

In the Administrative Appeals Tribunal

Appeal No : AAT/05/2024 (NPC)
Date : 13.05.2026

G.Shani Abeysekara

Appellant

Vs

National Police Commission (NPC)

Respondent

Before : **Justice K. T. Chitrasiri (Chairman)**
J. J. Rathnasiri (Member)
S. Nandasekaran (Member)

Representation of parties

Ms.Dilrukshi Dias Wickramasinghe PC with Mr.Tissa Gunatilaka Retired Government Servant for the appellant.

Mr.R.M.S.P.Rathnayake and Ms.Mala Basnayake Deputy Directors for the National Police Commission.

ORDER

Justice K. T. Chitrasiri

Appellant G.Shani Abeysekara filed his petition of appeal at this Tribunal on 04th January 2024. In that petition of appeal, appellant has sought *inter alia* to rescind and/or alter or vary the decision of the National Police Commission (NPC) dated 12.12.2023. In the said petition of appeal, the appellant has mentioned that his promotion had been denied due to the said decision of the NPC. Thereafter, he has sought to grant him promotion to the rank of Deputy Inspector General of Police (DIG) with effect from 25.08.2020. In the aforesaid decision dated 12.12.2023, NPC having rejected the request of the appellant to promote him to the rank of Deputy Inspector General of Police has stated:

- ✓ that the appellant does not possess five years of satisfactory service prior to the date of promotion;
- ✓ that he has not performed as required in the Procedural Rules governing promotions and;
- ✓ that he has not completed the Efficiency Bar Examination.

Accordingly, the Tribunal carefully considered the correctness of the impugned decision and the reasons assigned thereto. Appellant in his petition of appeal has mentioned that he was interdicted from the service on 07.01.2020 and whilst he was under interdiction he reached his retirement age of 60 years on 30.06.2021. Accordingly, the submission of the appellant is that his inability to report for work and to attend the interview held to consider promotion to the rank of DIG was that he was not in the service due to him been interdicted during the period relevant to the issue. At this stage, it is necessary to note that the decision of the Tribunal to entertain this appeal was that the appellant has become a “police officer” which component is a requirement under Section 4 of the Administrative Appeals Tribunal Act No. 04 of 2002 since he had been re-employed by the time this appeal was filed.

Admittedly, the appellant was allowed to retire in terms of Clause 2.17 of the Minutes on Pension with effect from the date he reached the age of 60 years without a charge sheet being issued on him. It is the said clause 2.17, that is applicable when a public officer is allowed to retire under normal circumstances. Therefore, it is clear that the authorities have accepted the position that the appellant had been interdicted for no fault on his part. Such a conclusion is supported further because the appellant had been paid salaries for the period that he was under interdiction and also due to the reason that the period he was under interdiction had been considered as active service. Moreover, it is to be noted that the decision to grant permission to retire under and in terms of clause 2:17 had been made without holding any disciplinary inquiry that was contemplated when he was interdicted from the service.

Accordingly, it is clear that there had been no material or no reason to take disciplinary action although he was under interdiction until he reached the age of retirement. More importantly, if there was any reason to interdict the appellant then he would not have been allowed to retire under normal circumstances namely in terms of clause 2:17 of the Minutes on Pension. Therefore, it is not incorrect to take into account the period of service that he was under interdiction as “active service” when counting his period of service. Under such circumstances,

the appellant cannot be penalized when it comes to his promotions stating that the appellant has not completed five years of satisfactory service.

Appellant states that he possesses 7 years 10 months and 04 days of active service, from the time he was promoted to the rank of Senior Superintendent of Police on 25.08.2013 when reckoned upwards from the date of retirement i. e. 30.06.2021. For the reasons mentioned in the preceding paragraphs, Tribunal is inclined to accept the position that the appellant has more than 7 ½ years active and satisfactory service until 25.08.2020. It is the date on which the appellant is seeking to have him promoted. In fact, the said position as to the period of service had been accepted at the interview held on 12.03.2026 that was held upon a direction issued by the Tribunal.

In the circumstances, it is clear to us that it is erroneous to state that he did not have 5 years satisfactory service prior to the date of promotion to the rank of Deputy Inspector General of Police as decided by the NPC.

Remaining two reasons assigned by the NPC for not promoting the appellant is that whether or not he has completed the Efficiency Bar examination and: whether he has performed his services as expected in the Procedural Rules. Those two matters should have been considered at the interview held on 25.08.2020 to promote the officers to the rank of Deputy Inspector General of Police. Admittedly, the appellant could not attend the said interview since he was under interdiction at the time the interview was held.

When this matter was mentioned on 18.02.2026, Tribunal having addressed this issue, decided to direct the NPC to call the appellant for an interview to assess the performances of the appellant and; also to report whether he has completed the efficiency bar examination. Relevant part of the proceedings recorded on that day is as follows:

“At this stage, we note that the NPC, in Paragraph (XI) of its report dated 16.02.2026 has stated that in terms of Section 10:3:2 of the Scheme of Recruitment (SOR), the appellant should participate in a structured interview to consider his promotion. Therefore, it is the duty of the NPC to make a decision on the promotion sought by the

appellant in accordance with the Scheme of Recruitment (SOR) governing the officers in the Department of Police. In the event NPC is not granting the promotion as sought by the appellant, then he is at liberty to come before this Tribunal.

We observed that when this matter was mentioned on 10.09.2025, Ms.Jayathunga, who appeared on behalf of the NPC, has submitted that the NPC is agreeable to call the appellant for an interview to consider his promotion.

In view of the above circumstances, Tribunal is unable to make an order without a decision being made upon having an interview to consider promoting the appellant to the rank of Deputy Inspector General of Police (DIG).

Therefore, we direct the NPC to conduct an interview within a period of two (02) weeks from today to consider the promotion sought by the appellant to the rank of Deputy Inspector General of Police in terms of Section 10:3:2 of the Scheme of Recruitment. We also direct the NPC to consider the report dated 08.12.2025 sent to the NPC by the Inspector General of Police when considering the promotion.”

Pursuant to the aforesaid direction made by the Tribunal, NPC has taken steps to hold an interview to ascertain whether the appellant possesses the required qualifications to consider his promotion. The said interview had been conducted on the 12th March 2026 by a panel comprising of the following officials:

1. Secretary to the Ministry of Public Secretary and Parliamentary Affairs
2. Inspector General of Police
3. Additional Secretary (Engineering) -Ministry of Education, Higher Education and Vocational Education
4. Additional Secretary - Ministry of Justice
5. Additional Secretary (Administration)- Ministry of Rural Development and Social Security.

Having interviewed the appellant as mentioned above, NPC has submitted its report dated 27.03.2026 to the Tribunal with a copy of the mark sheet prepared at the interview. Mark sheet indicates the manner in which the marks were allocated to each category mentioned therein. In the mark sheet tendered, the Interview Board has recommended to exempt the appellant from

having the efficiency bar examination. This position is affirmed in paragraph IV of the report dated 27.03.2026 submitted by the National Police Commission.

Accordingly, it is evident that there is a clear decision to exempt the appellant from completing the efficiency bar examination and the said decision had been taken by the officials who are authorized and entrusted with the task of deciding the same. Therefore, we have no objection to accept the said decision by which it is concluded that the appellant has been exempted from completing the Efficiency Bar examination.

Remaining issue is whether the appellant has obtained the required marks for him to have the promotion to the rank of DIG. In order to decide the said issue, Tribunal looked at the marks allocated to the appellant and compared the same with the marks allocated to the candidates who attended the interview to which the appellant could not attend due to his interdiction from service. The marks sheet prepared at the said interview held on or around 23.08.2020 was tendered to the Tribunal. The Tribunal considered the manner in which the marks were allocated in order to ascertain whether or not the appellant could have been selected for his promotion in the event he attended the said interview to which he could not attend for the reasons beyond his control.

There had been two candidates who had come before the Interview Board on 25.08 2020. We looked at the mark sheet prepared at the subsequent interview held on 11.04.2024 as well. It was so decided to make sure the manner in which the marks were allocated when considering the promotions to the rank of DIG.

The manner in which the marks were allocated for the period of service of the officers in the rank of SSP is found in the service minute issued by the NPC. Directions issued by those service minutes had been followed in all the interviews held to promote the officers to the rank of DIG. The said Service Minute is as follows:

1. පරීක්ෂණයේ නම : ජ්‍යෙෂ්ඨ පොලිස් අධිකාරී තනතුරේ සිට නියෝජ්‍ය පොලිස්පති තනතුර දක්වා පත්කිරීමේ ව්‍යුහගත සම්මුඛ පරීක්ෂණය
2. ව්‍යුහගත සම්මුඛ පරීක්ෂණය සඳහා ලකුණු ලබාදෙන ක්ෂේත්‍ර සහ ලකුණු ප්‍රමාණයන් :

ලකුණු ලබාදෙන ක්ෂේත්‍ර	උපරිම ලකුණු ප්‍රමාණය	තෝරා ගැනීම සඳහා අවම ලකුණු ප්‍රමාණය
ජ්‍යෙෂ්ඨතාවය (උපරිම ලකුණු 40)		
1. සේවා කාලය ගණනය කිරීම ජ්‍ය.පො.ප.තනතුරට පත් වූ දින සිට වැටුප් රහිත නිවාඩු ලබා ඇති කාලය සක්‍රීය සේවා කාලය ගණනය කිරීමේදී නොසලකා හරිනු ලැබේ. එක් වසරක ලකුණු ප්‍රමාණය } සේවා කාලයට දෙනු ලබන ලකුණු ප්‍රමාණය ජ්‍යෙෂ්ඨතම ජ්‍ය.පො.අ. වරයාගේ ජ්‍ය.පො.අ. සේවා කාලය (ඉහත පරිදි ගණනය කිරීමේදී ජ්‍ය.පො.අ. තනතුරේ සේවය කළ වසර ගණන පමණක් සලකනු ලබන අතර, මාස ගණන සලකා බලනු නොලැබේ. තවද එක් වසරක ලකුණු ප්‍රමාණය සඳහා ආසන්නතම ලකුණු 0.5 ට තුලනය කරනු ලැබේ.) එක් වසරක් සඳහා ඉහත ගණනය කිරීම අනුව ලකුණු ලබාදෙන අතර, මාස 06ක් හෝ ඊට වැඩි සේවා කාලයක් සඳහා වසරක ලකුණු ප්‍රමාණයෙන් අටක් ලබාදෙනු ලැබේ.	40	

Having considered the said direction in the service minute, Tribunal looked at the marks allocated to the candidates who attended the last four interviews in order to check the manner in which the marks were allocated. No marks were allocated to the officers who attended the interview by which the qualifications of the candidates were assessed as at 01.01.2025. The reason for not allocating marks for the period of service was that none of them had completed seven years of service in the rank of SSP which is a threshold requirement as referred to in the above service minute. We do not see any error in doing so at the said interview since the seven years of service in the rank of SSP is required for the candidates to obtain marks for the past service. Hence, the marks allocated for the service at the said interview held towards the end of the year 2024 will not help to determine the manner in which the computation of marks given for the period of service at the interview held on 12.03.2026 with the appellant.

Therefore, the Tribunal had to consider the manner in which the marks were allocated at the interviews held on two occasions prior to the interview held in the year 2024. As mentioned before, seven years of active service in the rank of SSP is a threshold requirement to be eligible for the promotion to the rank of DIG. Following charts indicate the way that the marks were allocated for the prior service in the rank of SSP at the interviews held on 25.08.2020 and 11.04.2024.

Marks allocated at the interviews held on 25.08.2020;

S.No	Rank	Name with Initials	Designation	Period of Service completed after full filling Qualification			Method of Awarding Maximum Marks according to the Service Minute	Marks Awarded
				Year	Month	Date		
1	Acting SSP	J A U P Jayasinghe	SSP – Nuwara Eliya	9	2	22	1st candidate is entitle to receive the maximum Mark of 40	40
2	Acting SSP	J S Weerasekara	SSP- Monaragala	7	-	11	The 2nd candidate is entitled to 5 marks for each year of service and an additional 2.5 marks where the period exceeds six months	31

Marks allocated at the interviews held on 11.04.2024;

S.No	Rank	Name with Initials	Designation	Period of Service completed after full filling Qualification			Method of Awarding Maximum Marks according to the Service Minute	Marks Awarded
				Year	Month	Date		
1	Acting SSP	J S Weerasekara	SSP- Monaragala	11	1	29	1st candidate is entitle to receive the maximum Mark of 40	40
2	Acting SSP	S M Y Seneviratne	SSP- Kegalle	7	-	-	The 2nd candidate is entitled to 5 marks for each year of service and an additional 2.5 marks where the period exceeds six months	28

Following are the marks allocated at the interviews held on 12.03.2026 to which only the appellant was present.

S.No	Rank	Name with Initials	Designation	Period of Service completed after full filling Qualification			Method of Awarding Maximum Marks according to the Service Minute	Marks Awarded
				Year	Month	Date		

1	SSP Pensioner	G S Abyesekara		7	10	04	1st candidate is entitle to receive the maximum Mark of 40	
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Marks allocated to the respective candidates in all the above mentioned three interviews were considered by the Tribunal having looked at the respective three marks sheets. Thereafter, we noticed that the computation of the marks allocated to the appellant for his period of service is different to the way that was allocated to the officers who attended the two previous interviews. We note that the appellant was not allocated any mark for his period of service in the rank of SSP, though it is mentioned that he has seven years 10 months and 4 days prior service in the rank of SSP.

In accordance with the SOR, one mark is given for 1 year of service and if there is service of more than 6 months beyond the said 7-year period, another $\frac{1}{2}$ mark is allocated to the candidate. It is so mentioned in the schedule at page 06 in this order. It is to be noted that the officer J.S.Weerasekara who attended the interview to which the appellant could not attend due to his interdiction had 7 years and 11 months service and he was given 31 marks for the period of service.

When following the said formula, appellant should have been allocated marks similar to the candidate J.S.Weerasekara who is also having the service period over $7\frac{1}{2}$ years but less than 08 years. Therefore, the appellant who is also having more than seven & half years of service should have been treated in the same way as of Weerasekara and should have given 31 marks.

We also looked at the marks given for the officers who attended the interview held on 11.04.2024. At that interview 28 marks for the previous service had been allocated to the officer S.M.Y.Seneviratne who has only completed less than seven and half years of service. In fact, he had only 7 years of service in the rank of SSP.

The said criteria adopted at the interviews held on 25.08.2020 and 11.04.2024, which is in accordance with the service minute had not been followed at the interview held on 12.03.2026 when considering the promotion to the appellant. Notably, the appellant was not allocated any mark for his service in the rank of SSP though the Interview Board themselves has acknowledged that he has over $7\frac{1}{2}$ years of service in the rank of SSP.

In the circumstances, it is our considered view that the appellant also should have been treated in the same manner when promoting J.S.Weerasekara and S.M.Y.Seneviratne. Therefore, it is

our opinion that it is wrong to have not allocated marks for the period of service that the appellant has rendered in the rank of SSP. Appellant also should have allocated at least 28 marks as given to S.M.Y.Seneviratne who has not even seven and half years of service in the rank of SSP.

Therefore, when 28 marks are added to the total marks of the appellant, as it was given to S.M.I.Seneviratne then the appellant should have been allocated the total of 57.5 marks. The officer who became 1st at the interview held on 23.02.2020 has obtained 74.5 marks as his total marks. The other officer who was placed 2nd was given 41.5 marks. When the appellant is given 57.5 marks, then he should have been placed as the 2nd in the selected list prepared at the interview held on 23.02.2020. Admittedly, at that point of time there had been 07 vacancies in existence and therefore promotions had been given without a particular cut off mark being determined. Therefore, it is our view that the appellant should have been promoted since he has obtained the required marks and also there had been vacancies in the rank of DIG at that point of time. Moreover, it is to be noted that the officer Seneviratne had been promoted though he was given only 28 marks.

In the circumstances, it is incorrect not to promote the appellant who had been allocated marks over those other officers who were allocated marks less than the marks obtained by the appellant.

For the reasons set out before, we direct the National Police Commission to promote the appellant to the rank of DIG with effect from 25.08.2020.

Accordingly, Tribunal decides to allow this appeal.

Appeal is allowed.

Justice K. T. Chitrasiri
(Chairman)

I agree

J. J. Rathnasiri (Member)

I agree

/SNP

S. Nandasekaran (Member)