

**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 Writ of mandamus under Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Mahinda Sagara Wilegoda Liyanage,  
14/36, Central City,  
Kirindiwala Road,  
Valiweriya.

**PETITIONER**

**Case No. Writ/361/2022**

**Vs.**

1. Hon. Ananda Wijepala,  
Minister of Public Security,  
14<sup>th</sup> Floor,  
“Suhurupaya”,  
Battaramulla.
2. Mr. Ravi Seneviratne,  
Secretary to the Minister of Public  
Security,  
14<sup>th</sup> Floor,  
“Suhurupaya”,  
Battaramulla.
3. Mr. Priyantha Weerasuriya,  
Inspector General of Police (Acting),  
Police Headquarters,  
Colombo 1.
4. Mr. Sanath J. Ediriweera,  
Chairperson.
5. Ms. Sithchi Marina Mohamed
6. Mr. P. S. Panawennage
7. Prof. Naganathan Selvakkumaran

8. Mr. Manikka Badathurage Rohana Pushpakumara
9. Dr. Angampodi Damitha Nandani De Zoysa
10. Mrs. Ranjini Nadarajapillai
11. Mr. C. Pallegama
12. Mr. G.S.A. De Silva P.C.,  
Members of the Public Service  
Commission,  
No.120/9, Rajamalwatta Road,  
Battaramulla.
13. Hon. Justice Upali Abeyratne
14. Hon. Justice Rohini Walgama
15. Kishali Pinto – Jayawardhana  
(Attorney-at-Law)
16. Jagath Liyana Arachchi,  
(Attorney-at-Law)
17. Mr. A.M. Nahiya,  
Administrative Appeal Tribunal,  
No.786, Silva Lane,  
Sri Jayawardenapura,  
Kotte.
18. Justice L.T.B. Dehideniya
19. Prof. Thaiyamuthu Thaanaraj
20. Prof. Fathima Farzana Hanifa
21. Mr. Nimal J. Punchihewa
22. Dr. Gehan Dinuk Gunatilleke  
Human Right Commission,  
No.14, R. A. Del Mel Mawatha,  
Colombo 04.
23. The Hony. Attorney General,  
Attorney General's Department,  
Colombo 12.

**Before:** **R. Gurusinghe J.**

**&**

**Dr. Sumudu Premachandra J.**

**Counsel:** S. T. de Zoysa for the Petitioner.  
Shemanthi Dunuwille, SC for the Respondents.

**Written Submissions:** By the Petitioner - Not filed.  
By the Respondents – Not filed.

**Supported On** : 26/03/2026.

**Order On** : 11/06/2026.

**Dr. Sumudu Premachandra J.**

1] The Petitioner filed this Petition in the Court of Appeal of Sri Lanka against several key state officials, including the Minister of Public Security, the Secretary to the Ministry of Public Security, and the Inspector General of Police (IGP), members of the Public Service Commission, the Administrative Appeal Tribunal, the Human Rights Commission, and the Attorney General.

2] A central conflict in the Petitioner's career arose in late 2007. While being transferred from the Welikada Police Station to the Police Training College at Kalutara, the Petitioner fell severely ill, presenting medical certificates from the Police Hospital and a judicial medical officer. His condition worsened around 25/11/2007, when he was bitten by a poisonous reptile at home, compelling him to seek extensive Ayurvedic medical treatment. Due to his medical absence,

the Director of the Police Training College issued a Vacation of Post (VOP) Order against him on 17/12/2007. This forced the Petitioner to Appeal to the Human Rights Commission (HRC) and the Administrative Appeal Tribunal, both of which eventually ruled in his favour, citing constitutional rights violations and ordering his reinstatement with back wages and uninterrupted service seniority.

3] Despite these favourable tribunal interventions, administrative failures persisted regarding his rightful career advancement. After years without promotional interviews, the Petitioner applied for a promotion to the rank of ASP following an official vacancy notification on 31/12/2020. Under the seniority criteria, he was placed at No. 7 on the promotion list after securing 53 marks in his interview. Following continued delays, the HRC re-ordered the IGP to honor its 2016 recommendations, prompting the Petitioner to send a formal letter of demand on 14/02/2022, to contest the state's prolonged inaction.

4] The Petitioner emphasizes that his service was formally recognized by police headquarters as continuous since his 2006 promotion, confirming that the initial VOP Order was erroneous and his constitutional privileges were actively violated by the IGP. Finally, because the responses from the 1st to 16th Respondents have been unlawful, unfair, and a complete abuse of administrative processes, the Petitioner has turned to the Court of Appeal. He is seeking a Writ of Mandamus to compel the relevant state authorities to legally allocate his duties and officially reinstate his rightful post as an Assistant Superintendent of Police.

5] In the above circumstances, the Petitioner Prays this Court to;

- a) Issue Notices on the Respondents;
- b) Issue a Grant in the nature of Writ of Mandamus compelling 01<sup>st</sup> to 03<sup>rd</sup> Respondents to act according to the applicable regulation and/or law and make arrangements for the Petitioner to commence functioning in his post as the Assistant Superintendent of Police;
- c) For costs
- d) For such other and further reliefs as Your Lordships' Court shall seem to meet.

6] Facts further reveal that the Petitioner joined the Police Department on 10/02/1986, and was promoted to Chief Inspector (CI) on 12/02/2006, under Order RTM 342, supported by his letter of appointment annexed as P1. The core grievance centers on the criteria used for promotions from CI to Assistant Superintendent of Police (ASP) based on marking schemes from 2008, 2014, 2019, and 2020 (Z), which the Petitioner is seeking from relevant authorities.

7] The dispute stems from a Vacation of Post (VOP) Order issued on 17/12/2007 (P2), by the Director of the Police Training College, Kalutara, on the grounds that the Petitioner failed to report for duty while undergoing medical treatments for a poisonous reptile bite and other ailments. The Petitioner contested this termination through multiple oversight bodies. The Human Rights Commission (HRC) inquired into the matter and, on 24/06/2016 (P3), issued a recommendation declaring that his promotion rights under Article 14 of the Constitution were violated and recommended his reinstatement with back wages. Because the Police Department failed to implement this, the Administrative Appeal Tribunal (AAT) issued a subsequent Order on 28/06/2019 (P4), mandating his reinstatement with effect from 30/01/2017, following decisions by the Political Victimization Committee and the Cabinet.

8] Following his reinstatement, the Petitioner sought long-delayed career advancement. No interviews for promotion from CI to ASP had been held for a considerable period after 2014 until a notification was published on 31/12/2020 (P5, P5(a), and P5(b)). The Petitioner applied on 20/01/2021 (P6), placing the seniority list and scoring 53 marks in the interview. His service history and formal standing were further verified by a series of subsequent official documents and a reinstatement Order under RTM 1100 effective 17/08/2016 (P7), an Order on 08/02/2020 confirming continuous service from 01/01/2006 (P8), a secondary HRC inquiry recommendation from 26/10/2021 (P9), an HRC follow-up directive to the IGP dated 29/11/2021 (P10), a letter of demand sent by the Petitioner on 14/02/2022 (P11), an HRC report dated 28/06/2022 (P12), and his appointment letter as the CI of Fort Division since 2019 (P13).

9] The Petition alleges that despite these exhaustive statutory findings confirming his uninterrupted service and the validity of his claims, the Respondents have persistently failed to execute the recommendations. As argued, the Public Service Commission failed to consider the 08/02/2020 headquarters letter certifying his service, rendering the respondents' ongoing inaction manifestly wrong, illegal, unreasonable, and an abuse of the process of recommendation.

10] The State strongly objected to the issuance of Formal Notices on the grounds;

- a) that Petitioner is guilty of laches as he filed this application on 04/10/2022 against the decision in 2016 on the recommendation of the Human Rights Commission dated 24/06/2016.
- b) the suppression of material facts, as he has not disclosed that he had made an appeal to the Public Service Commission.

11] The Petitioner has not shown why he has not filed this application till 2022. In **Biso Menike v. Cyril de Alwis** [1982] 1 SLR 368, Sharvananda J (As then he was) held that:

*“The proposition that the application for writ must be sought as soon as injury is caused is merely an application of the equitable doctrine that delay defeats equity and the longer the injured person sleeps over his rights without any reasonable excuse the chance of his success in writ application dwindles and the Court may reject a writ application on the ground of unexplained delay.”*

12] Further in **Sarath Hulangamuwa v. Siriwardena, Principal, Visaka Vidyalaya. Colombo 5 and others** [1986] 1 SLR 275 SIVA SELLIAH, J held;

*“It must be mentioned that a person cannot sleep over his rights but must seek his legal remedy with expedition-particularly where he seeks a writ which is an extraordinary remedy granted under exceptional circumstances.”*

13] Thus, I hold that the Petitioner is guilty of laches and the preliminary objection must be upheld.

14] in this case, the Petitioner have tried the writ jurisdiction of this court on the findings and recommendations of human Rights Commission. The Human Rights Commission has held that his fundamental rights were violated by the Respondents. In **Sarath Hulangamuwa v. Siriwardena, Principal, Visaka Vidyalaya. Colombo 5 and others** (supra) the court further held that discrimination and denial of equal rights cannot be agitated in an application for Writ of Certiorari and must form the subject of an action for breach of fundamental rights. Thus, the Petitioner would have invoked Fundamental Rights Jurisdiction on the recommendation of the Human Rights Commission instead of coming to Writ Jurisdiction. (Vide; **Jayasinghe and Others v. R. S. Jayaratne, Secretary, Ministry of Public Administration and Others** [1999] 2 SLR 385).

15] It is seen that the vacation of post (VOP) was issued with effect from 06/12/2007. P3, Human Rights Commission recommendation was given on 24/06/2016. However, P7 (RTM 1100), shows that the Petitioner was reinstated on the Cabinet decision dated 17/08/2016 (හිඟ වැටුප් රහිත අමාත්‍ය මණ්ඩල තීරණය ලද දින සිට ප්‍රධාන පොලිස් පරීක්ෂක තනතුරේ නැවත සේවයේ පිහිටවීම හා සේවයේ නොසිටි කාලය වැටුප් රහිත සේවා කාලයක් සේ සැලකීමට) without back wages and the period of absence of service is to be considered as without a pay period and the Petitioner has accepted these conditions without recourse to recommendation of the Human Rights Commission and now he cannot agitate this issue as he already accepted the reinstatement on the above decision.

16] P4 proves the 2<sup>nd</sup> preliminary objection. P4 is the decision of the Administrative Appeals Tribunal (AAT), and an Appeal was lodged with the AAT on 15/10/2023, and this must be against the decision of the Public Service Commission. These proceedings were completely suppressed from this

application; therefore, the Petitioner is guilty of suppression of material facts, and the application must be dismissed.

17] In the Writ Jurisdiction, this court was not completely barred from enforcement of recommendations from public bodies such as the Human Right Commission by issuing a Writ of Mandamus. In ***David Raja v. Minister of Fisheries and Aquatic Resources Development and Others*** [2020] 1 SLR 310 (2020/V1-SRI-LR-310) at 314, His Lordship SAMAYAWARDHENA, J. held that:

*“if a recommendation of a public body protects the rights of an individual, the superior Courts, in the exercise of writ jurisdiction, have the power to compel the enforcement of such a recommendation by issuing a writ of mandamus, if the Court is satisfied that the recommendation is made on compelling grounds...”*

*The refusal to issue the permit in respect of the disputed Padu to the petitioner without having held a proper inquiry is illegal, and the refusal to carry out the recommendation of the Human Rights Commission without a valid reason is unjustifiable...”*

18] However, in the case in hand, the Petitioner was absent from the police services from 15/11/2007 to 31/08/2017, nearly ten years. According to CRTM 2150 (P7), active service should be calculated by deducting the no-pay leave periods. In this case, the Petitioner was reinstated on conditions, and the period of absence from police service should be calculated and deducted, as he was put on without pay during the absence. Though his service was intact as he was reinstated, when this period is deducted, he had no legitimate expectation to be promoted as an Assistant Superintendent of Police (ASP).

19] For the aforesaid reasons, we uphold the preliminary objections. The Formal Notices on the Respondents are refused. The application is dismissed with no costs.

JUDGE OF THE COURT OF APPEAL

R. GURUSINGHE J.

I agree

JUDGE OF THE COURT OF APPEAL