

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 read together with Article 126 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

SC (FR) Application No: 414/2016

1. Atthiligoda Gamage Bhagya,
141/4 E, Mola Watta, Rilaulla, Kandana.
2. Raluwe Kankanamge Shantha Siri,
No. 38, Siri Sumanagama,
Thilakapura, Ambangoda.
3. Mananadewage Dammika Selton,
284/A1, Koopiwatta Road, Balangoda.
4. Abewardana Arachchilage Chandana,
“Sathuta”, Pahalagama, Kokgala, Ambalanthota.
5. Jayasinghe Arachchige Thushara
Dammika Jayasinghe,
Dalahena, Kakkapalliya.
6. Balasooriya Gamage Nisantha
Rohana Wijerathne,
284/A, Kopiwatta Road, Balangoda.
7. Rajanayaka Mudiyanselage Lahiru
Rukshala Rajanayaka,
138/1, Nethmina, Mudunakade, Thalathuoya.

PETITIONERS

Vs.

1. Ranaviru Seva Authority
2. Anoma Fonseka
- 2A. J.J.P.S.T. Liyanage

2B. Maj. Gen. D.S.N.K. Senadheera

2nd, 2A and 2B are Chairpersons/Chairmen,
Rana Viru Seva Authority.

3. Upulangani Malagamuwa

3A. Ranjith Bandara Meegaswatte

3B. Sonia Kottegoda

3rd, 3A and 3B are Vice Chairpersons/
Chairman, Rana Viru Seva Authority.

4. W.A. Kulsooriya.

4A. I.T. Weerasinghe.

4B. Samanthi Weerasinghe.

4C. Jayantha Edirisinghe

5. Major General Udaya Medawala

5A. Major Gen.L.H.S.C. Silva.

5B. Major Gen. S.T.D. Liyanage.

5C. Maj. Gen. Jagath Gunawardena.

5D. Maj. W.L.P.L. Perera

5C. H.L.V.M. Liyanage

6. Rear. Admiral S.S. Ranasinghe

6A. Rear Admiral Nishantha Ulugethanna

6B. Rear Admiral Kapila Samaraweera

6C. Rear Admiral Y.N. Jayaratne

7. Air Vice Marshal Sumangala Dias.

7A. Air Vice Marshal S.K. Pathirana.

7B. Air Vice Marshal M.D.A.P. Payoe

8. M.D.R.S. Daminda

8A. Ranmal Kodithuwakku

8B. Sanjeewa Dharmarathna

8C. Sajeewa Medawatta

8D. S.W.M. Senarathne

8E. D.J. Pathmini

8th, 8A – 8E are Deputy Inspector General of Police

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9. A.N. Hapugala

9A. Y.P. Sumanawathie

9B. Prejeewa Alwis

10. Major General D.M.D. Alwis

10A. Kanishka De Silva

11. Nilmini Perera

11A. Maj. Gen. D.M.S. Dissanayaka

12. W.P. Nimal Fernando

12A. K.A.H. Kumuduni

12B. H.G.D.M. Aluthwatta

The 1st to 12B Respondents are at:

The Ranaviru Seva Authority,

No. 449, Galle Road, Colombo 03.

13. Eng. Karunasena Hettiarachchi,

13A. K. Waidyaratne,

13B. Gen. H.S.H. Kottegoda

13C. Kamal Gunerathne

13th and 13A – 13C are

Secretary, Ministry of Defence.

14. A.P.G. Kithsiri

14A. Sunil Samaraweera

14B. N.K.G.K. Nammuwaththa,

14th, 14A and 14B are
Secretary, State Ministry of Defence.

13th, 13A – 13C, 14th and 14A-B Respondents
are at 15/5, Baladaksha Mawatha, Colombo 3.

15. H.G. Sumanasinghe,

15A. Thamara D. Perera,
Director General

15 and 15A Respondents are at
Department of Management Services,
Ministry of Finance,
Secretariat, Colombo 1.

16. Hon. Attorney General,
Attorney General's Department,
Colombo 12.

RESPONDENTS

Before: **S. Thurairaja, PC, J**
Mahinda Samayawardhena, J
Arjuna Obeyesekere, J

Counsel: Dasun Nagashena with Shehara Ekanayake for the Petitioners
Yuresha De Silva, Deputy Solicitor General for the Respondents

Argued on: 3rd May 2024, 5th August 2024 and 10th December 2024

Written Submissions: Tendered on behalf of the Petitioners on 24th September 2024 and 23rd January 2025

Tendered on behalf of the Respondents on 15th March 2021 and
22nd April 2025

Decided on: 5th December 2025

Obeyesekere, J

1. The Petitioners are employees of the Rana Viru Seva Authority [the Authority]. They filed this application on 17th November 2016 claiming that the refusal of the Authority to recognise the Petitioners as holding the post of Deputy Director [Provincial] is arbitrary and unreasonable and amounts to a violation of their fundamental right to the equal protection of the law guaranteed by Article 12(1).
2. On 5th August 2024, the learned Deputy Solicitor General for the Respondents informed Court that since the 1st and 2nd Petitioners had completed ten years of service at the time the current Scheme of Recruitment [P10] was introduced, the Authority is agreeable to appoint the 1st and 2nd Petitioners to the post of Deputy Director [Provincial] [Grade I], subject to the outcome of the disciplinary inquiries pending against them. The learned Counsel for the Petitioners informed this Court that the 1st and 2nd Petitioners were agreeable to the said proposal. This has been confirmed in the motion filed by the Attorney-at-Law for the Petitioner on 7th November 2024.
3. A similar proposal was made with regard to the 3rd – 7th Petitioners but to the post of Assistant Director [Provincial] [Grade II] since the 3rd – 7th Petitioners had less than ten years of service at the time P10 was introduced. By the aforesaid motion, the Attorney-at-Law for the Petitioners have confirmed that the 3rd – 6th Petitioners are agreeable to the said proposal.
4. Therefore, the 1st – 6th Petitioners are no longer pursuing this application in view of having reached the said amicable settlement. The only issue that remains to be determined by this Court is whether the 7th Petitioner is entitled to be appointed to the post of Deputy Director [Provincial] at the Authority.

Facts in brief

5. The 1st and 2nd Petitioners had joined the Authority as **Field Officers** in July 2000 on contract basis. These two Petitioners had thereafter been appointed on a permanent basis to the post of Field Officers with effect from 1st October 2001 and had been confirmed in service by letter dated 2nd February 2006. At the time of their

permanent appointment in 2001, the cadre of the Authority had not been approved by the Department of Management Services and there was no Scheme of Recruitment for the said posts.

6. The first Scheme of Recruitment for the Authority was approved by the Department of Management Services only on 13th May 2002 [P6]. It is only thereafter that the 3rd – 6th Petitioners had joined the Authority as **District Officers** during 2004. The 7th Petitioner had joined the Authority as a **Project Officer** on 1st March 2005. These appointments of the 3rd – 7th Petitioners had been made on a permanent basis.
7. Public Administration Circular No. 30/2006 was issued to regularise and standardise the salaries of employees serving in Government Corporations, Authorities and Enterprises. Upon the recommendation of the Salaries and Cadre Commission, the salaries of all employees of the Authority including the Petitioners were re-classified and the Petitioners had been placed on the salary scale of Middle Management Service bearing Salary Code MM1-3-2006 [Grade C3]. The Petitioners state that their salaries were once again converted in March 2007 and re-classified as MM-1-1-2006 [Grade C1].
8. Pursuant to discussions between the Authority and the Department of Management Services, all staff positions of the Authority were restructured in October 2012 and by letter dated 16th October 2012 [P9], the Department of Management Services had forwarded the new cadre structure of the Authority with posts being redesignated and/or re-classified. P9 also proposed that those serving in the Authority as at that date be absorbed into the new positions that were being created and/or re-classified.
9. As at the time P9 was issued, the 1st – 6th Petitioners were holding the posts of District Officer or Field Officer, while the 7th Petitioner was holding the position of Project Officer. According to P9, the posts of District Officer and Field Officer were to be re-classified as Assistant Director/Deputy Director (Provincial). The post of Project Officer held by the 7th Petitioner however was not re-classified since the said post was to be made redundant. While all those holding the post of Project Officer were to be absorbed to the Authority, the said post was to be limited to the holder, with of course the right to be promoted in accordance with the applicable Scheme of Recruitment.

Scheme of Recruitment – P10

10. The Petitioners state that in August 2013, the Authority introduced a new Scheme of Recruitment [P10]. With regard to existing employees, P10 provided as follows:

"All employees who are in the cadre of the Rana Viru Seva Authority in the employee category of Manager on the date on which this Scheme of Recruitment comes into effect and placed in the salary scale coded MM 1-1 under MSD Circular No. 30 will be absorbed to the respective grade of the employee category of Manager in the manner set out below based on the grade in which the employees have been placed on the date on which this Scheme of Recruitment comes into effect in the salary scale codes MM 1-1 in terms of the provisions in Clause 4 of Chapter VII of the Government Establishments Code.

The period of service will have to be counted with effect from the date of appointment to the respective grade.

MM 1-1 – Grade II

(a) Employees who have not completed a minimum of ten years of service in a grade or a post to which the salary steps applicable to Grade II of the MM 1-1 salary scale under MSD Circular No. 30 have been assigned,

(b) Employees who have completed a minimum of ten years of service in a grade/post stated above but have not satisfied the conditions to be absorbed into Grade I,

will be absorbed into MM 1 – Grade II.

MM 1-1 – Grade I

(a) Employees who have been placed in salary steps applicable to Grade 1 of MM 1-1 Salary Scale under Management Service Department Circular No. 30,

(b) Employees who have completed a minimum of ten years of service in a post in Grade II stated above and have satisfied the necessary requirements in terms of the Scheme,

will be absorbed into MM 1-1 – Grade I."

11. All Petitioners had accordingly been absorbed to the Authority and while the 1st – 6th Petitioners had been issued with letters of appointment in August 2015 to the position of Deputy Director [Provincial], the 7th Petitioner had been issued a letter appointing her to the post of Deputy Director. I must perhaps reiterate that the 7th Petitioner held the post of Project Officer which post was to be made redundant with P9 and therefore, the 7th Petitioner was not eligible to be appointed as a Deputy Director [Provincial].
12. However, issues had arisen with regard to the eligibility of the Petitioners to be appointed to the post of Deputy Director, Provincial or otherwise, and the Authority had refused to formally recognise their status as Deputy Director. It is in these circumstances that the Petitioners filed this application seeking a declaration that the Authority has violated their fundamental right to the equal protection of the law guaranteed by Article 12(1) and a further declaration that they are holding the post of Deputy Director [Provincial].

The 7th Petitioner

13. P6 was the Scheme of Recruitment applicable at the time the 7th Petitioner was recruited. In terms of P6, in order to be appointed to the post of Project Officer, an applicant was required to possess an Honours Degree in one of the disciplines stated therein and have six years' experience in project management in the State or at a recognised institution, or else, possess a degree with a recognised post graduate qualification with three years' experience. It is admitted that the 7th Petitioner graduated with a Bachelor of Arts Degree in 2004 [P1(g)], obtained a post graduate qualification only in 2009 and did not have the experience stipulated in P6. Thus, it is clear that the 7th Petitioner did not possess the necessary qualifications to have been appointed to the post of Project Officer in 2005.
14. The 7th Petitioner had been absorbed to the Authority in terms of P9, which provided that the post of Project Officer shall be made redundant and was to be phased out, with those holding the said post being eligible for promotion to the post of Assistant Director or Deputy Director [Projects] depending on whether they possess the aforementioned qualifications stipulated in P10. It must perhaps be noted that the relief sought by the 7th Petitioner is to be appointed to the post of Deputy Director [Provincial] which is not a post to which the 7th Petitioner is eligible to be appointed

as her initial appointment was to the post of Project Officer. Thus, the substantive relief sought by the 7th Petitioner is misconceived.

15. Be that as it may, the learned Deputy Solicitor General submitted that the Petitioner having joined the Authority on 1st March 2005, did not possess ten years of experience as at 19th August 2013, which is the operative date of P10. Thus, in terms of P10, the 7th Petitioner is not eligible to be absorbed to the post of Deputy Director, which is a post having a salary code of MM 1-1 Grade I, but is only eligible to be appointed to the post of Assistant Director having a salary code of MM 1-1 Grade II. I am in agreement with this submission of the learned Deputy Solicitor General which is reflective of the provisions of P10. I am therefore of the view that the Respondents have not violated the fundamental rights of the 7th Petitioner guaranteed by Article 12(1) of the Constitution.
16. The learned Deputy Solicitor General however submitted that the Department of Management Services have approved the decision taken by the Authority to appoint the 7th Petitioner to the post of Assistant Director [Projects] with effect from 19th August 2013 – vide motion dated 20th March 2025. This judgment shall not be an impediment to the 7th Petitioner being appointed to such post.

Conclusion

17. In the above circumstances, the application of the Petitioners is dismissed without costs.

JUDGE OF THE SUPREME COURT

S. Thurairaja, PC, J

I agree.

JUDGE OF THE SUPREME COURT

Mahinda Samayawardhena, J

I agree.

JUDGE OF THE SUPREME COURT