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இலங்கை மனித உரிமைகள் ஆணைக்குழு
HUMAN RIGHTS COMMISSION OF SRI LANKA

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Your No. }

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திகதி } 2016-02-01
Date }

P.A.D.P.J Devapriya,
404/K,
Avariwatte road,
Maeliya,
Ja-Ela

Complainant

HRCSL Application Case No:
HRC/293/13

Vs.

Chairman,
Ceylon Fishery Harbours Corporation,
15, P.O.Box 1747,
Rockhouse Lana, Colombo 15

Respondent

The Complaint

The Complainant states that he was confirmed in his post at the Ceylon Fishery Harbours Corporation through the letter dated 2012.01.06. However, through a subsequent letter dated 2012.10.02, his confirmation was revoked and he was reverted to his previous contract of employment.

Respondent's Reply

The Respondent states that the reason for the revocation was that the Corporation on later inspection of the Complainant's personal file discovered that his age was over 45 years at the time of the confirmation in service. Therefore, the revocation was inevitable.

Observations

- A) This case concerns facts where the Fishery Harbours Corporation has identified a previous mistake and is attempting to rectify the same. It is the law that the Complainant should not only be heard before taking subsequent action where there has been an earlier mistake, but reasons ought to be given for a decision.
- B) However, neither the Complainant was heard before his confirmation was revoked nor has been given reasons.
- C) Moreover, the Respondent has taken more than ten months to rectify their mistake resulting in the Complainant being given a legitimate expectation with regard to his position.

අංක 14, 2016.02.01 දිනේ මානව හිමිකම් කොමිෂන් සභාවේ
இல. 14, 2016.02.01. மனித உரிமைகள் ஆணைக்குழு - 04

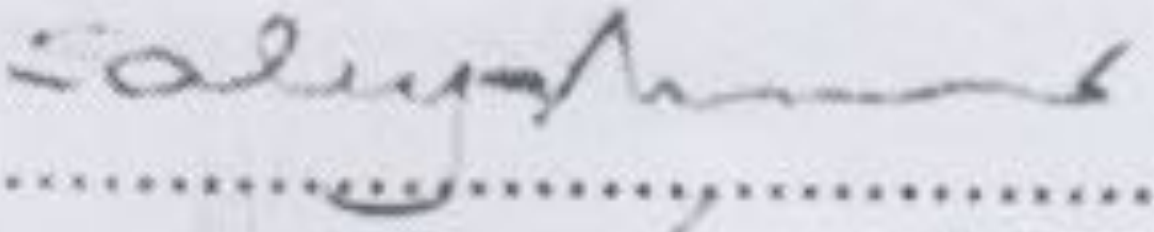
Conclusion

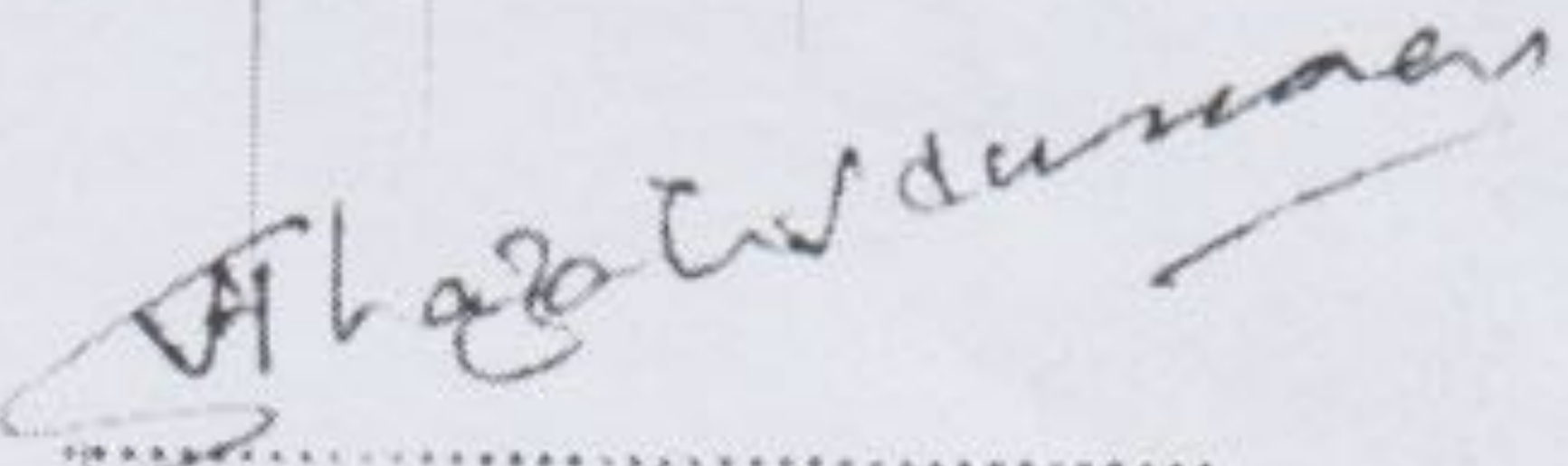
In view of the above, it is hereby concluded that the Respondent **has violated** the Fundamental Rights of the Complainant guaranteed by Article 12(1) of the Constitution.

Recommendations

As per the conclusion above, the Commission makes the following recommendations:

- A) In terms of the provisions in Section 15 (4) of the HRC Act, the Commission recommends the Respondent to reconfirm the Complainant in his position. The Respondent could only renegotiate any changes to the nature of the Complainant's employment after giving him an opportunity to be heard and reasons being given so that he may challenge such a decision before a competent court if aggrieved.
- B) In terms of the provision in Section 11 (g) of the HRC Act, the Commission hereby recommends the Respondent to pay the Complainant a sum of Rs.10000 as cost, incurred by him for the complaint made.
- C) In terms of Section 15(7) of the HRC Act, the Commission hereby recommends the Respondents to report to the Commission of the action taken in respect of the above recommendations on or before 28.02.2018.


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Saliya Pieris PC
Commissioner
Human Rights Commission of Sri Lanka


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Ghazali Hussain
Commissioner
Human Rights Commission of Sri Lanka