

**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 read with Article 12(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

**S.C. FR Application No.
85/2011**

1. O.C. Subasinghe,
Hatton Police Station, Hatton.
2. E.M.C.P. Ratnayake,
Mirihana Police Station, Mirihana.
3. M.M.R.C. Munasinghe,
Galnawa Police Station, Galnawa.
4. D.M.C.K. Dhanaka,
Damana Police Station, Damana.
5. C. Wickramaratne,
Lunugamwehera Police Station,
Lunugamwehera.
6. R.A.J. Kumara,
Police Anti-Vice Squad.
Walana, Panadura.
7. N.S. Ranasinghe,
Matugama Police Station, Matugama.
8. W.K.G. Chamika,
Gampaha Police Station, Gampaha.
9. R.S.K.P. Dilantha,
Matara Police Station, Matara.

10.H.A.N.S. Seneviratne,
Fort Police Station, Fort.

11.K.R. Pushpakumara,
Ampara Police Station, Ampara.

12.S.J. Chaminda,
Police Fraud Bureau, Wellawatta.

13.B.H.C.R. Sanjeewa,
Hikkaduwa Police Station, Hikkaduwa.

14. P.P. Gunarathne,
Mannar Police Station, Mannar.

15.N.M.S. de Silva,
Maradana Police Station, Maradana.

16.K.P.C.L. Kariyawasam,
Special Investigations Unit,
Police Headquarters,
Colombo 01.

17.A.M.N.P. Adhikaram,
Deraniyagala Police Station, Deraniyagala.

18.L.P.W. Siriwardena,
Minister Security Division,
Colombo 02.

19.A.V.S.C. Abeygunasekara,
Beliatthha Police Station, Beliatthha.

20.M.M.P.L.P.W.B. Manatunga,
Police Headquarters,
Colombo 01.

21.P.P.J. Ramanayake,
Crimes Division (Western Province-North)

Peliyagoda.

22.H.T.S. Kumara,
Eheliyagoda Police Station, Eheliyagoda.

23.B.V.C.P. Benaragama,
Panadura Police Station, Panadura.

24.D.S. Mawadawilaga,
Kegalle Police Station, Kegalle.

25.M.R. Dayananda,
Criminal Investigation Department,
Police Headquarters,
Colombo 01.

26.A.D.S. Attanayake,
Judicial Security Division, Colombo 02.

27.S.B. Alahakoon,
Matara Police Station, Matara.

28.S.W.A.P.R. Samarawickrema,
Kegalle Police Station, Kegalle.

29.W.D.S. Ariyaratne,
Police Narcotics Bureau,
Police Headquarters, Colombo 01.

30.H.K.P. Matharaarachchi,
Minister Security Division, Colombo 02.

31.M. Anura,
Ahangama Police Station, Ahangama.

32.P.R.M. Wasanthakumara,
Wariyapola Police Station, Wariyapola.

33.U.G.S.B. Ranaweera,

Matale Police Station, Kalpitiya.

34.S.A.A. Dewapriya,
Kalpitiya Police Station, Kalpitiya.

35.H.B.T.K. Priyadarshana,
Borella Police Station, Borella.

36.R.M.R.J. Rajapakse,
Kankasanthurai Police Station,
Kankasanthurai.

37.K.P.T. De Silva,
Galle Police Station, Galle.

38.H.M.R.B. Hearath,
Aralaganwila Police Station,
Aralaganwila.

39.H.M.A.G.D. Bandara,
Pettah Police Station,
Pettah.

40.A.M.K. Wijeybandara,
Criminal Investigation Department,
Police Headquarters, Colombo 01.

PETITIONERS

vs

1. Mahinda Balasooriya,
The Inspector General of Police,
Police Headquarters,
Colombo 01.

1A. N.K. Illangakoon,
The Inspector General of Police,

Police Headquarters,
Colombo 01.

1B. Pujith Jayasundara,
The Inspector General of Police,
Police Headquarters, Colombo 01.

1C. C.D. Wickramarathne,
The Inspector General of Police (Acting)
Police Headquarters,
Colombo 01.

1D. C.D. Wickramarathne,
The Inspector General of Police (Acting)
Police Headquarters, Colombo 01.

1E. Priyantha Weerasooriya,
The Inspector General of Police (Acting)
Police Headquarters, Colombo 01.

1F. Priyantha Weerasooriya,
The Inspector General of Police,
Police Headquarters, Colombo 01.

2. Gotabaya Rajapaksha,
Secretary to the Ministry of Defence,
Public Security Law and Order,
Ministry of Defence,
No. 15/5, Baladaksha Mawatha,
Colombo 03.

2A. Mr. B.M.U.D. Basnayake,
Secretary to the Ministry of Defence,
Ministry of Defence,
No. 15/4 Baladaksha Mawatha, Colombo 03.

2B. Mr. Karunasena Hettiarachchi,
Secretary to the Ministry of Defence,
Ministry of Defence,

No. 15/5, Baladaksha Mawatha, Colombo 03.

2C. Maj. Gen. G. D. H. Kamal Gunarathna,
Secretary to the Ministry of Defence,
Ministry of Defence,
No. 15/5, Baladaksha Mawatha, Colombo 03.

2D. Air Vice Marshal (Rtd.) Sampath Thuyhacontha,
Secretary to the Ministry of Defence,
Ministry of Defence,
Defence Headquarters Complex,
Sri Jayawardenapura, Kotte.

3. Lalith Jayasinghe,
Deputy Inspector General of Police
(Personal and Records),
Personal Division, Police Headquarters,
Colombo 01.

3A. Mr. Sisira Kumara,
Deputy Inspector General of Police
(Personal and Records),
Personal Division, Police Headquarters,
Colombo 01.

4. Hon. Attorney-General,
Attorney-General's Department
Colombo 01.

RESPONDENTS

5. Prof. Siri Hettige,
Chairman,

5A. K.W. E. Karaliyadda,
Chairman,

5B. S.C.S. Fernando,

Chairman,

6. P.H. Manatunga,
Member,

6A. G. Jeyakumar,
Member,

6B. S. Liyanagama,
Member,

7. Savithree Wijesekara,
Member,

7A. A.S.P.S.P. Sanjeeva,
Member,

8. Y.L.M. Zawahir,
Member,

8A. N.S.M. Samsudeen,
Member,

9. Anton Jeyanadan,
Member,

9A. Gamini Nawarathne,
Member,

9B. M.P.P. Perera,
Member,

10. Tilak Collure,
Member,

10A. G. Wickremage,
Member,

11. F. De Silva,

Member,

11A. Ashoka Wijethilaka,
Member,

11B. B.T.P. Parameswaran,
Member,

5th to 11th Respondents All of the National Police Commission,
Block No. 9, BMICH Premises,
Bauddhaloka Mawatha, Colombo 07.

12. N. Ariyadasa Cooray,
Secretary- National Police Commission,
Block No.9, BMICH Premises,
Bauddhaloka Mawatha,
Colombo 07.

12A. Nishantha A. Weerasingha, Secretary

12B. Samanthi Mihindukula, Secretary,
Secretary- National Police Commission,
Block No.9, BMICH Premises,
Bauddhaloka
Mawatha,
Colombo 07.

12C. Thamara D. Perera, Secretary,
Secretary- National Police Commission,
Block No.9, BMICH Premises,
Bauddhaloka
Mawatha,
Colombo 07.

13. G. Jeyakumar, Member,
Secretary- National Police Commission,
Block No.9, BMICH Premises,
Bauddhaloka

Mawatha,
Colombo 07.

RESPONDENTS

14. Hon. Justice Jagath Balapatabendi
Chairman,
15. Indrani Sugathadasa,
Member,
16. V. Shivagnanasothy,
Member,
- 16A. Suntharam Arumainayaham,
Member,
17. T.R.C. Ruberu,
Member,
18. Ahamod Lebbe Mohamed Saleem,
Member,
19. Leelasena Liyanagama,
Member,
20. Dian Gomes,
Member,
21. Dilith Jayaweera,
Member,
22. W.H. Piyadasa,
Member,

The 16th to 24th Added Respondents all of Public Service Commission,
No. 1200/9, Rajamalwatta Road,
Battaramulla.

ADDED RESPONDENTS

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

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

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

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

27. Dr. A.D.N. De Zoysa,
Member,
Public Service Commission of Sri Lanka,
No. 1200/9,
Rajamalwatta Road, Battaramulla.

28. S.M. Mohamed,
Member,
Public Service Commission of Sri Lanka,
No. 1200/9,
Rajamalwatta Road, Battaramulla.

29. Ranjani Nadarajapillai,
Member,
Public Service Commission of Sri Lanka,
No. 1200/9,
Rajamalwatta Road, Battaramulla.
30. C. Pallegama,
Member,
Public Service Commission of Sri Lanka,
No. 1200/9,
Rajamalwatta Road, Battaramulla.
31. M.B.R. Pushpakumara,
Member,
Public Service Commission of Sri Lanka,
No. 1200/9,
Rajamalwatta Road, Battaramulla.
32. Prof. N. Selvakumaran,
Member,
Public Service Commission of Sri Lanka,
No. 1200/9,
Rajamalwatta Road, Battaramulla.

ADDED RESPONDENTS

BEFORE

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

COUNSEL

: Faisz Musthapha, P.C. with Faisza Markar, P.C.
and Zeinab Markar for the Petitioners.

Thishya Weragoda with Prathap Welikumbura
for the Intervenient Petitioner.

Shantha Jayawardena with Hirannya Damunupola for the 5th to 32nd Respondents.

Fazly Razik, DSG for the AG.

ARGUED ON : 04.09.2025

DECIDED ON : 22.01.2026

M. Sampath K. B. Wijeratne J.

Introduction

This matter pertains to a petition filed by the 1st to 40th Petitioners, who, at the time of filing the instant application, were Sub-Inspectors of Police. The Petitioners contend that Sub-Inspectors of Police absorbed from the Reserve Service into the Regular Service were promoted to the rank of Inspector of Police with effect from 8 February 2010, with their period of service calculated to include their tenure in the Reserve Force. This, the Petitioners assert, has caused them grave prejudice, as they directly joined the Regular Service of the Police Department.

Upon the petition being supported, this Court granted leave to proceed on the alleged violation of Article 12(1) of the Constitution¹.

Facts of the Case

The Petitioners joined the Regular Service of the Police Department as Sub-Inspectors of Police on 30 March 2003. Pursuant to a Cabinet decision dated 1 February, 2006 to abolish the Reserve Service, all officers of the Reserve Service were automatically absorbed into the Regular Service of the Police Force. It was

¹ Journal entry dated 21.10.2014.

further decided by the National Police Commission at its meeting held on 25 July, 2007 ('P4') that the seniority of these absorbed Reserve Force officers would be determined in the following manner:

"i. Seniority of the officers in their respective ranks shall be determined from the date of absorption; and they will be placed junior to all officers of the Regular Police Service on that date.

ii. In the case of officers of the reserve police service absorbed into the regular police service on the basis of 8 years active service, in lieu of possessing the required educational qualifications, their seniority in the regular police service will be reckoned after deducting the 8 years active service from their total service.

iii. In the case of a reserve police personal who has a number of breaks in service due to suspension, demobilization, his/her seniority shall be determined according to period of his/her total active service."

By TM 252 dated February 8, 2010, the 1st Respondent notified that all Sub-Inspectors who had served a period of eight years and had five years of unblemished service would be promoted to the rank of Inspector of Police. Among those promotees were several Sub-Inspectors of Police absorbed from the Reserve Service under General Absorption on February 1, 2006. The Petitioners contend that these officers could not have been promoted in the 2010 round of promotions, as they had not completed an active eight-year period in the Regular Service by that time. The intervenient Petitioners further submit that the promotees who joined the Regular Service under General Absorption and had not completed eight years of active service as Sub-Inspectors in the Regular Service were junior to both the Petitioners and intervenient Petitioners. As such, they argue that the

purported promotions violate their rights guaranteed under Article 12(1) of the Constitution.

The Petitioners were not eligible to apply for the said round of interviews, as they had not completed the requisite eight years of active service in the rank of Sub-Inspector of Police in the Regular Service at the time the interviews were called.

It is the contention of the Petitioners that the promotees absorbed into the Regular Service in terms of Communication bearing No. RTM 1002, were so absorbed on the condition that they would be placed according to their seniority immediately below their counterparts in the Regular Service. As such, the Petitioners would be senior to these officers who were absorbed in terms of circular bearing No. RTM 1002 which is relating to absorption of the Reservists to Regular service. Therefore, the alleged promotions given to the aforementioned officers over the Petitioners are contrary to law. It was further argued that the computation of the eight-year period to include the time served in the Reserve Service is contrary to RTM 1002.

However, the 1st Respondent, in his affidavit, contends that, as per the new Circular issued on 6 July, 2007, detailing the scheme for the absorption of Reserve Police officers into the Regular Service, the years of active service of Reserve Police officers must be calculated from the date of recruitment into the Reserve Service. The Circular bearing No. RTM 1002 was rendered nugatory by its successor, the Circular issued on 6 July, 2007 ('1R1'). It was further submitted that the eligibility criteria mentioned in '1R2' do not distinguish between 'Regular Service' and 'Reserve Service' but only require eight years of active service in the rank of Sub-Inspector of Police.

The 1st Respondent concludes that the Petitioners' allegations are baseless and devoid of merit, and urges the Court to dismiss the application.

Analysis

In the instant case, it is clear that officers absorbed from the Reserve Police Force into the Regular Force in 2006 and promoted to the rank of Inspector of Police had not completed the required eight years of service in the Regular Force at the time their promotions were effected. Despite this, these officers were promoted to the rank of Inspector of Police by taking into account their service in the Reserve Police Force. In the view of the Petitioners, this was not in accordance with law, as they contend that the promotion of officers from the Reserve Force should not have superseded their own eligibility for promotion, given their longer service in the Regular Force.

Let me assume for a moment that I would not agree with the contention of the 1st Respondent that, since the eligibility criteria mentioned in '1R2' do not distinguish between 'Regular Service' and 'Reserve Service,' it only requires eight years of active service in the rank of Sub-Inspector of Police, still the Petitioners in this application would not be entitled to succeed as Petitioners have not set out particulars regarding the officers whom they say were promoted unduly to their detriment.

Hence, the Petition in the instant action is misconceived in law, as it does not disclose particulars regarding the officers absorbed from the Reserve Force who received undue promotions. The Court cannot embark on a process to ascertain how the Petitioners have been aggrieved unless sufficient material is placed before it.

The 1st Respondent also objects to the maintainability of this action on the grounds that the Petitioners have failed to join necessary parties, and that the application

appears to be speculative, as the Petitioners do not seem to know which promotees received the undue promotions.

“The Intervenient Petitioners state that the application of the Petitioner - Respondents seeks to impugn the promotion of some of the Inspector of Police/ Women Inspectors of Police who secured promotions in terms of the police message TM 252 dated 08.02.2010. The Intervenient petitioners do not have the names of the promotees to the rank of Inspector Police/ Women Inspector of Police who were promoted under the Time Promotion - 2010 with effect from 08.02.2010.”²

Thurairaja, P.C., J., dealing with a similar issue in *Egoda Weerasekarage Thilak Pushpakumara vs Nanda Mallawarachchi and Others*³, held:

“The Petitioners’ application must also fail as they have not named as Respondents the police officers who were promoted to the rank of Chief Inspector of Police in 2013. The substantive relief sought in prayer (e) of the Petitioners’ application is to direct the Respondents to consider their service in the Reserve Force and grant them promotions to the rank of Chief Inspector of Police. However, while state functionaries such as the Inspector General of Police and other relevant officials have been named as Respondents, the police officers who were successfully promoted in 2013, including those who were absorbed into the Regular Force in 2006 and subsequently promoted, have not been made parties to the proceedings.

² Paragraph 6 of the Petition of the intervenient Petitioners.

³ SC/FR Application No. 47/2014 S.C.M. dated 28.03.2025.

The failure of the Petitioners to name these officers as Respondents is a significant procedural flaw, as any relief granted in favour of the Petitioners would necessarily affect the rights, status, and seniority of those already promoted. Granting such relief would not only disrupt the existing hierarchy within the police force but would also call into question the legitimacy of prior promotions, potentially leading to administrative uncertainty and further litigation. This is particularly relevant given that the seniority of these promoted officers has already been established and reflected in the document marked as 2R7.”

[Emphasis Added]

Soza J., in ***Vivienne Goonewardene vs Hector Perera***⁴, stated:”

“The degree of probability required should be commensurate with the gravity of the allegation sought to be proved. This court when called upon to determine questions of infringement of fundamental rights will insist on a high degree of probability as for instance a Court having to decide a question of fraud in a civil suit would. The conscience of the court must be satisfied that there has been an infringement.”

Similarly, in ***Arangallage Samantha vs The Officer-in-Charge of Biyagama***⁵, Aluwihare P.C., J., dismissed the application on the ground that, in the absence of proof indicating that the Petitioner was denied equal protection of the law, the Petitioner’s right to equality under Article 12(1) was not violated.

⁴ [1983] 1 Sri LR 305.

⁵ SC/FR Application No. 458/2012, S.C.M. dated 28.01.2020.

Conclusion

For the foregoing reasons, I hold that the Petitioners are not entitled to succeed in this Petition.

The application is dismissed without 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