

**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.

S.C. (FR) No. 442/2021

Gnanatissa Samarasinghe,
Deniyakade,
Mal athowita Road, Higgashena,
Kuruwita.

Petitioner

Vs.

1. M.N. Sisira Kumara,
Deputy Inspector General of Police,
Human Resources Management &
International Relations Range,
Police Headquarters,
Colombo 01.
2. K.P. Mahinda Gunaratne,
Senior Deputy Inspector General of
Police – Sabaragamuwa Province,
Senior Deputy Inspector-General’s Office,
Pothgul Viharaya Mawatha,
Ratnapura.

2A. P.P.S.M. Dharmaratne,
Senior Deputy Inspector General of Police
– Sabaragamuwa Province,
Senior Deputy Inspector-General’s Office,
Pothgul Viharaya Mawatha,
Ratnapura.

2B. K.P. Mahinda Gunaratne,
Senior Deputy Inspector General of
Police – Sabaragamuwa Province,
Senior Deputy Inspector-General’s Office,
Pothgul Viharaya Mawatha,
Ratnapura.

3. G.S. Priyanka Silva,
Officer-in-Charge
Eheliyagoda Police Station,
Eheliyagoda.

3A. Kumara Pallewala (Chief Inspector),
Officer-in-Charge,
Eheliyagoda Police Station,
Eheliyagoda.

4. C.D. Wikremaratne,
Inspector-General of Police
Police Headquarters,
Colombo 01.

4A. Deshabandu Thennakoon,
Inspector- General of Police
Police Headquarters,
Colombo 01.

4B. Priyantha Weerasooriya,
Inspector-General of Police,
Sri Lanka Police, Police Headquarters,
Colombo 02.

5. Major General (Retd.) Jagath Alwis,
Secretary,
Ministry of Public Security,
14th Floor, ‘Suhurupaya’,
Battaramulla.

5A. Secretary,
Ministry of Public Security,

14th Floor, ‘Suhurupaya’,
Battaramulla.

6. Hon. Attorney General,
Attorney General’s Department,
Hulftsdorp Street,
Colombo 12.

Respondents

Before : Mahinda Samayawardhena, J.
Dr. Sobhitha Rajakaruna, J.
Menaka Wijesundera, J.

Counsel : Nilshantha Sirimanne with Deshara Goonetilleke
instructed by A.S. Punithasegaran for the Petitioner.
Navodi de Zoysa, SC for all Respondents.

Written
Submissions : Latest written submissions filed on behalf of petitioner on
17th November 2025.
Latest written submissions filed on behalf of respondents
on 28th October, 2025.

Argued on : 10.10.2025

Decided on : 30.01.2026

MENAKA WIJESUNDERA J.

The Petitioner in the instant matter namely Gnanatissa Samarasinghe, at the time of filing the petition, had served in the rank of Inspector of Police and while serving in that capacity, he had been attached to the Eheliyagoda Police Station in the Ratnapura Division and he alleges that he was arbitrarily transferred to the Panadura Division with effect from 04.12.2021.

The 1st Respondent is the Deputy Inspector of Police who has issued the impugned transfer order, the 2nd Respondent is the Senior Deputy Inspector General of police, the 4th Respondent is the Inspector General of Police, the 5th Respondent is the Secretary to the Ministry of Police, the 6th Respondent is the Attorney General.

The Petitioner had joined the police service as a Police Constable on 20.04.1987, and had risen to the rank of Inspector of Police on 01.07.2019.

He claims that he had served the police for 34 years and had served in many parts of the country including the areas of Anuradhapura, Trincomalee, Kantale, Uppuveli, Vavuniya and Mannar and then only that he got to serve in the Ratnapura Police Division.

At the time of the impugned transfer, he had served in the capacity of an Officer in charge of Miscellaneous complaints division at the Eheliyagoda police station until the impugned transfer on 04.12.2021.

The Petitioner further avers that he received commendatory entries and a recommendation dated 27.06.2021, and that he was taken by surprise by the impugned transfer to the Panadura Police Division, marked as P5 and annexed to this Petition. The Petitioner states that, acting on the advice of the then Officer-in-Charge of the Eheliyagoda Police Station, he preferred an appeal against the said transfer order.

Once the appeal was made, the Petitioner claims that he had been informed by the 1st Respondent that the transfer had been carried out on the recommendations of the 2nd Respondent, who had submitted a report against the petitioner alleging that he was a corrupt and dishonest police officer.

The Petitioner vehemently denies the allegation stated in the said reports stating that the 2nd Respondent had been politically motivated and that was the reason behind his impugned transfer.

The Petitioner further states that as per Article 55(3) of the Constitution the provisions to transfer police officers' rests with the Public Service Commission (PSC) and that the PSC is empowered by Article 56 and 57 of the Constitution to delegate such powers to another and it has done so in the Government Gazette notification bearing No. 2202/24 dated 20.11.2020 to the Inspector General of police (IGP).

The Petitioner further avers that the said authority cannot be delegated to another officer by the IGP, and if he does so it will be ultra-vires.

Therefore, he claims that the transfer of any officer above the rank of Sub-Inspector and Inspector has to be done by the IGP and no one else.

As such, he further states that the transfer order dated 14.12.2021 which he was served with (at P5) is ultra-vires and arbitrary as it does not specify or refer to the type or the nature of the Petitioner's said transfer.

He has in his petition further stated that the impugned transfer has been orchestrated by the action he had taken with regard to a complaint and a subsequent inquiry pertaining to the dispute between two parties with regard to a Motor Vehicle bearing registration No. SG-PF-4067.

The Petitioner has also drawn the attention of this Court to his health condition, where he has been subjected to a motor traffic accident and as a result of which he has suffered permanent damage to one of his feet and on medical advice he has requested for lighter duties.

Therefore, he has claimed that the transfer affected through P5 is arbitrary and is in violation of his fundamental rights under Article 12(1) and 14(1)(g) of the Constitution, and has sought a declaration of the same from this Court among other relief.

When this matter had been supported for leave to proceed on 01.06.2023, this Court granted leave to proceed under Articles 12(1) and 14(1)(g) of the Constitution.

The 1st Respondent having filed his objections, first and foremost have denied the allegations against him and the other respondents. They have stated that the petitioner was transferred on a recommendation made by the Senior Deputy Inspector General of Police (SDIG) of the Sabaragamuwa Province on 03.11.2021 (marked and produced as R1).

The purported R1, according to the 1st Respondent, has been prepared upon an investigation of facts by the higher authority and the said document had revealed the loss of confidence in the people of the area on the Petitioner because of his purported dealings with illicit liquor and drug dealers.

He has further stated that the transfer (at P5) was affected upon the consideration of R1 by the IGP and that the Petitioner had completed 10 years in the Sabaragamuwa Division at the time of his transfer.

He has also stated that the IGP has delegated the senior most officer in the province, on his behalf and furthermore that he has said that the alleged transfer

of the Petitioner had been affected on circular marked as R5 bearing No. 2576/2016 dated 14.06.2016.

He has also pointed out that according to the above circular's clause 2.2.2, the service period pertaining to a particular zone is 08 years and the service period pertaining to a particular station is 04 years, which the Petitioner had obviously violated.

The Petitioner, in his counter-objections, has denied all the averments made by the 1st Respondent. He further states that, in view of the appeal he submitted in July 2023, the then Senior Deputy Inspector General of Police for the Sabaragamuwa Range, by order dated 10.10.2023, directed that he be transferred back to the Eheliyagoda Police Station with effect from 15.10.2023, prior to his retirement on 02.01.2024. Therefore, the Petitioner contends that the initial transfer effected by the 2nd Respondent, which sent him away from Eheliyagoda, was based on political considerations and constituted a violation of his fundamental rights.

He has also produced CA-2, CA-3, and CA-4 affidavits by officers who have served with him at the time of the transfer, who had stated that the investigations pertaining to the alleged motor vehicle referred to in the petition, which the Petitioner declares as being the closest reason for his transfer, has been done according to law and without bias or prejudice.

Upon consideration of the above-mentioned facts and the oral submission of both parties, it is quite evident that the Petitioner had served in Eheliyagoda police station for 04 years and in the Ratnapura division for 10 years, which has been provided for in R4 and R5.

Therefore, as per the rules and the regulations within the police service, the Petitioner had been transferred out on a comprehensive report submitted by the then SDIG of the area and by that time the petitioner had exhausted his time period in the Ratnapura division and upon an appeal the Petitioner had been restored back to where he was.

When this matter was supported, leave has been granted under articles 12(1), and 14(1)(g) of the Constitution and **Article 12(1)** of the Constitution states that, "*All persons are equal before the law and are entitled to the equal protection of the law.*"

In the case of **Wijerathna v Sri Lanka Ports Authority [2020] SC (FR) Application No. 256/2017** - SC Minutes 11.12.2020, Justice Kodagoda explains the concept of equality as provided within Article 12(1) as follows:

“The concept of ‘equality’ was originally aimed at preventing discrimination based on or due to such immutable and acquired characteristics, which do not on their own make human being unequal. It is now well accepted that, the ‘right to equality’ covers a much wider area, aimed at preventing other ‘injustices’ too, that are recognized by law. Equality is now a right as opposed to a mere privilege or an entitlement.”

Furthermore, in the case of **Ariyawansa and others v. The People’s Bank and others** [2006] 2 Sri LR 145 at 152, Bandaranayake J stated:

“The concepts of negation of arbitrariness and unreasonableness are embodied in the right to equality as it has been decided that any action or law which is arbitrary or unreasonable violates equality.

However, upon perusal of the evidence, it is evident that the impugned transfer of the Petitioner was affected in accordance with the established administrative procedures, within the framework of the relevant circulars governing police transfers and not in an arbitrary manner. The material placed before this Court demonstrates that the Petitioner had served in the Ratnapura Division for a period exceeding the maximum permissible duration under Circular No. 2576/2016 (R5) and that the said transfer was made pursuant to a duly substantiated report (R1) submitted by the Senior Deputy Inspector General of Police, Sabaragamuwa Province, and considered by the Inspector General of Police.

The petitioner also states that his rights under Article 14(1)(g) were violated, when he was transferred to the Panadura Division. **Article 14(1)(g) of the Constitution of Sri Lanka** guarantees that, *“Every citizen is entitled to the freedom to engage by himself or in association with others in any lawful occupation, profession, trade, business or enterprise.”*

Former Chief Justice Sharvananda comprehensively meted out as to what amounts to a violation of Article 14(1)(g) in the case of **Elmore Perera v. Major Montague Jayawickrema, Minister of Public Administration and Plantation Industries [1985]** 1 Sri LR 285. Sharvananda C. J. stated that,

“The right to pursue a profession or to carry on an occupation is not the same thing as the right to work in a particular post under a contract of employment. If the services of a worker are terminated wrongfully, it will be open to him to pursue his rights and remedies in proper proceedings in a competent court or tribunal. But the discontinuance of his job or employment in which he is for the time being engaged does not by itself infringe his

fundamental right to carry on an occupation or profession which is guaranteed by Article 14(1)(g) of the Constitution”

Justice Sharvananda further held that, “*Article 14(1)(g) recognizes a general right in every citizen to do work of a particular kind and of his choice. It does not confer the right to hold a particular job or to occupy a particular post of one’s choice.”*

Given the reasoning by Former Chief Justice Sharvananda in the aforementioned case, it has been clearly established that Article 14(1)(g) does not guarantee one’s right to a particular post or designation. The facts of the current matter suggest that the petitioner was not deprived of his freedom to engage in his profession as a police officer as he was transferred to another station in accordance to relevant circulars governing police transfers.

Furthermore, it is noted that upon consideration of the Petitioner’s appeal, he had been re-transferred to his previous station prior to retirement, thereby affording him appropriate administrative relief. In these circumstances, the Court finds no arbitrariness or mala fides in the impugned transfer order (P5), or any infringement of the Petitioner’s fundamental rights guaranteed under Articles 12(1) and 14(1)(g) of the Constitution. Hence, the application is dismissed, without costs.

JUDGE OF THE SUPREME COURT

Mahinda Samayawardhena, J.

I agree.

JUDGE OF THE SUPREME COURT

Dr. Sobhitha Rajakaruna, J.

I agree.

JUDGE OF THE SUPREME COURT