

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 126 of
the Constitution of the Democratic
Socialist Republic of Sri Lanka*

SC/FR/515/2010

1. Rammandage Anura Kumara
Premaratne,
No. 184/B, Mitri Mawata,
Weedagama, Bandaragama.
2. Tuan Haroon Dole,
No. G-149, Nivasipura, Kotugoda,
Ekala.
3. Don Lalith Chandrakumara
Weerasinghe, No. 27/03,
Obawaththa Road, Madiwela, Kotte.
4. Lokukamadi Hennadige Nishan De
Silva, Palm Grove, Gungamuwa
Bandaragama.
5. Chandana Deeptha Liyanage,
No. 158/70, Big City, Balika Nivasa
Road, Pannipitiya.
6. Pathiranage Nishantha
Jayawickrama, No. 214, Kelelinda
Wathuyaya, Padiyathalawa.
7. Ratnayake Mudhiyanselage
Indrasoma Ratnayake, Gagulwitiya
Road, Elapatha South, Ratnapura.
8. Senevirathna Yatawara,
No. A/6, Police Quarters, Borella.

9. Galappatti Guruge Newton Jayasiri,
No. 100, Panwila Road, Wattegama.
10. Ranjith Premalal Dias Edirisinghe
Kodituwakku, No. 273/B, Kiriberiya
Road, Wanduramulla, Panadura.
11. Weerawarnakurukulasooriya
Boosavaduge Hugh Chaturpaduma
Fernando, No. 13/1A, Polkotuwa,
Beruwala.
12. Raja Sekala Mudiyanse
Udumalebbe Haja Mohideen, Kumara
Mawatha, Alutheratgama,
Galgamuwa.
13. Randeniye Pahala Walauwe Cyril
Dharma Kirthi Kapilaratna, H5,
Police Quarters, Persons Road, Slave
Island, Colombo 02.
14. Ellabada Kankanamalage
Samarasingha, Ilwana, Bossella,
Kegalle.
15. Wasantha Lakshman Walitharage,
No. 65/1A, Weera Kappetipola
Mawatha, Bandarawatta, Gampaha.
16. Don Elantha Nilmina Weliserage,
No. 18/7, 1st Lane, Waidiya Road,
Dehiwala.
17. Susiri Preethi Kumara Udugampola,
No. 3/1, Kahatapitiya, Kananvila,
Horana.
18. Hewa Marambage Sarath,
No. 521/A1, Bandaranayake
Mawatha, Eldeniya, Kadawatha.

19. Kasthuri Arachchilage Don
Chandralath Kumara Weerasinghe,
No. 346/5, Elvitigala Road,
Siddamulla, Piliyandala.
20. Lankapathige Ranjith Kumarasiri,
No. 225/325/1/A, Senpathi
Mawatha, Maligawatta, Colombo 10.
21. Saman Dilshan Nagahawatta,
“Field View”, Bope, Gintota.
22. Wijesingha Kodikarage Don Pemasiri,
A-3, Matha Road, Colombo 08.
23. Muthukuda Arachchige Don Sunil,
N-1, Police Flats, Slave Island.
24. Pinnaduwaage Yasarathna de Silva,
No. 181/15, Polhengoda Road,
Kirulapone, Colombo 05.
25. Siriwardene Kurunayaka Wasala
Mudiyanse Ralahamilage Darshana
Senevirathne, No. 108, Sri Bodhi
Road, Gampaha.
26. Dangedara Egodage Jayantha
Padmasiri Nanayakkara, Delgolla
Estate, Polgahawela.
27. Chinthaka Gunarathna,
No. 136/4, Mahabodhi Road, Pahala
Karagahamuna, Kadawatha.
28. Prema Jayantha Athukorala,
No. 200, Perawaththa,
Madabawita, Danowita.
29. Hettiarachchige Don Pushpa Kumara
Hettiarachchi, No. 07, Police
Quarters, Asgiriya, Kandy.

30. Pelenda Appuhamilage Kithsiri Ajith
Senaratna, No. 184A, Orutota,
Gampaha.
31. Maharaba Walpita Gamaga
Chandana, No. 65, Middle Road,
Chinagarden, Galle.
32. Don Baron Bamunusinghe
Nanayakkara, No. 1/3, Polwatta,
Pannipitiya.
33. Dodampege Kulathilaka,
No. 1/5, Police Quarters, Pothgul
Vihara Mawatha, Ratnapura.

Petitioners

Vs.

1. Dr. Mahinda Balasuriya,
Inspector General of Police,
Police Headquarters, Colombo 01.
- 1A. Inspector General of Police,
Police Headquarters, Colombo 01.
2. The Secretary,
National Police Commission,
- 2A. Prof. Siri Hettige,
Chairman, National Police
Commission,
- 2B. Mr. P.H. Manatunga,
Member, National Police Commission,
- 2C. Mrs. Savithree Wijesekara,
Member, National Police Commission,
- 2D. Mr. Y.L.M. Zawahir,
Member, National Police Commission,
- 2E. Mr. Anton Jeyanadan,

- Member, National Police Commission,
2F. Mr. Tilak Collure,
Member, National Police Commission,
2G. Mr. Frank de Silva,
Member, National Police Commission,
2H. Mr. S.C.S. Fernando,
Chairman, National Police
Commission,
2I. Mr. S. Liyanagama,
Member, National Police Commission,
2J. Mr. A.S.P.S.P. Sanjeewa,
Member, National Police Commission,
2K. Mr. N.S.M. Samsudeen,
Member, National Police Commission,
2L. Mr. M.P.P. Perera,
Member, National Police Commission,
2M. Mr. G. Wickramage,
Member, National Police Commission,
2N. Mr. T.P. Paramaswaran,
Member, National Police Commission,
2O. Mr. E.W.M. Lalith Ekanayake,
Chairman, National Police
Commission,
2P. Mrs. D.K. Renuka Ekanayake,
Member, National Police Commission,
2Q. Mr. K. Karunaharan,
Member, National Police Commission,
2R. Mr. P.G.S. Gamini De Silva,
Member, National Police Commission
2S. Mr. D. Kapila Jayasuriya,
Member, National Police Commission,
2T. Mr. A.A.M. Illiyas PC,
Member, National Police Commission,

- 2U. Mr. Jayantha Jayasinghe,
Member, National Police Commission,
2nd to 2U Respondents are of:
Block No. 09, B.M.I.C.H. Premises,
Bauddhaloka Mawatha, Colombo 07.
3. Mr. Gotabaya Rajapakse,
The Secretary, Ministry of Defence,
Colombo 01.
- 3A. The Secretary,
Ministry of Defence, 15/5,
Baladaksha Mawatha, Colombo 03.
- 3B. The Secretary,
Ministry of Law & Order and
Southern Development, No. 25,
Whiteaways Building, Sir Baron
Jayathilake Mawatha, Colombo 01.
- 3C. The Secretary,
Ministry of Public Security, 14th Floor,
“Suhurupaya”, Battaramulla.
4. Mr. Sumith Abeysinghe,
Secretary to the Cabinet, Republic
Building, Colombo 1.
- 4A. Secretary to the Cabinet of Ministers,
Office of the Cabinet of Ministers,
Republic Building, Sir Baron
Jayathilaka Mawatha, Colombo 01.
5. Hon. D. M. Jayarathna,
Prime Minister and the Minister of
Budhdhasasana & Religious Affairs,
No. 115, Wijerama Mawatha,
Colombo 07.
6. Hon. Rathnasiri Wickramanayaka,
Minister of Public Management

Reforms, No. 29/2, Wijesinghe
Mawatha, Pelawaththa,
Battaramulla.

7. Hon. Nimal Siripala De Silva,
Minister of Irrigation & Water
Resources Management, No. 11,
Jawaththa Road, Colombo 05.
8. Hon. A. H. M. Fawzie,
Minister of Disaster Management, No.
2, Wijerama Mawatha, Colombo 07.
9. Hon. Maithripala Sirisena,
Minister of Health, No. 365, Rev.
Baddegama Wimalawansha Thero
Mawatha, Colombo 10.
10. Hon. Susil Premajayantha,
Minister of Petroleum Development,
No. 80, Sir Earnest De Silva
Mawatha, Colombo 07.
11. Hon. Arumugam Thondaman,
Minister of Livestock & Rural
Community Development, No. 45, St.
Michael Road, Colombo 03.
12. Hon. Dinesh Gunawardana,
Minister of Water Supply & Drainage,
No. 34, Narahenpita Road, Nawala.
13. Hon. Douglas Dewananda,
Minister of Traditional Industries &
Small Enterprises Development, No.
780, Maradana Road, Colombo 10.
14. Hon. A. L. M. Athaullah,
Minister of Local Government &
Provincial Councils, No. 330, Union
Place, Colombo 02.

15. Hon. Thisa Witharana,
Minister of Technology and Research,
No. 408, Galle Road, Colombo 03.
16. Hon. D.E.W. Gunasekara,
Minister of Rehabilitation & Prison
Reforms, No. 35A, Dr. N. M. Perera
Mawatha, Colombo 08.
17. Hon. Rishad Bathiyutheen,
Minister of Industry & Commerce,
No. 73/1, Galle Road, Colombo 03.
18. Hon. Wimal Weerawansa,
Minister of Construction, Engineering
Services, Housing and Common
Amenities, 2nd Floor, Sethsiripaya,
Sri Jayawardanapura Kotte,
Battaramulla.
19. Hon. Patali Champika Ranawaka,
Minister of Power & Energy, No. 72,
Ananda Kumaraswami Mawatha,
Colombo 07.
20. Hon. Basil Rajapaksha,
Minister of Economic Development,
No. 46/56, LANLIB Building, Nawam
Road, Colombo 02.
21. Hon. P. Dayarathna,
Minister of State Resources &
Enterprise Development, No 561/3,
Alwitigala Road, Colombo 05.
22. Hon. S.B. Dissanayaka,
Minister of Higher Education, No.18,
Ward Place, Colombo 07.

23. Hon. Prof. G.L. Peris,
Minister of External Affairs, Republic
Building, Colombo 01.
24. Hon. John Senevirathna,
Minister of Public Administration &
Home Affairs, Independence Square,
Colombo 07.
25. Hon. (Mrs) Sumedha G. Jayasena,
Minister of Parliamentary Affairs,
No. 464/B, Pannipitiya Road,
Palawatta, Battaramulla.
26. Hon. Milroy Fernando,
Minister of Resettlement, No. 146,
Galle Road, Colombo 03.
27. Hon. Jeewan Kumarathunga,
Minister of Post &
Telecommunications, 7th Floor, Postal
Head Quarters, No. 310, D.R.
Wijewardana Mawatha, Colombo 10.
28. Hon. Mrs. Pavithra Wanniarachchi,
Minister of National Heritage &
Cultural Affairs, 8th Floor,
Sethsiripaya, Battaramulla.
29. Hon. Anura Priyadharshana Yapa,
Minister of Environment,
Sampathpaya, No. 82,
Rajamalwaththa Road, Battaramulla.
30. Hon. Thissa Karaliyadda,
Minister of Child Development &
Women Affairs, No. 177, Nawala
Road, Narahenpita, Colombo 05.
31. Hon. Athauda Senevirathna,
Minister of Justice,

Superior Courts Complex,
Colombo 12.

32. Hon. Gamini Lokuge,
Minister of Labour Relations &
Productivity Improvement, P.O. Box
Labour Secretariat, Narahenpita,
Colombo 05.
33. Hon. Bandula Gunawardana,
Minister of Education, “Isurupaya”,
Battaramulla.
34. Hon. Mahinda Samarasingha,
Minister of Plantation, No. 55/75,
Vauxhall Street, Colombo 02.
35. Hon. Rajitha Senarathna,
Minister of Fisheries & Aquatic
Resources Development, New
Secretariat Office, Maligawaththa,
Colombo 05.
36. Hon. Keheliya Rambukwella,
Minister of Mass Media & Information,
“Asidhisi Madura”, No. 163,
Kirulapana Mawatha, Polhendoga,
Colombo 05.
37. Hon. Piyasena Gamage,
Minister of Indigenous Medicine, Old
Kottawa Road, Nawinna, Maharagama.
38. Hon. S. B. Navinna,
Minister of National Languages &
Social Integration, No. 40,
Buthgamuwa Road, Rajagiriya.
39. Hon. Janaka Bandara Thennakoon,
Minister of Lands & Lands
Development, No. 80/5, “Govijana

Mandiraya”, Rajamalwatta Mawatha,
Battaramulla.

40. Hon. Felix Perera,
Minister of Social Affairs, 5th Floor,
“Sethsiripaya”, Battaramulla.
41. Hon. C.B. Rathnayaka,
Minister of Sports, No. 7A, Reid
Avenue, Colombo 07.
42. Hon. Mahinda Yapa Abeywardana,
Minister of Agriculture, “Govijana
Mandiraya”, No. 80/5, Rajamalwatta
Avenue, Battaramulla.
43. Hon. Kumara Welgama,
Minister of Transport, No. 01, D. R.
Wijewardena Mawatha, Colombo 10.
44. Hon. Dullas Alahapperuma,
Minister of Youth Affairs, “Nipunatha
Piyasa”, No. 354/2, Alwitigala
Mawatha, Colombo 05.
45. Hon. Johnston Fernando,
Minister of Co-operatives & Internal
Trade, No. 330, Union Place,
Colombo 02.
46. Assistant Superintendent of Police A.
J. Y. B. Krishantha, Police Office,
Thangalle.
Presently at:
Senior Superintendent of Police (SSP)
in charge of the Kebithigollewa
Division, SSP’s Office, Kebithigollewa.
47. Assistant Superintendent of Police
P. G. S. Gunathilaka, No. 17,
Janadipathi Mawatha, Colombo 01.

Presently at:

Director/Ombudsman, Police
headquarters, Colombo 01.

48. Assistant Superintendent of Police
P.M.P. Perera, No. 17, Janadipathi
Mawatha, Colombo 01.

Presently at:

Director/Express Highway,
Director's Office, Kaduwela.

49. The Honourable Attorney General,
Department of the Attorney General,
Colombo 12.

Respondents

50. Hon. Ranil Wickremasinghe,
Minister of National Policies and
Economic Affairs,
51. Hon. John Amarathunga,
Minister of Tourism Development and
Christian Religious Affairs,
52. Hon. Gamini Jayawickrema Perera,
Minister of Sustainable Development
and Wildlife and Minister of Buddha
Sasana,
53. Hon. Nimal Siripala de Silva,
Minister of Transport and Civil
Aviation,
54. Hon. Mangala Samaraweera,
Minister of Finance and Mass Media,
55. Hon. S. B. Dissanayake,
Minister of Social Empowerment,
Welfare and Kandyan Heritage,

56. Hon. W. D. J. Seneviratne,
Minister of Labour, Trade Union
Relations and Sabaragamu
Development,
57. Hon. Lakshman Kiriella,
Minister of Higher Education and
Highways,
58. Hon. (Dr.) Sarath Amunugama,
Minister of Special Assignments,
59. Hon. Rauff Hakeem,
Minister of City Planning and Water
Supply,
60. Hon. Anura Priyadharshana Yapa,
Minister of Disaster Management,
61. Hon. Thilak Marapana,
Minister of Foreign Affairs and
Minister of Development
Assignments,
62. Hon. Susil Premajayantha,
Minister of Science, Technology and
Research,
63. Hon. (Dr.) Rajitha Senaratne,
Minister of Health, Nutrition and
Indigenous Medicine,
64. Hon. Mahinda Samarasinghe,
Minister of Ports and Shipping,
65. Hon. Vajira Abeywardena,
Minister of Home Affairs,
66. Hon. S. B. Navinne,
Minister of Internal Affairs, Wayamba
Development and Cultural Affairs,
67. Hon. Rishad Bathiudeen,
Minister of Industry and Commerce,

68. Hon. Patali Champika Ranawaka,
Minister of Megapolis and Western
Development,
69. Hon. Mahinda Amaraweera,
Minister of Fisheries and Aquatic
Resources Development,
70. Hon. Navin Dissanayake,
Minister of Plantation Industries,
71. Hon. Ranjith Siyambalapitiya,
Minister of Power and Renewable
Energy,
72. Hon. Duminda Dissanayake,
Minister of Agriculture,
73. Hon. Vijith Vijayamuni Zoysa,
Minister of Irrigation and Water
Resources Management,
74. Hon. P. Harison,
Minister of Rural Economy,
75. Hon. Kabir Hashim,
Minister of Public Enterprises
Development,
76. Hon. Ranjith Madduma Bandara,
Minister of Public Administration and
Management,
77. Hon. Gayantha Karunathilaka,
Minister of Lands and Parliamentary
Reforms,
78. Hon. Sajith Premadasa,
Minister of Housing and
Construction,
79. Hon. Arjuna Ranatunga,
Minister of Petroleum Resources
Development,

80. Hon. U. Palani Digambaram,
Minister of Hill Country New Villages,
Infrastructure and Community
Development,
81. Hon. (Mrs.) Chandrani Bandara,
Minister of Women and Child Affairs,
82. Hon. (Mrs.) Thalatha Atukorala,
Minister of Foreign Employment and
Minister of Justice,
83. Hon. Akila Viraj Kariyawasam,
Minister of Education,
84. Hon. M. H. A. Haleem,
Minister of Posts, Postal Services and
Muslim Religious Affairs,
85. Hon. Faiszer Musthapha,
Minister of Provincial Councils and
Local Government,
86. Hon. D. M. Swaminathan,
Minister of Prison Reforms,
Rehabilitation, Resettlement and
Hindu Religious Affairs,
87. Hon. Chandima Weerakkody,
Minister of Skills Development and
Vocational Training,
88. Hon. Dayasiri Jayasekara,
Minister of Sports,
89. Hon. Sagala Ratnayake,
Minister of Law & Order and
Southern Development,
90. Hon. Harin Fernando,
Minister of Telecommunication and
Digital Infrastructure,

91. Hon. Mano Ganesan,
Minister of National Co-existence
Dialogue and Official Languages,
92. Hon. Daya Gamage,
Minister of Primary Industries,
93. Hon. Malik Samarawickrema,
Minister of Development Strategies
and International Trade,
94. Field Marshal Hon. Sarath Fonseka,
Minister of Regional Development,
C/O Secretary to the Cabinet of
Ministers, Office of the Cabinet of
Ministers, Republic Building, Sir
Baron Jayathilaka Mawatha,
Colombo 01.
95. Hon. Ranil Wickremesinghe,
Minister of Finance, Economic
Stabilization and National Policies,
Ministry of Finance, Economic
Stabilization and National Policies,
The Secretariat, Colombo 01.
96. Hon. Nimal Siripala de Silva,
Minister of Ports, Shipping and
Aviation, Ministry of Ports, Shipping
and Aviation, No. 19, Chaithya Road,
Colombo 01.
97. Hon (Prof.) G.L. Peiris,
Minister of Foreign Affairs, Ministry of
Foreign Affairs, Republic Building, Sir
Baron Jayathilake Mawatha,
Colombo 01.
98. Hon. Dinesh Gunawardena,

Minister of Public Administration,
Home Affairs, Provincial Councils and
Local Government, Ministry of Public
Administration, Home Affairs,
Provincial Councils and Local
Government, Independence Square,
Colombo 07.

99. Hon. Douglas Devananda,
Minister of Fisheries, Ministry of
Fisheries, New Secretariat,
Maligawatta, Colombo 10.

100. Hon. Susil Prema Jayantha,
Minister of Education, Ministry of
Education, "Isurupaya",
Battaramulla.

101. Hon. (Dr.) Bandula Gunawardena,
Minister of Transport and Highways
and Minister of Mass Media,
Ministry of Transport and Highways,
9th Floor, "Maganeguma
Mahamedura", Denzil Kobbekaduwa
Mawatha, Koswatta, Battaramulla.
And

Ministry of Mass Media, No. 163,
"Asidisi Medura", Kirulapone Avenue,
Polhengoda, Colombo 05.

102. Hon. Keheliya Rambukwella,
Minister of Health and Minister of
Water Supply,
Ministry of Health, "Suwasiripaya",
No. 385, Rev. Baddegama
Wimalawansa Thero Mawatha,
Colombo 10.

And

Ministry of Water Supply, No. 35,
“Lakdiya Medura”, New Parliament
Road, Pelawatta, Battaramulla.

103. Hon. Mahinda Amaraweera,
Minister of Agriculture and Minister
of Wildlife & Forest Resources
Conservation,
Ministry of Agriculture, 80/5,
“Govijana Mandiraya”, Rajamalwatta
Road, Battaramulla.

And

Ministry of Wildlife & Forest
Resources Conservation, No. 1090,
Sri Jayawardenapura Mawatha,
Rajagiriya.

104. Hon. (Dr.) Wijayedasa Rajapaksa,
Minister of Justice, Prison Affairs and
Constitutional Reforms, Ministry of
Justice, Prison Affairs and
Constitutional Reforms, 19, Sri
Sangaraja Mawatha, Colombo 10.

105. Hon. Harin Fernando,
Minister of Tourism and Lands,
Ministry of Tourism and Lands, 2nd
Floor, Asset Arcade Building, 51/2/1,
York Street, Colombo 01.

106. Hon. (Dr.) Ramesh Pathirana,
Minister of Plantation Industries and
Minister of Industries,
Ministry of Plantation Industries, 11th
Floor, Stage II, “Sethsiripay”,
Battaramulla.

And

Ministry of Industries, PO Box 570,
No. 73/1, Galle Road, Colombo 03.

107. Hon. Prasanna Ranatunga,
Minister of Urban Development and
Housing, Ministry of Urban
Development and Housing, 17th Floor,
“Suhurupaya”, Sri Subhuthipura
Road, Battaramulla.
108. Hon. Vidura Wickramanayaka,
Minister of Buddhasasana, Religious
and Cultural Affairs, Ministry of
Buddhasasana, Religious and
Cultural Affairs, No. 135, Srimath
Anagarika Dharmapala Mawatha,
Colombo 07.
109. Hon. Kanchana Wijesekera,
Minister of Power and Energy,
Ministry of Power and Energy,
No. 437, Galle Road, Colombo 03.
110. Hon. Naseer Ahamed,
Minister of Environment, Ministry of
Environment, 416/C/1, “Sobadam
Piyasa”, Robert Gunawardana
Mawatha, Battaramulla.
111. Hon. Roshan Ranasinghe,
Minister of Irrigation and Minister of
Sports & Youth Affairs,
Ministry of Irrigation, No. 500, 10th
Floor, T. B. Jaya Mawatha,
Colombo 10.

And

Ministry of Sports & Youth Affairs,
No. 09, Philip Gunawardana
Mawatha, Colombo 07.

112. Hon. Manusha Nanayakkara,
Minister of Labour and Foreign
Employment, Ministry of Labour and
Foreign Employment, 6th Floor,
“Mehewara Piyesa”, Narahenpita,
Colombo 05.

113. Hon. Tiran Alles,
Minister of Public Security, Ministry
of Public Security, 14th Floor,
“Suhurupaya”, Battaramulla.

114. Hon. Nalin Fernando,
Minister of Trade, Commerce and
Food Security, Ministry of Trade,
Commerce and Food Security, L. H.
Piyasena Buidling, No. 492, R. A. De
Mel Mawatha, Colombo 03.

115. Hon. Dinesh Gunawardena,
Hon. Prime Minister,
Minister of Public Administrations,
Home Affairs, Provincial Councils and
Local Government,
Prime Minister's Office, No. 58, Sir
Earnest de Silva Mawatha,
Colombo 07.

And

Ministry of Public Administration,
Home Affairs, Provincial Councils and
Local Government, Independence
Square, Colombo 07.

116. Hon. Nimal Siripala de Silva,

Minister of Ports, Shipping and
Aviation,
Ministry of Ports, Shipping and
Aviation, No. 19, Chaithya Road,
Colombo 01.

117. Hon. Pavithra Wanniarachchi,
Minister of Wildlife & Forest Resource
Conservation,
No. 1090, Sri Jayawardenapura
Mawatha, Rajagiriya.

118. Hon. Douglas Devananda,
Minister of Fisheries,
Ministry of Fisheries, New Secretariat,
Maligawatte, Colombo 10.

119. Hon. Susil Premajayantha,
Minister of Education,
Ministry of Education, "Isurupaya",
Battaramulla.

120. Hon. Bandula Gunawardena,
Minister of Transport and Highways,
Minister of Mass Media,
Ministry of Transport and Highways,
9th Floor, "Maganeguma
Mahamedura", Denzil Kobbekaduwa
Mawatha, Koswatta, Battaramulla.

And

Ministry of Mass Media, No. 163,
"Asidisi Medura", Kirulapone Avenue,
Polhengoda, Colombo 05.

121. Hon. Keheliya Rambukwella,
Minister of Health,
Ministry of Health, "Suwasiripaya",
No. 385, Rev. Baddegama

Wimalawansa Thero Mawatha,
Colombo 10.

122. Hon. Mahinda Amaraweera,
Minister of Agriculture,
Ministry of Agriculture, 80/5,
“Govijana Mandiraya”, Rajamalwatta
Road, Battaramulla,
123. Hon. Wijayadasa Rajapaksha,
Minister of Justice, Prisons Affairs
and Constitutional Reforms,
Ministry of Justice, Prisons Affairs
and Constitutional Reforms, 19, Sri
Sangaraja Mawatha, Colombo 10.
124. Hon. Harin Fernando,
Minister of Tourism and Lands,
Ministry of Tourism and Lands, 2nd
Floor, Asset Arcade Building, 51/2/1,
York Street, Colombo 01.
125. Hon. Romesh Pathirana,
Minister of Plantation Industries,
Minister of Industries,
Ministry of Plantation Industries,
11th Floor, Stage II, “Sethsiripaya”,
Battaramulla.
- And*
Ministry of Industries, P.O. Box 570,
No. 73/1, Galle Road, Colombo 03.
126. Hon. Prasanna Ranatunga,
Minister of Urban Development and
Housing,
Ministry of Urban Development and
Housing, 17th Floor, “Suhurupaya”,

Sri Subhuthipura Road,
Battaramulla.

127. Hon. M.U.M. Ali Sabri,
Minister of Foreign Affairs,
Ministry of Foreign Affairs, Republic
Building, Sir Baron Jayathilake
Mawatha, Colombo 01.
128. Hon. Vidura Wickramanayaka,
Minister of Buddhasasana, Religious
and Cultural Affairs,
Ministry of Buddhasasana, Religious
and Cultural Affairs, No. 135,
Srimath Anagarika Dharmapala
Mawatha, Colombo 07.
129. Hon. Kanchana Wijesekera,
Minister of Power and Energy,
Ministry of Power and Energy,
No. 437, Galle Road, Colombo 03.
130. Hon. Naseer Ahamed,
Minister of Environment,
Ministry of Environment, 416/C/1,
“Sobadam Piyasa”, Robert
Gunawardana Mawatha,
Battaramulla.
131. Hon. Roshan Ranasinghe,
Minister of Sports and Youth Affairs,
Minister of Irrigation,
Ministry of Sports and Youth Affairs,
No. 09, Philip Gunawardana
Mawatha, Colombo 07.
- And*
Ministry of Irrigation, No. 500, 10th
Floor, T. B. Jaya Mawatha,

Colombo 10.

132. Hon. Manusha Nanayakkara,
Minister of Labour and Foreign
Employment,
Ministry of Labour and Foreign
Employment, 6th Floor, “Mehewara
Piyesa”, Narahenpita, Colombo 05.
133. Hon. Tiran Alles,
Minister of Public Security,
Ministry of Public Security, 14th Floor,
“Suhurupaya”, Battaramulla.
134. Hon. Nalin Fernando,
Minister of Trade, Commerce and
Food Security,
Ministry of Trade, Commerce and
Food Security, No. 492, L. H.
Piyasena Building, R. A. De Mel
Mawatha, Colombo 03.
135. Hon. Jeewan Thondaman,
Minister of Water Supply and Estate
Infrastructure Development.
Ministry of Water Supply and Estate
Infrastructure Development, No. 35,
“Lakdiya Medura”, New Parliament
Road, Pelawatta, Battaramulla.
136. Hon. Dr. Harini Amarasuriya,
Prime Minister and Minister of
Education, Higher Education and
Vocational Training,
Ministry of Education, Higher
Education and Vocational Training,
Isurupaya, Battaramulla.
137. Hon Vijitha Herath,

Minister of Foreign Affairs, Foreign
Employment and Tourism,
Ministry of Foreign Affairs, Foreign
Employment and Tourism, Sir Baron
Jayathilaka Mawatha, Republic
Building, Fort, Colombo 01.

138. Hon. K.D. Lal Kantha,
Minister of Agriculture, Livestock,
Land and Irrigation,
Ministry of Agriculture, Livestock,
Land and Irrigation, “Mihikatha
Madura”, Land Secretariat,
No. 1200/6, Rajamalwatta Road,
Battaramulla.
139. Hon. Bimal Rathnayaka,
Minister of Transport, Highways,
Ports and Civil Aviation,
Ministry of Transport, Highways,
Ports and Civil Aviation, 7th Floor,
Sethsiripaya Stage II, Battaramulla.
140. Hon. Sunil Handunneththi,
Minister of Industry and
Entrepreneurship Development,
Ministry of Industry and
Entrepreneurship Development,
73/1, Galle Road, Colombo 3.
141. Hon. Ramalingam Chandrasekar,
Minister of Fisheries, Aquatic and
Ocean Resources,
Ministry of Fisheries, Aquatic and
Ocean Resources, New Secretariat
Building, Maligawatta, Colombo 10.
142. Hon (Prof.) Anil Jayantha Fernando,

Minister of Labour,
Ministry of Labour, 6th floor,
Mehewara Piyasa, Narahenpita,
Colombo 05.

143. Hon. Samantha Viddyaratna,
Minister of Plantation and
Community Infrastructure,
Ministry of Plantation and
Community Infrastructure, 11th Floor,
Sethsiripaya 2nd Stage, Battaramulla.

144. Hon. Anura Karunathilaka,
Minister of Urban Development,
Construction and Housing,
Ministry of Urban Development,
Construction and Housing, 2th Floor,
“Sethsiripaya”, Stage II, Battaramulla.

145. Hon. (Dr). Nalinda Jayatissa,
Minister of Health and Mass Media,
Ministry of Health and Mass Media
Suwasiripaya, No. 385,
Rev. Baddegama Wimalawansa Thero
Mawatha, Colombo 10.

146. Hon. (Prof.) A.H.M.H. Abayarathna,
Minister of Public Administration,
Provincial Councils and Local
Government,
Ministry of Public Administration,
Provincial Councils and Local
Government, Independence Square,
Colombo 07.

147. Hon. Wasantha Samarasinghe,

Minister of Trade, Commerce, Food
Security and Cooperative
Development,
Ministry of Trade, Commerce, Food
Security and Cooperative
Development, 492, R.A. De Mel
Mawatha, Colombo 03.

148. Hon. Harshana Nanayakkara,
Minister of Justice and National
Integration,
Ministry of Trade, Commerce, Food
Security and Cooperative
Development, No. 19, Sri Sangaraja
Mawatha, Colombo 10.
149. Hon. (Mrs.) Saroja Savithri Paulraj,
Minister of Women and Child Affairs,
Ministry of Women and Child Affairs,
5th Floor, Sethsiripaya Stage II,
Battaramulla.
150. Hon. (Dr.) Upali Pannilage,
Minister of Rural Development, Social
Security and Community
Empowerment,
Ministry of Rural Development, Social
Security and Community
Empowerment, 1st Floor, Sethsiripaya
(Stage II), Battaramulla.
151. Hon. K.M. Ananda Wijepala,
Minister of Public Security and
Parliamentary Affairs,
Ministry of Public Security and
Parliamentary Affairs, 18th Floor,
'Suhurupaya', Battaramulla.

152. Hon. (Dr.) Hiniduma Sunil Senevi,
Minister of Buddhasasana, Religious
and Cultural Affairs,
Ministry of Buddhasasana, Religious
and Cultural Affairs, 135, Srimath
Anagarika Dharmapala Mawatha,
Colombo 07.

153. Hon. Sunil Kumara Gamage,
Minister of Youth Affairs and Sports,
Ministry of Youth Affairs and Sports,
No. 09, Phillip Gunawardana
Mawatha, Colombo 07.

154. Hon. (Prof.) Crishantha Abeysena,
Minister of Science and Technology,
Ministry of Science and Technology,
3rd Floor, Sethsiripaya Stage I,
Battaramulla.

155. Hon. (Eng.) Kumara Jayakody,
Minister of Energy,
Ministry of Energy, 437 Galle Road,
Colombo 03.

156. Hon. (Dr.) Dammika Patabendi,
Minister of Environment,
Ministry of Environment, Sobadam
Piyasa, 416/C/1,
Robert Gunawardana Mawatha,
Battaramulla.

Added Respondents

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

Counsel: Saliya Peiris, P.C., with Anjana Ratnasiri for the Petitioners.
Dr. Asanga Gunawansa, P.C., with Dushinka Nelson, Navindra Fonseka, and Ramith Siriwardana for the 46th, 47th and 48th Respondents.
Sureka Ahmed, S.S.C., for the 49th Respondent.

Argued on: 30.06.2025

Written submissions:

By the Petitioners on 29.8.2025.

By the 46th, 47th, and 48th Respondents on 29.8.2025.

Decided on: 08.09.2026

Samayawardhena J.

Thirty-three Petitioners, who were Chief Inspectors of Police, filed this application in this Court on 08.09.2010 alleging an infringement of their fundamental right guaranteed by Article 12(1) of the Constitution. The Respondents cited by the Petitioners include the Inspector General of Police, the Secretary to the National Police Commission, the Secretary to the Ministry of Defence, the Cabinet of Ministers, the Attorney General and the officers who benefited from the impugned promotions.

The grievance of the Petitioners is that the 46th, 47th and 48th Respondents, who were also Chief Inspectors of Police, were granted special promotions to the rank of Assistant Superintendent of Police with effect from 28.07.2010 outside the applicable Scheme of Recruitment and Promotion and without following the prescribed procedure governing such promotions. Those promotions were communicated by the Inspector General of Police by RTM 254 dated 09.08.2010.

The Petitioners in the petition stated that they were unable to annex certain documents relevant to their complaint because, at the material time, police officers had been directed by the Inspector General of Police,

by Circular No. 2212/2010, not to furnish internal documents of the Police Department to the Supreme Court without prior approval. Consequently, the Petitioners were unable to produce the relevant RTM and other connected documents when instituting these proceedings.

The Petitioners seek, *inter alia*, a declaration that one or more of the Respondents and/or the State have infringed their fundamental rights guaranteed by Article 12(1) of the Constitution and a declaration that the promotions granted to the 46th, 47th and 48th Respondents to the rank of Assistant Superintendent of Police, as reflected in RTM 254 dated 09.08.2010, are null and void and of no force or avail in law.

Upon notice being issued on the Respondents, only the 1st Respondent, the Inspector General of Police, filed objections by way of an affidavit dated 10.11.2012. Together with that affidavit, the 1st Respondent tendered a seniority list of Chief Inspectors of Police marked R1 and three Cabinet Memoranda marked R2, R3 and R4 respectively, upon which the impugned promotions had been granted.

The Inspector General of Police admits that the 46th, 47th and 48th Respondents were granted special promotions to the rank of Assistant Superintendent of Police pursuant to decisions of the Cabinet of Ministers. However, whilst the Cabinet Memoranda were tendered to Court, the corresponding Cabinet decisions themselves were not produced. Significantly, the affidavit of the Inspector General of Police does not disclose the positions occupied by the 46th, 47th and 48th Respondents in the seniority list at the time the impugned promotions were granted, notwithstanding the obvious relevance of that information to the issues arising in this application.

It is also noteworthy that the affidavit filed by the Inspector General of Police does not seek to justify the impugned promotions by reference to any provision of the applicable Scheme of Recruitment and Promotion, any amendment thereto, or any broader policy applicable to a class or

category of police officers. The affidavit merely tenders the three Cabinet Memoranda upon which the promotions were granted.

The Petitioners state in their petition that, at the time the impugned promotions were granted, the applicable Scheme of Recruitment and Promotion provided three avenues for promotion from the rank of Chief Inspector of Police to the rank of Assistant Superintendent of Police. Twenty-five per cent of the vacancies were to be filled on the basis of an open competitive examination and *viva voce* examination. A further twenty-five per cent were to be filled on the basis of a limited competitive examination and *viva voce* examination from among eligible Inspectors of Police and Chief Inspectors of Police. The remaining fifty per cent of the vacancies were to be filled from among confirmed Chief Inspectors of Police on the basis of merit and seniority, subject to a *viva voce* examination. The Petitioners were unable to tender the said Scheme of Recruitment and Promotion together with the petition due to the aforesaid directive issued by the Inspector General of Police.

Nearly thirteen years after the institution of these proceedings, the Attorney General, by motion dated 27.07.2023, tendered several documents, including RTM 254 dated 09.08.2010 marked Annexure 5 and the relevant Scheme of Recruitment and Promotion referred to by the Petitioners in their petition marked Annexure 6. The Attorney General also tendered seniority lists marked X1 and X2. However, those documents too do not identify the positions occupied by the 46th, 47th and 48th Respondents in the relevant seniority lists. Furthermore, the documents were tendered without any supporting affidavit explaining either their particular relevance or the considerable delay in producing them.

The Petitioners further aver that, according to the seniority list of Chief Inspectors of Police as at 13.05.2010, the 46th Respondent was placed at No. 106, the 47th Respondent at No. 326 and the 48th Respondent at No. 401. In their counter-affidavit, the Petitioners have pointed out that,

according to the seniority list tendered by the Inspector General of Police marked R1, the name of the 46th Respondent does not appear, whilst the 47th Respondent appears at No. 453 and the 48th Respondent at No. 533.

The manner in which the relevant documents have been placed before Court is far from satisfactory. The central issue in this case concerns the legality of the special promotions granted to the 46th, 47th and 48th Respondents. Yet the Court was not furnished, at the appropriate stage, with the complete documentary basis upon which those promotions were granted. Indeed, the Cabinet decisions themselves were not produced by the Inspector General of Police, and RTM 254, by which the impugned promotions were communicated, was tendered only in 2023, approximately thirteen years after the institution of these proceedings. The copy tendered is barely legible. Such omissions do not assist the Court in the discharge of its constitutional responsibility to determine complaints alleging infringements of fundamental rights.

Before considering the merits of this application, it is necessary to deal with the preliminary objections raised by the 46th, 47th and 48th Respondents.

The 46th, 47th and 48th Respondents filed their objections only on 06.06.2025, nearly fifteen years after the institution of these proceedings. Such a delay is extraordinary and wholly unexplained. Nevertheless, since the Petitioners have not objected to the filing of those objections and since the preliminary objections raised therein concern the maintainability of the application, I shall consider them.

The first preliminary objection is that the Petitioners have failed to invoke the fundamental rights jurisdiction of this Court within one month of the alleged infringement as required by Article 126(2) of the Constitution. The 46th, 47th and 48th Respondents contend that the alleged infringement arose from the Cabinet decisions dated 28.07.2010 whereas the Petitioners instituted these proceedings only on 08.09.2010.

I find no merit in this objection. The difficulty with this argument is that neither the Petitioners nor this Court knew, at the time of filing this application, that the impugned promotions had been approved by Cabinet decisions dated 28.07.2010. Indeed, the Cabinet decisions themselves were not tendered to Court until the Attorney General produced them by motion dated 27.07.2023, approximately thirteen years after the institution of these proceedings. The Petitioners became aware of the impugned promotions through RTM 254 dated 09.08.2010 issued by the Inspector General of Police. This application was filed on 08.09.2010, within one month thereof. Accordingly, I hold that the Petitioners have complied with the requirement stipulated in Article 126(2) of the Constitution. The first preliminary objection is overruled.

The second preliminary objection is that this application has become futile and serves only an academic purpose because the 46th, 47th and 48th Respondents have subsequently obtained further promotions.

It is stated that the 46th Respondent, after being promoted to the rank of Assistant Superintendent of Police by the impugned Cabinet decision dated 28.07.2010, was promoted to the rank of Superintendent of Police on 28.07.2016 and thereafter to the rank of Senior Superintendent of Police on 28.07.2020. Likewise, the 47th Respondent, after being promoted to the rank of Assistant Superintendent of Police by the impugned Cabinet decision dated 28.07.2010, was promoted to the rank of Superintendent of Police on 28.07.2016 and thereafter to the rank of Senior Superintendent of Police on 28.07.2020. The 48th Respondent, after being promoted to the rank of Assistant Superintendent of Police by the impugned Cabinet decision dated 28.07.2010, was promoted to the rank of Superintendent of Police on 28.07.2016 and thereafter to the rank of Senior Superintendent of Police on 11.02.2021. On that basis, it is contended that this application has become futile and should be dismissed *in limine*.

I am unable to accept that contention. The Petitioners challenge the legality of the special promotions granted to the 46th, 47th and 48th Respondents to the rank of Assistant Superintendent of Police on 28.07.2010. Those promotions constitute the very foundation upon which the subsequent promotions to the ranks of Superintendent of Police and Senior Superintendent of Police were granted. If the impugned promotions to the rank of Assistant Superintendent of Police are ultimately found to be unlawful, the legality of the subsequent promotions granted on the strength of those promotions would also be affected. Therefore, it cannot be said that the controversy has become academic or that no effective relief can be granted by this Court.

What is significant is that the 46th, 47th and 48th Respondents did not file objections to this application for nearly fifteen years. During the pendency of these proceedings, they obtained further promotions to the ranks of Superintendent of Police and Senior Superintendent of Police. Those promotions were granted whilst the legality of the original promotions remained under challenge before this Court.

If the 46th, 47th and 48th Respondents were genuinely concerned about the expeditious determination of this matter, they could have filed objections at the appropriate time and sought an early determination. Instead, they now seek to rely upon promotions obtained during the pendency of these proceedings as a basis for contending that the application has become futile. I am unable to accede to such an argument.

Accordingly, I hold that this application has not become academic or futile and that the issues raised therein continue to require determination by this Court. The second preliminary objection is overruled.

The third preliminary objection is that the Petitioners no longer possess the requisite standing to maintain this application because, out of the thirty-three Petitioners, the majority have retired from service or are no longer in active service.

I find no merit in this objection. Whether a petitioner possesses standing to invoke the fundamental rights jurisdiction of this Court must be determined with reference to the facts existing at the time of the institution of the proceedings. The subsequent retirement of some or even majority of the Petitioners cannot deprive them of the right to have their complaint adjudicated by this Court. Accordingly, the third preliminary objection is overruled.

The fourth preliminary objection is that the impugned Cabinet decisions were taken approximately fifteen years ago and that the Petitioners have failed to prosecute this application with due diligence.

I find no merit in this contention. The Petitioners instituted these proceedings promptly in September 2010. Thereafter, only the 1st Respondent, the Inspector General of Police, filed objections by way of an affidavit dated 10.11.2012. Even then, the Inspector General of Police did not produce any Cabinet decisions or the RTM by which the Cabinet decisions were communicated. Nor did he seek to justify the impugned promotions by reference to any amendment to the applicable Scheme of Recruitment and Promotion, any policy applicable to a class or category of police officers, or any other lawful basis.

The Cabinet decisions themselves were produced only in 2023. The 46th, 47th and 48th Respondents did not file objections until June 2025. In those circumstances, it is difficult to comprehend how the delay in the determination of this matter can be attributed to the Petitioners. If anything, the record demonstrates a conspicuous lack of diligence on the part of those seeking to defend the impugned promotions. Accordingly, I overrule the fourth preliminary objection as well.

The 46th, 47th and 48th Respondents seek to justify the impugned promotions on the basis that the Cabinet of Ministers possesses the authority to grant such promotions. They further contend that similar special promotions have been granted by the Cabinet of Ministers in the past and have tendered several Cabinet decisions marked R4, R5 and R6

in support of that contention. Those documents disclose instances where an Inspector of Police had been promoted to the rank of Chief Inspector of Police, two Assistant Superintendents of Police had been promoted to the rank of Superintendent of Police, and another Assistant Superintendent of Police had been promoted to the rank of Superintendent of Police by special Cabinet decisions.

I am unable to accept that argument. The mere existence of previous Cabinet decisions granting special promotions does not establish the legality of the impugned decisions. If a decision is otherwise inconsistent with the applicable Scheme of Recruitment and Promotion or contrary to law, its legality cannot be sustained merely because similar decisions may have been taken in the past. An unlawful act does not become lawful through repetition, nor can previous departures from the law constitute a precedent authorising a further departure.

Moreover, the legality of those earlier decisions is not a matter that falls for determination in the present application. Those decisions have not been challenged before this Court and the Court has not had the benefit of considering the factual and legal circumstances in which they were made. It would therefore be inappropriate to draw any inference as to their legality.

In *Chandigarh Administration v. Jagjit Singh* (1995) 1 SCC 745, the Supreme Court of India rejected the contention that an earlier illegality could justify its repetition:

Merely because the respondent authority has passed one illegal/unwarranted order, it does not entitle the High Court to compel the authority to repeat that illegality over again and again. The illegal/unwarranted action must be corrected, if it can be done according to law indeed, wherever it is possible, the Court should direct the appropriate authority to correct such wrong orders in accordance with law but even if it cannot be corrected, it is difficult to see how it can be made a basis for its repetition. By refusing to

direct the respondent authority to repeat the illegality, the Court is not condoning the earlier illegal act/order nor can such illegal order constitute the basis for a legitimate complaint of discrimination. Giving effect to such pleas would be prejudicial to the interests of law and will do incalculable mischief to public interest. It will be a negation of law and the rule of law. Of course, if in case the order in favour of the other person is found to be a lawful and justified one it can be followed and a similar relief can be given to the petitioner if it is found that the petitioners' case is similar to the other persons' case.

The same principle was reaffirmed in *Basawaraj v. Special Land Acquisition Officer* AIR 2014 SC 746, where the Supreme Court held that Article 14 does not envisage “negative equality” and that a person cannot claim the benefit of an earlier illegal or erroneous decision merely because it was extended to another.

This Court has, in recent years, invalidated several Cabinet decisions by which special promotions were granted to police officers outside the applicable Scheme of Recruitment and Promotion. See *Saman Ratnayake and Others v. National Police Commission and Others* (SC/FR/350/2016, SC Minutes of 16.12.2021) and *Senadara De Silva and Others v. Hon. Gamini Lokuge and Others* (SC/FR/45/2022, SC Minutes of 29.05.2025). Accordingly, the mere fact that special promotions may have been granted on previous occasions does not advance the case of the 46th, 47th and 48th Respondents.

The 46th, 47th and 48th Respondents have also tendered three Cabinet Memoranda dated 27.07.2010 marked R8A, R8B and R8C respectively. The corresponding Cabinet decisions dated 28.07.2010 have been tendered marked R9A, R9B and R9C.

The legality of the impugned promotions must necessarily be examined in light of the reasons placed before the Cabinet of Ministers when approval for those promotions was sought. It is therefore necessary to

consider the contents of the three Cabinet Memoranda submitted by the then Minister of Defence in support of the special promotions granted to the 46th, 47th and 48th Respondents.

The Cabinet Memorandum dated 27.07.2010 relating to the 46th Respondent and marked R8A reads as follows:

Date: 2010.07.27

Memorandum No: POL/29/J/2010

Cabinet Memorandum

Granting of a Special Promotion to the Rank of Assistant Superintendent of Police to Field Assistant Superintendent of Police Mr. A.J.Y.B. Krishantha

Mr. A.J.Y.B. Krishantha was enlisted to the Special Task Force as a Sub Inspector of Police on 01.10.1994 and was promoted to the Rank of Inspector of Police on 10.05.1998. He obtained a transfer from the Special Task Force to normal Police duties on 01.04.2003 and was appointed as Officer-In-Charge of the Beliatta Police Station on 25.06.2004 and he was promoted to the Rank of Chief Inspector of Police on 01.01.2006. Mr. Krishantha was promoted as a Field Assistant Superintendent of Police on 06.05.2010 and he has been carrying out duties up to date as Field Assistant Superintendent of Police, in charge of District III of the Tangalle Police Division.

Mr. Krishantha has obtained 04 Commendations from the Inspector General of Police, in his capacity as the Officer-In-Charge of the Beliatta Police Station, for the following good work done, in combating crime:

(i) The recovery of arms and ammunition and property worth of Rs. 2,69,400.00 and the arrest of a most wanted suspect in connection with a series of grave crime in the Beliatta Police area on 19.06.2007.

(ii) *The arrest of the suspect who murdered R/PC 38347 and grabbed his T 56 weapon and also the recovery of motorcycle No. XE 4525.*

(iii) *The arrest of suspects on 07.02.2007 connected with the theft of property worth of Rs. 6,00,000.00 and the recovery of a T56 weapon and ammunition in the Beliatta, Weeraketiya and Hungama areas.*

(iv) *The apprehension of 02 suspects who had escaped from the Tangalle Prison, after a lapse of 1½ years and the solving of 09 cases of Grave Crime, in the area.*

From the year 2004 up to date, Mr. Krishantha has won the hearts of the people as the Officer-in-Charge in the Beliatta Police Station and he has carried out his duties precisely and most efficiently, in providing security to me and my family, whenever I have travelled to the Tangalle area.

As such, I seek the approval of the Cabinet of Ministers to grant a Special Promotion to the Rank of Assistant Superintendent of Police, to Field Assistant Superintendent of Police Mr. A.J.Y.B. Krishantha, please.

Sgd/Minister of Defence

The Cabinet Memorandum dated 27.07.2010 presented to the Cabinet of Ministers by the Minister of Defence in support of the special promotion granted to the 47th Respondent and marked R8B states as follows:

Memorandum No. POL/30/J/2010

Date: 27.07.2010

Cabinet Memorandum

Granting of a Special Promotion to the Rank of Assistant Superintendent of Police to Mr. P.G.S. Gunathilake, Field Assistant Superintendent of Police

Mr. P.G.S. Gunathilake was recruited to the Police Service as a Probationary Sub Inspector of Police on 08.10.1989 and was promoted to the rank of Inspector of Police on 02.09.1996 and to the Rank of Chief Inspector of Police on 01.01.2006, respectively.

During his period of service, he has served as an Officer-in-Charge of police stations such as Sevanagala, Sooriyawewa and Ambalantota. He has discharged his duties holding responsible and important ranks as Officer-in-Charge, in the Prime Minister's Security Division, upon transfer to the Prime Minister's Security Division on 20.05.2004 and he has served as Officer-in-Charge of the Presidential Security Division after I assumed the Portfolio of the Presidency from the Portfolio of the Prime Minister. Further, he is an officer who performed a pivotal and a great service towards me as well as all my members, during the period that the threat of the LTTE terrorists prevailed. As an appreciation of the service of this officer, he has been promoted to the rank of Field Assistant Superintendent of Police, with effect from 26.02.2009, by the former Inspector General of Police.

Furthermore, he has been serving as Officer-in-Charge of the supervision of welfare and transport activities of the Presidential Security Division, after being promoted to the rank of Field Assistant Superintendent of Police.

Mr. Gunathilake is an officer who performs his duties as Officer-in-Charge of the Presidential Security Division, consisting approximately 30 divisions, numbering to over 281 officers in the Supervising Grade and closely 1400 officers in the other ranks with due managerial capacity, strict discipline and dedication. This officer has been granted 02 Special Salary Increments and 03 Commendations by the Inspector General of Police.

In these circumstances, I recommend the granting of a Special Promotion from the rank of Chief Inspector of Police, to the rank of

Assistant Superintendent of Police, to this officer and seek the approval of Cabinet of Ministers, for the same, please.

Sgd/Minister of Defence

The Cabinet Memorandum dated 27.07.2010 presented to the Cabinet of Ministers by the Minister of Defence in support of the special promotion granted to the 48th Respondent and marked R8C states as follows:

Memorandum No: POL/31/J/10

Date: 2010.07.27

Cabinet Memorandum

Granting of a Special Promotion to the Rank of Assistant Superintendent of Police to Field Assistant Superintendent of Police Mr. P.M. Prashantha Perera

Mr. P.M. Prashantha Perera was enlisted to the police service as a Sub Inspector of Police on 27.05.1990 and was promoted to the Rank of Inspector of Police on 05.07.1998 and Chief Inspector of Police on 01.01.2006, respectively.

During the period of his service, he has served as the Officer-in-Charge of the Tissamaharama and Agarapathana Police Stations and furthermore, he has discharged his duties as the Officer-in-Charge of the High Security Zone of Temple Trees, while being attached to the Prime Minister's Security Division, from 20.05.2004 up to 10.01.2006 and as the Officer-in-Charge of the same Zone, in the rank of Chief Inspector of Police, from 10.01.2006 up to 05.01.2009.

Also, this officer has performed his duties in the VIP Security Division from 20.05.2004 and has a thorough knowledge on VIP security matters and he is an officer who performs duties vested with him, very credibly and honestly and also he has carried out my

security duties unreservedly and skillfully, with utmost dedication, without even sparing his own life.

According to the above stated facts, this officer has been appointed as a Field Assistant Superintendent of Police by the former Inspector General of Police, with effect from 16.01.2009. The period of his service is 20 years up to this date and it has been informed by the Inspector General of Police that he has served as a Field Assistant Superintendent of Police, for approximately a period of one year.

As such, it has been informed that the Inspector General of Police is agreeing with the recommendation made by Mr. S.M. Wickramasinghe, Senior Deputy Inspector General of Police and Officer-In-Charge of the Presidential Security Range, so as to grant a special promotion to this officer from the rank of Chief Inspector of Police to the rank of Assistant Superintendent of Police.

Therefore, I recommend that the granting of a special promotion to Mr. P.M. Prashantha Perera, Chief Inspector of Police, to the rank of Assistant Superintendent of Police, is appropriate and I seek the approval of the Cabinet of Ministers, to effect the same, please.

Sgd/Minister of Defence

By Cabinet decisions dated 28.07.2010 marked R9A, R9B and R9C respectively, the Cabinet of Ministers merely approved the recommendations made by the then Minister of Defence in the three Cabinet Memoranda marked R8A, R8B and R8C.

The 46th, 47th and 48th Respondents seek to justify the impugned promotions principally on the basis that the Cabinet of Ministers possesses the authority under Article 55(1) of the Constitution to determine matters of policy relating to public offices, including promotions. It is therefore necessary to examine whether the impugned

decisions can properly be characterised as policy decisions within the meaning of Article 55(1).

Before considering that question, it is necessary to examine the basis upon which approval of the Cabinet of Ministers was sought and obtained. The three Cabinet Memoranda dated 27.07.2010 marked R8A, R8B and R8C set out the reasons advanced by the then Minister of Defence in support of the special promotions granted to the 46th, 47th and 48th Respondents.

A careful examination of those memoranda reveals that they do not identify any deficiency in the existing Scheme of Recruitment and Promotion, any shortage of officers in the rank of Assistant Superintendent of Police, any administrative necessity requiring a departure from the established promotional structure, or any broader institutional issue affecting the Police Department. Nor do they seek to formulate a policy applicable to a class or category of police officers.

Instead, the memoranda are entirely devoted to the merits of three specifically identified officers. More significantly, the memoranda repeatedly refer to services rendered by those officers personally to the Minister and members of his family. In the memorandum relating to the 46th Respondent, the Minister states that the officer had “carried out his duties precisely and most efficiently, in providing security to me and my family”. In the memorandum relating to the 47th Respondent, the Minister states that the officer had rendered “a pivotal and a great service towards me as well as all my members”. In the memorandum relating to the 48th Respondent, the Minister records that the officer had carried out “my security duties unreservedly and skillfully, with utmost dedication”.

There is no doubt that the officers concerned may have discharged their duties diligently and efficiently to the best of their ability. However, personal satisfaction with the services rendered by particular officers cannot, by itself, constitute a lawful basis for granting promotions outside the applicable Scheme of Recruitment and Promotion. Neither

the Cabinet Memoranda nor the material placed before Court discloses any legal basis or policy justification for departing from the established Scheme of Recruitment and Promotion in favour of the 46th, 47th and 48th Respondents.

The power to grant promotions in the public service exists to advance the legitimate interests of the public service and not to reward personal loyalty or services rendered to individual holders of public office. Promotions must therefore be governed by law, the applicable Scheme of Recruitment and Promotion, and objective criteria directed towards securing an efficient public service, rather than by subjective preferences or personal considerations.

Article 55(1) of the Constitution entrusts to the Cabinet of Ministers the responsibility of providing for and determining matters of policy relating to public offices, including appointments, promotions, transfers, disciplinary control and dismissal. The formulation of policy in relation to the public service is therefore a matter that lies primarily within the constitutional domain of the Executive. Courts are ordinarily slow to interfere with policy decisions taken by the Cabinet of Ministers, recognising that the formulation of public policy often involves considerations that are best assessed by the elected branches of government. Accordingly, a court will not interfere merely because it may have arrived at a different conclusion. Judicial intervention is warranted only where the impugned policy decision is shown to be unconstitutional, illegal, arbitrary, irrational, *mala fide*, or the like.

However, the power conferred upon the Cabinet of Ministers by Article 55(1) is not an unfettered discretion capable of being exercised according to personal preference or political expediency. It is a constitutional power held and exercised on behalf of the people. The public trust doctrine, which underlies the exercise of the executive power of the people, requires that powers vested in the Cabinet of Ministers be exercised in good faith and for the benefit of the public.

Accordingly, a policy decision must be directed towards the attainment of a legitimate public purpose and be founded upon rational and objective considerations. A genuine policy decision is one intended to advance the public interest, address an administrative need, or achieve a legitimate governmental objective. Ordinarily, a policy decision operates generally and is intended to apply to a class or category of persons rather than to specifically identified individuals.

The distinction is important. A policy decision relating to promotions may, for example, address a service-wide issue affecting a category of officers, remove anomalies in the promotional structure, alleviate widespread stagnation, or facilitate the restructuring of a public institution. Such decisions may properly fall within the ambit of Article 55(1). By contrast, a decision directed solely at promoting specifically identified individuals because they are considered deserving cannot be elevated to the status of a policy decision merely because it has received Cabinet approval. Where a purported policy decision lacks any discernible public purpose and is directed solely towards conferring benefits upon specifically identified individuals, the mere label of “policy” will not immunise it from judicial scrutiny.

The three Cabinet Memoranda under consideration do not disclose any public policy objective whatsoever. They disclose only the desire of the Minister of Defence to reward three specifically identified officers for services rendered by them. In my view, the recommendations contained in those memoranda were not policy recommendations within the meaning of Article 55(1) of the Constitution. Consequently, the Cabinet decisions approving those recommendations cannot be justified as policy decisions falling within the ambit of that Article.

In *Saman Ratnayake and Others v. National Police Commission and Others* (SC/FR/350/2016, SC Minutes of 16.12.2021), His Lordship the present Chief Justice, after considering, *inter alia*, *Abeywickrema v. Pathirana* [1986] 1 Sri LR 120, *The Public Service United Nurses’ Union v.*

Montague Jayawickrama, Minister of Public Administration and Others [1988] 1 Sri LR 229, *Wickramatunga and Three Others v. H.R. De Silva and Fourteen Others* (SC/FR/551/98, SC Minutes of 31.08.2001), and *Poojya Mawanane Sominda Thero and Thirteen Others v. V.K. Nanayakkara and Eleven Others* (SC/FR/146/2003, SC Minutes of 15.07.2004), observed as follows:

It is important to bear in mind that the policies the Cabinet of Ministers are empowered to make must be only to lay down mere schemes of promotions in the nature of general rules and regulations and not decisions to promote any individual public or Police officer. On the other hand, any recommendation made by the Cabinet of Ministers to promote individuals cannot be categorized as policy decisions falling under Article 55(1) or 155G(3)(a) of the Constitution.

The aforesaid observations were subsequently quoted with approval by His Lordship Justice Wijeratne in *Senadara De Silva and Others v. Hon. Gamini Lokuge and Others* (SC/FR/45/2022, SC Minutes of 29.05.2025).

I respectfully agree with the aforesaid observations.

The present case is fundamentally different from the police promotion cases recently considered by this Court where Cabinet decisions were taken to address service-wide issues affecting substantial categories of police officers. In such cases, whether one agreed with the wisdom of those decisions or not, they were at least capable of being characterised as policy decisions directed towards a broader administrative objective. The impugned decisions in the present case stand on an entirely different footing. They were not intended to address any institutional problem. They were not directed towards any class or category of officers. They were confined to three specifically identified officers.

Accordingly, I hold that the impugned Cabinet decisions dated 28.07.2010 cannot properly be characterised as policy decisions within

the meaning of Article 55(1) of the Constitution and were therefore unlawful and inconsistent with Article 12(1) of the Constitution.

I accordingly declare that the Cabinet decisions dated 28.07.2010 marked R9A, R9B and R9C, by which special promotions were granted to the 46th, 47th and 48th Respondents, are null and void and of no force or avail in law.

It necessarily follows that the subsequent promotions granted to the 46th, 47th and 48th Respondents, being founded upon the said promotions to the rank of Assistant Superintendent of Police, cannot remain unaffected. Therefore, the National Police Commission and the relevant authorities shall determine and give effect to such consequential adjustments as may be required in accordance with law.

For the foregoing reasons, I hold that the fundamental rights of the Petitioners guaranteed by Article 12(1) of the Constitution have been infringed by executive and administrative action. Accordingly, this application is allowed.

The Petitioners have undoubtedly incurred considerable expense in pursuing this litigation. Nevertheless, I am not inclined to make an order for costs against the State, as the burden of such an order would ultimately fall upon the taxpayer rather than upon those responsible for the impugned decisions.

Judge of the Supreme Court

P. Padman Surasena, C.J.

I agree.

Chief Justice

Sampath K.B. Wijeratne, J.

I agree.

Judge of the Supreme Court