

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

*In the matter of an Application under and
in terms of Article 126 read with Article
17 of the Constitution.*

SC Application No:

SC FR 371/2015

1. Pitawasala Koralage Handunpriya
Aravinda Premakeerthi,
No. 44, Rathanajothi Mawatha,
Godigamuwa, Ratnapura.
2. Sinhabahu Gottabaya Kirumbara
Liyanaage,
No. 61/12, Saman Place,
Ratnapura.
3. Elabada Liyanage Asantha Harshan
Silva,
214/A, Horana Road, Wekada,
Panadura.
4. Andawatta Kankanamge Jayampathi
Karunarathne,
219/3A, 2nd Canal,
Polonnaruwa.
5. Edirimannage Kulasinghe,
93/187, Kiralawelkatuwa,
Embilipitiya.
6. Batugoda Gedara Wajira Sampath
Batugoda,
124, Aththaragama,
Pattiyawatta,
Kandy (HP).

7. Herathge Priyantha Saman Kumara,
No. 199, Thalihunna, Gangolla,
Meethlawwa.
8. Loku Vidanelage Rathnasekara,
143, Lassakanda, Erathna,
Kuruwita.
9. Udukumbura Gedara Udeni Sisira
Bandara,
101/2, Godagandeniya,
Peradeniya.
10. Wasala Mudiyanseelage Priyantha
Kulasekara,
10/C/2, Kalugalawatta,
Werelagama.
11. Lankeshwarage Gammedde Gedara
Anoma Sugathadasa,
99/1, Hiddhauwa,
Handessa.
12. Kospala Wattage Don Chathura
Chaminda Jayasena,
No. 96, Dhambawela, Gurudeniya,
Kandy.
13. Rathnayake Mudiyanseelage Dulan
Chulanga Rathnayake,
1/28, Prison Quarters, Mosque Road,
Kandy.
14. Ekirige Herath Mudiyanseelage
Weerakoon Banda,
129/2, Ambakote,
Kengalla.
15. Dewatha Pedige Shelton Abeysinghe,
No. 2, Saman Place, Paradise,
Kuruwita.

16. Hewayalage Premachandra,
Dandeniya,
Galapitamada.
17. Pallegedara Sumith Bandara
Dodandeniya,
28/1, A1 Prison Quarters,
Mosque Road, Bogambara,
Kandy.
18. Hiniduma Liyanage Sarath,
311/B/3, Elhena,
Heyley Road, Attiligoda,
Galle.
19. Weerasinhage Sisira,
B27/1, Kadadara, Imbulana,
Ruwanwella.
20. Muhandiramage Upali Muhandiram,
D 256/1, Magamma,
Dehiowita.
21. Willora Arachchige Stanley Perera,
Gauda State, Malawa,
Kuruwita.
22. Dasanayaka Ranasingha
Mudiyanselage Waruna Eheliyagoda,
Prison Head Quarters,
Colombo 09.
23. Nagoda Liyanage Senevirathna,
No. 181A, "Shanthi Nivasa",
Pethiyagoda,
Gelioya.
24. Kubure Gedara Chandana
Wijebandara,
A1 Prisons Flats,
Borella.

25. Wickramarachchige Don Sudaraka,
No. 24, Hospital Junction,
Nawagamuwa,
Ranala.
26. Rathnayaka Mudiyanseelage Vipula
Priyantha,
No. 02, Prison Quarters,
Lesley Ranagala Mawatha,
Colombo 08.
27. Solokara Mudiyanseelage Kularatna
Dasanayaka,
148/22/1/2, Prison Quarters,
Baseline Road, Colombo 09.

PETITIONERS

Vs.

1. W.M.N.J. Pushpakumara,
Commissioner General of
Examinations,
Department of Examinations,
P.O. Box 1503,
Colombo 09.
- 1A. B. Sanath Pujitha,
Acting Commissioner General of
Examinations,
Department of Examinations,
P.O. Box 1503,
Colombo 09.
- 1B. L.M.D. Dharmasena,
Commissioner General of
Examinations,
Department of Examinations,
P.O. Box 1503,
Colombo 09.

- 1C. H.J.M.C. Amith Jayasundara,
Commissioner General of Examinations,
Department of Examinations,
P.O. Box 1503, Colombo 09.
- 1D. A.K. Subhashini Indika Kumari
Liyanage,
Commissioner General of Examinations,
Department of Examinations,
P.O. Box 1503,
Colombo 09.
- 2. M.B.R. Pushpakumara,
Commissioner General of Prisons,
Prison Headquarters,
Colombo 09.
- 2A. Mr. H.M.N.C. Dhanasinghe,
Commissioner General of Prisons,
Prison Headquarters,
Colombo 09.
- 2B. Mr. T.M.J.W. Tennakoon,
Commissioner General of Prisons,
Prison Headquarters,
Colombo 09.
- 2C. Mr. H.N.T.M. Upuldeniya,
Acting Commissioner General of
Prisons,
Prison Headquarters,
Colombo 09.
- 3. Mr. H.N.T.M. Upuldeniya,
Superintendent of Prison,
Prison Headquarters,
Colombo 09.
- 4. Nalinda Bandara,
Store Keeper,
Prison Training School,
Colombo 09.

5. Inoka Ponnamparuma,
Female Guard,
Female Ward,
Welikada Prison.
6. A.L. Indika Pradeep Perera,
No. 75/D, Ihala Yagoda,
New Road,
Gampaha.
7. Bandara Wickramarathna,
Egodahawatta, Mudugamuwa,
Weligama.
8. R.A. Samudra Dhammika
Rajapaksha,
Ihala Walahapitiya,
Nattandiya.
9. S.M.T.C. Sudasinghe,
No. 955/5, First Lane,
Gothatuwa, Angoda.
10. G.M.I.K. Ganegoda,
No. 767/3/B,
Millagahawatta Road,
Thalangama North,
Malabe.
11. N.D. Gunawardana,
No.121/18, Prison Quarters,
Leslie Ranagala Mawatha,
Colombo 08.
12. H.W.S.S.K. Wijewardena,
No. 2/86, Indigolla,
Gampaha.
13. S.H.G. Chandrawansa,
No. 63/11, Prison Quarters,
Leslie Ranagala Mawatha,
Colombo 08.

14. M.W.D. Kumara,
No. 270/10, Thudawa Road,
Kerawalapitiya,
Wattala.
15. A.D.C.C. Perera,
No. 329/A/3, Siriwardana Mawatha,
Walpola, Ragama.
16. S.P.J. Rohana,
No. 32/1, Marapola,
Veyangoda.
17. J.P. Buddhadasa,
No. 674, Mahara Prison Quarters,
Ragama.
18. K.H.M. Mahinda Bandara,
No. 316/8, Neligama,
Ragama.
19. W.A.D.C.G. Wijayasinghe,
No. 75G, Diyawala,
Kirindiwela.
20. M.P. Nimalarathna,
No. 12, Arangala,
Naththarampotha,
Kandy.
21. A.P.U. Gunapala,
“Nipuna Sevana”,
Buluwemuduna,
Lunuketiya Madiththa.
22. K.B.A. Ranathunga,
No. 273/C/1, Samagi Mawatha,
Ranawana, Katugasthota.
23. S.P. Aragoda,
No. 899,
“Samanala”,
Athgala, Gampola.

24. H.M.R.I.K. Herath,
No. 129/3, Ambagamuwa Road,
Gampola.
25. W.A.V. Rathnayake,
No. 57/3, Mirishena,
Ethanamadala,
Kaluthara-North.
26. W.A. Nihal,
No. 109/1, Galle Road,
Payagala North,
Payagala.
27. R.U. Samantha,
No. 14B, Second Lane,
Richmond Hill,
Galle.
28. G.D.C.D. Kumara,
“Sisikirana”, Magura-West,
Baduraliya.
29. K.M.N.S. Ranjith Bandara,
“Nisala”, Weliwatta,
Midigama,
Weligama.
30. B.K.G. Priyarathna,
Paradulla Watta,
Galkaduwa, Imaduwa.
31. M.G.D.N. De Silva,
“Siriniwasa”, Denuwala,
Ahangama.
32. H.P. Piyathissa,
No. 46A, Mahaheella,
Beliatta.
33. K.G.J. Tharindranath,
No. 80, Tangalle Road,
Weeraketiya.

34. R.M.W. Disanayake,
No. 106, Weerasinghe Mawatha,
Eppawala.
35. Sugath Amarasinghe,
No. 02, Malithi Mawatha,
Bendiwewa,
Jayanthipura, Polonnaruwa.
36. K.L.R. Kodikara,
No. 03, Jayanthipura,
Bogahamadiththa,
Haliela.
37. R.M.N. Pushpakumara,
Nalin Niwasa,
Boliyadda,
Thaldena,
Badulla.
38. D.M.A.P Disanayaka,
No. 02A, Lower Street,
Badulla.
39. D.M.I. Arunashantha,
No. 112, Miniran Pathalagama,
03rd Mile Post, Passara,
Badulla.
40. K.G.S.C. Rajangana,
No. 45/B, Uggashena,
Walpola,
Ragama.
41. R.M.N. Gunarathna,
“Shanvilla” Bangalawatta,
Ahugoda,
Pothuhera.
42. T. Sanjeewa Chaminda,
Galle Road, Padurana,
Matara.

43. P.U.P. Jayawardena,
No. 68/H, Seethawaka Uyana,
Miriswatta,
Puwakpitiya.
44. R.G.J.L. Ranasinghe,
No. 02,
Middle Class Housing Scheme,
“Samarapura”, Nelumkulama,
Anuradhapura.
45. B.S. Rajapaksha,
Komarikawala,
Mahapothana,
Kahatagasdigiliya.
46. R.A.D. Sanjeewa Ramanayake,
No. 320/A, Ramanayake Mawatha,
Arawwala, Pannipitiya.
47. T.W. Sampath Thushan,
No. 422/A, Sirimangala Watta,
Mampe North,
Piliyandala.
48. K.G.T. Pradeep Kumara,
Galpatha, Ruwanwella.
49. N. Kalupathirana,
No. 45/A, Horagasmulla,
Divulapitiya.
50. S.M. Premathilaka,
No. 11, Aluth Wewa,
Ehatuwewa.
51. A.R. Perera,
No. 4/1, Doradeka,
Hingurakgoda.
52. D.C.S. Dias,
No. 17, Selbi Road,
Negombo.

53. W.G.W. Chandrakantha,
No. 434, Vidyalyoka Vidyala Road,
Hingurakgoda.
54. D.S.K. Alupothgoda,
No. 141/1, Haloluwa,
Kandy.
55. J.G. Amunugama,
Mahimpitiya Road,
Dandagamuwa,
Kuliyapitiya.
56. K.P.W.D. Wijekanthi,
No. 48/B,
Saranajothi Mawatha,
Modara Patuwatha,
Dodanduwa.
57. T.M.S.T. Bandara,
No. 309/17,
Jaya Mawatha,
Kirillawala, Weboda.
58. M.L. Perera,
No. 173,
Kandaliyaddapaluwa,
Ganemulla.
59. A.B. Sumith,
Mahara Prison Quarters,
Ragama.
60. N.G. Nalin Rajeeva,
No. 954/2, Akkara-07,
Debarawewa,
Tissamaharamaya.
61. Mr. C. Pallegama,
Former Commissioner General of
Prisons.

62. Secretary, Ministry of Law and Order
and Prison Reforms,
Floor 13, Sethsiripaya
(Stage II),
Battaramulla.
- 62A. Secretary, Ministry of Prison Reforms,
Rehabilitation, Resettlement and
Hindu Religious Affairs,
No. 143, Galle Road,
Colombo 03.
63. Secretary, Public Services Commission,
No. 177, Nawala Road,
Narahenpita.
- 62AB. Mrs. W.H.M.M.C.K. Dayaratne,
Secretary, Public Service Commission.
- 63A. Mr. Dharmasena Dissanayake,
Chairman, Public Services Commission.
- 63AA. Hon. Justice Jagath Balapatabendi,
Chairman, Public Services Commission.
- 63AB. Mr. Sanath J. Ediriweera,
Chairman, Public Services Commission.
- 63B. Mr. A. Salam Abdul Waid.
- 63BA. Mrs. Indrani Sugathadasa.
- 63BB. Mrs. S.M. Mohamed.
- 63C. Ms. Shirantha Wijayathilaka.
- 63CA. Mr. V. Shivagnanasothy.
- 63CB. Mr. N.H.M. Chithrananda.
- 63D. Dr. Prathap Ramanujam.
- 63DA. Dr. T.R.C. Rubera.
- 63DB. Prof. N. Selvakkumaran.
- 63E. Mrs. V. Jegarasasingam.
- 63EA. Mr. Ahamod Lebbe Mohammed Saleen.
- 63EB. Mr. M.B.R. Pushpakumara.

63F. Mr. Santhi Nihal Seneviratne.
63FA. Mr. Leelasena Liyanagama.
63FB. Dr. A.D.N. De Zoysa.

63G. Mr. S. Ranugge.
63GA. Mr. Dian Gomes
63GB. Mrs. R. Nadarajapillai

63H. Mr. D.L. Mendis.
63HA. Mr. Dilith Jayaweera.
63HB. Mr. C. Pallegama

63I. Mr. Sarath Jayathilaka.
63IA. Mr. W.H. Piyadasa.
63IB. Mr. G.S.A. De Silva, PC

All Members of the Public Service
Commission,
No. 177, Nawala Road, Narahenpita.

The 62AB to 63IB Respondents are of;
Public Service Commission,
No. 1200/9, Rajamalwatta Road,
Battaramulla.

64. Honourable Attorney General,
Department of the Attorney General,
Colombo 12.
65. Dupana Durage Saman Susiri,
No. 50, Muruthamulgama, Horewela,
Walasmulla.
66. Marakkalage Ajantha Niroshana
Kurukulasooriya,
No. 316/1, Market, Kottegoda.
67. Malwana Vithanage Sarath Vithana,
No. 270, Aluthgama Road,
Mathugama.

RESPONDENTS

Before : Kumudini Wickremasinghe, J.
: Sobhitha Rajakaruna, J.
: Sampath B. Abayakoon, J.

Counsel : Saliya Peiris, P.C. with Yohan Peiris and Andrea
Wijewansha instructed by Manjula Balasooriya for
the Petitioners.
: Yuresha De Silva, D.S.G. instructed by Nimalika
Wickramasinghe for the 1st to 3rd and 62nd to 64th
Respondents.
: Upul Kumarapperuma, P.C. with Radha
Kuruwitabandara, Duvini Godagama and Ganani
Malagoda instructed by Darshika Nayomi for the
65th to 67th Respondents.

Argued on : 09-06-2025

Written Submissions : 01-07-2025 (By the Petitioners)
: 13-06-2025 (By the 1st to 3rd and 62nd to 64th
Respondents)

Decided on : 09-09-2025

Sampath B. Abayakoon, J.

The petitioners preferred this application alleging that their fundamental rights have been infringed due to the actions of one or more respondents named in the petition, and thereby, claiming redress.

When this matter was considered on 05-05-2016 for granting of Leave to Proceed, this Court granted leave for the alleged infringement of the

petitioners' fundamental rights guaranteed under Article 12(1) of the Constitution.

Having considered the application preferred by a few more petitioners seeking intervention into the application on the basis that they are also similarly circumstanced as the original petitioners and their fundamental rights have also been infringed, this Court allowed their intervention on 11-05-2016, and added them as the 65th, 66th and 67th respondents.

Hence, the 27 petitioners and the 65th, 66th and 67th respondents will hereinafter be commonly referred to as the petitioners for the purposes of determining whether their fundamental rights have been violated as alleged.

The facts that led to the filing of this fundamental rights application as stated in the petitions can be summarized in the following manner.

All the petitioners are employees of the Department of Prisons functioning as either Prisons Sergeants or Prison Guards at the time of filing of this application.

The 61st respondent being the then Commissioner General of Prisons had called for applications from the qualified officers of the Department of Prisons to fill the following vacancies;

1. Jailer Class (II) Male: 58
2. Jailer Class (II) Female: 04
3. Welfare Officers Class (II): 05

The petitioners as well as several other officers have applied to sit for the written competitive exam scheduled to be held in that regard. The 2nd respondent, the Commissioner General of Prisons, has delegated his power of holding the said exam to the 1st respondent named in the petition, namely, the Commissioner General of Examinations of the Department of Examinations.

Accordingly, the said exam had been conducted, and the 4th to 60th respondents named in the petition have been promoted to fill the said vacancies based on the marks they obtained.

The petitioners have admitted the fact that the 24th to 27th petitioners have previously invoked the fundamental rights jurisdiction of this Court in SC/FR Application bearing No. 85/2014, and the said case was dismissed by this Court on 20-05-2014. However, the petitioners have claimed that after the pronouncement of the said judgment, the petitioners are now in possession of new material, which they did not possess at the time of the initial application. It is on that basis they have initiated this fundamental rights application before this Court.

The petitioners state that around 900 fellow officers including they themselves sat for the competitive examination and it was the 3rd respondent named in the petition, who is a Superintendent of Prisons attached to the Prisons Headquarters, who set the relevant question paper and the marking scheme.

It has been alleged that majority of the candidates who passed the examination were from the Prison Headquarters and Prison Training College, and the 4th and the 5th respondent, being the husband and wife, had obtained exactly the same marks. It has been alleged further that they have credible information that the marking scheme and the question paper had been circulated among some of the candidates prior to the examination. The petitioners have also intimated the respective marks obtained by them at the examination, which range from 54 to 74.

Having narrated the above facts, they have averred that they are in possession of new documentary evidence to show that their fundamental rights have been infringed as pleaded by them. It has been alleged that one G.D.C.D. Kumara, the 28th respondent named in this application, who was the 23rd intervenient petitioner in the previous SC/FR Application No. 85/2014, had been promoted after sitting for the competitive examination which was held on 26-01-2014. The petitioners contend that they are now in possession of the result sheet of the said 28th respondent whose index number was 0357 where he has only obtained a final mark of 54 (the document marked P-06 along with the petition).

The petitioners also allege that the eligibility to sit for the said competitive exam was having a satisfactory service of 5 years, but the 40th respondent who had a charge sheet dated 02-11-2013 preferred against him was allowed to sit for the exam. It is alleged that he was later found guilty to the charges and was punished by the letter dated 03-08-2014, by suspending two salary increments, with a fine of Rs.30,000/- while holding him ineligible of facing any promotional interviews.

The petitioners allege that the officers who marked the examination papers were not qualified enough to mark the same, and the departmental standing orders as to the manner in which the questions should be marked where it had been stated that they should be marked twice by two different markers had not been followed. It had further been alleged that although the marks were released on 01-03-2014, the same was not published in the website of the Department of Prisons as of usual practice. It was their contention that the names of the officers who are entitled to be promoted were also not published, but their results were received individually by post.

It has been the position of the petitioners that, being officers who obtained equal or more marks than the 28th respondent G.D.C.D. Kumara who was later promoted, they should be considered as a group of officers treated unequally among equals.

It was primarily on the basis of the alleged marks of the 28th respondent, this matter was argued before this Court claiming that the petitioners' fundamental rights guaranteed in terms of Article 12(1) of the Constitution had been infringed by the respondents.

The 1st respondent in his affidavit tendered to this Court has proceeded to explain the alleged marks given to the 28th respondent explaining that the 28th respondent's initials had been stated wrongly in the admission card and the initial result sheet issued to him in that regard. It has been his position that this has occurred due to an administrative error. It has been submitted further that due to yet another error, the candidate who sat for the examination under Index No. 0357 having a similar surname has been issued

with a result sheet that carries the initials of the candidate who sat for the exam under Index No. 0356.

He has submitted that after the matter was subsequently brought to the notice of the Department of Examinations, the Department corrected the said administrative error in relation to the names of the candidates, and as a result, it was confirmed that the 28th respondent who was issued with admission card No. 0356, in fact received 77 marks and the candidate who was issued with admission card No. 0357 received 54 marks. It has been his position that after the correction by the Department of Examinations, the 28th respondent has been correctly promoted based on his marks. The 1st respondent has submitted the documents marked 1R1 to 1R12 to substantiate his position.

At the hearing of this application, this Court heard the submissions of the learned President's Counsel who represented the petitioners as well as that of the learned President's Counsel who represented 65th to 67th respondents who contended that the said petitioners' fundamental rights have been infringed due to the reasons averred in their respective petitions.

This Court also heard the submissions of the learned Deputy Solicitor General (DSG) who represented 1st to 3rd and 62nd to 64th respondents.

The Court also had the benefit of considering the written submissions tendered by the parties in relation to their respective stands, and also had the benefit of looking at the original answer scripts and mark sheets of the candidates who were allocated index No. 0356 and 0357, for the purposes of this judgment.

Having considered the material placed before this Court it is my view that although the petitioners have made several other allegations so as to suggest that there were several irregularities in the manner in which the examination was conducted, and the examination papers may have been leaked before the conduct of the examination, I find that the said allegations have been made on a mere speculation rather than on a sound basis which is acceptable to the Court.

However, the main ground under which they have relied to claim infringement of their fundamental rights in terms of Article 12(1) of the Constitution appears to be the marks obtained by the 28th respondent on the basis that he was promoted despite having obtained 54 marks, whereas the pass mark set was 75.

It was on that premise; they have claimed that they were treated differently although they were similarly circumstanced.

It needs to be noted that the questioned examination held in order to grant promotions was an examination that had been conducted by the Department of Examinations which is the premier government institution with vast experience in conducting examinations in Sri Lanka.

It is clear that the Commissioner General of Prisons had delegated his power to conduct the questioned examination to the Commissioner General of Examinations in order to ensure the credibility of the process of granting promotions to the eligible officers of the Department. I have no reason to doubt that the Department of Examinations had conducted the examination in violation of the procedure and the relevant norms, or had marked the answer scripts in a biased manner so that preferred candidates would get any advantage.

Having said that, I will now proceed to consider whether the 28th respondent had been granted the promotion despite him having obtained 54 marks, which was a much lesser mark than the pass mark of 75.

Although an allegation has been made that most of those who were successful in obtaining the pass marks were officers who have been serving in the Prison Headquarters or Prison Training School, it has been established that the 28th respondent was serving in the prison lockup in Balapitiya at the time he sat for the examination.

When qualified officers were called to submit their applications to sit for the exam, the said officer whose name is Gamathige Don Chaminda Deepthi Kumara has tendered his application No. 0356, which has been marked and produced as 1R1 to this Court. The said application which is in Sinhala

Language clearly provides for the actual full name of the candidate who tendered the said application under the above number. It also shows that the official address of the said candidate as prison lockup Balapitiya.

In the said application, other than the full name written in Sinhala, his name has been written in English as “Kumara B.D.C.D.”, rather than the correct English initials of “G.D.C.D.”, while the official address has also been stated as Prison Lockup, Balapitiya, in English language.

The document marked 1R2, which is the admission card issued bearing the examination index No. as 0356, which is the same number given in the application, shows that the mistake made in writing the candidate’s name in English language by whoever the person who wrote it had been carried forward to the admission card as well, though his official address has been correctly mentioned.

The common result sheet issued by the Department of Examinations, which has been tendered along with the affidavit of the 1st respondent dated 30-09-2016 marked as 1R5, clearly shows that the same mistake as to the name of the candidate with index No.0356 has been repeated, obviously, as a result of the earlier mistake. The said candidate has obtained 77 marks which was more than the pass mark. The result sheet and the mark sheet issued in relation to the said index number marked 1R6 and 1R7 respectively, confirms that fact.

However, the prison officer who tendered his application to sit for the same examination under application No. 0357 has also been one Kumara who carried the same surname as the candidate who submitted the application No. 0356. The document marked 1R8 confirms the fact that the said officer’s name is Murukkuwa Durage Sisira Kumara, whose official address was Sri Lanka Prisons, Galle. The said application as well has been filled in Sinhala Language. The said application also shows that the applicant’s name has been written in English to read as “Kumara M.D.S.” and his official address as “Galle Prison, Galle”.

Upon this application, the said officer, namely M.D.S. Kumara, has been issued with the admission card with index No. 0357 under the name Kumara M.D.S. giving official address as Galle Prison, Galle (the document marked 1R9).

However, when issuing the results sheet of the said candidate (the document marked 1R10), it clearly appears that due to a mistake, his name has been referred to as Kumara G.D.C.D., which carried the actual initials of the officer who submitted application No.0356, and sat for the examination under the said number. Although the name has been wrongly mentioned, his official address has been correctly mentioned as Galle Prison, Galle. He has obtained 54 marks, which was lower than the pass mark.

I find that this is the document the petitioners have used to claim that the 28th respondent named in their petition as G.D.C.D. Kumara of “Sirikirina”, Magura/West, Baduraliya was promoted despite obtaining low marks than the pass mark.

However, the letter issued by the Department of Examinations on 19-03-2014 to Commissioner General of Prisons, which has been marked as 1R12 along with the 1st respondent’s objections, establishes that the said discrepancy as to the names has been corrected. It has been specifically stated in the said letter that the correction of names has not resulted in any change of the marks obtained by the candidates.

For the better understanding of this judgment, I find it necessary to reproduce the said letter, which reads as follows:

ශ්‍රී ලංකා විභාග දෙපාර්තමේන්තුව
ජාතික ඇගයීම් හා පරීක්ෂණ සේවාව
පැලවත්ත, බත්තරමුල්ල.

මගේ අංකය 10/03/12/212
ඔබේ අංකය ඩී2/පේ. පත්වීම්
දිනය 2014.03.19 දින

බන්ධනාගාර කොමසාරිස් ජනරාල්,
බන්ධනාගාර මූලස්ථානය,
අංක 150, බේස්ලයින් පාර,
කොළඹ 09.

බන්ධනාගාර දෙපාර්තමේන්තුවේ II පෙළ පේලර් II පෙළ සුභසාධක නිලධාරී තනතුරට උසස් කිරීම සඳහා වන ලිඛිත තරග විභාගය - 2013 (2014)

විභාගය පැවැත්වූ දිනය - 2014.01.26

උක්ත විභාගයට අදාළව 2014.02.20 දින නිකුත් කරන ලද විභාග ප්‍රතිඵල ලේඛනය හා බැඳේ.

02. එහි අයදුම්කරුවන් දෙදෙනෙකුගේ නම පහත සඳහන් පරිදි සංශෝධනය කරමි.

විභාග අංකය	ප්‍රතිඵල ලේඛනයේ සඳහන් නම	සංශෝධිත නම
356	KUMARA, B.D.C.D.	KUMARA, G.D.C.D.
357	KUMARA, G.D.C.D.	KUMARA, M.D.S.

03. මෙම නාම සංශෝධනය හේතුවෙන් අදාළ ප්‍රතිඵලයේ කිසිදු වෙනසක් සිදු නොවන බව කාරුණිකව දන්වා සිටිමි.

ඩී. ජී. රංජිත් ධර්මගුණ

විභාග කොමසාරිස් (ප්‍රතිඵල)

විභාග කොමසාරිස් ජනරාල් වෙනුවට

The above letter of correction issued by the Commissioner of Examinations shows that no sooner the relevant discrepancy as to the names been discovered, it had been corrected so that no one would be prejudiced by the said mistake.

When this Court granted Leave to Proceed in relation to this application, the Court ordered the Registrar of the Court to hold in his safe custody, the originals of the answer scripts relating to index No. 0356 and 0357, which was made available to the Court by the learned DSG, when this matter was supported for Leave to Proceed for the inspection of the Court.

In the process of writing this judgment, I had the opportunity of perusing the originals of the two answer scripts, as well as the mark sheets prepared by the examiners who gave the relevant marks.

It is clear from the said mark sheets that the answers had been scrutinized and marks had been given by one examiner designated as “උත්තර පත්‍ර පරීක්ෂක”, while the said marks had been re-checked by another officer designated as “ලකුණු පරීක්ෂක කළේ”. Both of them have been identified by using a code number to maintain the credibility of the examination. The above two officers had been functioning under the supervision of yet another officer who has been identified as “අධීක්ෂණය” who has supervised and signed the said mark sheets.

The above-mentioned procedure as to the marking of the examination papers establishes the fact that there had been no procedural lapses as to the marking and supervision of the examination papers as claimed by the petitioners.

Having examined the originals of the two answer scripts and mark sheets, it is abundantly clear to me that the candidate who sat under the index No. 0356 had obtained 77 marks, while the candidate who sat under the index No. 0357 has obtained 54 marks. The complete result sheet in relation to all the candidates who sat for the said competitive exam tendered to Court by the Commissioner of Examinations, along with the two original answer sheets, clearly establish the fact that no mix-up has occurred as to the index numbers of the two candidates considered, other than in their name initials in the individual result sheets which were originally issued to them.

With the necessary correction in relation to the names, it has been established that only the candidate who obtained more than the minimum pass mark under index No. 0356, namely, G.D.C.D. Kumara of Prison Lockup, Balapitiya, had been promoted.

It is obvious that the marks obtained by the petitioners who sat for the exam were below the required minimum mark and they would not have been qualified to be promoted accordingly.

Having considered the above factual matrix, now the question before me is whether the petitioners can claim that their fundamental rights have been infringed due to a mistake that took place, which has later been corrected.

I find that the petitioners would not be in a position under any manner to claim that their legitimate expectations of being promoted to the next rank had been violated by the respondents due to a correction of an obvious mistake occasioned due to an administrative blunder. It has been the 28th respondent who would have suffered as a result of the mentioned administrative error of stating the initials of his name wrongly in the result sheet despite having the pass mark, if the said mistake was not corrected. The petitioners would not have suffered due to the said error as they have failed to obtain the minimum pass mark.

When considering both the aspects together, it is clear that the petitioners cannot claim that they had any legitimate expectations of being promoted after failing to secure the minimum marks required. They cannot have any expectations based on the wrongly mentioned name of the 28th respondent. The petitioners cannot claim equality by comparing them with someone who was wrongly disadvantaged due to an administrative error, but later rightfully corrected.

In the case of **Ginigathgala Mohandiramlage Nimalsiri Vs. Cornel P.P.J. Fernando, SCFR 256/2010 – SC minutes of 17th September 2015**, it was observed;

“In order to seek redress under the doctrine of legitimate expectation the person must prove he had a legitimate expectation which was based on a promise or an established practice. Thus, the applicability of the said doctrine is based on the facts and circumstances of each case.”

Considering the doctrine of legitimate expectation, it was observed in **SCFR 66/2019 decided on 29-11-2024**;

“Considering the framework of Article 12(1) of the Constitution which guarantees the right to equality, and the applicability of the principle of legitimate expectation it becomes clear that the expectation in question

must be based on a promise or commitment made by the relevant authority.”

In the case of **Elmore Perera Vs. Major Montague Jayawickrama, Minister of Public Administration and Plantation Industries and Others (1985) 1SLR 285**, it was held;

“Any person setting up grievances of denial of equal treatment must establish that between persons similarly circumstanced some were treated to their prejudice and the differential treatment had no reasonable relevance to the object sought to be achieved. Before a person can claim to be discriminated against another, he must show that the other person was similarly situated or equally circumstanced. He must make out that not only he had been treated differently from others, but he had been so treated from persons similarly placed without any reasonable basis and such differential treatment is unjustifiably made.”

In the present case, the Department of Prisons had used the procedure of conducting a written examination through the Department of Examinations in order to select those who are entitled to be promoted based on the marks obtained by each of the candidates who sat for the exam.

This has been the procedure adopted by the Department of Prisons and there is no evidence to suggest that the respondents had deviated from the said procedure when determining the successful candidates who stand promoted.

For the reasons as considered above, I am of the view that there is no basis for the petitioners as well as the added respondents to succeed in relation to their applications on the basis that the fundamental rights guaranteed to them in terms of Article 12(1) of the Constitution had been infringed.

Accordingly, I hold that there had been no violation of the fundamental rights of the petitioners and, hence, the application is dismissed for want of any merit.

The Registrar of the Court is directed to return the originals of the answer scripts and the mark sheets tendered to the Court in relation to the candidates who sat for the examination under the index No. 0356 and 0357 to the Hon. Attorney General so that the same can be returned to the proper authority.

The parties shall bear their own costs.

Judge of the Supreme Court

Kumudini Wickremasinghe, J.

I agree.

Judge of the Supreme Court

Sobhitha Rajakaruna, J.

I agree.

Judge of the Supreme Court