

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.*

CA / WRIT / 64 / 2023

Maaraweera Dewayalage
Chandrapala,
No. 61/154, 2nd Lane,
Gamunu Mw,
Hanthana Road,
Hanthana.

PETITIONER

Vs.

1. C.D. Wickramarathne,
Inspector General of Police,
Office of Inspector General of
Police,
Church Street, Colombo 01.

1A Priyantha Werasooriya,
Inspector General of Police,
Office of Inspector General of
Police,
Police Headquarters,
Colombo 01.

2. Nilantha Jayawardene
Senior Deputy Inspector of Police
– Administration
Police Headquarters,
Colombo 01.

2A Lalith Pathinayake
Senior Deputy Inspector of Police
– Administration
Police Headquarters,
Colombo 01.

3. M.N. Sisira Kumara
Deputy Inspector General of
Police – Human Resources
Management,
Police Headquarters,
Colombo 01.

4. S.P. Prasad Ranasinghe
Director – Personnel, Sri Lanka
Police
Police Headquarters,
Colombo 01.

4A K.K.K. Gunasekara
Director – Personnel, Sri Lanka
Police
Police Headquarters,
Colombo 01.

5. S.N. Fernando,
OIC,

Athurugiriya Police Station,
Athurugiriya.

5A CI Sharada,
OIC,
Athurugiriya Police Station,
Athurugiriya.

6. Mr. S.C.S. Fernando,
Chairman,
National Police Service
Commission.

6A E.W.M. Lalith Ekanayake
Chairman,
National Police Service
Commission.

7. Mrs. Thamara D. Perera,
Secretary,
National Police Service
Commission

7A. Mrs. Thanuja N. Fernando,
Secretary,
National Police Service
Commission

8. Mr. M.P.P. Perera,
Member,
National Police Service
Commission.

8A K. Karunaharan,
Member,
National Police Service
Commission

9. Mr. S. Liyanagama,
Member,
National Police Service
Commission

9A Dilshan Jayasooriya,
Member,
National Police Service
Commission

10. Mr. G. Wickramage,
Member,
National Police Service
Commission

10A A.A.M. Illiyas
Member,
National Police Service
Commission

11. Mr. A.S.P.S.P. Sanjeewa,
Member,
National Police Service
Commission.

11A Jayantha Jayasinghe
Member,
National Police Service
Commission

12. T.P. Paramaswaran,
Member,
National Police Service
Commission
*(Ceased to hold the office. No
appointments made up to date)*

13. Mr. N.S.M. Samsudeen,
Member,
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Commission.
*(Ceased to hold the office. No
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6th to 13th Respondents all of ;

National Police Service
Commission,
Block 9, BMICH Premises,
Buddhaloka Mawatha,
Colombo 07.

14. Mr. P. Viyani Gunathilaka
Secretary,
Ministry of Public Security,
14th Floor Suhurupaya,
Battaramulla.

14A D.W.R.B. Seneviratne,
Secretary,
Ministry of Public Security,
14th Floor Suhurupaya,

Battaramulla.

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

RESPONDENTS

CA / WRIT / 65 / 2023

Uggallage Gayan Buddhika
Kalyanarathne,
Rathna,
Hangamuwa,
Rathnapura.

PETITIONER

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Battaramulla.

14A D.W.R.B. Seneviratne,
Secretary,
Ministry of Public Security,
14th Floor Suhurupaya,
Battaramulla.

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

RESPONDENTS

CA / WRIT / 109 / 2023

R.A.D.H. Sunilaka,
No. H 5, Anderson Flats,
Narahenpita,
Colombo 05.

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

RESPONDENTS

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

Counsel : Saliya Pieris PC with Rukshan Mendis, AAL and
Dhimarsha Marso, AAL instructed by Ramzi
Bacha Associates for the Petitioner.

Sabrina Ahamed, SSC with Abigail Jayakody,
SC for the Respondents.

Written Submissions on : 23.10.2025 for the Respondents.
30.07.2025 & 09.10.2025 for the Petitioner.

Argued on : 28.08.2025

Decided on : 19.03.2026

K. Priyantha Fernando, J.(CA)

1. The Petitioners in the cases bearing nos. CA/WRT/64/2023, CA/WRT/65/2023 and CA/WRT/109/2023 have invoked the jurisdiction of this Court by the Petitions dated 03.02.2023, 03.02.2023 and 21.02.2023 respectively, seeking primarily writs of *Certiorari* quashing the decision of the 1st Respondent and/or 3rd Respondent by way of the document marked P3 detailing the transfer of the Petitioners and writs of *Mandamus* directing the 1st Respondent and/or 3rd Respondent to reinstate the Petitioners to the posts of Officer in Charge (OIC).

POSITION OF THE PETITIONER:

2. The Petitioners submitted that at the material time they were serving as Officers in Charge (OICs) of various Police Stations and were transferred to other postings in by a circular dated 23rd December 2022 issued by the 1st Respondent, the Inspector General of Police (IGP). The three Petitioners held the positions of OIC in the following police stations:

- CA/WRT/64/2023 - Agarapthana Police Station
- CA/WRT/65/2023 - Rathnapura Police Headquarters
- CA/WRT/109/2023 - Athurugiriya Police Station

3. The circular referred to above formed part of a series of transfers affecting several police officers and was stated to have been issued pursuant to directions of the **14th Respondent, the Secretary to the Ministry of Public Security.**
4. They contended that the powers relating to the appointment and transfer of Officers in Charge of Police Stations are governed by the delegation of powers contained in the Gazette Extraordinary dated 20 November 2020 (P4). According to the Petitioners, the said Gazette provides that the Secretary to the Ministry may effect transfers only in accordance with Rules 218 - 223 of the Procedural Rules of the Public Service Commission and upon the recommendation of the IGP, while the Inspector General of Police may act only in accordance with schemes approved by the Public Service Commission.
5. The Petitioners submitted that no power has been delegated to the 14th Respondent to direct the 1st Respondent to effect transfers, and that the 1st Respondent (Inspector General of Police) likewise had no authority to transfer an OIC (Officer in Charge) outside the framework approved by the Public Service Commission. It was further contended that transfers under the Procedural Rules may be effected only on three grounds, namely exigencies of service (Rule 218 - 221), disciplinary grounds (Rule 222), or mutual transfer (Rule 223). The Petitioner stated that he was not subject to any disciplinary proceedings and had not requested a mutual transfer.
6. Accordingly, the Petitioners argued that had the transfer been effected under exigencies of service (Rule 218 - 221), it would have been required that the authority be satisfied that such exigency existed, that the reasons for the transfer be communicated to the officer concerned, and that the relevant factors be recorded in the file. The Petitioners maintained that no reasons for the transfer were communicated to him and that the procedural requirements contained in the relevant rules, including Rule 18 of the Procedural Rules requiring fairness, good faith, and transparency, were not complied with.
7. The Petitioners further submitted that subsequent motions were filed by the Respondents, and such referred to various alleged justifications for the transfer, including failure to participate in an interview, recommendations by a Senior Deputy

Inspector General of Police, and the existence of vacancies elsewhere. However, in response, the Petitioner asserted that such reasons were never communicated to him in writing as required by the applicable procedural rules.

8. In the circumstances, the Petitioners contended that the 1st and 14th Respondents acted illegally, arbitrarily, and in contravention of the governing procedural rules when effecting the impugned transfer. The Petitioners therefore maintained that the actions of the Respondents are ultra vires and seeks the quashing of the impugned transfer decisions.

9. The Petitioners' argument are summarized as follows:

(a) The transfer effected by the order-P3 is no force in law in light of the 21st Amendment to the Constitution (sections 6 and 25). This is because the delegation has been given by the Public Service Commission and not by the National Police Commission,

(b) in view of the said amendments to the Constitution, the power to transfer OIC's cannot be delegated to the Secretary to the Ministry of Public Security (14th Respondent) and,

(c) Therefore, the circulars by which the transfers were effected i.e., P3 and P6 are ultra vires.

POSITION OF THE RESPONDENTS:

10. The Respondents state that the Petitioners, who were serving as Officers in Charge of various Police Station, were transferred by **circular dated 23 December 2022 (P3)** issued by the 1st Respondent. The circular records that the transfers were effected pursuant to directions issued by the 14th Respondent under powers delegated by the Public Service Commission through the Gazette Extraordinary dated 20 November 2020 (P4). A subsequent circular directed that the transfers take effect immediately, and a further circular dated 17 January 2023 (P6) amended the original transfer by assigning the Petitioners to different postings.

11. The Respondents submit that the Petitioners' principal contention is that, following the enactment of the 21st to the Constitution, the power to appoint, promote, transfer and exercise disciplinary control over police officers is vested in the National Police Commission (NPC) and not in the Public Service Commission (PSC). The Petitioners therefore asserted that the impugned transfers are ultra vires as they were effected pursuant to powers delegated by the Public Service Commission.
12. The Respondents, however, relied on the **transitional provisions introduced by the Twenty-First Amendment**, which provide that all rules, regulations, and procedures relating to the Police Force that were in force at the time of the amendment shall continue to remain operative until otherwise provided by the National Police Commission. Accordingly, the Respondents contended that the delegation of powers contained in the Gazette issued by the Public Service Commission remained operative at the time the impugned transfers were effected.
13. The Respondents further state that the said delegation of powers was rescinded only on 20th July 2023 by a subsequent Gazette, which expressly provided that such rescission would be without prejudice to any actions already taken under the earlier delegation. Consequently, the Respondents maintain that the transfers effected prior to that date were validly carried out under the operative delegation of powers.
14. In response to the Petitioners' argument that the transfer was not effected in accordance with Rules 218–223 of the Procedural Rules of the Public Service Commission, the Respondents submitted that the Court directed them to produce the relevant documents, and that the document marked X demonstrates that the Inspector General of Police had recommended the transfers **under the ground of exigencies of service**. The 14th Respondent thereafter issued the necessary directions in accordance with the said rules.
15. The Respondents additionally raised a preliminary objection as to the jurisdiction of the Court. They contended that the **impugned decisions constitute actions taken under powers delegated by the Public Service Commission, and that Article 61A of the Constitution precludes any court from inquiring into or calling into question orders or decisions made by the Commission or by a public officer exercising**

powers delegated by the Commission. On this basis, the Respondents submitted that the Court lacks the writ jurisdiction to entertain the present application.

16. Furthermore, the Respondents submitted that the issues raised by the Petitioners involve the interpretation of constitutional provisions relating to the transfer of powers from the Public Service Commission (PSC) to the National Police Commission (NPC) and the effect of the relevant transitional provisions. In terms of Article 125 of the Constitution, the Supreme Court has exclusive jurisdiction to determine questions relating to the interpretation of the Constitution. Accordingly, the Respondents argued that the matter falls within the exclusive jurisdiction of the Supreme Court.
17. In light of the foregoing, the Respondents submitted that the impugned transfers were lawfully effected under the applicable delegation of powers and in accordance with the relevant procedural rules, and that in any event this Court lacks jurisdiction to inquire into the matter. As such the Respondents moved that the application of the Petitioners be dismissed.

ANALYSIS:

18. The 21st Amendment to the Constitution was certified on **31st October 2022**. In terms of section 25 of the 21st Amendment to the Constitution, the National Police Commission is now bestowed with power in relation to police officers in Article 155G(1)(a) of the Constitution as follows:

“Article 155G (1)(a) The appointment, promotion, transfer, disciplinary control and dismissal of police officers other than the Inspector General of Police, shall be vested in the Commission. The Commission shall exercise its powers of promotion, transfer, disciplinary control and dismissal in consultation with the Inspector General of Police”

19. It is clear from the above that the powers that were exercised by the PSC have been transferred to National Police Commission by the said amendment. However, it is pertinent to refer to the transitional provisions, as contained in section 26 of the said

Amendment, the effect of which is to confer continuity to the existing rules and regulations that have already been promulgated. Article 155M of the Constitution reads as follows:

“Article 155M Until the Commission otherwise provides, all rules, regulations and procedures relating to the Police Force as are in force on the date of the coming into operation of this Article, shall continue to be operative and in force”

20. It can be deduced from the above that whilst the National Police Commission is presently conferred with powers in relation to the promotion, transfer, disciplinary control and dismissal of police officers in consultation with the IGP, until NPC provides for same, such power is exercised as seen in P4 in view of the transitional provisions as referred to above. The exercise of such delegated power by the 14th Respondent as reflected in P3 and P6 has been made in line with P4 and the power delegation contained therein is what governs the impugned transfers.

21. Moreover, **P4** (the Extraordinary Gazette notification published on 20.11.2020) which sets out the power delegation of the PSC (as amended by extraordinary gazette no. 2216/12 dated 23.02.2021) has been **rescinded only on 20th July 2023** with the publication of extraordinary gazette no. 2341/51 dated 20.07.2023 (marked as **Y**). It clearly states that the rescission **“shall be without prejudice to any action taken already under the delegation of powers made by the Public Service Commission”** (vide paragraph 4 of the gazette). **Therefore, it is evident that the delegation provided for by P4 is the operative delegation when the impugned transfers were effected.**

22. The Petitioners further argued that if it is deemed that the National Police Commission has not been properly constituted and the powers delegated by the PSC are operative in view of P4, the power to transfer OICs of police stations is not delegated to the 14th Respondent (Secretary to the Ministry of Public Security). Upon being directed by the Court, the Respondents submitted the document marked X containing the recommendations of the IGP setting out the transfers required and requesting the 14th Respondent to exercise his powers in terms of the PSC Rules 218-223, i.e. exigency of

service (paragraph 8 of X). The 14th Respondent had thereafter given the due directions for P3 and P6 under R1.

23. P3 is dated 23.12.2022 and signed by the Deputy Inspector General of Police while P6 is dated 17.01.2023 signed by the IGP. Both of these documents state that upon the delegation of powers as per the Extraordinary Gazette No. 2202/04 dated 20.11.2020, the Secretary to Ministry of Public Security (14th Respondent) has ordered the transfers of OICs. In the said circumstances, the circulars issued as P3 and P6 cannot be deemed ultra vires as it is clear that the 14th respondent has exercised his powers in terms of PSC Rules 218-223.

24. The Petitioner of the case bearing no. CA/WRT/109/2023 stated in paragraph 24 of the Petition that, the powers previously delegated by the PSC as reflected in P4 do not vest the 14th Respondent to exercise powers relating to the transfers of OICs of Police Station; even if it is contended that P4 remains in force, the 1st Respondent has unlawfully abdicated his powers to the 14th Respondent. This argument is untenable in view of the above analysis.

25. **Article 61A** of the Constitution provides that:

“Article 61A. Subject to the provisions of Article 59 and of Article 126, no court or tribunal shall have power or jurisdiction to inquire into, or pronounce upon or in any manner call in question any order or decision made by the Commission, a Committee, or any public officer, in pursuance of any power or duty conferred or imposed on such Commission, or delegated to a Committee or public officer, under this Chapter or under any other law.”

26. It is clear from the above that the powers exercised by the Public Service Commission are not amenable to writ jurisdiction of this Court. Thus, P3 and P6 are in effect, decisions of the PSC exercised on delegated authority by the 14th Respondent and therefore cannot be questioned or challenged in and by this Court.

27. This is further confirmed by the fact that the said Extraordinary Gazette 2341/51 dated 20.07.2023 provides the rescission of P4 “*shall be without prejudice to any action taken already under the delegation of powers made by the Public Service Commission*”.

28. In the case of *Kala Guruge Suneetha alias Suneetha Guruge v. Dr. Nadeera Rupasinghe and Others* [CA Writ 225/2020 decided on 26.07.2022] Sasi Mahendran J. held as follows:

“...in light of the foregoing authorities, we are of the view that this Court has no jurisdiction to intervene by exercising its writ jurisdiction against the decisions made by the Public Service Commission **or its lawful delegate**”. (the emphasis was added)

29. From the above analysis, it is apparent that the constitutional ouster precludes this Court on making a determination in respect of “*any order or decision made by the Commission*”. An interpretation of the application of the sections transferring the power of the Public Service Commission to the National Police Commission in respect of Police Officers under Article 155(1)(a) read together with Article 61F of the Constitution, delegation powers of the NPC under Article 155H and the effect and impact of the transition provisions at Article 155M are all, now a matter of constitutional interpretation.

30. Furthermore, it ought to be noted that **Article 125** of the Constitution reads as follows:

“(1) **The Supreme Court shall have sole and exclusive jurisdiction to hear and determine any question relating to the interpretation of the Constitution and accordingly, whenever any such question arises in the course of any proceedings in any other court or tribunal or other institution empowered by law to administer justice or to exercise judicial or quasi-judicial functions, such question shall forthwith be referred to the Supreme Court for determination. The Supreme Court may direct that further proceedings be stayed pending the determination of such question.**” (the emphasis was added)

31. It is due to this very reason that the legislature in its wisdom has included the ouster clause as contained in Article 155C of the Constitution which reads as follows:

“Article 155C. Subject to the jurisdiction conferred on the Supreme Court 160[under paragraph (1) of Article 126 and the powers granted to the Administrative Appeals Tribunal under Article 155L,] no court or tribunal shall have the power or jurisdiction to inquire into, or pronounce upon or in any manner call in question any order or decision made by the Commission or a Committee, in pursuance of any power or duty, conferred or imposed on such Commission or Committee under this Chapter or under any other law.”

32. Accordingly, this court is not inclined to issue formal notices and as such all three writ applications bearing nos. CA/WRT/64/2023, CA/WRT/65/2023 and CA/WRT/109/1023 are dismissed without costs.

Judge of the Court of Appeal

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

I agree.

President of the Court of Appeal