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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 } 5-2-2018
Date }

HRCSL Application Case No:

HRC/425/12

1. P.M.A.B. Galahitiya,
Daramitipola,
Gokerella.
2. M.K.N. Perera
Dhampitiya, Madahapola.

Complainants

Vs.

Inspector General of Police,
Police Head Quarters,
Colombo-01.

Respondent

The Complaint

The Complainant, a police officer has been interdicted from service as per a complaint of serious misconduct by a third party including theft, trespass, abduction, illegal arrest, possession of illegal goods. However, the magisterial case that was filed (E1/NWR/64/2005) against the Complainant had been concluded after the parties had sought a settlement. The Complainant is of the view since that he was released from charges upon settlement, he was not found guilty and thereby he is liable to be reinstated in service.

Respondent's Reply

The Respondent states that the officer was interdicted from service upon serious disciplinary charges, which includes dishonorable conduct, disobeying orders, avoiding

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14, අර්. ඒ. ජ මෙල් මාවත, කොළඹ - 04.
14, ஆர்.ஏ.த. மெல் மாவத்தை, கொழும்பு - 04.
14, R. A. De Mel Mawatha, Colombo - 04.
94 -11- 2505580/81/82

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duty, malicious lying etc. He further states that although the court dismissed the case due to a settlement, it does not relieve the Complainant of his misconduct for which an institutional disciplinary action was taken. However the final disciplinary order has not yet been given.

Observations

- A) The magisterial inquiry was dismissed upon a settlement. The settlement does not indicate that the Complainant was not guilty and therefore the Respondent cannot be barred from taking disciplinary action for the offences he has committed. He has not been found guilty or punished for the same charges before. Therefore, such disciplinary action in a responsible public institution is warranted to sustain its public accountability.
- B) However, the long time lapse (7 years) for the conduct of the disciplinary inquiry cannot be found to be reasonable or condoned. As per Public Administration Circulars, such proceedings should be concluded within one year or otherwise the relevant officer should be reinstated in service until the conclusion of the proceedings.

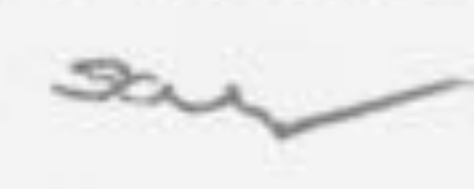
Conclusion

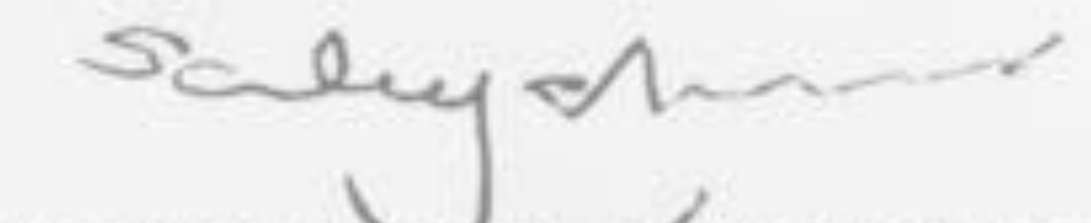
In view of the above, the non-conclusion of the disciplinary inquiry for a long period of time is unreasonable. Irrespective of the severity of the charges, such proceedings should have been expedited to ensure procedural justice. The officer cannot be deprived of his employment based upon only a preliminary inquiry. It is hereby concluded that the Respondent **has violated** the Fundamental Rights of the Complainant guaranteed by Article 12 (1) of the Constitution.

Recommendation

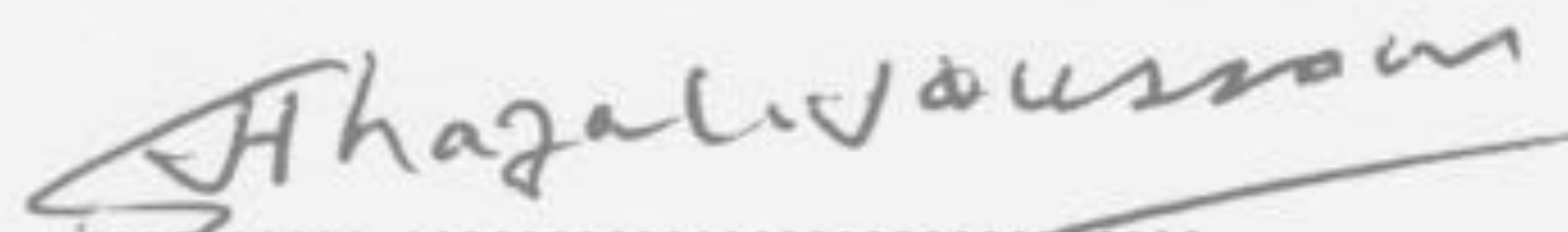
As per the conclusion above, the Commission makes the following recommendations:

- A) In terms of the provisions in Section 15 (4) of the HRC Act, the Commission hereby recommends the Respondents to reinstate the Complainant forthwith and to conclude the disciplinary inquiry within 3 months from this date.
- B) In terms of the provisions in section 11 (g) of the HRC Act, the Commission hereby recommends the Respondent to pay a sum of Rs. 15000/ to the Complainants as costs incurred.

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 before05-04-2018..... 


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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