

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(2) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

SC/FR.NO.267/2018

1. Godagama Vidana Arachchige Norbert Perera
No. 134/A,
Gampala Road,
Navalapitiya.
2. Thilak Jans Chandralal Disanayake
No. 126,
Hiressagala Road,
Pilimathalawa.
3. Warnakulasuriy Dehiwalage Gамиni
Kapiladewa Costa,
No. 84,
Meerigama Road,
Dunagaha.

PETITIONERS
Vs.

1. H.M.P.B. Herath
Director General,
Department of Sports Development,
No. 09,
Phillip Gunawardana Mawatha,
Colombo 07.
- 1A. Dammika Muthugala
Director General,
Department of Sports Development,
No. 09,

Phillip Gunawardana Mawatha,
Colombo 07.

1B. Amal Edirisooriya
Director General,
Department of Sports Development,
No. 09,
Phillip Gunawardana Mawatha,
Colombo 07.

1C. A. Muthumala,
Director General,
Department of Sports Development,
No. 09,
Phillip Gunawardana Mawatha,
Colombo 07.

1D. Dr. Shemal Fernando
Director General,
Department of Sports Development,
No. 09,
Phillip Gunawardana Mawatha,
Colombo 07.

2. Apsara Caldera
Director,
Ministry of Provincial Councils, Local
Government & Sports,
No. 09,
Phillip Gunawardana Mawatha,
Colombo 07.

(Ceased to Hold Office)

3. I.P. Wijeratne
Director (Sports)
Department of Sports Development,
No. 09,
Phillip Gunawardana Mawatha,
Colombo 07.

(Ceased to Hold Office)

4. V. Wasantha Kumari
Deputy Director,
Land Use Policy Planning
Development,
No. 31,
Pathiba Road,
Narahenpita,
Colombo 05.

- 4A. Merly Priyanthi,
Deputy Director,
Land Use Policy Planning Department,
No. 31,
Pathiba Road,
Narahenpita,
Colombo 05.

5. Dharmasena Dissanayaka,
Chairman,

- 5A. Justice Jagath Balapatabendi,
Chairman,

- 5B. Sanath J. Ediriweera,
Chairman,

6. Prof. Hussain Ismail
Member,

- 6A. Sudharma Karunaratna
Member,

- 6B. Indrani Sugathadasa,
Member,

- 6C. S.M.Mohamed,
Member,

7. Dhara Wijayatilake
Member,

- 7A. G.S.A De Silva
Member,
- 7B. V. Shivagnanasothy
Member,
- 7C. N.H.M. Chithrananda
Member,
- 8. Dr. Prathap Ramanujam
Member,
- 8A. T.R.C. Ruberu
Member,
- 8B. Prof. N. Selvakkumaran
Member,
- 9. V. Jegarasasingam
Member,
- 9A. Ahmed Lebbe Mohamed Saleem,
Member,
- 9B. M.B.R. Pushpakumara,
Member,
- 10. Santi Nihal Seneviratne
Member,
- 10A. Leelasena Liyanagama,
Member,
- 10B. Dr. A.D.N. De Zoysa,
Member,
- 11. S. Ranugge
Member,
- 11A. Dian Gomes
Member,

11B. R. Nadarajapillai,
Member,

12. D. Laksiri Mendis
Member,

12A. Dilith Jayaweera
Member,

12B. C. Pallegama,
Member,

13. Sarath Jayatilaka
Member,

13A. W.H. Piyadasa
Member,

13B. G.S.A. de Silva PC,
Member,

13C. Sanath Panawennage,
Member,

The 5th to 13th Respondents of all:
The Public Service Commission,
No. 1200/9,
Rajamalwatta Road,
Battaramulla.

14. Faiszer Musthapha
Minister of Provincial Councils, Local
Government & Sports,
No. 09,
Phillip Gunawardana Mawatha,
Colombo 07.

14A. Harin Fernando
Minister of Telecommunication,
Foreign Employment and Sports,
No. 09,
Phillip Gunawardana Mawatha,

Colombo 07.

- 14B. Dullas Alahapperuma
Minister of Sports & Youth Affairs (And
the Minister of Education)
No. 09,
Phillip Gunawardana Mawatha,
Colombo 07.

- 14C. Namal Rajapaksa
Minister of Youth & Sports Affairs,
Ministry of Sports,
No. 09,
Phillip Gunawardana Mawatha,
Colombo 07.

- 14D. Roshan Ranasinghe
Minister of Youth & Sports Affairs,
Ministry of Sports,
No. 09,
Phillip Gunawardana Mawatha,
Colombo 07.

- 14E. Sunil Kumara Gamage,
Minister of Youth & Sports Affairs,
Ministry of Sports
No. 09,
Phillip Gunawardana
Mawatha,
Colombo 07.

15. Secretary,
Ministry of Sports & Youth Affairs,
No. 09,
Phillip Gunawardana Mawatha,
Colombo 07.

16. Secretary,
Public Service Commission,
No. 1200/9,
Rajamalwatta Road,
Battaramulla.

17. Honourable Attorney General
Attorney General's Department,
Colombo 12.

RESPONDENTS

18. R.B. Wickramasinghe
Department of Sports Development,
09,
Phillip Gunawardana Mawatha,
Colombo 07.

19. Thilak Alponsu
Secretary of Sports Development,
09,
Philip Gunawardana Mawatha,
Colombo 07.

20. Sheela De Seram
Department of Sports Development,
09,
Philip Gunawardana Mawatha,
Colombo 07.

ADDED RESPONDENTS

BEFORE : **P. PADMAN SURASENA, CJ**

A. L. SHIRAN GOONERATNE, J &
ACHALA WENGAPPULI, J

COUNSEL : Shantha Jayawardena with Wihangi Tissera and Niroshika Wegiriya instructed by Dinesh De Silva for the Petitioners.

Rajitha Perera, DSG instructed by Sonali Collure for the 1B,
15th, 16th and 17th Respondents.

ARGUED ON : **04-11-2025**

DECIDED ON : **12-02-2026**

P. PADMAN SURASENA, CJ

The Petitioners are Head Quarters Sports Officers of the Department of Sports Development. The Public Service Commission (PSC) by Notice published in the Gazette dated 17-11-2017 called for applications from suitable persons to fill 3 posts of Assistant Director (Sports) of Supervisory Category III in the Department of Sports Development. **Clause 4** of the said Gazette has set out the necessary qualifications and experience in the following manner:

“04. Educational, Professional qualifications and experience :

(I) Should be a Supra Grade officer in the sports officers' service of the Department of Sports Development

or

(II) Should be a Supervisory Management Assistant Technological Grade I officer of Sports Officers' Combined service of the Department of Sports Development

or

(III) Should be a Supervisory Management Assistant Technological Grade II of Sports officers' combined service of the Department of Sports Development, and should possess a Degree related to Sports or Management field, obtained from a university recognized by the University Grant Commission

or

(IV) Should be an officer of Sports Officers' Combined Service in the Department of Sports Development, with 10 years active and satisfactory period of service and should have obtained a Degree related to the field of Sports from a university recognized by the University Grants Commission.”

The Petitioner has produced this Gazette marked **P15(a)**.

Clause 8 of the said Gazette [**P14(a)**] has described the relevant marking scheme applicable to the evaluation of the above qualifications. It is as follows:

	<i>Main Heads for Marking</i>		<i>Marks</i>
01	<i>Additional Service Experience</i>	<p><i>I. 05 marks for each year from the date of appointment to the post of Supervisory Management Assistant in the sports officers' combined service (Head Quarters Sports Officer)</i></p> <p><i>or</i></p> <p><i>II. 04 marks for each year from the date of appointment to the post of Supervisory Management Assistant Technology Service Category Grade II in the sports officers' combined service.</i></p> <p><i>or</i></p> <p><i>III. 02 marks for each year from the date of completion of 10 years in the post of sports officers' combined service at Department of Sports Development.</i></p> <p><i>or</i></p> <p><i>IV. 02 marks for each year from the date of completion of 10 years in the post of sports officers' combined service at Department of Sports Development.</i></p>	30

The Petitioners have complained that the above marking scheme is not clear as to whether their past service they have had in the posts junior to their current post (Head Quarters Sports Officer) must be taken into account and allotted marks on the basis that they have possessed additional service experience.

As pointed out by the learned Deputy Solicitor General, I have no doubt that four limbs I, II, III, IV under **Clause 4** must be referable directly to each sub limbs I, II, III, IV under additional service experience (**Clause 8**). In other words, this can be inserted into one table which should appear as follows:

No	Educational, Professional Qualifications and Experience	Additional Service Experience
1	Should be a Supra Grade officer in the sports officers' service of the Department of Sports Development	05 marks for each year from the date of appointment to the post of Supervisory Management Assistant in the sports officers' combined service (Head Quarters Sports Officer)
2	Should be a Supervisory Management Assistant Technological Grade I officer of Sports Officers' Combined service of the Department of Sports Development	04 marks for each year from the date of appointment to the post of Supervisory Management Assistant Technology Service Category Grade II in the sports officers' combined service.
3	Should be a Supervisory Management Assistant Technological Grade II of Sports officers' combined service of the Department of Sports Development, and should possess a Degree related to Sports or Management field, obtained from a university recognized by the University Grant Commission	02 marks for each year from the date of completion of 10 years in the post of sports officers' combined service at Department of Sports Development.

4	<p>Should be an officer of Sports Officers' Combined Service in the Department of Sports Development, with 10 years active and satisfactory period of service and should have obtained a Degree related to the field of Sports from a university recognized by the University Grants Commission.</p>	<p>02 marks for each year from the date of completion of 10 years in the post of sports officers' combined service at Department of Sports Development.</p>
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As all the Petitioners were Head Quarters Sports Officer, they had applied under the First Category in **Clause 4**. Therefore, the marks they are entitled to is 5 marks for each year from the date of appointment to that post (Head Quarters Sports Officer).

The Petitioners have joined the Department of Sports Development as sports officers on 06-01-1986. Thereafter they were promoted to the post of sports coach with effect from 01-09-1999. Then they were promoted to the post of Project Officer with effect from 06-07-2015. The new service minute of the combined service of officers in the field of sport of the Department of Sports Development which was published in the Government Gazette (Extra Ordinary) dated 26-09-2016, the Petitioners who were in the post of project officer were absorbed to the post of Head Quarters Sports Officer with effect from 26-09-2016. This was the Petitioner's past career development. Thus, what the Petitioners insist in the instant case is that they should be awarded marks for each year they spent in their previous posts.

I regret my inability to accept this argument. The Scheme of Recruitment has been designed to enable candidates from all four categories to apply. If Petitioners' argument is to be accepted, the candidates from the other three categories will not be able to compete with the Petitioners. This is because the Petitioners will score more as invariably they have passed all those three junior posts in their career. It will then be impossible for the PSC to select the best from the candidates.

Prior to becoming Head Quarters Sports Officer the Petitioners have held three posts below the post of Head Quarters Sports Officer. The experience the Petitioners could have gained in each post would have been relevant for the promotion to their next

level in the past. The primary qualification under **Clause 4** is for a candidate applying under Category 4(I) is to be a Supra Grade officer in the Sports Officer's Service of the Department of Sports Development. Thus, they are entitled to 5 marks for each year from their date of appointment for the post of Supervisory Management Assistant in the sports officers combined service (Head Quarters Sports Office). Therefore, marks allotted under II, III, and IV, are marks which are respectively allotted only to candidates applying from Categories II, III, IV under **Clause 4**.

Under **Clause 8**, 20 marks have been allotted for special skills performed in the post of Coach and Sports Officer (Head Quarters) which is as follows.

	<i>Main Heads for Marking</i>		<i>Marks</i>
03	<i>Special skills performed in the post of coach and Sports Officer (Head Quarters)</i>	<p><i>I. As a Coach or Administrator or Organizer or holding other post</i></p> <p><i>1. National Level Post – 10 marks</i></p> <p><i>2. South Asian Level Post – 10 marks</i></p> <p><i>3. For Commonwealth and World Championship – 05 marks</i></p> <p><i>II. 02 marks each for Certificates of commendation obtained by 230B Common Format (maximum 10 marks)</i></p>	20

The Petitioners in the instant case have complained that the order of marks under special skills performed in the posts of coach and Head Quarters Sports Officer is irrational and unreasonable as lesser marks are allotted for Commonwealth and World Championships (5 marks) while more marks have been allotted for National Level (10 marks). The Petitioners have suggested the following order of awarding marks to meet the reasonable allocation of marks:

- i. Olympic/World Championship/Paralympics/Para World Championship
- ii. Commonwealth Games
- iii. Asian Games/Para Asian Games
- iv. South Asian Games

v. National Level/National Para Games¹

Having regard to the Scheme of Recruitment [**P14(a)**], I observe that both arguments advanced by the Petitioners are directly attacking the Marking Scheme. However, the PSC has published the Marking Scheme by the Gazette dated 17-11-2017 itself. This is the same Gazette which calls for applications for the post of Assistant Director (Sports). Petitioners have filed this case on 28-08-2018. Thus, Petitioners have directly impugned this Marking Scheme **P14(a)** in this Petition. Petitioners admittedly have participated in this process of selection but failed. It was in that backdrop that the learned Deputy Solicitor General raised a preliminary objection against the maintainability of this case by the Petitioners on the basis of time bar. As Article 126(2) of the Constitution demands that any Petitioner must file the Petition within one month of their violation of any Fundamental Right. However, the Petitioners have failed to comply with this requirement. Thus, the Preliminary Objection raised by the learned Deputy Solicitor General has to be upheld. I have described above, the merits of this Petition. Therefore, nevertheless I must say that even on merits the Petitioners are not entitled to succeed with their Petitions.

For the above reasons I decide to dismiss this Petition without costs.

CHIEF JUSTICE

A. L. SHIRAN GOONERATNE, J.

I agree.

JUDGE OF THE SUPREME COURT

ACHALA WENGAPPULI, J.

I agree.

JUDGE OF THE SUPREME COURT

¹ This can be gathered from paragraph 22 of the Petition dated 28-08-2018.