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இலங்கை மனித உரிமைகள் ஆணைக்குழு
HUMAN RIGHTS COMMISSION OF SRI LANKA

Article 12(1)

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எனது இல. }
My No. }

ඔබේ අංකය }
உமது இல. }
Your No. }

දිනය }
திகதி } 08-02-2018
Date }

HRCSL Application Case No:
HRC/E/327/03

1. U.P. Upali Aberathne,
Officer Incharge,
Police Station,
Mawanella.

Complainant/s

Vs.

1. Inspector General of Police,
Police Headquarters,
Colombo 1
2. Director,
Police Legal Division,
Police Headquarters,
Colombo 1

Respondent/s

The Complaint

The Complainant had been interdicted from service due to an allegation of financial fraud. A case had also been filed before Kandy Magistrate's Court bearing number 43209 with regard to the above allegation. However, the Complainant had been acquitted of the charges. The Complainant also had been acquitted from all the charges of a disciplinary tribunal instituted against him. He had thereafter been reinstated in service.

The Complainant claims that although he has been reinstated, his salary arrears and due promotions have not been given to him to this date.

Respondent's Reply

The Respondent concedes that it is because of the Court proceedings and the disciplinary tribunal that his salary was not paid.

Observations

A) Since the Complainant has been reinstated in service after acquittal it is imperative that his salary arrears be paid for, which otherwise he will be unfairly penalized for allegations, from

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பிரதான அலுவலகம் }
Head Office }

14, ආර්. ඒ. ජ මෙල් මාවත, කොළඹ - 04.
14, ஆர்.ஏ.த. மெல் மாவத்தை, கொழும்பு - 04.
14, R. A. De Mel Mawatha, Colombo - 04.

දුරකථන }
தொலைபேசி }
Telephone }

94 -11- 2505580/81/82

සභාපති }
தவிசாளர் }
Chairperson }

011-2505451

ලේකම් }
செயலாளர் }
Secretary }

011-2505521

ෆැක්ස් }
தொலைநகல் }
Fax }

011-2505541/74

කණ්ඩායම් }
தூரித அழைப்பு }
Hotline }

011-2505575
1996

විද්‍යුත් }
மின்னஞ்சல் }
e-mail }

sechrc@slt.net.lk

වෙබ් }
இணையம் }
Web }

www.hrcsl.lk

which he has been absolved. Therefore, the Complainant should be paid back wages for the period during which he was under interdiction/ suspension.

- B) It is observed that the Complainant should be entitled to promotions that he would have been entitled to had he not been so interdicted or suspended.

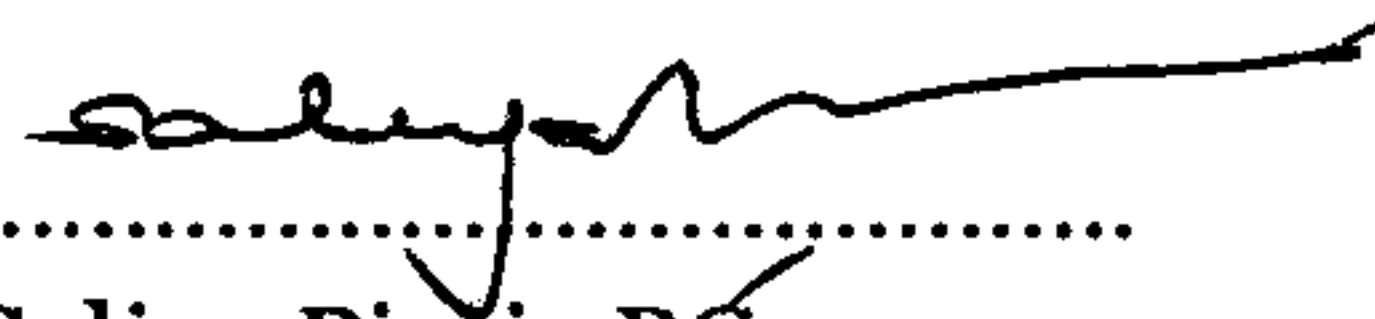
Conclusion

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

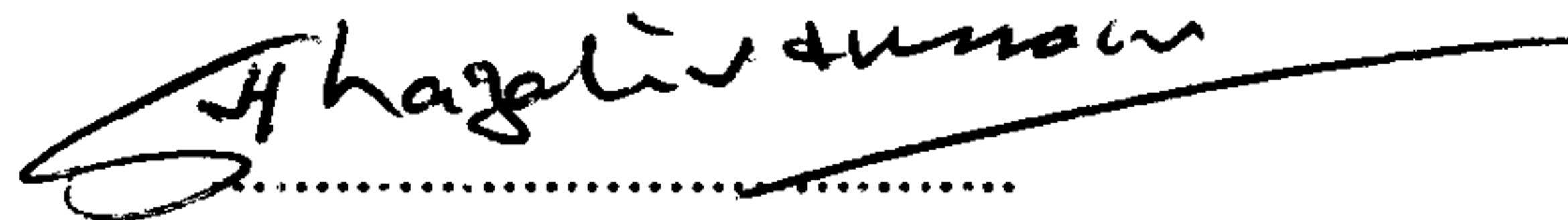
Recommendation

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

- A) In terms of the provisions in section 15 (4) of the HRC Act, the Commission hereby recommends the Respondents to pay all the salary and other arrears during the relevant period he was under interdiction/suspension. He should also be given the promotions which he would have been entitled if he had not been so interdicted/ suspended.
- B) In terms of the provisions in section 11 (g) of the HRC Act, the Commission recommends the Respondent to pay the Complainant/s a sum of Rs. 15000/= as costs incurred by him/her for the complaint made.
- C) In terms of the provisions in section 15 (7) of the HRC Act, the Commission directs the Respondents to report to the Commission within 3 months of this date of the action taken in respect of the above recommendations.



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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