

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

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

C.A. (Writ) Application

No: 0766/2024

R.M.P.A. Janaka,
No. 552, "Nilapiyasa",
Thalawathuhenpita, Mahara,
Kadawatha.

PETITIONER

Vs.

1. W.P.C. Wickramarathne,
Chairman,
Audit Service Commission,
2. N.S. Rajapaksha,
Member,
Audit Service Commission,
3. A.M.D. Nayanakantha,
Member,
Audit Service Commission,
4. G. Thevagnanan,
Member,
Audit Service Commission,

5. N. Godakanda,
Member,
Audit Service Commission,

6. D. K. Wijesinghe,
Secretary,
Audit Service Commission

1st to 6th Respondents all at
Audit Service Commission,
No. 35/ A,
Dr. N.M. Perera Mawatha,
Colombo 08.

7. S.A.D.C. Priyadarshani,

8. R.P.T.D. Rajapakse,

9. K.A.A. Kulatunga,

10. M.S. Gunathilake,

11. G.H.I. Vindya,

12. R.A.B. Indrajith,

13. K.N.M. Kumarasingha,

14. L.K.I. Samantha,

15. P.M.R. Pathiraja,

16. W.C.V. Kuruppu,

17. K.T.W. Gamage,
18. U.U.P. Perera,
19. E.A.D.P.P. Pushpakumara,
20. S.N. Welikala,
21. I.D.K. Pallegama,
22. W.V.A.S. Pushpakumari,
23. M.A.S.R.S. Gunasekera,
24. I.D.I. Priyadarshini,
25. W.G.R.N. Weerakkody,
26. N.N.K. Diwakara,
27. M.U.M.N. Perera,

Above 7th to 27th Respondents all at

National Audit Office,
306/72, Polduwa Road,
Baththaramulla,
Sri Lanka.

RESPONDENTS

Before : Dhammika Ganepola, J.
Adithya Patabendige, J.

Counsel : Boopathy Kahathuduwa with Sachintha Perera instructed by Wasantha Kahathuduwa for the Petitioner.

R. Aluwihare S.C. for the Respondents.

Argued on : 18.02.2026

Written Submission

Tendered on : 31.03.2026 by the Petitioner.

02.04.2026 by the Respondents.

Decided on : 30.04.2026

Adithya Patabendige, J.

Introduction

The Petitioner has invoked the writ jurisdiction of this Court, seeking, *inter alia*, a mandate in the nature of a *writ of certiorari* to quash the decision contained in the document marked **P11**, and a mandate in the nature of a *writ of mandamus* in respect of the decision of the 1st to 5th Respondents relating to promotions to Class I of the Sri Lanka State Audit Service.

The grievance of the Petitioner arises from the decision of the 1st to 5th Respondents to promote a number of officers, including the 7th to 27th Respondents, to Class I of the said Service by the communication marked **P11**, whilst denying such promotion to the Petitioner. The Petitioner contends that the said decision, as well as the subsequent communication marked **P13**, is unlawful, arbitrary, and inconsistent with the provisions of the Service Minute governing the Sri Lanka State Audit Service.

Factual Background

The Petitioner is an officer in the Sri Lanka State Audit Service who, at all material times, was serving in Class II Grade I. By the notice dated 06th May 2024 marked **P3**, applications were called from officers in Class II Grade I for promotion to Class I of the Sri Lanka State Audit Service. The notice, marked **P4**, invited eligible officers to apply for such promotion,

and the specimen application is marked **P5**. The Petitioner, asserting that he satisfied the eligibility criteria set out therein, submitted his application marked **P6**.

Thereafter, by the letter marked **P7**, the Petitioner was informed that he had been shortlisted for an interview. The list of candidates called for the interview is marked **P8**, in which the Petitioner's name appears at serial No. 46. It is not in dispute that the Petitioner participated in the interview conducted pursuant to the said notice.

Subsequently, by the communication marked **P9**, the Petitioner was informed that he had been selected by the Interview Panel and that his name had been recommended to the 1st to 5th Respondents for promotion to Class I. The list of recommended candidates is marked **P10**, and it is not disputed that the Petitioner's name appears therein.

However, by the communication dated 11th June 2024 marked **P11**, the 1st to 5th Respondents proceeded to promote 36 officers to Class I of the Sri Lanka State Audit Service. The Petitioner was not included among those promoted. Being aggrieved by the said decision, the Petitioner preferred an appeal by letter dated 23rd July 2024 marked **P12**.

By the subsequent communication dated 26th September 2024, marked **P13**, the Petitioner was informed that the Audit Service Commission was unable to grant his request for promotion, citing the applicable provisions of the Service Minute. The Petitioner contends that the said decision is based on an erroneous interpretation of the Service Minute and that officers who were similarly situated or even less qualified have been promoted while he has been excluded.

The Service Minute governing the Sri Lanka State Audit Service is marked **P14**. It is common ground between the parties that paragraph 15.5.4.1 thereof prescribes a primary eligibility requirement of twelve years of active and satisfactory service in Class II Grade II and Class II Grade I, and that Note 14 permits, in circumstances where sufficient officers with such qualifications are not available, the filling of vacancies in Class I with officers who have completed ten years of such service.

The position taken up by the Respondents in their Statement of Objections is that promotions to Class I are necessarily dependent on the availability of vacancies in the post of Senior Assistant Auditor General, which is the post corresponding to Class I and which is subject to an approved cadre. The Respondents state that, at the relevant time, there were only 38 vacancies available in the said post and that promotions were effected strictly within that

limit. It is further their position that, among those officers who satisfied the eligibility criteria, selection was made in the order of seniority, and that the Petitioner, being placed at No. 46 in the seniority list, fell outside the number of available vacancies.

The Respondents further assert that the interview conducted pursuant to **P3** was only for the purpose of verifying eligibility and that no marks or ranking were assigned at such interview. Accordingly, they deny that the Petitioner acquired any right or legitimate expectation of promotion by reason of his participation in the interview or his inclusion on the list of recommended candidates.

The Petitioner, in his counter affidavit, disputes the said position and contends, *inter alia*, that the Respondents have tried to misdirect the Court in law by treating the promotion to Class I as dependent on vacancies and seniority, whereas such promotion is a grade-based advancement governed by eligibility criteria. The Petitioner further contends that, having satisfied the eligibility requirements and been recommended by the Interview Panel, he is entitled to the promotion.

It has also been brought to the notice of this Court that, subsequent to the institution of this application, the Petitioner has been promoted to Class I of the Sri Lanka State Audit Service with effect from 27th February 2025. The Petitioner, however, contends that his promotion should be effected from 31st May 2024.

Issues for Determination

In the above background, my considered view is that the following issues arise for determination.

- a) Whether the promotions to Class I of the Sri Lanka State Audit Service, as reflected in **P11**, are dependent on the availability of vacancies in the post of Senior Assistant Auditor General, or whether they constitute a grade-based progression independent of such vacancies.
- b) Whether, upon a proper interpretation of the Service Minute marked **P14**, in particular paragraph 6.1, paragraph 6.2.4, and Note 14, the Respondents have erred in law in limiting promotions to the number of available vacancies and in applying seniority among eligible candidates.

- c) Whether the decisions contained in **P11** and **P13** are arbitrary, unreasonable, or otherwise unlawful, including being violative of Article 12(1) of the Constitution.
- d) Whether the Petitioner is entitled to relief by way of *writs of certiorari* and/or *mandamus*, including any consequential relief relating to seniority, notwithstanding his subsequent promotion.

Analysis

Whether the Promotions to Class I are Dependent on Vacancies or Constitute a Grade-based Progression Independent of Vacancies

The primary contention of the Petitioner is that the process initiated by **P3** constitutes a grade-to-grade promotion within the Sri Lanka State Audit Service and that all officers who satisfy the eligibility criteria ought to be promoted irrespective of the number of available vacancies. The Respondents, on the other hand, contend that promotions to Class I are essentially linked to the existence of vacancies in the post of Senior Assistant Auditor General.

In resolving this issue, it is necessary to examine the structure of the Service Minute marked **P14**. Paragraph 6.1 thereof specifies the approved cadre of posts within the service.

For ease of reference, paragraph 6.1 is reproduced below.

“6.1. Approved Designations, Approved Number of Posts, Grades, and the Number of Combined Posts.

<i>Senior Deputy Auditor General</i>	<i>Special Grade - 03</i>
<i>Deputy Auditor General</i>	<i>Special Grade - 15</i>
<i>Senior Assistant Auditor General</i>	<i>Class I - 72</i>
<i>Assistant Auditor General</i>	<i>Class II Grade I - 455</i>
<i>Superintendent of Audit</i>	<i>Class II Grade II</i>
<i>Assistant Superintendent of Audit</i>	<i>Supra Grade - 360</i>
<i>Audit Officer</i>	<i>Class III Grade I - 1090</i>

Class III Grade II”

A plain reading of the above provision demonstrates that the post corresponding to Class I, namely Senior Assistant Auditor General, is subject to a fixed cadre of 72 posts. This indicates that Class I is not merely an abstract grade but is tied to a substantive post within an approved cadre. Accordingly, promotions to Class I cannot be effected in isolation but must necessarily correspond to available vacancies within that cadre.

This position is further reinforced by Note 14 of the Service Minute, which provides as follows.

“Note 14

In case of lack of officers with twelve (12) years of active and satisfactory service both in Class II Grade II and Class II Grade I of the Sri Lanka State Audit Service as at the date of filling vacancies, vacancies in Class I shall be filled with officers having completed ten (10) years of active and satisfactory service in Class II Grade II and Class II Grade I.”

The express reference to the “filling of vacancies” in Note 14 clearly demonstrates that the promotional scheme is vacancy-driven. In my view, this terminology is wholly inconsistent with the contention of the Petitioner that promotions operate independently of vacancies.

Further, paragraph 11.2 of the Service Minute forms part of the same scheme and is directly relevant to the determination of this issue. For ease of reference, the relevant portion of paragraph 11.2 is reproduced as follows.

“11.2. Method of Selection

1. Senior Assistant Auditor General - In case of vacancies in the posts of Senior Assistant Auditor General of the Sri Lanka State Audit Service, officers of Class I shall be appointed to such posts by the Audit Service Commission based on seniority.”

This provision makes it abundantly clear that appointments to the post of Senior Assistant Auditor General are to be made in the event of vacancies and based on seniority. Thus, the Service Minute itself contemplates both the existence of vacancies and the application of a selection mechanism among eligible officers.

This provision further demonstrates that the Service Minute contemplates a situation in which the number of eligible officers exceeds the number of available vacancies, thereby necessitating the use of seniority as a selection criterion.

Public Service Commission Guidelines

The Petitioner has, in his written submissions, placed reliance on certain guidelines issued by the Public Service Commission relating to schemes of recruitment, in support of the contention that promotion is a grade-based progression independent of vacancies. While such guidelines provide general administrative direction for the formulation and implementation of recruitment schemes, they cannot be applied in a manner that is inconsistent with or overrides the express provisions of the Service Minute governing the Sri Lanka Audit Service.

In the present case, the Service Minute marked **P14** contains specific provisions relating to cadre and the filling of vacancies. These provisions directly regulate the manner in which promotions to Class I are to be effected. Therefore, to the extent that the Petitioner relies on general PSC guidelines to contend that all eligible officers must be promoted irrespective of vacancies, such reliance is misplaced, as general guidelines cannot prevail over the specific scheme governing the Sri Lanka Audit Service.

Accordingly, the reliance placed by the Petitioner on PSC guidelines does not assist in displacing the express scheme contained in the Service Minute, and the contention that eligibility alone confers a right to promotion cannot be sustained.

Eligibility for promotion is a necessary condition, but not a sufficient condition to confer an enforceable right to promotion.

If the interpretation advanced by the Petitioner is accepted, the provisions relating to the approved cadre and the method of selection would be rendered nugatory.

In these circumstances, I am unable to accept the contention of the Petitioner that promotions to Class I constitute a grade-based progression independent of vacancies. On the contrary, I hold that such promotions are necessarily dependent on the existence of vacancies in the relevant post.

Whether the Respondents Erred in Law in Limiting Promotions based on Vacancies and Seniority

The Petitioner has placed considerable reliance on **paragraph 6.2.4 of the Service Minute**, which provides as follows.

“All the Grades, Class II Grade II, Class II Grade I, and Class I are deemed to come under the number of combined posts only for the purpose of grade promotions.”

While this provision recognizes a structural linkage between the grades, it cannot, in my view, be interpreted in isolation so as to override the express provisions relating to cadre strength and vacancies. The concept of a combined cadre facilitates movement within the service but does not eliminate the requirement that promotions to a higher class must correspond to available posts.

Turning to the eligibility requirement, **paragraph 15.5.4.1** provides:

“An officer in Class II Grade I shall be eligible for promotion to Class I of the Sri Lanka State Audit Service upon completion of twelve (12) years of active and satisfactory service in Class II Grade II and Class II Grade I.”

When read together with Note 14, it is clear that these provisions govern eligibility. They do not prescribe a method for selecting among eligible candidates, nor do they mandate that all such eligible officers be promoted regardless of vacancies.

On the contrary, paragraph 11.2 (I), reproduced above, expressly provides the method of selection, namely, seniority, applied to the available vacancies.

Accordingly, the submission of the Petitioner that there exists no mechanism for selection cannot be sustained. The Service Minute envisages a situation in which the number of eligible officers may exceed the number of available vacancies and provides a mechanism to address it.

In the present case, the Respondents have demonstrated that promotions were confined to the number of available vacancies and that selection was made in the order of seniority. I am unable to find that such an approach constitutes any misdirection in law.

Whether the Decisions in P11 and P13 are Arbitrary, Unreasonable, or Unlawful

The scope of judicial review in writ jurisdiction is limited to examining whether the impugned decision is vitiated by illegality, irrationality, or procedural impropriety.

The Petitioner contends that the failure to promote him, despite his eligibility and recommendation by the Interview Panel, is arbitrary and violative of Article 12(1) of the Constitution.

However, it is not in dispute that the number of available vacancies was limited, the Petitioner was placed outside the range of such vacancies in the order of seniority, and the promotions were effected uniformly in accordance with the same criteria.

In these circumstances, the Petitioner has not shown that he has been treated unequally or that the Respondents have acted arbitrarily. The mere fact that the Petitioner was eligible does not, in itself, confer an enforceable right to promotion in the absence of a vacancy.

Further, the interview conducted pursuant to **P3**, as stated by the Respondents, was solely for the purpose of verifying eligibility and did not involve any competitive ranking. Accordingly, the recommendation made therein cannot be construed as conferring a right to promotion.

I am therefore unable to conclude that the decisions contained in **P11** and **P13** are unlawful or violative of Article 12(1).

Whether the Petitioner is Entitled to Relief

In view of the findings above, the Petitioner has failed to establish that the impugned decisions are vitiated by any illegality or error of law.

Although it has been brought to the notice of this Court that the Petitioner has subsequently been promoted to Class I with effect from 27th February 2025, the relief sought in this application relates to an earlier point in time. However, in the absence of any unlawfulness in the original decision-making process, no basis arises for granting relief relating to retrospective promotion or adjustment of seniority.

Accordingly, the Petitioner is not entitled to the reliefs sought in this application.

Conclusion and Order

For the reasons set out above, this Court has considered the submissions of learned Counsel for the Petitioner and the learned State Counsel for the Respondents, together with the pleadings and documents placed before this Court.

Upon a careful evaluation of the material, I am persuaded to accept the submissions advanced on behalf of the Respondents, which, in my view, reflect a correct interpretation of the Service Minute marked **P14**.

It is evident from paragraph 6.1 of the said Service Minute that the post corresponding to Class I, namely the post of Senior Assistant Auditor General, is subject to an approved cadre. In that context, promotions to Class I cannot be effected independently of the existence of vacancies in the said post. This position is further reinforced by Note 14, which expressly contemplates filling vacancies in Class I and operates only to relax the eligibility requirement in defined circumstances, without creating an entitlement to promotion beyond available vacancies.

While the Petitioner has relied on paragraph 6.2.4 to contend that promotions are governed by a combined cadre, such a provision cannot be read in isolation so as to displace the express scheme relating to cadre strength and vacancies. The concept of a combined cadre, in my view, facilitates progression within the service but does not eliminate the requirement that promotions must correspond to available posts.

In the present case, it is undisputed that a limited number of vacancies existed at the relevant time and that the promotions effected by decision **P11** were confined to those vacancies. The Petitioner, being placed outside the range of such vacancies in the order of seniority, was not selected for promotion at that time.

In these circumstances, I am unable to conclude that the impugned decisions contained in **P11** and **P13** are unlawful, arbitrary, or in violation of the provisions of the Service Minute or Article 12(1) of the Constitution. The Petitioner has failed to establish any illegality, irrationality, or procedural impropriety warranting the intervention of this Court.

It is also to be noted that the Petitioner has subsequently been promoted to Class I with effect from 27th February 2025. In the absence of any unlawfulness in the original decision-making

process, no basis arises for granting retrospective promotion or adjustment of seniority in the exercise of writ jurisdiction.

Accordingly, the Petitioner is not entitled to the reliefs sought.

For the foregoing reasons, this application is dismissed.

In all the circumstances of the case, I make no order as to costs.

JUDGE OF THE COURT OF APPEAL

Dhammika Ganepola, J

I agree.

JUDGE OF THE COURT OF APPEAL