

**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.

S.C. (FR) No. 396/2019

Balasuriyage Wickramaratne
No.486/2, Polgaslanda road,
Mandawala.

Petitioner

Vs.

1. Mr. P.H. Manathunga
Chairman
National Police Commission
Block No. 9,
BMICH Premises, Bauddhaloka Mawatha,
Colombo 07.
2. Mr. K. Karunaharan
3. Mr. Dilshan Kapila Jayasooriya
4. Mr. A.A.M. Illias
5. Mr. Jayantha Jayasinghe

All members of the National Police
Commission,
Block No. 9,
BMICH Premises, Bauddhaloka Mawatha,
Colombo 07.
6. Ms. Tamara D Perera
Secretary

National Police Commission,
Block No. 9,
BMICH Premises, Bauddhaloka Mawatha,
Colombo 07.

7. Inspector General of Police,
Police Headquarters,
Colombo 01.
8. Mr. Sanath J. Ediriweera,
Chairman,
Public Service Commission,
No. 1200/9,
Rajamalwatta Road, Battaramulla.
9. Mr. N. H. M. Chithrananda
10. Mr. G. S. A. De Silva PC
11. Dr. A. D. N. De Zoysa
12. Mrs. S. M. Mohomed
13. Mrs. Ranjani Nadarajapillai
14. Mr. M. B. R. Pushpakumara
15. Prof. N. Selvakkumaran

All members of the Public
Service Commission
No. 1200/9,
Rajamalwatta Road, Battaramulla.

16. Ms. W. H. M. M. C. K. Dayarathne,
Secretary
Public Service Commission, No. 1200/9,
Rajamalwatta Road, Battaramulla.
17. The Hon. Attorney General,
Attorney General's Department,
Colombo 12.

Respondents

Before : P. Padman Surasena, CJ.
Menaka Wijesundera, J.
K.M.G.H. Kulatunga, J.

Counsel : Kamal Dissanayake with Ms. Sajani Ranasinghe and
Ms. Sureni Amaratunga for Petitioner instructed by
A. A. Thilakarathne.
Dr. Avanti Perera, DSG for Respondents.

Written
Submissions : Written submissions on behalf of the Petitioner on
18th January, 2021.
Written submissions on behalf of the Respondents
on 29th April, 2021.

Argued on : 26.01.2026

Decided on : 06.03.2026

MENAKA WIJESUNDERA J.

The petitioner in the present matter joined the Police Reserve Force as a Police Constable on the 8th of May, 1989 (P1) and thereafter, served in several parts of the country. While serving at the Bloemendhal Police Station in the year 2000, proceedings were instituted against him on the basis of a complaint made by a domestic aide employed at the petitioner's residence.

The allegation had been that the petitioner had raped her between the period of 1st May, 2000 to 10th May, 2000. As such, the petitioner claims that he had been demobilized on 19th June 2000 and had been asked to hand over his uniform and other official belongings. (P3)

In the year 2004, the petitioner was indicted before the High Court of Gampaha and thereafter faced trial. By judgment dated 13th July 2018, he was acquitted. Subsequently, on 31st July 2018, he appealed to the National Police Commission seeking reinstatement to service (P7).

The National Police Commission thereupon called for the observations of the Inspector General of Police (IGP), who, by his report marked R, stated that the petitioner had been subjected to an internal disciplinary inquiry in respect to serious allegations. He further stated that the petitioner had been exonerated of all such allegations, and that there existed no other adverse material or reports against the petitioner, and accordingly recommended that he be reinstated. But the National Police Commission, by P9, had rejected the appeal filed by the petitioner.

The petitioner being aggrieved by the said decision had filed the instant application alleging that his fundamental rights under Article 12(1) of the Constitution had been violated, by the 1st to the 7th respondents.

Article 12(1) of the Constitution states that,

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

When this matter had been supported on the 09.09.2020, leave has been granted under the above-mentioned Article for the petitioner to proceed with the instant matter.

The respondents vehemently objected to the instant application, contending that during the pendency of the petitioner’s trial before the High Court, the Cabinet of Ministers, by decision dated 1st February 2006, resolved to absorb officers of the Reserve Police Force into the regular force. However, as the petitioner had been demobilized and was facing criminal proceedings at the relevant time, he was not eligible to be considered for such absorption. Though the situation may be unfortunate, the respondents maintain that reinstatement is administratively not possible.

The respondents had further cited section 26B (1) of the Police Ordinance, which empowers only the IGP to mobilize officers, who had been demobilized and not the National Police Commission. An extract of section 26B (1) can be found below.

“26B. Mobilisation.

(1) The Commandant shall, on the directions of the Inspector-General of Police, mobilise such officers of the police reserve as are required to assist the police force in the exercise of its powers and performance of its duties. No such officer shall be de-mobilised by the Commandant except on the directions of the Inspector-General of Police.”

The respondents had validly cited the case of ***Tuan Ishan Raban and others vs Members of the Police Commission 2007 2 SLR 358***, which had stated that the Regular police force and the Reserve Force as being two different entities and it is the IGP, who can take action regarding the reserve police force and not the Police Commission. As such, the petitioner should have written to the IGP and not the Police Commission when he was demobilized.

Upon considering the submissions of both parties, I find that at the time the petitioner was demobilized as a Reserve Police Officer, he was facing criminal proceedings. Although he was acquitted of those charges at a much later stage, it is not possible to reinstate him to a service which is now non-existent, since in 2006, the Cabinet of Ministers decided to absorb the Reserve Police Force into the regular Police Force, and the petitioner was not absorbed as he had already been demobilized at that time. Moreover, as pointed out by the respondents, the National Police Commission has no authority over the Reserve Police Force in terms of Article 155G of the Constitution read with Section 26B of the Police Ordinance.

In the circumstances, I find no violation of the Petitioner's fundamental rights guaranteed under Article 12(1) by the Respondents. Accordingly, this Court finds no merit in the instant application, which is hereby dismissed without costs.

JUDGE OF THE SUPREME COURT

P. Padman Surasena, CJ.

I agree.

CHIEF JUSTICE

K. M. G. H Kulatunga, J.

I agree.

JUDGE OF THE SUPREME COURT