

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC
OF SRI LANKA

*In the matter of an application for orders
in the nature of Writs of Certiorari,
Prohibition and Mandamus under and in
terms of the provisions of Article 140 of
the Constitution of the Democratic
Socialist Republic of Sri Lanka.*

CA Writ 458/2023

1. Janak Liyanage
No.113,
P.S. Perera Road,
Piliyandala.
2. K.J.S. Pradeep Peiris
No.48/2, St. Jude Place,
Thaladuwa,
Negombo.
3. W.D. Anusha Mayurani
No.19,
Ihala Bomiriya,
Kaduwela.
4. N. Sumith Priyantha Perera,
No.19,
Ihala Bomiriya,
Kaduwela.
5. K. Omal Chandrasekara
Wewita,

Bandaragama.

PETITIONERS

VS

1. Sirisoma Lokuvithana
Secretary,
Ministry of Education, Cultural &
Arts, Sports & Youth Affairs &
Information Technology – Western
Province,
2nd Floor, Western Provincial Council
Office Complex,
No. 204, Denzil Kobbekaduwa
Mawatha,
Battaramulla.

- 1A Mrs. A.D.S. Sadeeka,
Secretary,
Ministry of Education, Cultural &
Arts, Sports & Youth Affairs &
Information Technology – Western
Province,
2nd Floor, Western Provincial Council
Office Complex,
No. 204, Denzil Kobbekaduwa
Mawatha,
Battaramulla.

- 1B Anusha Gokula Fernando,
Secretary,

Ministry of Education, Cultural &
Arts, Sports & Youth Affairs &
Information Technology – Western
Province,
2nd Floor, Western Provincial Council
Office Complex,
No. 204, Denzil Kobbekaduwa
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Battaramulla.

- 1C. K.K.G.I.D.P.Wijethilake,
Secretary (Duty Cover)
Ministry of Education, Cultural &
Arts, Sports & Youth Affairs &
Information Technology – Western
Province,
2nd Floor, Western Provincial Council
Office Complex,
No. 204, Denzil Kobbekaduwa
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Battaramulla.

2. S.D. Thewarapperuma
Director (Sports),
Ministry of Education, Cultural &
Arts, Sports & Youth Affairs &
Information Technology – Western
Province,
2nd Floor, Western Provincial Council
Office Complex,
No. 204, Denzil Kobbekaduwa
Mawatha,

Battaramulla.

3. Hon. W.D.M.J. Roshan Goonetilleke,
Governor of the Western Province,
Governor's Office,
Colombo.

3A. Hon. Hanif Yusoof,
Governor of the Western Province,
Governor's Office,
Colombo.

4. Mr. Pradeep Yasarathne
Chief Secretary,
Western Provincial Council,
Chief Secretary's Office,
4th Floor, Western Provincial Council
Complex,
No. 204, Denzil Kobbekaduwa
Mawatha,
Battaramulla.

4A. Mrs. Dhammika K. Wijayasinghe,
Chief Secretary,
Western Provincial Council,
Chief Secretary's Office,
4th Floor, Western Provincial Council
Complex,
No. 204, Denzil Kobbekaduwa
Mawatha,
Battaramulla.

4B. Mr. K.G. Pradeep Pushpa Kumara,

Chief Secretary,
Western Provincial Council,
Chief Secretary's Office,
4th Floor, Western Provincial Council
Complex,
No. 204, Denzil Kobbekaduwa
Mawatha,
Battaramulla.

5. U.R. De Silva, PC.
Chairman,
Public Service Commission of the
Western Province,
10th Floor, Janajaya City Building,
No. 628,
Nawala Road,
Rajagiriya.

5A. W.H. Karunaratne
Chairman,
Public Service Commission of the
Western Province,
10th Floor, Janajaya City Building,
No. 628,
Nawala Road,
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6. Kanthi Wijetunga
Member,
Public Service Commission of the
Western Province,
10th Floor, Janajaya City Building,
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6A. Professor A.H. Gamage

Member,
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7. Chathurika Wijesinghe

Member,
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8. Ruwani Yasoja Hapuarachchi

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8A. W.V.C. Chandrawansa

Member,
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9. Naganadan Siwahumaran

Member,
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9A. A.S. Mohamed

Member,
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10. Samsudeen Liyawdeen

Member,
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10A. Y.P. Sumanawathie

Member,
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11. Nelun Shamen Maduransinghe

Member,
Public Service Commission of the
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12. Thilak Senarath

Secretary,
Public Service Commission of the
Western Province,

10th Floor Janajaya City Building,
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Nawala Road,
Rajagiriya.

RESPONDENTS

13. Seyed Razlan Zain Mowlana
No.66/7-1/1,Kawdana Attidiya Road,
Dehiwala.
14. Gardilamage Sandya Priyangani
Wickramasinghe
No. 128/36, Wijaya Mawatha,
Wattegedara
Road, Maharagama.
15. Liyanaarachchige Sirimevan Rohana
Perera
No. 306/ A, Sumedha Mawatha ,
Ganemulla.
16. Bulathsinhala Arachchige Megawarna
Vishwa Deshadhi Cooray
No. 507/1, Makola North, Makola.
17. Lakshmi Saluja Karavita
No. 50, Silverdale, 1st Lane, Thudugala
Junction,Dodangoda.
18. Wanninayaka Mudiyansele Badrika
Kumari wanninayaka

No. 31/3, Wathuragama Road,
Miriswatta,
Mudungoda.

19. Samaraweera Arachchige Mahesh
Priyantha De Silva
No. 155/46, Gemunu Mawatha,
Peellawatta, Andiambalama

ADDED - RESPONDENTS

Before : **Hon. Rohantha Abeysuriya PC, J.(P/CA)**
: **Hon. K. Priyantha Fernando, J.(CA)**

Counsel : S. Gnanaraj with Sakuni Weeraratne for the
Petitioners.

S. Fernando, S.C. for 1st to 12th Respondents .

Saman De Silva with Samudra Gunawardana
instructed by Veronika Dissanayake 13th -19th
Respondents.

Written Submissions on : 06.11.2025 for the 13th to 19th Respondents
14.11.2025 for the Petitioners

Supported on : 15.10.2025

Decided on : 19.12.2025

K. Priyantha Fernando, J.(CA)

The Petitioners have filed this application dated 08.08.2023 challenging the decision of the Respondents to exclude Sports Officers from applying for the post of District Sports Officer, Western Province, in terms of a Scheme of Recruitment ("SOR") marked 1R8 and a consequential internal notice dated 19.07.2023 (P1) calling for applications to the post of District Sports Officer only from Sports Coaches to the detriment of Sports Officers.

THE POSITION OF THE PETITIONERS:

The Petitioners stated that they were appointed to the post of "Sports Officer" on or before the year 2000. It was submitted that the duties of a Sports Officer entailed significant responsibilities regarding the administration of sporting bodies, events, and the coordination of stakeholders for the promotion of sports within the Western Province. The Petitioners averred that the Provincial Public Service Commission of the Western Province had previously recognized Sports Officers as eligible for promotion to the post of "District Sports Officer" to ensure career advancement and avoid stagnation. They stated that from 1990 to 2010, Sports Officers were consistently appointed to the post of District Sports Officer, and this right was formally recognized in a Scheme of Recruitment dated April 27, 2010, marked 'P8'. Consequently, the Petitioners maintained they held a legitimate expectation that they would be permitted to apply for and be considered for said post.

However, the Petitioners complained that by a letter marked 'P1' and a purported Scheme of Recruitment approved on July 17, 2023, applications were called for the post of District Sports Officer exclusively from "Sports Coaches". It was stated that under this impugned scheme, eligibility was restricted to Sports Coaches of specific grades with active service periods or specific degrees, while Sports Officers were entirely excluded. The Petitioners contended that the marking criterion set out in 'P1' was biased, allocating points for additional work experience, training diplomas, and special merits in a manner that favored Sports Coaches.

They argued that this exclusion was arbitrary and irrational, particularly because the post of District Sports Officer involved multi-disciplinary administrative functions similar to those performed by Sports Officers, whereas Sports Coaches performed subject-specific technical roles without administrative experience.

The Petitioners further alleged that the impugned Scheme of Recruitment was shrouded in secrecy and circulated only among Sports Coaches without public advertisement. It was submitted that the application window was kept open for less than ten days to preclude the Petitioners from challenging the legality of the process. They stated that no reasons were provided for their exclusion, nor were they given an opportunity to be heard, despite the long-standing practice of appointing Sports Officers to the post. Consequently, the Petitioners sought Writs of Certiorari to quash the Scheme of Recruitment dated July 17, 2023, and the letter marked 'P1', as well as the marking criterion contained therein. They further prayed for a Writ of Prohibition preventing the Respondents from holding interviews or making appointments based on 'P1', and a Writ of Mandamus compelling the Respondents to submit an amended scheme enabling Sports Officers to apply for the post of District Sports Officer.

The Petitioners, in their written submissions dated November 29, 2023, contended that the Respondents had failed to publish or produce the purported new scheme of recruitment to the Court. Consequently, it was submitted that the Respondents were legally bound to adhere to the existing 2010 Scheme of Recruitment marked 'P8'.

Relying on the decision in Wasantha Disanayake and others v. Secretary, Ministry of Public Administration and Home Affairs and others (SC FR 611/12), the Petitioners argued that while an authority is competent to change a scheme of recruitment, it cannot do so arbitrarily or employ an irrational method of "pick and choose" once a definite scheme is laid down.

Furthermore, citing H. Sarath Wickramasinghe and others v. Governor, Southern Province and others [SC FR APPLICATION NO: 41/2017], it was

asserted that the Provincial Public Service Commission lacked the power to deviate from established schemes or grant exemptions not provided for therein.

The Petitioners further submitted that the Respondents violated both their procedural and substantive legitimate expectations. With regard to procedural expectations, they cited Dayaratne v. Minister of Health and Indigenous Medicine (1999) 1 SLR 393 to argue that when a policy change frustrates legitimate expectations, the affected individuals must be afforded an opportunity to be heard.

It was stated that the Respondents failed to provide any explanation or hearing before arbitrarily excluding Sports Officers from applying for the post. Regarding substantive legitimate expectation, the Petitioners relied on M.R.C.C. Ariyaratne v. N.K. Illangakoon(SC FR 444/2012), asserting that the "principle of legal certainty" protected their reliance on the representations made by public authorities. They pointed to the practice of over thirty years, the formal recognition in the 2010 scheme ('P8'), and previous assurances as the basis for this expectation.

It was further argued that "fairness" demanded that the Petitioners' substantive legitimate expectation prevail over any alleged public interest, particularly given the lack of notice. The Petitioners cited Guneratne and others v. Sri Lanka Telecom and others [1993] 1 Sri L.R. 109 and Perera and another v. Cyril Ranatunga[1993] 1 SLR 39 to contend that excluding long-serving officers from their only promotional path without reasonable notice was unfair. They also referred to Chief Inspector W.A.J.H. Fonseka and others v. Neville Piyadigama (SC FR 73/2009) to highlight the life-long expectation of career advancement inherent in public service.

THE POSITION OF THE 1st to 12th RESPONDENTS:

The Respondents, in their Statement of Objections dated 27.03.2024, denied the averments in the Petition and the Petitioners' Affidavit, except for those

specifically admitted. It was submitted that while the subject of sports was devolved to the Provincial Councils under the 13th Amendment, Central Government officers were initially assigned to the provinces until provincial laws were established. Consequently, Sports Officers, Sports Coaches, and District Sports Officers were attached to perform relevant tasks. The Respondents stated that on April 27, 2010, Schemes of Recruitment and Promotion (SOR) were duly promulgated for Sports Coaches and District Sports Officers under the Governor's powers, marked '1R2'. Under this scheme, a hierarchy was established where promotion flowed from Sports Officer to Sports Coach, and then to District Sports Officer.

The Respondents clarified that the 2010 SOR ('1R2') provided a one-time exception, allowing Sports Officers to apply for the post of District Sports Officer only during the first round of recruitment under that scheme. It was averred that this exception was a concession and that subsequent recruitments were to strictly follow the hierarchy. The Respondents pointed out that the appointment of a Sports Officer, M.S.M. Fernando, as a District Sports Officer was challenged in the Supreme Court case *Jagath Gnanasiri De Silva v. The Secretary, Ministry of Sports and others* (SC/FR/528/2010). The matter was settled on September 6, 2013, with an order affirming the entitlement of Sports Coaches over Sports Officers for the post.

It was further submitted that applications were called again in 2016 from Class 1 Sports Coaches, but no appointments were made due to a lack of applicants. Subsequently, a new Service Minute for Sports Officers of the Combined Service was introduced by the Central Government on September 26, 2016 ('1R7').

The Respondents stated that the Western Province's recruitment procedure was amended to align with this Service Minute, resulting in the new SOR dated June 30, 2023 ('1R8'). The Respondents argued that the Petitioners had no legitimate expectation to apply, as the one-time exception in the 2010 SOR had lapsed, and the hierarchy had been regularized. They further contended that Sports Coaches possess the necessary qualifications and experience, as

five years of service as a Sports Officer is a prerequisite for becoming a Sports Coach. Finally, the Respondents sought the dismissal of the application on the grounds of laches, lack of *uberrima fides*, and failure to adduce satisfactory evidence.

The 13th to 19th Respondents, who presently hold the office of "Sports Coach" in the Western Province Sports Ministry submitted that under the Scheme of Recruitment and Promotion dated April 27, 2010, a clear hierarchy was established wherein an officer is promoted from Sports Officer to Sports Coach, and subsequently to District Sports Officer. It was stated that applications for the post of District Sports Officer were called on May 25, 2016, from Class 1 Sports Coaches, but no recruitments were made due to a lack of qualified applicants at that time.

They averred that a new Service Minute for Sports Officers was introduced by the Public Service Commission on September 26, 2016, necessitating amendments to the Western Province's scheme to align with the law. This resulted in the promulgation of the new Scheme of Recruitment dated June 30, 2023.

They emphasized that the exception contained in Clause 2.2 of the 2010 Scheme, which allowed Sports Officers to apply, was explicitly a one-time concession. They cited the relevant provision: "මෙම පරිපාටිය යටතේ අන්තර්ග්‍රහණය කරන අවස්ථාව වන විට ක්‍රීඩා නිලධාරී තනතුරේ වසර 25 ක සේවා කාලයක් හෝ ක්‍රීඩා නිලධාරී/ක්‍රීඩා පුහුණුකරු තනතුරේ වසර 15 ක සේවා කාලයක් සපුරා ඇති අදාළ සියළුම කාර්යක්ෂමතා කඩඉම් විභාග සමත් නිලධාරීන්ට අන්තර්ග්‍රහණයෙන් පසුව මුල් අවස්ථාවේදී පමණක් දිස්ත්‍රික් ක්‍රීඩා තනතුර සඳහා ඉල්ලුම් කිරීමට අවස්ථාව ලබාදෙනු ලැබේ".

It was contended that the Petitioners had suppressed material facts by failing to disclose that there are now duly qualified Sports Coaches in the Western Province Sports Ministry. They argued that the relief sought by the Petitioners would violate their fundamental rights and create a justification for denying the post to entitled candidates. Consequently, they moved the Court to be added as Respondents to the application to protect their interests.

Regarding the allegation of non-disclosure, the Petitioners categorically refuted the assertion that they had hidden the fact that there were qualified Sports Coaches or failed to disclose proper criteria. They stated that they had duly disclosed the applicable criteria for the post of "District Sports Officer" in terms of the Scheme of Recruitment dated April 27, 2010, marked 'P8(a)' and 'P8(b)'. It was further averred that while the impugned Scheme of Recruitment of 2023 was not initially made available to them, they had disclosed the applicable criteria set out in the letter calling for applications, marked 'P1'. The Petitioners further submitted that their Writ Application concerned the decision of the Respondents to formulate the 2023 Scheme of Recruitment and call for applications to the exclusion of Sports Officers. They emphasized that they did not seek to deny or deprive Sports Coaches, from applying for the post.

THE POSITION OF THE 13TH TO 19TH RESPONDENTS:

The 13th to 19th Respondents filed their Statement of Objections denying the substantive averments contained in the Petition and Affidavit of the Petitioners. It was submitted that while the subject of sports was devolved to the Provincial Councils under the 13th Amendment to the Constitution, the initial administration involved officers from the Central Government until provincial laws were duly established. They stated that the Scheme of Recruitment promulgated on April 27, 2010, established a clear promotional hierarchy wherein an officer progresses from the post of "Sports Officer" to "Sports Coach" and thereafter to "District Sports Officer." They contended that this hierarchy was based on the corresponding schemes prescribed for the public service by the Central Government.

They stated that the provision in the 2010 Scheme of Recruitment, which permitted Sports Officers to apply for the post of District Sports Officer, was a one-time exception granted as a concession solely for the first round of recruitment under that new scheme. It was averred that the invocation of this exception had previously proven untenable.

They referred to the Supreme Court application Jagath Gnanasiri De Silva v. The Secretary, Ministry of Sports and others (SC/FR/528/2010), which was filed by a Sports Coach challenging the appointment of a Sports Officer to the post of District Sports Officer. It was submitted that the matter was settled by an Order dated September 6, 2013, which affirmed the entitlement of a Sports Coach over and above a Sports Officer to be appointed to the said post.

Regarding the Petitioners' challenge to the qualifications of Sports Coaches, the 13th to 19th Respondents argued that under Clauses 1.1(a) and 1.1(b)(ii) of the 2010 Scheme ('P8'), a successful previous service of five years as a Sports Officer is an absolute necessity to be appointed as a Sports Coach. Therefore, they contended that Sports Coaches inherently possess the required knowledge and experience in sports administration to function as District Sports Officers, refuting the Petitioners' claims to the contrary. They further stated that the recruitment procedure of the Western Province was amended in 2023 merely to align with the new Service Minute for Sports Officers of the Combined Service introduced by the Public Service Commission of the Central Government on September 26, 2016.

They submitted that the Petitioners were guilty of laches for delaying to challenge the recruitment rounds and the scheme which had been in place since 2010. They alleged that the Petitioners lacked *uberrima fides* (utmost good faith) by withholding material facts and acting with *mala fide* intention in failing to originally join the necessary parties to the application. They also drew the attention of the Court to a Cabinet decision dated October 15, 2015, marked "Y", regarding the salary scales of sports officers. Consequently, the 13th to 19th Respondents prayed for the dismissal of the Petitioners' application and for costs.

The 13th to 19th Respondents submitted that they associated themselves with the arguments presented by the 1st to 12th Respondents. They contended that the Petitioners, who are Sports Officers, were not eligible to apply for the post of District Sports Officer. It was argued that under the Scheme of Recruitment operative since 2010, a clear professional hierarchy was established. They

submitted that they possessed between nine to twenty years of experience and had served as Sports Officers for a mandatory period before being appointed as Sports Coaches. Consequently, it was asserted that the position of Sports Coach was a promotional step attained after serving as a Sports Officer, and thus Sports Coaches were senior to and more qualified than the Petitioners.

It was further submitted that the 13th to 19th Respondents were already functioning as Acting District Sports Officers in three districts within the Western Province.

They heavily relied on the outcome of Jagath Gnanasiri De Silva v. The Secretary, Ministry of Sports and others (SC/FR/528/2010), a Fundamental Rights application filed by a Sports Coach challenging the appointment of a Sports Officer under a "one-time exception" clause. They stated that the settlement in that case affirmed the entitlement of a Sports Coach to be appointed as a District Sports Officer over a Sports Officer. Furthermore, they drew the attention of Court to the recommendations of the National Pay Commission (marked 'Y'), which explicitly categorized the post of District Sports Officer above that of Sports Coach, and the post of Sports Coach above that of Sports Officer, with corresponding differences in salary scales and grades.

They also argued that the Service Minute for Sports Officers of the Combined Service, introduced in 2016 (marked '1R7'), had been adopted by all nine Provincial Councils to formulate or amend their respective schemes of recruitment. They listed the specific adoption dates for the Southern, Sabaragamuwa, North Central, Eastern, Northern, Uva, and North Western provinces to demonstrate that the exclusion of Sports Officers from direct recruitment to the post of District Sports Officer was a uniform national standard compliant with the applicable law.

Regarding the conduct of the Petitioners, the 13th to 19th Respondents averred that the application was misconceived in law and that the Petitioners were guilty of laches for delaying to challenge the recruitment schemes that had been in place since 2010. Furthermore, they contended that the Petitioners

lacked *uberrima fides* (utmost good faith) by suppressing the material fact that there were duly qualified Sports Coaches in the Western Province eligible for the post. Citing *Liyanage and another v. Ratnasiri Divisional Secretary Gampaha and others* [2013] 1 SLR 6 and *Jayasinghe v. National Institute of Fisheries and Nautical Engineering and others* [2002] 1 SLR 277, it was submitted that a litigant enters into a contractual obligation with the Court to disclose all material facts fully and frankly. They further relied on *Blanca Diamonds (Pvt) Ltd v. Wilfred Van Els and two others* [1997] 1 SLR 360 to argue that a party who misleads the Court or misrepresents facts is not entitled to redress. Consequently, they prayed for the dismissal of the application with costs.

The Petitioners, in their further written submissions dated 14.11.2025, challenged the decision of the Respondents to exclude Sports Officers from applying for the post of "District Sports Officer" under the Scheme of Recruitment (SOR) marked '1R8' and the internal notice dated July 19, 2023, marked 'P1'. They clarified that their grievance was not the inclusion of Sports Coaches, but the unlawful, unreasonable, and arbitrary exclusion of Sports Officers, whom they contended were equally, if not more, suited for the post.

It was submitted that the Governor's power to formulate schemes of recruitment under Section 32(3) of the Provincial Councils Act No. 42 of 1987 was not unfettered. The Petitioners argued that the statutory requirement to follow Central Government schemes "as far as practicable" did not mandate a blind or mechanical replication. They contended that the Respondents' reliance on the Central Government Service Minute of 2016 ('1R7') was misconceived because '1R7' expressly stated that its application must be "without prejudice to existing cadres," a condition violated by the impugned '1R8' which prejudiced the existing Provincial Sports Officers.

Furthermore, the Petitioners argued that there was no "corresponding office" in the Central Government structure equivalent to a "District Sports Officer". They challenged the Respondents' attempt to equate the post with that of a "Headquarters Sports Officer," submitting that the functions were distinct;

the District Sports Officer held a supervisory, district-level administrative role involving the coordination of competitions and stakeholders, whereas Headquarters Officers were attached to training centers with different technical duties. Consequently, it was asserted that the mechanical adoption of the central scheme was not "practicable" as it unlawfully excluded the most suitable candidates.

The Petitioners emphasized that the exclusion was irrational given that Sports Officers performed multi-disciplinary administrative functions—such as administering sporting bodies and managing athletes—which formed the core of the District Sports Officer's role. In contrast, Sports Coaches (' ක්‍රීඩා පුහුණුකරු ') were described as holding subject-specific technical roles focused solely on the sport for which they were appointed. Citing Elayadura Prasad Senadara de Silva v. Hon. Gamini Lokuge (SC FR 45/2022), it was argued that recruitment schemes must contain mechanisms enabling the selection of the most suitable person and embodying the principle of equality, rather than arbitrarily disqualifying the cadre with the closest functional alignment to the post.

Regarding legitimate expectation, the Petitioners averred that from 1990 to 2010, District Sports Officers were consistently drawn from the cadre of Sports Officers. They highlighted that the 2010 SOR ('P8') explicitly recognized Sports Officers with 25 years of service as eligible candidates. It was submitted that the Petitioners had now completed the requisite 25 years of service and had acted in the post of District Sports Officer, thereby solidifying their expectation. Relying on Chief Inspector W.A.J.H. Fonseka and others v. Neville Piyadigama, Chairman, National Police Commission and others (SC FR 73/2009) and M.R.C.C. Ariyaratne v. N.K. Illangakoon (SC FR 444/2012), it was argued that public officers hold a life-long expectation of career advancement and that the "principle of legal certainty" protected their reliance on past representations.

The Petitioners further contended that the sudden policy change without a hearing violated their procedural legitimate expectation as per Dayaratne v.

Minister of Health and Indigenous Medicine (1999) 1 SLR 393. They argued that "fairness" demanded that their substantive expectation prevail over any alleged public interest. Finally, it was pointed out that while the impugned 2023 SOR ('1R8') excluded Grade I Sports Officers with over 25 years of experience, it arbitrarily lowered the eligibility threshold for Sports Coaches, permitting even Grade II and Grade III Coaches to apply. The Petitioners submitted that this outcome was manifestly unreasonable and incompatible with the principles of fairness and equality.

CONCLUSION:

The Petitioners are 'Sports Officers' of the Provincial Public Service. The 13th to 19th Respondents are Sports Coaches. The Provincial Public Service came into existence with the passing of the 13th Amendment to the Constitution in 1990 [vide Item 29.2 of the Ninth schedule to the Constitution whereby Provincial Councils have been mandated with regulating and developing sports associations (other than national sports associations)]

All five Petitioners have been absorbed into the Provincial Public Service before the year 2000 [vide the appointment letters marked P2 to P6]

The Petitioners' grievance relates to an internal notice dated 19.07.2023 (P1) whereby applications for the post of 'District Sports Officer Western Province' were called only from Sports Coaches in terms of a SOR issued in 2023. (1R8).

It is apparent that the 2023 SOR (1R8) has completely excluded Sports Officers (including Grade 1 Sports Officers) from applying to the post of District Sports Officer and has only allowed Sports Coaches in Grade I, II and III ranks to apply.

In terms of 1R8, only a (1) Sports Coach (Grade I) under the Ministry of Sports Western Province; OR (2) Sports Coach (Grade II) under the Ministry of Sports Western Province with 8 years of active and satisfactory service period; OR (3) Sports Coach (Grade III) under the Ministry of Sports Western Province with 5 years of active and satisfactory service period and a graduate of a Bachelor

of Sports degree from a recognized University of the University Grants Commission; OR (4) Sports Coach (Grade III) with 8 years of active and satisfactory service period from the date on which this procedure is approved can apply for the position of District Sports Officer.

The marking scheme published with the notice P1 also awards marks exclusively for experience as a Sports Coach, and disqualifies Sports Officers from consideration for the post of District Sports Officer.

The Respondents have sought to justify the impugned 2023 SOR 1R8 on the basis that it mirrors the scheme of the 2016 Service Minute for the Central Government's Combined Service, marked 1R7 and have relied on Section 32(2) of the Provincial Council's Act No. 42 of 1987.

Section 32(3) of the Provincial Councils Act No. 42 of 1987 vests the Governor with the power to determine all matters relating to the officers of the Provincial Public Service including the formulation of Scheme of Recruitment. Section 32(3) is reproduced as follows:

“The Governor shall provide for and determine all matters relating to officers of the provincial public service, including the formulation of schemes of recruitment and codes of conduct for such officers, the principle to be followed in, making promotions and transfers, and the procedure for the exercise and the delegation of the powers of appointment, transfer, dismissal and disciplinary control of such officers. In formulating such schemes of recruitment and rules of conduct the Governor, shall, as far as practicable, follow the schemes of recruitment prescribed for corresponding officers in the public service and the codes of conduct prescribed for officers holding corresponding officers in the public service”

It is evident ex facie, that **Section 32(3)** limits the Governor's authority by requiring that:

“In formulating such schemes of recruitment....the Governor shall, as far as practicable, follow the schemes of recruitment prescribed for corresponding offices in the public service...”

Thus, in terms of Section 32(2),

- (a) The requirement to follow the Central Government Scheme is contingent on their existing a “corresponding office” in the National Public Service; and
- (b) The provision itself qualifies the Governor’s obligation to follow Central Government’s schemes “as far as practicable”, having regard to the provincial context.

Accordingly, the discretion conferred on the Governor under Section 32(3) is not a mandate for the mechanical replication of Central Government Schemes. When formulating an SOR for the Province, the Governor is under a duty to exercise independent judgment, to act reasonably and fairly taking into account the existing cadre of officers and the legitimate expectations of its officers.

WHETHER THE IMPUGNED **SOR** FOR THE PROVINCE (1R8) CAN BE JUSTIFIED BY RELIANCE ON THE CENTRAL GOVERNMENT SERVICE MINUTE 1R7?

The Petitioner contended that the reliance on 1R7 to justify the impugned SOR for the Province (1R8) is wholly misconceived for the following reasons:

- (a) Firstly, by its own terms, the 2016 Minute (1R7) applies only to officers of the Department of Sports Development at the Central Government and the said Minute expressly provides that its application must be without prejudice to existing cadres.
- (b) Secondly, there is no ‘corresponding office’ for the post of District Sports Officer in the Central Government structure.
- (c) Thirdly, mechanical adoption of 1R7 in formulating the impugned 2023 SOR (1R8) is not ‘practicable’ within the meaning of Section 32(3) of the Provincial Councils Act as it excludes Provincial Sports Officers from applying to the post of District Sports Officer in breach of their legitimate expectation, while simultaneously lowering eligibility thresholds for Sports Coaches.

The Petitioners' contention that the exclusion of Sports Officers from applying for the post of DSO in the 2023 SOR 1R8 is manifestly irrational, arbitrary and unreasonable can be accepted given the nature of functions performed by a Sports Officer.

In this regard, it is important to consider following:

(a) The duties of Sports Officers are multi-disciplinary in nature and not confined to one sport unlike Sports Coaches who focus only on one sport.

(b) The post of District Sports Officer builds directly on the administrative role of the Sports Officer; but at a district scale. A District Sports Officer monitors district events, coordinates the work of Sports Officers and Coaches, and liaises with the Director of Sports. It is the natural promotional path for Sports Officers.

Therefore, exclusion of Sports Officers from applying, while including only Sports Coaches, is arbitrary and irrational in as much as "*Schemes for the selection, appointment and promotion of persons for employment positions should contain mechanisms enabling the selection of the most suitable person for the relevant position, whilst embodying the principle of equality*" (vide *Elayadura Prasad Senadara de Silva v. Hon. Gamini Lokuge* (SC FR 45/2022) decided on 29.05.2025).

In the instant case, Sports Officers perform the very administrative, supervisory and multi-disciplinary functions that form the core of the District Sports Officer's role. The impugned exclusion therefore is plainly inconsistent with the principle that SOR must be designed to identify and promote the most suitable persons in as much as 1R8 arbitrarily disqualifies the cadre with the closest functional alignment to the post (namely Sports Officers) from applying to the said post of District Sports Officers.

Thus, given the realities of the provincial public service and the nature of functions performed by a Provincial Sports Officer, the mechanical adoption of 1R7 into 1R8 which has the effect of excluding Sports Officers from applying

to the post of District Sports Officer is not 'practicable' within the meaning of Section 32(2) of the Provincial Councils Act.

DOES THE "SOR" 1R8 FRUSTRATE THE LEGITIMATE EXPECTATION OF THE PETITIONERS?

The Petitioners have drawn the attention of this Court to the following decision: In Chief Inspector W.A.J.H. Fonseka and Others v. Neville Piyadigama, Chairman, National Police Commission and other, SC (FR) 73/2009 decided on 8th September 2020, the Supreme Court at page 21 recognized that,

"When an individual joins the public service, he or she entirely bases his/her life-long expectation in the public service for the betterment of his/her life and that, given the nature of the public service, it is common for an individual serving in the public sector to expect certain benefits such as security in tenure, advancement in their career and retirement benefits".

It was submitted that the Petitioners too possessed such legitimate expectation, grounded in consistent past practice, repeated assurances and express policy that Sports Officers would be eligible to apply and be considered for appointment to the post of District Sports Officer.

The following instances of past practices and repeated assurances lead to the Petitioners' legitimate expectation:

Practice from 1990 - 2010

- (a) Since the absorption of Sports Officers into the Sports Ministry of the Western Province in 1990, until the year 2010, all 'District Sports Officers' appointed for the Western Province were Sports Officers.

- (b) As evidenced by **P10**, with the sole exception of Mr. Jagath Gnanasiri Silva (appointed pursuant to a court settlement in 2010 as more fully set out below), no Sports Coach has held the post of District Sports Officer for over three decades from 1990 to 2010.

SOR in 2010 allowing Sports Coaches to apply without excluding Sports Officers

- (c) In 2010, when Sports Coaches raised concerns of stagnation, an SOR dated 27.04.2010 (marked **P8**) was introduced, permitting *Sports Coaches* to apply for the post of District Sports Officer, but without excluding Sports Officers.
- (d) Under the said 2010 SOR P8, to be eligible to apply for the post of District Sports Officer, applicants were required to be:
- i. a 'Sports Coach Grade I' under the Ministry of Sports Western Province; AND shall be a holder of a Certificate/permit for Referees/Judges under Regulations published by Gazette dated 7.4.1977; AND shall be a holder of a Certificate/Permit issued by a National Sports Association of a sport recognized under the Sports Law.*
 - ii. Exception: an applicant having 25 years of service in the post of Sports Officer or the post of Sports Officer/Sports Coach for a period of 15 years at the time of absorption under this Scheme and who have passed the relevant Efficiency Bar Examinations will be entitled to submit an application once after absorption for the post of District Sports Officer.*
- (e) Thus, in terms of the said 2010 SOR marked 'P8', 'Sports Coach Grade I' were eligible to apply and as an exception, an applicant having **25 years of service in the post of Sports Officer** was eligible to submit an application for the post of District Sports Officer.

- (f) Accordingly, while *Sports Coach Grade I* officers were eligible to apply, *Sports Officers* with 25 years of service were also expressly recognized as eligible candidates.

Appointment made under the 2010 SOR

- (g) The applications were called in 2010 to fill 1 vacancy in the post of District Sports Officer for the Western Province under the 2010 SOR P8.
- (h) The District Sports Officer who was appointed in 2010 pursuant thereto was also a **Sports Officer**, Mr. M.S.M. Fernando.

Appointment of a Sports Coach as part of a Court Negotiated Settlement

- (i) However, Mr. M.S.M. Fernando's appointment was challenged in SCFR 528/2010 by one Jagath Gnanasiri Silva who was initially a Sports Officer but had later become an Athletics Sports Coach **(P11)**.
- (j) Jagath Gnanasiri Silva contended in SCFR 528/2010 that even though MSM Fernando was senior to him, he was more qualified to be appointed as District Sports Officer.
- (k) The said FR application 528/2010 was resolved by a settlement, with Jagath Gnanasiri Silva being appointed as District Sports Officer with effect from 3rd November 2010. However, Mr. Fernando's appointment as a Sports Officer was NOT disturbed.
- (l) The Petitioners submit that no other Sports Coach apart from Jagath Gnanasiri Silva has held the post of District Sports Officer for over 3 decades.

Petitioner's eligibility to apply under the 2010 SOR P8 and repeated assurances that the Petitioners would not be excluded from applying for the post of District Sports Officer

- (m) At the time the 2010 SOR was introduced, the Petitioners did not possess 25 years of service to apply for the post of District Sports Officer and therefore were not eligible to apply under the exception.
- (n) The Petitioners submit that although the inclusion of a "25-year experience" requirement as a "Sports Officer" and the limitation of submitting an application once after absorption in the purported SOR of 2010 (**P8**) was arbitrary, irrational and discriminatory against "Sports Officers", the Petitioners were repeatedly assured by the Respondents that "Sports Officers" would not be excluded from applying for the post of "District Sports Officer" in future.
- (o) Consistent with those assurances, even after 2010, Sports Officers were appointed as Acting District Sports Officers.
- (p) In particular, the 1st Petitioner was appointed as an Acting Sports Officer in August 2014 [vide letter of appointment and salary slip marked as **P15** and **P15(a) with the counter affidavit dated 22nd May 2024**]. This confirms that the Respondents themselves recognized Sports Officers as the natural and suitable fit for District Sports Officers.

It is evident from the above facts and circumstances of past practice that the Petitioners clearly had a legitimate expectation that they would be permitted to apply for the post of District Sports Officer upon completing required 25 years of experience. In fact, the Petitioners have now completed over 25 years of continuous service and are fully eligible under the criteria contained in the 2010 SOR (P8) to apply for the position of District Sports Officer.

Highlighting the two aspects of Legitimate Expectation, His Lordship Prasanna Jayawardena in M.R.C.C. Ariyaratne V. N.K.Illangakoon, SC FR No. 444/2012 decided on 19.07.2019 held as follows:

“To next consider the scope of the doctrine of legitimate expectation, it is often said to cover two aspects - i.e. the procedural aspect and the substantive aspect. As Prof. Craig [Administrative Law, 7th ed. at p. 677]

explains, “The phrase procedural legitimate expectation’ denotes the existence of some process right the applicant claims to possess as the result of a promise or behaviour by the public body that generates the expectation....The phrase ‘substantive legitimate expectation’ captures the situation in which the applicant seeks a particular benefit or commodity, such as a welfare benefit or a license, as the result of some promise, behaviour or representation made by the public body”.

In Dayaratne v. Minister of Health and Indigenous Medicine (1999) 1 SLR 393, His Lordship Justice Amarasinghe held:

*“When a change of policy is likely to frustrate the legitimate expectation of individuals, **they must be given an opportunity of stating why the change of policy should not affect them unfavourably.** Such procedural rights have an important bearing on the protection afforded by Article 12 of the Constitution against unequal treatment, arbitrarily, invidiously, irrationally or otherwise unreasonably dealt out by the executive”.* (Emphasis was added)

In the instant case, the Respondents have neither given an explanation nor an opportunity for the Petitioners to be heard before deciding to exclude all Sports Officers including the Petitioners from being eligible to apply for the post of District Sports Officer. Further, they have not been provided with any reason prior to making such decision to exclude them from being considered eligible for the post of District Sports Officer. The impugned SOR 2023 has not been known to the Petitioners has only been made available after the filing of this Application when it was annexed as 1R8 with the Objections filed by the 1st Respondent. In these circumstances, it is established that Respondents have violated the procedural Legitimate Expectation of the Petitioners.

In the said case of *M.R.C.C. Ariyaratne v. N. K. Illangakoon*, at page 24, His Lordship Justice Prasanna Jayawardena expounding on Substantive Legitimate Expectation held as follows:

“Craig [at p. 679] observes that the doctrine of substantive legitimate expectation is based on the “principle of legal certainty” which requires that a person should be “able to plan action” on the basis of representations made to him by a public authority and which he has ‘reasonably relied on’”.

The Petitioners possessed substantive legitimate expectation arising from:

(a) An uninterrupted administrative practice since 1990 whereby District Sports Officers in the Western Province were drawn from the cadre of Sports Officers (vide P10)

(b) The express recognition in the SOR dated 27.04.2010 (P8) that Sports Officers, upon attaining prescribed service thresholds, were eligible to apply, and

(c) Assurances and conduct of the Respondents consistent with that position, including the placement of Sports Officers in acting District Sports Officer roles and the payment of the corresponding allowance. (vide P15, P15(a))

It is seen that relying on this settled policy and practice, the Petitioners have planned their careers and obtained the requisite seniority and experience, and now satisfy the very eligibility threshold contemplated by P8. (I.e. over 25 years of service as Sports Officers) Thus, the sudden exclusion of Sports Officers by the 2023 SOR (1R8), constitutes an abrupt reversal of a settled position, defeating the Petitioners’ substantive legitimate expectation that, upon reaching the stipulated benchmarks, they would be permitted to apply and be fairly considered for appointment.

DOES “FAIRNESS” DEMAND THAT THE PETITIONERS ‘SUBSTANTIVE LEGITIMATE EXPECTATION PREVAIL OVER ANY ALLEGED PUBLIC INTEREST?’

It was contended by the Learned Counsel for the Petitioners that in assessing whether or not Substantive Legitimate Expectation prevail over the reasons

for policy change by the Respondents, this Court is not limited to examining the reasonableness of the Respondents' new Scheme but also to examining its fairness.

In this regard, attention was drawn to M.R.C.C. Ariyaratne v. N.K. Illangakoon, where His Lordship Prasanna Jayawardena, referring to the case of R. v Ministry of Agriculture, Fisheries and Food EX PARTE Hamble (Offshore) Fisheries Ltd [1995 2 All ER 714] held at page 26:

*“Thus, Sedley J. held that, where a petitioner seeks judicial review of a decision by a public authority which has negated his substantive legitimate expectation and the public authority cites a change of policy as the reason for doing so, a court is not limited to looking at the “bare rationality” [in the WEDNESBURY sense] of the decision. Instead, the ‘test’ formulated by Sedley J. was that court should make its ruling by: **weighing the reasons and necessity for the change of policy, on the one hand; against the significance of realizing the expectation to the petitioner and the prejudice that will that will be caused to him if his expectation is negated, on the other hand; and then, decide whether the petitioner’s substantive legitimate expectation carries so much weight that “fairness” demands that the expectation must prevail over the alleged public interest, or whether the public interest is so pressing that the expectation must give way to the public interest.**” (Emphasis was added)*

In the instant case, it is apparent that the Respondents have excluded an entire category of public officers, who would have been eligible for promotion as District Sports Officers for over thirty years.

In Guneratne and others v. Sri Lanka Telecom and others [1993] 1 Sri L.R. 109 at page 118;

*“If it is desired to give preferential treatment to [the graduate clerks] in the interest of the service and for utilizing their skills, the Corporation could do so **on the basis of relevant qualifications, with reasonable notice to those affected and without prejudicing the legitimate***

expectations of clerks who are on the verge of promotion under the previous schemes". [emphasis added]

Further, in Perera and another v. Cyril Ranatunga, Secretary Defence and others, [1993] 1 SLR 39 at page 60, it was held:

"In effecting promotions, the State is entitled to take into consideration seniority and merit but without violating the right to equal protection of the law. The service of most public officers is life-time and the guarantee of fair treatment to them enshrined in Article 12(1) of the Constitution would, if properly enforced, also help in maintaining a contented public service which is vital for its efficient functioning".

In Chief Inspector W.A.J.H. Fonseka and others v. Neville Piyadigama, Chairman, National Police Commission and others, SC (FR) Application No. 73/2009 decided on 8th September 2020, His Lordship Priyantha Jayawardena PC, J., held at page 21:

*"It is important to keep in mind that when an individual joins the public service, he or she entirely **bases his/her life-long expectation in the public service for the betterment of his/her life. Further, given the nature of public service, it is common for an individual serving in the public service to expect certain benefits such as security in tenure, advancement in their career and retirement benefits**"*
[emphasis was added]

In the circumstances, excluding the Petitioners from even being permitted to apply for District Sports Officers when they have dedicated their entire life to the public service is unfair and unreasonable. Moreover, the Respondents have neither provided the Petitioners the right to be heard, before such change of policy nor informed them of any legitimate reasons behind such change of policy. This failure to provide any reasons for the change of policy further indicate that such decisions have not been made in accordance with the rules of natural justice. Thus, this Court is of the view that the substantive legitimate expectation of the Petitioners outweighs any legal reasons for the change of policy by the Respondents (which have not been informed to the

Petitioners) in so far as fairness demands the expectation of the Petitioners must prevail over all other considerations.

IS THERE IRRATIONAL EXCLUSION OF SPORTS OFFICERS WHILST LOWERING THE ELIGIBILITY THRESHOLD OF SPORTS COACHES?

The Respondents have contended that the Petitioners cannot entertain a legitimate expectation of being appointed based on past practice because in 2016 the Respondents had called for applications for the post of DSO only from Sports Coaches. The Petitioners submitted that that they were not aware of this internal notice and in any event, no appointment was made pursuant to that notice in 2016 because as acknowledged by the Respondents themselves, there was no qualified Grade 1 Sports Coaches eligible to apply for the post of DSO.

It is apparent that in the impugned 2023 SOR 1R8, the Respondents have arbitrarily addressed this issue by lowering the eligibility thresholds for Sports Coaches to apply for the position of DSO.

Under the previous 2010 SOR (P8), only Sports Coaches belonging to Grade 1 could apply for the position of DSO. However, under the new SOR 2023 scheme (1R8) the eligibility threshold has been lowered by permitting Grade II and Grade III Sports Coaches to apply. Thus, under the new SOR 2023, Grade III Coaches with 5 years and a degree and Grade III Coaches with 8 years' service can also apply for the post of DSO. However, the Petitioners who are Grade I Sports Officers with over 25 years of multi-disciplinary administrative experience have been excluded.

This illustrates that the impugned 2023 SOR (1R8) is not a product of a principled or rational assessment of suitability for the post, but rather a mechanical and selective transplantation of 1R7 that lowers eligibility thresholds for Sports Coaches while extinguishing the long-standing pathway available to Sports Officers.

In the circumstances, it is the considered view of this Court that the Respondents' decision in 2023 to unilaterally alter the SOR P8 without any notice or consultation, excluding Sports Officers from even applying for the post after they have served for over 25 years, is arbitrary, unreasonable and a violation of the Petitioners' procedural and substantial expectation and the principles of natural justice.

Accordingly, the reliefs prayed for in prayers (b) to (k) are granted. The Petitioners are entitled to taxed costs.

Judge of the Court of Appeal

Hon. Rohantha Abeysuriya PC, J.(P/CA)

I agree.

President of the Court of Appeal