

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

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

SC/FRA/99/2022

1. P. Nirmala Priyangika Subasingha
No. 266/C/1, Edanduwwa,
Peradeniya.

PETITIONER

Vs.

1. P. G. Amarakoon
Chairman.
2. W. M. S. D. Weerakoon
Attorney-at-Law
Member
3. J. D. K. Wickramaratne
Member
4. W. M. K. K. Karunaratne
Former Member
- 4(a) P. T. G. Gunatilaka
Member
5. A. M. R. B. Tennakoon
Attorney-at-Law
Member
6. A. M. Wais
Attorney-at-Law
Member
7. Prof. H. M. D. R. Herath
Member
1st to 7th Respondents are/were of Provincial
Public Service Commission of the Central Province
No. 244, Katugasthota Road,
Kandy.
8. T. A. D. W. Dayananda
Secretary
Provincial Public Service Commission of the
Central Province
No. 244, Katugasthota Road,
Kandy.
9. Gamini Rajaratne
Former Chief Secretary of the Central Province
C/o Chief Secretary of the Central Province
Chief Secretary's Office
P. O. Box 102
Central Provincial Council Complex
Pallekele,
Kundasale.

- 9(A)G. H. M. A. Premasinghe
Chief Secretary of the Central Province
Chief Secretary's Office
P. O. Box 102
Central Provincial Council Complex
Pallekele,
Kundasale.
10. G. H. M. A. Premasinghe
Former Secretary to the Chief Ministry and the
Ministry of Education of the Central Province
Chief Secretary's Office
P. O. Box 102
Central Provincial Council Complex
Pallekele,
Kundasale.
- 10(A)H. M. M. U. B. Herath
Secretary
Chief Ministry and the Ministry of Education of the
Central Province
Provincial Council Complex,
Pallekele,
Kundasale.
11. M. G. Amarasiri Piyadasa
Provincial Director of Education
Central Province
Department of Education of the Central Province
Kandy.
- 11(A)M. W. M. M. Madahapola
Former Deputy Chief Secretary (Administration)
of the Central Province
Secretary to the Governor of the Central Province
Governor's Office
Kandy.
12. T. N. Hettiarachchi
Zonal Director of Education of Denuwara
Denuwara Zonal Education Office
Pilimathalawa.
13. Human Rights Commission of Sri Lanka
No. 14, R. A. De Mel Mawatha,
Colombo 04.
14. H. K. Vithana
Regional Coordinating Officer
Human Rights Commission of Sri Lanka
Regional Office
No. 8/1, Primrose Road,
Kandy.
15. Hon. Attorney General
Attorney General's Department
Colombo 12.

RESPONDENTS

16. P. V. S. S. Pananwala
Zonal Director of Education
Zonal Education Office
Kotmale.
17. M. Rupasinghe
Principal
Dharmapala Vidyalaya
Pannipitiya.

ADDED RESPONDENTS

P. Nirmala Priyangika Subasingha v P. G. Amarakoon, Chairman of the Provincial Public Service Commission of the Central Province and Others
Case No. SC/FRA/99/2022

Before: Mahinda Samayawardhena, J.
Dr Sobhitha Rajakaruna, J.
M. Sampath K.B. Wijeratne, J.

Counsel: Shyamal A. Collure with Prabhath S. Amarasinghe for the Petitioner.
Dr. Avanthi Perera, DSG with Hashini Opatha, SSC for the 1st - 11th and 15th Respondent.

Written Submissions: Petitioners - 01 February 2024
1st to 10th and 15th Respondents - 26 January 2024

Argued on: 12 November 2025

Decided on: 23 July 2026

Judgement

Dr Sobhitha Rajakaruna J.

This Court granted leave to proceed with the instant Application in respect of the alleged violations of the Petitioner's fundamental rights under Articles 12(1) and 14(1)(g) of the Constitution.

The Petitioner contends that the decision of the 1st to 11th and 11A Respondents to appoint the 12th Respondent to the post of Zonal Director of Education, *Denuwara*, purportedly pursuant to the results of the interviews conducted at the Ministry of Education of the Central Province on 21 January 2022. She claims that the said impugned decision as reflected in the letter dated 18 February 2022 marked 'P54', together with the procedure adopted in making the said appointment, was illegal, unlawful, arbitrary, unreasonable, unfair, capricious, mala fide, null and void, and of no force or effect in law.

The Petitioner accordingly asserts that, by reason of the said decision and the manner in which it was made, her fundamental rights guaranteed under Articles 12(1) and 14(1)(g) of the Constitution have been infringed.

The Petitioner states that she seeks no relief against the 13th and 14th Respondents, but that they have been cited as parties to the instant Application as they may be necessary parties thereto.

Synopsis of the Petitioner's Case

The Petitioner submitted that she commenced her career as a Graduate Trainee Assistant Teacher and was subsequently promoted to Grade I of the Sri Lanka Education Administrative Service with effect from 1 January 2013. She further submitted that she had served as the Additional Zonal Director of Education (Administration) of the *Denuwara* Zone since 2011 and had also discharged the duties of the Zonal Director of Education of the said Zone from 22 July 2021.

The Petitioner submitted that she had previously been unsuccessful in securing appointment to the post of Zonal Director of Education, *Katugasthota*, and had lodged a complaint before the Human Rights Commission of Sri Lanka alleging, inter alia, that the marking scheme adopted at the interview had not been disclosed. She contended that although the relevant authorities acknowledged before the Human Rights Commission that appropriate relief should be considered, no meaningful action was taken, and the Provincial Public Service Commission subsequently maintained that it merely issued formal letters of appointment upon the recommendations made by the Secretary to the Provincial Ministry of Education.

The Petitioner further submitted that applications were thereafter called for the post of Zonal Director of Education, *Denuwara*, by notice marked 'P32', requiring applicants, among other qualifications, to be Grade I officers serving in the Central Province with not less than five years of satisfactory service as at 6 August 2021. She submitted that she possessed all the prescribed qualifications, duly submitted her application, attended the interview held on 21 January 2022, and produced documents relating to her qualifications, publications, computer literacy, commendations, and performance appraisals, which consistently rated her performance as above average.

The Petitioner submitted that, notwithstanding her qualifications, the 12th Respondent was appointed to the said post by letter dated 18 February 2022 ('P54'). She contended that she was one of the senior-most Grade I officers serving in the Central Province, having completed over 18 years of active and satisfactory service prior to her promotion to Grade I, whereas the 12th Respondent had only recently been promoted to Grade I and had not completed the minimum five years of satisfactory service in that grade as required by the notice calling for applications. Accordingly, the Petitioner asserted that the 12th Respondent was not eligible even to apply for the post.

The Petitioner further submitted that the recruitment and promotion of officers in the Sri Lanka Education Administrative Service are governed by the Service Minute published in Gazette Extraordinary No. 1928/28 of 21 August 2015, as amended by Gazette Extraordinary No. 2141/6 of 16 September 2019, together with Education Ministry Circular No. 43/2019. She contended that these instruments regulate promotions within the Service and prescribe the qualifications and periods of service required for advancement.

The Petitioner submits that, in any event, it is evident from the letter dated 12 February 2021, marked as 'P26,' that during the interviews conducted on 21 January 2022, due weightage was again not accorded to seniority, no marks were awarded for Performance Appraisal Reports, and marks were instead assigned on the basis of highly subjective, non-work-related criteria at the discretion of the interview panel members.

The Petitioner also submitted that, being nearly 58 years of age and with only a limited number of vacancies remaining for the post of Zonal Director of Education in the Central Province, the impugned appointment had seriously prejudiced her prospects of career advancement. She accordingly contended that the appointment of the 12th Respondent constituted arbitrary executive and/or administrative action infringing her fundamental rights guaranteed under Articles 12(1) and 14(1)(g) of the Constitution, and sought, inter alia, to quash the decision appointing the 12th Respondent and the consequential letter marked 'P54'.

Gist of the 10th (or 9th A) Respondent's Affidavit

The 10th (or 9th A) Respondent, the former Secretary to the Chief Ministry and the Ministry of Education of the Central Province, affirmed (on 04 May 2023) by affidavit that

appointments to the post of Zonal Education Director could be made only from among officers holding Grade I of the Sri Lanka Education Administrative Service, as stipulated in Clause 5.8 of the applicable Service Minute (marked 'P20'), and that the Provincial Public Service Commission of the Central Province was the delegated appointing authority pursuant to the Governor's delegation order (marked '10R1').

The 10th Respondent further affirmed that, by letter dated 15 October 2021 (marked '10R2'), approval was sought from the Provincial Public Service Commission to conduct interviews for the post of *Denuwara* Zonal Education Director, together with approval for the proposed marking scheme (marked '10R3'). However, by its communication dated 26 November 2021 (marked '10R5'), issued pursuant to the delegation of authority reflected in document '10R4', the Provincial Public Service Commission informed that the power to conduct the selection process by interview had already been delegated to the Provincial Secretary of Education and, accordingly, no separate approval of the marking scheme was required. Thereafter, an interview panel was duly constituted, and the said 10th Respondent served as one of its members.

The said 10th Respondent further stated that applications for the post had been called on 22 July 2021 and that interviews were conducted on 21 January 2022, at which twelve candidates participated. He asserted that, as disclosed by the Petitioner's own documents ('P34' and 'P35'), all applicants were uniformly informed of the documents required to support the allocation of marks under the marking scheme and that the Petitioner had not been subjected to any unequal or discriminatory treatment.

He also affirmed that a similar interview process had been conducted on 16 October 2020 to fill the post of *Katugasthota* Zonal Education Director under the marking scheme marked '10R7'. He stated that the candidate who obtained the highest marks, Mrs. Y.M.M.K. Yapa was appointed to that post, whereas the Petitioner, who also participated in that interview, failed to secure the highest score.

The 10th Respondent further stated that, following an audit query dated 28 June 2021 (marked '10R8'), the marking scheme applicable to interviews for the post of Zonal Education Director was revised, and that the amended marking scheme (marked 'P61') was the one applied at the *Denuwara* Zonal Education Director interview. He referred to the interview mark sheets (marked '10R9') and affirmed that the interview process was conducted lawfully with the requisite approvals and that marks were awarded strictly in

accordance with the prescribed marking scheme on the basis of the material produced by the candidates at the interview.

It is important to note that the said 10th Respondent by way of a further Affidavit affirmed on 22 May 2023, set out the manner in which the marks were awarded to the 12th Respondent. The Respondent states that the marks awarded to the 12th Respondent were based on the criteria specified in the marking scheme 'P61'. The letter dated 1 December 2021 submitted by the 12th Respondent, the certificate pertaining to the Post Graduate Diploma in Education awarded by the Open University of Sri Lanka dated 01 August 2010 and the detailed statement of results relating to the Post Graduate Degree, dated 25 June 2021, issued by the Open University of Sri Lanka are marked as 'R10', 'R11' and 'R12' respectively.

Core Arguments of the 1st to 11th and 15th Respondents

The 1st to 11th and 15th Respondents submitted that, under Appendix 5 to the Service Minute of the Sri Lanka Education Administrative Service (SLEAS) published in Gazette Extraordinary No. 1929/28 dated 21 August 2015, the sole threshold eligibility criterion for appointment to the post of Zonal Director of Education was that the applicant should be an officer in Grade I of the SLEAS. They contended that, following the amendment to the SLEAS Service Minute by Gazette Extraordinary No. 2141/6 dated 16 September 2019, both the Petitioner and the 12th Respondent satisfied this eligibility requirement, notwithstanding the difference in the dates on which they attained Grade I.

The Respondents further submitted that the marking scheme adopted for the interview was formulated to assess qualifications and competencies relevant to the respective post, including English language proficiency, information technology skills, educational qualifications, professional achievements, office management experience, and personal attributes. They contended that the Petitioner could not claim to have been taken by surprise by the marking scheme, as the interview notices and the prescribed application form had already informed applicants of the qualifications, experience, and supporting documents relevant to the assessment, and only the allocation of marks among the criteria had not been disclosed.

These Respondents also submitted that the same information was made available to all applicants and that neither the Petitioner was disadvantaged nor the 12th Respondent

unfairly advantaged by the non-disclosure of the detailed marking scheme prior to the interviews. They further pointed out that the Petitioner had not challenged the validity of the marking scheme itself, which had been consistently applied in appointments to the post of Zonal Director of Education at other stations.

The Respondents maintained that the interviews held on 21 January 2022 were conducted strictly in accordance with the approved marking scheme and the applicable procedure. They further contended that, even if the Petitioner had been furnished with the marking scheme in advance, her score would not have differed in comparison with that of the 12th Respondent. In this regard, they submitted that the Petitioner had taken a considerably longer period to obtain promotion to Grade I of the SLEAS due to her failure to satisfy the relevant promotion requirements in a timely manner, which affected the marks awarded for active service in Grade I. They relied on the comparative mark sheets and affidavits explaining the marks awarded to both the Petitioner and the 12th Respondent, and contended that the evaluation disclosed no arbitrariness, discrimination, or unfairness. Accordingly, they submitted that the relevant authorities acted lawfully, followed the prescribed procedure with the necessary approvals, and awarded marks in accordance with the approved marking scheme and the materials submitted by the applicants at the interview.

Conclusion

The material placed before this Court demonstrates that the 12th Respondent satisfied the prescribed eligibility requirements under the applicable Service Minute and that the selection process was conducted in accordance with the approved procedure and the applicable marking scheme. The evidence further discloses that the same criteria were uniformly applied to all candidates and that the Petitioner has failed to establish that she was subjected to unequal treatment or that the 12th Respondent received any undue advantage. The mere fact that the Petitioner was unsuccessful at the interview does not, without more, warrant the intervention of this Court in the exercise of its jurisdiction under Article 126 of the Constitution.

Having carefully considered the pleadings, affidavits, documents produced by the parties, and the submissions of learned Counsel, I am of the view that the Petitioner has failed to establish that the impugned appointment of the 12th Respondent to the post of Zonal

Director of Education, *Denuwara*, was arbitrary, unreasonable, discriminatory, or otherwise contrary to law.

It is well settled that this Court does not sit as an appellate authority, in exercising fundamental rights jurisdiction, over administrative decisions relating to appointments or promotions. Judicial intervention is warranted only where such decisions are shown to be tainted by illegality, arbitrariness, mala fides, procedural impropriety, or a violation of a guaranteed fundamental right. No such circumstances have been established in the instant Case.

Accordingly, I hold that the Petitioner has failed to prove any infringement of her fundamental rights guaranteed under Articles 12(1) or 14(1)(g) of the Constitution. The appointment of the 12th Respondent was made in accordance with the applicable legal framework and cannot be impugned on any of the grounds advanced by the Petitioner.

For the foregoing reasons, this Application is dismissed. In the circumstances of this Case, I make no order as to costs.

Judge of the Supreme Court

Mahinda Samayawardhena J.

I agree.

Judge of the Supreme Court

M. Sampath K.B. Wijeratne J.

I agree.

Judge of the Supreme Court