

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

*In the matter of an application in terms of Article  
126 read with Article 17 of the Constitution of the  
Democratic Socialist Republic of Sri Lanka.*

**SC FRA NO. 292/2021**

1. Mampitiya Arachchige Harsha Dammika Perera,  
Chief Inspector of Police,  
I Block <sup>2</sup>/<sub>3</sub>,  
Anderson Flats,  
Colombo 05.
2. Samarsinghelage Krishantha Saman Kumara  
Samarasinghe,  
Chief Inspector of Police,  
H/1/3,  
Anderson Flats,  
Narahenpita,  
Colombo 05.
3. Rajasinghage Sanath Rajasinghe,  
Chief Inspector of Police,  
Yombuwatta Mirahawatta,  
Bandarawela.
4. Galauda Kandage Vipul Nanadana Vimalasiri,  
Chief Inspector of Police  
No. 103,  
Police Quarters,  
Pothgul Vihara Mawatha,  
Rathnapura.
5. Kakulandala Withanage Percy Lalith Kumara,  
Chief Inspector of Police,  
No. 103/1,

Police Quarters,  
Pothgul Vihara Mawatha,  
Rathnapura.

6. Niroshan Nayanajith Abeykoon,  
Chief Inspector of Police,  
No. G-04,  
Wew Athura Road,  
New Town,  
Ambilipitiya.
7. Kirikankanamalage Sudath Chandika Kelum  
Perera,  
Chief Inspector of Police,  
B8,  
Police Inspector Quarters,  
D. S. Fonseka Road,  
Colombo 05.
8. Arachchi Appuhamilage Sithara Pradeeshan  
Karunarathna,  
Chief Inspector of Police,  
Kimbulgoda,  
Yakkala.
9. Herath Mudiyanse Kelum Priyantha Herath,  
Chief Inspector of Police,  
No. 76,  
Rukman Place,  
Uyandana,  
Kurunegala.
10. Imbulana Liyanage Mahesh Chinthaka Kumara,  
Chief Inspector of Police,  
No. 68/1/A,

Kirikiththa,  
Weliweriya.

11. Sudu Hakuruge Wajira Shantha Kumara  
Dhanapala,  
Chief Inspector of Police,  
Hemaththagama Road,  
Hakuragamma,  
Aranayake.
12. Uru Liyanage Don Sumith Priyantha,  
Chief Inspector of Police,  
No. 60/51,  
Dharmaraja Mawatha,  
Galle.

**PETITIONERS**

**Vs.**

1. Hon. Gamini Lokuge,  
Chairman,
2. Mahinda Senavirathna,  
Committee Member,
3. Ariyaratna Arumapperuma  
Committee Member,
4. Chathurika Wijesingha  
Committee Member,

Committee to grant relief to employees subject  
to Political Victimization in the Government and  
Semi-Government sector,  
Room No. 2-123,  
Premises No. 02,

Bandaranayake Memorial International  
Conference Hall,  
Colombo 07.

5. Hon. Mahinda Rajapaksa, M.P.  
Minister of Economic & Plan Implementation,  
Former Member,
6. Hon. Nimal Siripala De Silva, M.P.  
Minister of Labour,  
Former Member,
7. Hon. G.L. Peiris, M.P.  
Foreign Minister,  
Former Member,
8. Hon. Pavithra Devi Vanniarachchi, M.P.  
Minister of Transport,  
Former Member,
9. Hon. Dinesh Gunawardena, M.P.  
Minister of Education,  
Former Member,
10. Hon. Douglas Devananda, M.P.  
Minister of Fisheries,  
Former Member,
11. Hon. Gamini Lokuge, M.P.  
Minister of Power,  
Former Member,
12. Hon. Bandula Gunawardena, M.P.  
Minister of Trade,  
Former Member,

13. Hon. R. M. C. B. Rathnayake, M.P.  
Minister of Wildlife & Forest Conservation,  
Former Member,
14. Hon. Janaka Bandara Thennakoon, M.P.  
Minister of Public Services, Provincial Councils &  
Local Government,  
Former Member,
15. Hon. Keheliya Rambukwella, M.P.  
Minister of Health,  
Former Member,
16. Hon. Chamal Rajapaksa, M.P.  
Minister of Irrigation,  
Former Member,
17. Hon. Dullas Alahapperuma, M.P.  
Minister of Mass Media,  
Former Member,
18. Hon. Johnston Fernando, M.P.  
Minister of Highways,  
Former Member,
19. Hon. Wimal Weerawansa, M.P.  
Minister of Industries,  
Former Member,
20. Hon. Basil Rajapaksa, M.P.  
Minister of Finance,  
Former Member,
21. Hon. Mahinda Amaraweera, M.P.

Minister of Environment,  
Former Member,

22. Hon. S. M. Chandrasena, M.P.  
Minister of Lands,  
Former Member,
23. Hon. Mahindananda Aluthgamage, M.P.  
Minster of Agriculture,  
Former Member,
24. Hon. Vasudeva Nanayakkara, M.P.  
Minister of Water Supply,  
Former Member,
25. Hon. Udaya Prabhath Gammanpila, M.P.  
Minister of Energy,  
Former Member,
26. Hon. Ramesh Pathirana, M.P.  
Minister of Plantation,  
Former Member,
27. Hon. Prasanna Ranathunga, M.P.  
Minister of Tourism,  
Former Member,
28. Hon. Rohitha Abeygunawardhana, M.P.  
Minister of Ports & Shipping,  
Former Member,
29. Hon. Namal Rajapaksa, M.P.  
Minister of Youth & Sports,  
Former Member,

30. Hon. Ali Sabry, M.P.  
Minister of Justice,  
Former Member,
31. Hon. Sarath Weerasekara,  
Minister of Public Security,  
Former Member,
32. W. M. D. J. Fernando,  
Secretary to the Cabinet,  
  
5<sup>th</sup> to 32<sup>nd</sup> Respondents, All of,  
Cabinet Ministers,  
Office of the Cabinet of Ministers,  
Public Building,  
Sir Baron Jayathilaka Mawatha,  
Colombo 01.
33. Public Service Commission
34. Mr. Jagath Balapatabandi  
Chairman,
35. Mrs. Indrani Sugathadasa,  
Member,
36. Mr. Leelasena Liyanagama,  
Member,
37. Mr. T. R. C. Ruberu,  
Member,
38. Mr. Dian Gomez,  
Member,
39. Mr. W. H. Piyadasa,

Member,

40. Mr. Dilith Jayaweera,  
Member,

41. Mr. V. Shiwagnnasothi,  
Member,

42. Mr. Ahamed Lebbe Mohammed Saleem,  
Member

43. Mr. M. A. B. Daya Senarathne,  
Secretary,

33<sup>rd</sup> to 43<sup>rd</sup> Respondents, All of,  
Public Service Commission,  
No. 1200/9,  
Rajamalwatta Road,  
Battaramulla.

44. M. S. P. Sooriyapperuma,  
Additional Secretary of the Ministry of Public  
Security,  
14<sup>th</sup> Floor,  
Suhurupaya,  
Battaramulla.

45. Jagath De Alwis,  
Secretary of the Ministry of Public Security,  
Minister of Public Security,  
14<sup>th</sup> Floor,  
Suhurupaya,  
Battaramulla.

46. C. D. Wickramarathna  
Inspector General of Police,



Police Headquarters,  
Colombo 01.

47. Hon. Attorney General,  
Attorney General's Department,  
Hulftsdorp Street,  
Colombo 12.
48. V. A. A. D. Susantha,  
Chief Inspector of Police,  
Officer-in-Charge,  
Police Station,  
Suriya Wewa,  
Tangalle Division,  
Tangalle.
49. W. M. A. W. D. Angurakumbura,  
Chief Inspector of Police,  
Minister Security Division,  
No. 440,  
Union Place,  
Colombo 02.
50. R. M. T. P. Rathnayake,  
Chief Inspector of Police,  
Head Quarter's Inspector,  
Police Station,  
Ambilipitiya.
51. T. G. W. Palliyaguru,  
Chief Inspector of Police,  
Officer-in-Charge,  
Police Station,  
Hikkaduwa.

52. H. M. A. P. Dharmasiri,  
Sub-Inspector,  
Minister Security Division,  
No. 440,  
Union place,  
Colombo 02.
53. Gotabaya Rajapaksha,  
Minister of Defence,  
Present Member,
54. Ranil Wickremasinghe,  
Minister of Finance, Economic Stabilization, and  
National Policies,  
Present Member,
55. Nimal Siripala De Silva,  
Minister of Ports Shipping and Aviation,  
Present Member,
56. G. L. Peiris,  
Minister of Foreign Affairs,  
Present Member,
57. Dinesh Gunawardena,  
Minister of Public Administration, Home Affairs,  
Provincial Councils and Local Government,  
Present Member,
58. Douglas Devananda,  
Minister of Fisheries,  
Present Member,
59. Susil Premajayantha,  
Minister of Education,

Present Member,

60. Bandula Gunawardena,  
Minister of Transport and Highways,  
Minister of Mass Media,  
Present Member,
61. Keheliya Rambukwella,  
Minister of Health,  
Minister of Water Supply,  
Present Member,
62. Mahinda Amaraweera  
Minister of Agriculture,  
Minister of Wildlife & Forest Resource  
Conservation,  
Present Member,
63. Wijeyadasa Rajapaksa,  
Minister of Justice, Prison Affairs and  
Constitutional Reforms,  
Present Member,
64. Harin Fernando,  
Minister of Tourism and Lands,  
Present Member,
65. Ramesh Pathirana,  
Minister of Plantation Industries,  
Minister of Industries,  
Present Member,
66. Prasanna Ranatunga,  
Minister of Urban Development and Housing,  
Present Member,

67. Vidura Wickramanayake,  
Minister of Buddhasasana, Religious and Cultural  
Affairs,  
Present Member,
68. Kanchana Wijesekara,  
Minister of Power and Energy,  
Present Member,
69. Naseera Ahamed,  
Minister of Environment,  
Present Member,
70. Roshan Ranasinghe,  
Minster of Irrigation,  
Minister of Sports & Youth Affairs,  
Present Member,
71. Manusha Nanayakkara,  
Minister of Labour and Foreign Employment,  
Present Member,
72. Tiran Alles,  
Minister of Public Security,  
Present Member,
73. Nalin Fernando,  
Minister of Trade, Commerce and Food Security,  
Present Member,

All of Cabinet of Ministers,  
Office of the Cabinet of Ministers Public Building,  
Sir Baron Jayathilaka Mawatha,  
Colombo 01.

74. National Police Commission

75. E. W. M. Lalith Ekanayake,  
Chairman,

76. D. K Renuka Ekanayake,  
Member,

77. K. Karunaharan,  
Member,

78. P. G. S. Gamini De Silva,  
Member,

79. Dilshan Kapila Jayasuriya,  
Member,

All of National Police Commission,  
Block 9,  
B. M. I. C. H. Premises,  
Buddhaloka Mawatha,  
Colombo 07.

**RESPONDENTS**

**BEFORE** : **P. PADMAN SURASENA, J.**  
**ACHALA WENGAPPULI, J.**  
**K. PRIYANTHA FERNANDO, J.**

**COUNSEL** : Samhan Munzir instructed by Prinath Fernando for the  
Petitioners.

Fazly Razik, DSG for the 1<sup>st</sup> – 47<sup>th</sup> Respondents.

**ARGUED ON** : 05-12-2024

**DECIDED ON** : 03-07-2025

**P. PADMAN SURASENA J.**

The Petitioners are Police officers of the rank of Chief Inspector of Police. They claim that their Fundamental Rights guaranteed under Article 12(1) of the Constitution have been violated by the decision (**P 2**) to backdate the promotion of the 48<sup>th</sup> Respondent. The Petitioners claim that the 48<sup>th</sup> Respondent is only yet another Police Officer who is similarly circumstanced with them.

It is a committee comprising of the 1<sup>st</sup> to 4<sup>th</sup> Respondents named as "*the Political Victimization Committee*" (hereinafter referred to as PVC) which has made the recommendation to backdate the promotion of the 48<sup>th</sup>-51<sup>st</sup> Respondents with effect from 01-01-2014 and the 52<sup>nd</sup> Respondent's promotion with effect from 26-07-2015. This recommendation is contained in the document marked **46R 3**.

The Hon. Minister of Public Security then placed the said recommendation by the PVC before the Cabinet of Ministers by way of the Cabinet Memorandum titled '*Providing Relief to Government and Semi-government Employees who were subjected to political vendetta*'. This Cabinet Memorandum is dated 01-04-2021 and produced in this proceeding marked **46R 2 (a)** and **46R 2 (b)**. The Cabinet of Ministers (5<sup>th</sup> to 32<sup>nd</sup> Respondents), having considered the said Cabinet Memorandum, has approved the implementation of the said recommendation by the PVC. It can be seen that the Cabinet of Ministers (5<sup>th</sup> to 32<sup>nd</sup> Respondents) by their Cabinet Decision dated 28-06-2021 (marked **46R 1**) having considered the afore-said Cabinet Memorandum has decided as follows:

*After discussion, Cabinet was of the view that it is justifiable to grant redress to the Police Officers who had been subjected to victimization administratively as found by the above Committee and accordingly the Cabinet concurred with the recommendations in the Report of the said Committee attached to the Memorandum, other than the recommendation at No.26 therein.*

*At the ensued discussion, it was decided to request the Public Service Commission to take expeditious action to implement the recommendations in the Report of the Committee attached to the Memorandum, other than the recommendation at No.26*

*therein, giving due consideration to the matters stated in sub-paragraphs 2.2, 2.3 and 2.4 in paragraph 02 of the Memorandum.*

*It was also decided to treat this decision as confirmed and to authorize the Secretary to the Cabinet of Ministers to convey the same to the relevant authorities for necessary action accordingly.<sup>1</sup>*

It is pursuant to the above Cabinet Decision that the Public Service Commission (33<sup>rd</sup> to 43<sup>rd</sup> Respondents) by its letter dated 20-08-2021 bearing No. PSC/EST/05-03/04/2021 (marked **46R 4**), informed the Ministry of Public Security to implement the said recommendation by the PVC. The 46<sup>th</sup> Respondent who is the Inspector General of Police has annexed to his affidavit, the above documents, i.e., the Cabinet Memorandum; the decision of the Cabinet of Ministers; report of the PVC; the letter by the Public Service Commission; and all the other documents relevant thereto.

Thereafter, the Ministry of Public Security, by its letter dated 20-08-2021 bearing No. MPS/PVC/CAB/01/2021 (marked **46R 5**), informed the Inspector General of Police (46<sup>th</sup> Respondent) to take steps to implement the above recommendations.

Thus, it was the above sequence of events which has prompted the 46<sup>th</sup> Respondent (IGP) to give effect to the recommendations of the said PVC by way of RTM-761 CRTM 389 dated 26-08-2021 (marked **P 2**), which ordered the afore-stated backdating of the promotions of the 48<sup>th</sup> to 52<sup>nd</sup> Respondents, according to the recommendation made by the PVC. Although there are five Police Officers (the 48<sup>th</sup> to 52<sup>nd</sup> Respondents) in favour of whom the said PVC recommendation operates, the primary concern of the twelve Petitioners who filed this case is to get the backdating of the promotion of the 48<sup>th</sup> Respondent to operate with effect from 01-01-2014, quashed. It is this action that the Petitioners complain as the infringement of their fundamental rights guaranteed under Article 12(1) of the Constitution.

Further, the 46<sup>th</sup> Respondent, by RTM 128 CRTM 53, dated 04-09-2021 (marked **P 5**), called for interviews for the posts of Assistant Superintendent of Police (ASP), for which the 48<sup>th</sup> Respondent has become eligible following the impugned backdating. It was the position of the Petitioners that if a promotion is granted to the 48<sup>th</sup> Respondent as an ASP, it would cause the Petitioners grave and irreparable injustice. When Court granted the Petitioners Leave to Proceed against the Respondents on 09-05-2022 in respect of the alleged infringement of their Fundamental Rights guaranteed under Article 12(1) of the Constitution, Court has also

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<sup>1</sup> Paragraph 35, Decision of the Cabinet Meeting held on 28-06-2021, marked **46R 1**.

granted an interim order as prayed for, in prayer (f) of the Amended Petition dated 24-06-2022 and restrained the Respondents from promoting the 48<sup>th</sup> – 51<sup>st</sup> Respondents to the rank of ASP.

It is the position of the Petitioners that the Petitioners and the 48<sup>th</sup> Respondent are similarly circumstanced and therefore the implementation of the Cabinet decision (**46R 1**) in respect of the 48<sup>th</sup> Respondent by the Inspector General of Police is discriminatory against them and therefore amounts to an unequal treatment violating the Fundamental Rights of the Petitioners, guaranteed under Article 12 (1) of the Constitution.

Let me now consider whether the backdating of the promotion of 48<sup>th</sup> Respondent to operate with effect from 01-01-2014, is justifiable.

Both the Petitioners and the 48<sup>th</sup> Respondent have joined the police service as Sub Inspectors on the same day (on 13-06-1999); they have been promoted to the rank of Inspector of Police on the same date (on 25-09-2007); they have become eligible for the promotion to the rank of Chief Inspector of Police on the same date (on 01-01-2020).<sup>2</sup> The Petitioners have produced the relevant documents<sup>3</sup> as evidence of this claim.

The Petitioners further state that the 48<sup>th</sup> Respondent has not been politically victimized so as to warrant his being treated over the Petitioners. Moreover, it is the position of the Petitioners:

- a) that the 48<sup>th</sup> Respondent has neither been served with a charge sheet at any time nor any disciplinary inquiry has been conducted against him;*
- b) that the 48<sup>th</sup> Respondent has never been interdicted nor served with a vacation of post at any time;*
- c) that the 48<sup>th</sup> Respondent has never been in a rank lower to that of the Petitioners and therefore there was no manifestation that the 48<sup>th</sup> Respondent is an officer who has been politically victimized at the time the PVC had made the recommendation.*

The 48<sup>th</sup> Respondent has not countered any of the above positions. The 46<sup>th</sup> Respondent (IGP) has only relied on the concise report of the PVC which he has submitted to Court marked **46 R 3**. That is only a table from which one can discern the following reason as the basis for the

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<sup>2</sup> Paragraphs 3 and 5 of the Amended Petition dated 24-06-2022.

<sup>3</sup> Order by the IGP dated 13-01-2000 (**P 1(a)**); RTM 330 (CRTM 738) of the IGP dated 11-01-2019 (**P 1(b)**); RTM 153 (CRTM 271) by the IGP dated 04-06-2020 (**P 1(c)**).



conclusion by the PVC in favour of the 48<sup>th</sup> Respondent for the backdating of his promotion to operate with effect from 01-01-2014.

| නම තනතුර හා ලිපිගොනු අංකය   | දේශපාලන පළිගැනීමේ ස්වභාවය   | නිර්දේශය   |
|---|---|--|
| වී. ඒ. ඒ. ඩී. සුසන්ත කුමාර මහතා<br>ප්‍රධාන පොලිස් පරීක්ෂක<br>පොලිස් ස්ථානය<br>සුවිසල්ව. | ශ්‍රේණිගත පොලිස් ස්ථානයක් වන<br>කටුවන පොලිසියේ පොලිස්<br>ස්ථානාධිපති වශයෙන් කටයුතු<br>කළ මොහු කල්කුඩා 'සී'<br>ශ්‍රේණියේ පොලිස් ස්ථානයකට<br>මාරු කිරීම තුළ දේශපාලන<br>පළිගැනීමකට ලක්වී ඇත. | 2014.01.01 දිනට ප්‍රධාන<br>පොලිස් පරීක්ෂක තනතුර<br>පෙරදාතම් කර අනුරූපීව<br>උසස්වීම් ලබාදීමට කමිටුව<br>නිර්දේශ කරයි |

The above chart shows clearly that the sole reason for the recommendation by the PVC is the fact that the 48<sup>th</sup> Respondent has had to serve in the Kalkuda Police Station. Obviously, the Petitioners also must have served in some Police Station during the relevant time and so as any other Police Officer. I am unable to understand how the 48<sup>th</sup> Respondent could have been treated as politically victimized when he was directed to serve in a Police Station upon a transfer. The backdating of the promotion of the 48<sup>th</sup> Respondent to operate with effect from 01-01-2014 would make the 48<sup>th</sup> Respondent about six years senior to the Petitioners. This is because both the Petitioners and the 48<sup>th</sup> Respondent have been promoted to the rank of Chief Inspector of Police on the same day i.e., with effect from on 01-01-2020. Thus, I am unable to accept the fact that the 48<sup>th</sup> Respondent has been politically victimized and I am also unable to accept that as a ground to justify the backdating of his promotion. Therefore, I am of the view that the Cabinet of Ministers could not have lawfully approved the implementation of the backdating of the promotion of the 48<sup>th</sup> Respondent to operate with effect from 01-01-2014.

There are other issues regarding the legality of the very establishment of the committee comprising of the 1<sup>st</sup> to 4<sup>th</sup> Respondents to form themselves as "*the Political Victimization Committee*." However, as the Petitioners have restricted their case particularly at argument stage only to challenge on the above basis, the backdating of the promotion of the 48<sup>th</sup> Respondent to operate with effect from 01-01-2014, I will not endeavour to engage in further discussion with regard to the legality of this Committee.

For the foregoing reasons, the Petitioners are entitled to succeed in their endeavour to have the backdating of the promotion of the 48<sup>th</sup> Respondent to operate with effect from 01-01-2014 quashed. I therefore grant a declaration that the Fundamental Rights of the Petitioners

guaranteed under Article 12(1) of the Constitution have been infringed by the action of the executive to backdate the promotion of the 48<sup>th</sup> Respondent to operate with effect from 01-01-2014. I quash the recommendation of the PVC to backdate the promotion of 48<sup>th</sup> Respondent to operate with effect from 01-01-2014; I quash the approval of the Cabinet of Ministers thereto; I quash the decision of the PSC to implement it; and I quash its implementation by the IGP.

This Court on the date it concluded the argument of this case also decided to grant Leave to Proceed to the Petition in SC FR 159/2022. The Court on that day observed that both these cases (SC FR 292/2021 and SC FR 159/2022) have been listed together right through to be taken up together before one Bench. This was pursuant to previous orders made by Court. When the learned Counsel for the Petitioners in SC FR 159/2022 supported that case for Leave to Proceed, the learned Deputy Solicitor General at the outset informed Court that he would not object to granting of Leave to Proceed in that case on the basis that this Court in SC FR 404/2016,<sup>4</sup> had decided the issue with regard to the legality of such Committees.

Having considered the above submissions, the Court on 05-12-2024, decided to grant Leave to Proceed to the Petitioners in SC FR 159/2022 and thereafter with the concurrence of all Counsel present in Court, decided to amalgamate both these cases (SC FR 292/2021 and SC FR 159/2022). Learned Counsel for all the parties in both these cases thereafter concurred that the Court can pronounce one judgment in respect of both these cases. In the above circumstances, I direct that this judgment must also apply to the case SC FR 159/2022.

**JUDGE OF THE SUPREME COURT**

**ACHALA WENGAPPULI, J.**

I agree.

**JUDGE OF THE SUPREME COURT**

**K. PRIYANTHA FERNANDO, J.**

I agree.

**JUDGE OF THE SUPREME COURT**

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<sup>4</sup> S.C. Minutes 16-12-2021.