed.

Leave to proceed was granted in respect of the alleged infringement of Article 12(1) of the Constitution.

Subsequent Developments

During the pendency of the present application, applications were once again invited to fill vacancies in Class 3 of the SLTES. The Petitioners submitted applications pursuant to that recruitment process and were appointed to Class 3 of the SLTES with effect from 15.12.2014.

Subsequent to their appointments, the Petitioners preferred appeals to the Public Service Commission ("PSC"), seeking to have their appointments retrospectively effective from the date on which appointments were made pursuant to the 2005 recruitment process. In essence, the Petitioners sought to have their appointments, which took effect on 15.12.2014, backdated to the date on which the 18th to the 29th Respondents were appointed.

Thereafter, on 12.06.2019, learned President's Counsel for the Petitioners informed Court that, in light of the appointments already secured by the Petitioners, the sole issue remaining for determination in the present proceedings was whether those appointments should be backdated to correspond with the effective date of appointment of the 18th to the 29th Respondents in 2009.

Position of the Petitioners

According to Gazette Notification No. 1410, applications were invited to fill vacancies, *inter alia*, in the subject areas of Primary Education, Professional Subjects, Second Language (Tamil), and Special Education.

The Petitioners claim that they were eligible to apply under 6.2 of the Gazette Notification No.1410, which reads as follows:

“Educational and Other Qualifications

*6.2 Should have obtained a **Degree relating to the subject area** from a recognized University **and** a Post Graduate Diploma in Education with a Distinction or Merit pass : or” (emphasis added)*

All three Petitioners have satisfied the second requirement of possessing a Postgraduate Diploma in Education with a Distinction or Merit pass, as stipulated. The only question is whether they possess *a Degree relating to the subject area from a recognized University*.

1st Petitioner has obtained a Bachelor’s degree in Arts (External) from the University of Peradeniya awarded in 1996 (Political Science, Economics, Islamic Culture) and Post Graduate Diploma in Education (Merit Pass) from the National Institute of Education - 2001.

The 2nd Petitioner has obtained a Bachelor’s degree in Arts from the University of Peradeniya awarded in 1995 (Political Science, Arabic, Islamic Civilization) and a Post Graduate Diploma in Education (Merit Pass) from the National Institute of Education - 1999.

The 3rd Petitioner has obtained a Bachelor’s degree in Arts from the University of Peradeniya awarded in 1998 (Political Science, Economics, Islamic Culture) and Post Graduate Diploma in Education (Merit Pass) from the National Institute of Education - 2003.

According to the mark sheets of the interview, the Petitioners had obtained the following marks:

1st Petitioner - 48 Marks

2nd Petitioner - 42 Marks

3rd Petitioner - 48 Marks

Upon making inquiries, the Petitioners became aware that, although marks had been allocated for the subjects offered in their respective Degrees, the said marks have been disregarded on the erroneous ground that they are not relevant. As such the Petitioners

were deprived of being selected although they were able to secure more marks than the marks obtained by the 18th to 29th Respondents.

In terms of the Clause 4 (m) of the Service Minute of SLTES (Service Minute), the term 'Relevant discipline' means *'any one of the subject areas specified in the Schedule contained in Appendix B to this Minute'*.

According to Appendix B of the Service Minute, the subjects listed under the category of 'Primary Education' are Mother tongue, Aesthetic Education, Physical Education, Special Education, Creative Activities, Primary Mathematics, Primary Science and English.

Section 3 of the Service Minute states that the provisions therein shall not supersede or contravene the provisions of the college of Education Act, No 30 of 1986.

A circular dated 23.11.1998 was issued by then Secretary to the Ministry of Education and Higher Education titled *'Implementation of new syllabus for Grade 1 under the new educational reforms'* by which Environmental Related Activities and Religion were included in the Grade 1 curriculum.

Thereafter, in terms of the College of Education Act No. 30 of 1986, the Board of Colleges Education took a decision in or about 2000 to include in the curriculum for Primary Education, the subject of Environmental related Activities and Religion.

Environmental related Activities is a component of the Primary Pre - School Education Syllabus and the focus therein is mainly on topics in the Environmental Related Activities curriculum which relates to Social Studies and Aesthetics. This establishes that Religion and Political Science, which the Petitioners had offered for their Bachelor's degree, are related subjects to that course. The Colleges of Education Board took a decision in 2002 to hold examinations/assessments for Environmental Related Activities and Religion under the discipline of Primary Education.

The 1st and 3rd Petitioners have offered Political Science and Economics and Islamic Culture for their Bachelor's degree in Arts. These subjects are relevant to Environmental Related Activities and Religion. The 2nd Petitioner has offered Political Science, Arabic and Islamic Civilization for his Bachelor's degree in Arts. These subjects are relevant to Environmental related Activities and Religion.

The inclusion of the aforesaid subjects in the curriculum was in terms of the Colleges of Education Act, No 30 of 1986. The list of disciplines appearing in Appendix B to the Service Minute, also provides for revision of the list *‘from time to time as needed’*. Therefore, the Petitioners have a degree in the *relevant subject area*.

Position of the Respondents

The crux of the Respondent's case is that the subjects offered by Petitioners for their degrees are *‘not relevant’* to Primary Education as specified under 6.2 clause of Gazette Notification No.1410.

The 1st Petitioner has also not taken Tamil as core subject for his degree. In addition to the eligibility qualification mentioned in clause 6.2 of the Gazette Notification No.1410, Clause 12 of the Service Minute also states that, for appointment to Class III, a candidate should have obtained a

“Degree of a recognized University in the relevant Discipline and a Post graduate Diploma in Education with Distinction or Merit Pass; or.” (emphasis added)

At the time relevant to this application, Chapter II of the Establishment Code (E-Code) governed the appointment to the Public Service. Clause 1:10 read with Clause 1:10:3 makes it clear that for antedating of appointments one of the conditions that should be satisfied is that:

“On the date to which it is proposed to antedate the appointment, the officer was fully qualified to appointment to the post in terms of the Scheme of Recruitment applicable on such date.” (emphasis added)

In the present case, none of the Petitioners were fully qualified in terms of the Service Minute applicable as at the closing date of applications under Gazette Notification No.1410, which was 12.10.2005.

Changing Basis of Application

The Petitioners in their petition explicitly states that the 19th to 29th Respondents are made parties solely for the purpose of giving them notice and *no relief is sought against them and that the Petitioners are not challenging the appointment of the 19th to the 29th respondents* in view of the fact that there are cadre vacancies existing in the Primary

Education - Tamil Medium in the SLTES Class 3. Accordingly, it appears that no notice was served on the 19th to 29th Respondents.

However, later on, Petitioners in their counter affidavit dated 16.11.2009, state as follows:

*“In the event of there being no cadre vacancies existing, the Petitioners shall have no alternative but to **challenge the validity of the appointment of the 19th to 29th Respondents**”.* (emphasis added)

In the written submissions, the Petitioners seek to impugn the validity of the appointments granted to 18th to 29th Respondents on various grounds.

Similarly, the petition of the Petitioners explicitly states at paragraph 10 that *they confine their choice indicated in their applications for appointment to the SLTES Class 3, to Primary Education - Tamil Medium*. Subsequently, the Petitioners in their further affidavit dated 20.01.2012, state as follows:

*“Petitioners are also **eligible to be considered for recruitment for Professional Subject or Primary Education**”.* (emphasis added)

Substantive details for this position have only been mentioned in the written submission of the Petitioners dated 14.07.2025.

I am firmly of the view that the Petitioners are not entitled to depart from, or fundamentally alter, the case pleaded in the Petition. The reasons for this conclusion are as follows.

The principle embodied in the maxim *Judex debet judicare secundum allegata et probata* requires that a court adjudicate upon the rights of the parties solely on the basis of the case pleaded and the evidence adduced in support thereof. It is not open to a court to determine a matter on the basis of a case that has neither been pleaded nor proved.

As Wade and Forsyth states [*Administrative Law*, 9th Edition (Indian Edition), Oxford University Press, p. 476):

“It is fundamental to fair procedure that both sides should be heard: audi alteram partem, ‘hear the other side’. This is the more far-reaching of the principles of natural justice, since it can embrace almost every question of fair procedure, or due process, and its implications can be worked out in great detail.”

The rules of natural justice constitute an integral part of our procedural law. In the absence of clear statutory language, or any other lawful basis, expressly or by necessary implication excluding or modifying their application, the Court is bound to determine the substantive issues before it in accordance with those principles.

The principle of “*audi alteram partem*” derives its efficacy from the fundamental requirement that the rights and liabilities of the parties must be determined solely on the basis of the case presented, to which the opposing party has been afforded a fair and reasonable opportunity to respond. Any departure from this foundational premise would constitute a violation of the rules of natural justice, as it would deny the affected party an adequate opportunity to meet the case against it and thereby occasion prejudice.

It necessarily follows that a litigant cannot, after invoking the jurisdiction of this Court on one pleaded basis, seek to obtain relief upon a materially different case that was never placed before the opposing party for answer. To permit such a course would be inimical to the principles of procedural fairness and would undermine the very foundation upon which the rules of natural justice rest. This is reflected in our civil procedure rules.

For example, Explanation 2 to Section 150 of the Civil Procedure Code, state as follows:

“The case enunciated must reasonably accord with the party’s pleading. i.e. plaint or answer, as the case may be. And no party can be allowed to make at the trial a case materially different from that which he has placed on record, and which his opponent is prepared to meet. And the facts proposed to be established must in the whole amount to so much of the material part of his case as is not admitted in his opponent’s pleadings.” (emphasis added)

In ***D.N. Wijetunga v. T.C. Amarasekera (Deceased)*** [S.C. Appeal No. 89/2018, S.C.M. 02.04.2025], I held that Explanation 2 to Section 150 of the Civil Procedure Code contains an important element of the rules of natural justice.

In ***Somerville & Company Ltd v. People’s Bank*** [S.C. (C.H.C.) Appeal No. 69/2012, S.C.M. 08.05.2026], after referring to Explanation 2 of the Section 150 of the Civil Procedure Code, I held (at page 4) that:

“In the written submissions, the Appellant seeks to raise certain factual positions not taken up in the answer which cannot be allowed.”

In the present case, the Petitioners have, in unequivocal terms, pleaded in paragraph 26 of the petition that the appointments of the 19th to the 29th Respondents are not under challenge. Having elected to frame their case in those terms, the Petitioners cannot thereafter be permitted to impugn those very appointments. To allow such a course would be manifestly contrary to the principles of natural justice, for the 19th to the 29th Respondents were never called upon to answer a case challenging the validity of their appointments.

Likewise, the Petitioners have, at paragraph 10 of the petition, expressly confined their claim to recruitment under the subject area of "Primary Education." By doing so, they defined the scope of the dispute and the case to which the Respondents were required to answer. The subsequent attempt to advance a claim based on eligibility for recruitment under the category of "Professional Subjects" constitutes a material departure from the case pleaded in the petition. Such a departure fundamentally alters the nature and scope of the proceedings and deprives the Respondents of the opportunity to meet that case, thereby occasioning procedural prejudice.

Accordingly, I shall proceed to determine the petition on the basis of the case pleaded by the Petitioners in their petition. In particular, the rights of the parties will be determined solely on the basis of the applications submitted by the Petitioners pursuant to Gazette Notification No. 1410 under Clause 6.2 for the subject area of "Primary Education."

Analysis

In terms of Clause 6.2 of Gazette Notification No. 1410 an applicant,

*"Should have obtained a Degree relating to the subject area from a recognized University **and** a Post Graduate Diploma in Education with a Distinction or Merit pass : or". (emphasis added)*

It is undisputed that the Petitioners have satisfied the second limb of Clause 6.2 of Gazette Notification No. 1410, namely the requirement of possessing a Post Graduate Diploma in Education with a Distinction or Merit Pass.

The issue that falls for determination is whether the Petitioners satisfy the remaining requirement under Clause 6.2, namely whether they possess a,

“Degree relating to the subject area from a recognized University”. (emphasis added)

Clause 4(m) of the Service Minute defines “Relevant discipline” as “any one of the subject areas specified in the Schedule in Appendix B to this minute”. Appendix B sets out the List of Disciplines-Subjects.

For the reasons hereinbefore set out, the relevant subject area in the present application is confined to Primary Education. Appendix B of enumerates eight subject areas under the category of Primary Education, namely Mother Tongue, Aesthetic Education, Physical Education, Special Education, Creative Activities, Primary Mathematics, Primary Science and English.

However, Petitioners do not contend that their degrees fall within any of the eight subject areas expressly enumerated in Appendix B. Rather, they rely on the two subject areas namely Environmental related Activities and Religion. In support of this contention, the Petitioners rely on the Circular dated 23.11.1998, the decision of the Board of Colleges of Education taken in or about the year 2000, the curriculum for Primary Education, the Syllabus for the Primary Pre-Service Teacher Education (PPTE) Course, The National College of Education Subject List under the new syllabus and the decision of the Board of Colleges of Education in 2002 to conduct examinations and assessments in those subjects (marked P20 to the Petition). It is on the basis of these documents that the Petitioners contend that Environmental Related Activities, Religion are recognized components of Primary Education during the relevant period and, consequently, that their degrees satisfy the requirement of a "Degree relating to the subject area" under Clause 6.2 of Gazette Notification No. 1410.

Since the term “Relevant discipline” has been expressly defined in Clause 4(m) of the Service Minute of the SLTES, whether the Petitioners are qualified for appointment to the post of Lecturer in SLTES Class III falls to be determined solely in terms of the Service

Minute. Accordingly, the Service Minute takes precedence over the other documents and authorities relied upon by the Petitioners.

The eight subjects specified under the category of "Primary Education" in Appendix B to the Service Minute of the SLTES, as published in Gazette Notification No. 1070/13 dated 11.03.1999, had not been amended prior to the closing date for applications, which was 12.10.2005. Consequently, under the subject area of "Primary Education," only the eight subjects specified in the Service Minute could be considered as relevant subject areas.

The 1st Petitioner obtained a Bachelor of Arts (External) degree from the University of Peradeniya in 1996, having offered Political Science, Economics and Islamic Culture. The 2nd Petitioner obtained a Bachelor of Arts degree from the University of Peradeniya in 1995, having offered Political Science, Arabic and Islamic Civilization. The 3rd Petitioner obtained a Bachelor of Arts degree from the University of Peradeniya in 1998, having offered Political Science, Economics and Islamic Culture.

Having carefully considered the material placed before this Court, I am satisfied that none of the subjects in which the Petitioners obtained their bachelor's degrees falls within any of the eight subject areas specified under the category of "Primary Education" in the Service Minute. It follows that the Petitioners do not possess a degree relating to the relevant subject area, as required by Clause 6.2 of Gazette Notification No. 1410, and are therefore ineligible for appointment under that category.

The Petitioners have also sought to impugn the marking process by alleging various irregularities in the marking sheets. However, those contentions would arise for consideration only if the Petitioners had first established that they satisfied the prescribed eligibility criteria. Since the Petitioners lack the requisite qualifications for appointment under the "Primary Education" category, it is unnecessary to examine the alleged irregularities in the evaluation process.

For all the foregoing reasons, I hold that the Petitioners have failed to establish that the 1st to the 17th Respondents, or any one or more of them, infringed the Petitioners'

fundamental right to equality before the law and the equal protection of the law guaranteed by Article 12(1) of the Constitution.

Accordingly, this application is dismissed without costs.

JUDGE OF THE SUPREME COURT

Mahinda Samayawardhena, J.

I agree.

JUDGE OF THE SUPREME COURT

Arjuna Obeyesekere, J.

I agree.

JUDGE OF THE SUPREME COURT