

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

**S.C. FR Application No.  
82/2017**

1. S. Samarakoon,  
No. A8/2/1, Mangala Road,  
Alwitigala Mawatha,  
Colombo 8.
2. S.J.P. Samankumara,  
No. 30/08, Kobbawela,  
Mahara, Gampola.
3. L.Y.A.D. Chandrapala,  
I-01, Police Quarters,  
Anderson Flats, Narahenpita,  
Colombo 5.
4. D.U.L. Rathnayake,  
No. 2/4, Police Quarters, Maligawatta.
5. K.W.G. Thusharasena,  
No. 217/15/D/3, Meegahawatta,  
Delgoda.
6. K.D.B. Senadheera,  
No. 267/1, Erwwala Road, Pannipitiya.
7. R.M.N. Rathnayake,  
No. 42/2, Kalugahawatta Road,  
Maharagama.
8. R. Indrananda,  
No. 202/21, Palugama, Dompe.

9. H.M.N.N. Herath  
“Deshapriya Wasa” Diddeniyawatta,  
01 Stage, Dambokka,  
Boyagane.
10. T.H.E.L. Perera,  
No. 297B, Thimbirigaskatuwa Road,  
Dalupotha,  
Negambo.
11. I.C.U.I. Kandewaththa,  
No. 675/10A, Dehigamawatta Road,  
Meepitiya, Kegalle.
12. U.D. Alawatta,  
No. 593/86, Gabadawatta 3,  
Pitipana North, Homagama.
13. C.V. Sirimanna,  
Danovita Road, Thawalanpitiya,  
Meerigama.
14. M.R.S. Wijayasena  
No. 20/6, Alagupitiya, 1<sup>st</sup> Lane,  
Vilbawa, Dewala Road, Jayanthipura Road,  
Kurunagala.
15. H.C. Ovitigama,  
No.177/7, Kalapaluwawa,  
Rajagiriya.
16. M.L.A.N. Weerasinghe,  
“Hemantha”, Keppetipola.
17. S.A.P.K. Dayananda  
No. 155/1, Halagama.  
Gampaha.
18. W.W. Lakshman,  
No. 258/3/4, Kirikittamulla Road,  
Yakkala.

19. G.A.S.P. Abesinghe,  
No. 60, Police Housing Scheme,  
Kundasale,  
Kandy.
20. J.S.T. Jayawardena,  
Hulugalle Junction, Maho Road,  
Nikaweratiya.
21. G.G.C. Weerasooriya,  
No. 504/4, Keels Homes,  
Kaduwela Road,  
Malabe.
22. A.A.P.L. Abeysinghe  
No. 137, Raigama,  
Bandaragama.
23. Kavirathna Piyasena,  
No. 298/07, 2<sup>nd</sup> Lane,  
Mandavila Road,  
Piliyandala.
24. A.P.S. Amarathunga,  
Dangashena, Hamangalle,  
Narangoda.
25. A.S.H. Perera,  
No. 28/1, Pirisyala,  
Ambepussa.
26. Y.N.U. Senarath Yapa,  
No. 124, Moladanda,  
Kiribathkumbura.
27. D.J.A. Sanath Kumara,  
Colombo Road, Hidellana,  
Rathnapura.
28. J.L.Ajith Kumara,

No. 122, Rathnapura Road,  
Near the Hospital,  
Ingiriya.

29. W.S.J.P. Perera,  
No. 182/A, Inigodawela, Chilaw.

30. H.D.P.K. Hettiarachchi  
No. 11/3/C, Amarawansa Mawatha,  
Dangolla Road, Peradeniya.

31. H.M.S. Premachandra,  
No. 8, Mahaweli Housing Scheme,  
Kundasale.

32. K.M.S.A.D. Karunarathne  
No. 35/1, Walala, Manikhinna.

33. S.A.C.P. Subasinghe,  
No. 24C, Dharmasoka Mawatha,  
Kandy.

34. E.W.M. Edirisinghe  
No. 213/E/2, Mampitiya,  
Handessa,

35. H.M.C.P. Herath  
No. 99, Dabakandawatta,  
Boyagane.

36. M.W.G. Chandana,  
No. 5, Olcot Mawatha,  
Colombo 12.

**PETITIONER**

vs

1. Mr. N.K. Illangakoon,  
Former Inspector General of Police,  
Police Head Quarters,

Colombo 1.

2. Mr. Pujith Jayasundara  
Inspector General of Police,  
Police head Quarters,  
Colombo 1.

2(a). C.D. Wickramaratne,  
Acting Inspector General of Police,  
Police Head Quarters,  
Colombo 1.

2(b). Deshabandu Tennakoon,  
Acting Inspector General of Police,  
Police Head Quarters,  
Colombo 1.

2(c). Priyantha Weerasooriya  
Acting Inspector General of Police,  
Police Head Quarters,  
Colombo 1.

3. Deputy Inspector General of Police  
Personal Division,  
Police Head Quarters,  
Colombo 1.

4. Mr. P.H. Manatunga,  
Chairman,  
National Police Commission.

4(a). K.W.E. Karaliyadda,  
Chairman,  
National Police Commission.

4(b). Mr. E.W.M. Lalith Ekanayake  
Chairman,  
National Police Commission.

5. Prof. S.T. Hettige,

Member,  
National Police Commission.

5(a). Gamini Nawarathne  
Member,  
National Police Commission.

6. Mrs. Savithri D. Wijesekere,  
Member,  
National Police Commission,

7. Mr. B.A. Jeyanahan,  
Member,  
National Police Commission.

7(a). Asoka Wijethilaka  
Member,  
National Police Commission.

8. Mr. Y.L.M. Zawahir,  
Member,  
National Police Commission.

9. Mr. Tilak Collure,  
Member,  
National Police Commission.

10. Mr. Frank De Silva,  
Member,  
National Police Commission.

10(a). G. Jeyakumar  
Member,  
National Police Commission

11. Mr. N. Ariyadasa Cooray,  
Secretary,  
National Police Commission.

11(a). Nishantha A. Weerasinghe,  
Secretary,

National Police Commission.

11(b). Mrs. Thamara D. Perera,  
Secretary,  
National Police Commission.

12. D.U.P. Amarathunga
13. N.W.Senanayake
14. W.M.S. Weerasekara
15. H.A.I.R.N. Perera
16. Don. Wickrama Arachchi Gamini
17. R.M.Priyantha Rathnayake
18. S.P.K. Udugampola
19. L.A. Siriwardena
20. N.J. Edirisinghe
21. B.A.S.S. Perera
22. W.T. Thilakarathne
23. M.Sujeewa D. Mallawarrachchi
24. S.H.D.J. Chandrakumara
25. E.L.M.C. Bandara
26. I.G.Chandrasena
27. I.J. Mangala Dewapriya
28. W.K. Ajith Shanthapriya
29. L.A.Ashoka Wijesinghe
30. M.D.D. Senanayake
31. H.K. Amarasinghe
32. W.K.A.J. Eric Ranjith
33. I.A. Ranjith Wijewardena
34. D.K.M. Priyantha Perera
35. M. Ranjith Wijitha Kumara
36. W.A.H.N. Jayathilake
37. B.R.K.C. Bulathgama
38. D.A.A. Bandara Delgahapitiya
39. D.D. Priyantha Weerasinghr
40. S.A.S.G. Satharasinghe
41. A. Abewardena
42. A.R.W.M.J. Poddalgoda
43. A.A.R.P. Amarasinghe
44. G.D. Ajith Priyantha
45. N.R.H.P.K. Gunasekara
46. A.P. Liyanage

47. U.A.S. Perera
48. N.V. Lorence
49. M.M. Kumarasinghe
50. A.H.S. Karunaratne
51. Lamahewage Meril Ranjan
52. K.A. Silva
53. J.M.S.B. Jayasinghe
54. D.E.N. Welisarage
55. D.M.N.C. Somasinghe
56. W.H.M.M. Bandara
57. U.P. Senevirathne
58. A. Jayantha Gunasekara
59. P.P.A. Wijenayake
60. M. Ramseel Nurdeen
61. H.G.D.S. Amarasinghe
62. M.T.D. Padmakumara
63. V.P.R. Karunaratne

All care of Deputy Inspector General of  
Police,  
Personnel Division,  
Police Head Quarters, Colombo 1.

64. Hon. Attorney General  
Attorney General's Department,  
Colombo 12.

### **RESPONDENTS**

1. Mrs. D.K. Renuka Ekanayake,  
Member,
2. Mr. K. Karunahran,  
Member,
3. Mr. P.G.S. Gamini De Silva,  
Member,
4. Mr. Dilshan Kapila Jayasooriya,  
Member,

5. Mr. A.A.M. Illiyas,  
Member,

All of National Police Commission  
Block 09, BMICH Premises.  
Buddhaloka Mawatha, Colombo 7

**ADDED – ADDED RESPONDENTS**

1. Mr. Jayantha Jayasinghe,  
Member,  
National Police Commission  
Block 09, BMICH Premises.  
Buddhaloka Mawatha, Colombo 7.

**ADDED – ADDED RESPONDENT**

**BEFORE**

: P. Padman Surasena, C.J.  
Mahinda Samayawardhena J.  
M. Sampath K. B. Wijeratne J.

**COUNSEL**

: Saliya Peiris, P.C. with Varuna De Seram  
instructed by Sanath Wijewardane for the  
Petitioners.

Rajitha Perera DSG for the Attorney General.

**ARGUED ON**

: 30.06.2025

**DECIDED ON**

: 05.03.2026

**M. Sampath K. B. Wijeratne J.**

**Introduction**

The 1<sup>st</sup> to 36<sup>th</sup> Petitioners filed the instant Fundamental Rights Petition alleging that failure to promote the Petitioners to the rank of Assistant Superintendent of

Police (ASP) while promoting the 12<sup>th</sup> to 63<sup>rd</sup> Respondents despite them being similarly circumstanced, is a violation of fundamental rights of the Petitioners guaranteed under Article 12(1) of the Constitution.

Having heard the submissions of the learned Counsel for the Petitioners as well as the learned Deputy Solicitor General, this Court granted leave to proceed on the alleged violation of Article 12(1) of the Constitution.<sup>1</sup>

As matters currently stand, the National Police Commission (hereinafter referred to as the 'NPC') decided to promote all the Petitioners who were not promoted along with the Respondents whose promotions are challenged in the present case, except 18<sup>th</sup>, 19<sup>th</sup>, 21<sup>st</sup>, 28<sup>th</sup>, 31<sup>st</sup> and 33<sup>rd</sup> Petitioners, to the rank of Assistant Superintendent of Police. Consequently, the learned President's Counsel for the Petitioners reserved the right to canvass the promotions of the Petitioners who have not been promoted at the time, whilst reserving the right to canvass the effective date of the Petitioners who have already been promoted to the rank of Assistant Superintendent of Police.<sup>2</sup>

### **Factual Background**

The 1<sup>st</sup> to 36<sup>th</sup> Petitioners joined the Regular Service of the Police Department as Sub Inspectors of Police at various times during the period 1984 to 1997 and through periodic promotions, all of them were promoted to the rank of Chief Inspectors of Police by January 01, 2006 (the 30<sup>th</sup> Petitioner and 34<sup>th</sup> Petitioner were promoted to the rank of Chief Inspector of Police much earlier on January 01, 2003). The Inspector General of Police (IGP), by Communication marked 'P2' dated June 13, 2013 called for eligible officers to submit their applications to the post of Assistant Superintendent of Police. Having submitted their application for the said promotion, they participated for the interviews and the selected candidates for the promotions were informed by the communication bearing No. RTM 999 ('R2'/'P4'). However, neither the names of the Petitioners

---

<sup>1</sup> Journal entry dated 24.05.2017.

<sup>2</sup> Journal entry dated 03.09.2018.

nor the names of 12<sup>th</sup> to 63<sup>rd</sup> Respondents in this case were included among the list of promotees or the waiting list.

Thereafter, sixty-one officers, including 12<sup>th</sup> to 63<sup>rd</sup> Respondents challenged the impugned promotions by Fundamental Rights petition bearing No. 121/14 on the ground that some officers of the Reserve service who were later absorbed into the Regular Service have gained additional 12.5 marks for their prior service in the Reserve service while depriving the same to the aforementioned officers who were also absorbed from the Reserve service to the Regular service in allocating marks for the period of service in the said round of promotions.

The Fundamental Rights petition bearing No. 121/14 filed by them was referred to the Public Service Commission (hereinafter referred to as 'PSC') by this Court to come to a settlement after examining the rationale underlying the marking scheme and other relevant issues. The relevant portion of the order is reproduced below.

*“This Court is of the view that this is a matter eminently suitable to be considered by the Public Service Commission. Learned counsel for the parties also concur with that view. We therefore make a direction that all these matters be referred to the Public Service Commission with a direction that the PSC be pleased to examine the rationale underlying the marking scheme and the other relevant issues with a view to an overall settlement of the matter.*

*Learned counsel appearing for the State undertakes to convey the views of this Court to the PSC. It is also contended that the PSC also looks into the eligibility of the candidates who have been appointed, whose promotions are being impugned in this case.*

*The PSC will be entitled to go into this matter carefully and make appropriate recommendations. Counsel will be entitled to make representations to the PSC.”<sup>3</sup>*

Consequent to the 13<sup>th</sup> Amendment to the Constitution, the powers of the PSC relating to appointments, promotions and transfers of Police officers were vested with the NPC. Accordingly, NPC by letter dated January 23, 2017 informed the IGP, the officers who are eligible for promotions among the Petitioners in the aforementioned Fundamental Rights Petition after awarding additional 12.5 marks for the service period. Inspector General of Police in turn has communicated by message bearing No. RTM 1036, ‘P9’, the decision of the NPC contained in the letter bearing No. NPC/ED/GO/PR/03/27/16 dated January 23, 2017 to promote the officers mentioned therein ( 12<sup>th</sup> to 63<sup>rd</sup> Respondents the instant Petition) to the rank of ASP, who were able to meet the threshold cut off mark of 65, after awarding additional 12.5 marks for the period of service that was previously awarded erroneously only for the officers who have been absorbed from the Reserve service. Their promotions were to be effective from December 25, 2016. However, some of the officers who were among sixty-one officers who had filed the said fundamental rights application No. 121/14 before the Supreme Court were not able to be promoted in this instance as they were unable to meet the threshold cut off mark.

The contention of the Petitioners is that they were also eligible for the additional 12.5 marks that were only awarded for the Petitioners in the Fundamental Rights petition bearing No 121/14 on the ground that, 12<sup>th</sup> to 63<sup>rd</sup> Respondents’ period of service in the rank of CI ought to be calculated from February 2006, the date on which general absorption occurred.<sup>4</sup>

The Respondents who have filed their statement of objections raised the preliminary objection that this application is time-barred as Petitioners should

---

<sup>3</sup> Order dated 30.10.2014.

<sup>4</sup> Paragraph 13 and 14 of the Petition.

have taken actions not at this stage, but when 'R2'/'P4', which contained the list of original promotees, was first communicated by RTM 999.

## **Analysis**

At the very outset, I must express my extreme displeasure at the number of fundamental rights cases that are pending before the Supreme Court due to *ad hoc* policies and marking schemes followed in granting promotions to Police officers at different stages, causing significant grievances to a number of Police officers, at the same time consuming much of the judicial time as well.

Even in instances where this Court has sent these cases back to the relevant authorities (PSC) that was vested with such powers relating to appointment, promotion and transfers of Police officer at the time,(after 19<sup>th</sup> Amendment it was the NPC that was vested these powers) to reach a settlement that is amicable to all parties involved, unfortunately, those have failed to address the root cause of the issues and provide solutions to rectify the problems which in turn has caused new fundamental rights cases to pile up before Supreme Court as is the case in the instant fundamental rights application before us. I must emphasise that unless and until the relevant stakeholders take steps to address administrative anomalies within and adopt reasonable, clear and transparent policies in relation to recruitments, promotions and transfers, this unfortunate situation would continue to exist, engaging substantial amount of judicial resources and causing inconvenience to all the parties involved.

Mahinda Samayawardhane J. in *Balachandra Arachchige Don Nuwan Chathuranga Padmasiri and others vs C. D. Wickramaratne, IGP of Police and Others*,<sup>5</sup> yet another case relating to Police promotions expresses, a similar view.

---

<sup>5</sup> SC/FR/46/2021, SC Minutes dated 23.11.2022.

*“Promotions in the police force is a complex and complicated issue. There is no policy in place on promotions and various schemes have been adopted on an ad hoc basis from time to time to address the grievances of police officers as they arise. Unless and until a sound promotion policy is formulated taking into account the views of all stakeholders, this will be a recurring issue. The intensity of the issue is understood by looking at the schemes of promotion adopted in the recent past, as set out by the petitioners in the petition.”*

Article 17 read with Article 126(2) of the Constitution requires a fundamental rights application to be filed within one month of the alleged violation. This time limit stipulated in Article 126(2) of the constitution has been consistently held as a mandatory requirement and the Court has deviated from this requirement only in certain exceptional circumstances.<sup>6</sup> This has been succinctly expressed in the case of **Gamaethige v. Siriwardena**<sup>7</sup> where it was held that, *“The time limit of one month prescribed by Article 126(2) has thus been consistently treated as mandatory; where however by the very act complained of as being an infringement of a petitioner’s fundamental right, or by an independent act of the respondents concerned, he is denied such facilities and freedom (including access to legal advice) as would be necessary to involve the jurisdiction of this court, this Court has discretion, possibly even a duty, to entertain an application made within one months after the petitioner ceased to be subject to such restraint. The question whether there is a similar discretion where the petitioner’s failure to apply in time is on account of the act of a third party, or some natural or man-made disaster, would have to be considered in an appropriate case when it arises.”*

In the instant case, I see no such exceptional condition that warrants departure from the mandatory requirement of one month time limit. Thus, I am inclined to

---

<sup>6</sup> See *Saman vs Leeladasa* [1989] 1 Sri LR 1, *Siriwardena vs Brigadier Rodrigo* [1986] 1 Sri LR 384, *Dayaratne and others vs National Savings Bank and others* [2002] 3 Sri LR 116.

<sup>7</sup> [1988] 1 Sri LR 384.

uphold the preliminary objection raised that this application is time-barred on the ground that if at all rights of the Petitioners have been violated in allocating additional 12.5 marks to Reservists taking their past service in the Reserve service into consideration, they should have taken action not at this stage, but when communication bearing No. RTM 999 dated March 31, 2014 ('R2'/ 'P4'), which contained a list of original promotes, was published. Therefore, Petitioners are not entitled to come before this Court now challenging the promotions of 12<sup>th</sup> to 63<sup>rd</sup> Respondents who have agitated the same and got remedied.

### **Conclusion**

Accordingly, I uphold the preliminary objection on the time bar.

Application is dismissed. I order no costs.

**JUDGE OF THE SUPREME COURT**

**P. Padman Surasena, C.J.**

I Agree.

**CHIEF JUSTICE**

**Mahinda Samayawardhena, J.**

I Agree.

**JUDGE OF THE SUPREME COURT**