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இலங்கை மனித உரிமைகள் ஆணைக்குழு
HUMAN RIGHTS COMMISSION OF SRI LANKA

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Your No. }

දිනය } 10-01-2023
திகதி }
Date }

Petitioner : Dr. A.L.M. Aslam
No: 61, Beach Road
Addalaichenai 11.

Respondents : Vice Chancellor
South Eastern University of Sri Lanka
Olivil.

Complaint No : HRC/KL/146/2021

The South Eastern University of Sri Lanka had called for applications for the post of Lecturer Probationary/Unconfirmed/Senior Lecturer Gr. II/Gr. I in Economics and Statistics in the Department of Economics and Statistics by an open advertisement dated 19.11.2020

The Complainant, Dr. A.L. Mohamed Aslam holds the Degree of Doctor of Philosophy in Economics and the Degree of Masters of Philosophy in Economics in addition to his Bachelor Degree with 1st Class Honors with specialization in Economics, currently serving in Sri Lanka Planning Service, applied for the said posts with the covering letter dated 20.12.2020 (Annexure 2 and Annexure 3). Accordingly, the University called for all the eligible candidates for the interview on 08.07.2021 including the complainant.

The complainant states that Dr. A.C.M. Hanas also appeared for the said interview got selected by the Selection Committee of the University in violation of scheme of recruitment (SOR). The complainant mainly challenges the selection of Dr. A.C.M. Hanas on the following four folds.

1. Irrational Marks Awarded to Dr. A.C.M. Hanas for his irrelevant Degrees at the interview

Dr. Hanas does not have relevant qualification for the post he got selected as per the relevant scheme of recruitment (UGC Circular 721). The complainants states that his (Dr. A.C.M. Hanas) 1st Degree is in Agriculture and not in the relevant subject, namely in the subject of Economics and Statistics (Annexure 4).

- I. His Master's Degree is Agricultural Economics and not in relevant the subject, namely in the subject of Economics and Statistics.
- II. His PhD is of one year duration after receiving his Master's Degree. His PhD is in Agricultural Economics and not in the relevant subject, namely in the subject of Economics and Statistics.
- III. The complainant (Dr. A.L.M. Aslam) therefore argues that the marks given to Dr. A.C.M. Hanas by the Selection Committee at the interview is illegal, irrational, and procedurally wrong. Accordingly, Dr. Hanas at the interview was given 15 marks for his irrelevant Bachelor Degree. He should have been given only zero marks. Accordingly to the marking scheme approved by the Council of the University, there is no provisions to provide any marks to irrelevant bachelor degree. Thus, he cannot earn 15 marks for his bachelor degree (Annexure 5).
- IV. As his Master's Degree is also irrelevant, he cannot be given any marks for his Master's degree. Further, as his PhD is also not in the relevant subject, his PhD should not have been considered for giving marks at the interview. Therefore, the total marks 25 given to Dr. A.C.M. Hanas at the interview for academic qualification is illegal.

2. Incomplete Application should have been rejected before the interview

The complainant further argues that Dr. A.C.M. Hanas did not declare in his application form that he was served with Vacation Of Post by the University of Peradeniya, where he worked earlier. Therefore, his application is incomplete and should have been rejected before the interview at the initial stage in terms of the advertisement.

3. The Marks given to Dr. A.C.M. Hanas for his University Level Teaching Experience is illegal.

- I. The complainant argues that Dr. A.C.M. Hanas was given marks to his University level teaching experience illegally. As he had been served with vacation of post, he is not entitled to claim the University level teaching experience during the period he worked at the University of Peradeniya **as per Section 8.1 of Chapter VII of the Establishments Code read together with UGC Circular No. 911 dated 14.05.2009.** Therefore, the marks given for his service at the University of Peradeniya is illegal.

4. The Allegations of Personal Interest shown by Prof. M.M.M. Najim, former Vice Chancellor

The complainant states that the Head of the Department of Economics and Statistics had *inter alia* expressly mentioned in his letter to the Vice Chancellor the following.

- I. Dr. Hanas is not eligible to apply for the post of Lecturer in Economics in terms of his irrelevant Degrees. Head of the Department obviously mentions that "He is not eligible to apply for the post of Lecturer in Economics". This is the clear evidence that the degrees of Dr. A.C.M. Hanas are not relevant.
- II. Prof. Najim, the Chairman of the Selection Committee is alleged to have shown personal interest and favoritism to select Dr. A.C.M. Hanas. Dr. A.A.M. Nufail (the Head of the Department of Economics and Statistics expressively says this fact in the following averments in his letter.

"The above interview was held in intentionally as per a personal pre-agenda of the Ex – Vice Chancellor of South Eastern University of Sri Lanka as this interview was scheduled to held on 07th of August 2021 which is on the immediate day before the last day (08th of August 2021) of the Ex Vice Chancellor on expiration of in his post of the Vice Chancellor, South Eastern University".

"Immediately after the above interview is over, I raised some of the questions on selection. The Ex Vice Chancellor did not listen to me and did not consider my raised questions. Also, he played a major role in this interview. I inevitably signed the final results of the interview in order to safeguard the ethical consideration of the Selection Committee and my self-respect as well".

"It vividly shows that the Ex Vice Chancellor selected the above particular candidate by misguiding the selection committee and whole University to fulfill his personal interest on him rather than considering the immediate and instrumental need of the student and the Department of Economics and Statistics, South Eastern University of Sri Lanka".

Therefore, the complainant claims that if Dr. A.C.M. Hanas is allotted rationally marks as per the marking scheme approved by the Council of the University in terms of UGC Circular 721, Dr. A.C.M. Hanas would have got less mark than the complainant.

On the other hand, it is important to observe the answers provided by the South Eastern University in regard to the complaint. The Vice Chancellor of the South Eastern University argues in his report submitted that the selection of Dr. A.C.M. Hanas for the post of Lecturer Gr.1 in Economics is based on the UGC Circular No. 721 referring to the following information.

1. The Selection Committee interviewed four (04) candidates appeared for the interview on 07.08.2021. Based on the performance, qualification, research, publications and experience of the candidate, Dr. A.C.M. Hanas has been given the marks in accordance with the marking scheme of recruitment as approved by the Council of the University.

2. The said Selection Committee recommended Dr. A.C.M. Hanas to the Council of the University to be appointed for **the post of Senior Lecturer Gr.1 in Economics and Statistics at the Department of Economics** and place him to initial salary step of salary point of U-AC 3(1) salary code with approval of the Council.
3. The said candidate Dr. A.C.M. Hanas holds Bachelor of Science of Agriculture, University of Peradeniya, Sri Lanka, 1996.
4. He also holds a Master of Science (MSc), (Agricultural Economics) and (Economics Agriculture), Department of Economics and Agricultural Economics, Kansas State University, May 2005.
5. Further, he has the Doctor of Philosophy (PHd, Specialization : Regional Economic Development, Economics Modeling, Entrepreneurship, Department of Economics and Agricultural Economics, Kansas State University, Manhattan, Kansas, USA, June 2006.
6. Dr. A.C.M. Hanas worked at several Universities and University Colleges as Visiting Lecturer. However, Dr. Hanas worked as a Lecturer (probation) July, 1997 – May 2001 at the Faculty of Agriculture University of Peradeniya, as an Assistant Professor at the Department of Accounting, Agribusiness and Economics in South Carolina State University during January, 2006 – August, 2008 and as an Assistant Professor at the College of Business and Economics, American University of Colleges during September, 2011 – Current.
7. Dr. A.C.M. Hanas has been awarded number of Research Grant and published number of research publication and highly reputed journals, nooks, books chapters and presented papers at National and International conferences.

Findings of inquiry on 23.12.2021

After the report was received, the Human Rights Commission decided to inquire the complaint in person. Accordingly, the complainant and respondents were called for inquiry on 23.12.2021. Three officials, namely Mr. H.A. Abdul Saththar, Registrar of the University, Mr. A.R.M. Zulfi (Senior Assistant Registrar Legal and Documentation), Mr. M.H. Nafar (Senior Assistant Registrar, Academic Establishment) represented on behalf of the respondent at this inquiry. The following were noted;

1. Dr. A.C.M. Hanas who was recommended by the Selection Committee to the appointment had been served vacation of post by the University of Peradeniya.

2. His academic qualifications are irrelevant to the said post advertised by the University. Though the application was to recruit the candidates to the post in Economics and Statistics, he had the qualification in the field of Agriculture and Agricultural related field.
3. Dr. A.C.M. Hanas also violated bonds and agreement during his University service. The relief period to offer to re-join to the University system has exceeded as per the UGC Circular No: 03/2014 (i).
4. In his shortlisting his application to the said post, section 18:3:5 of Chapter III of UGC establishment code was not properly followed. Similarly, the report including the observation of Head of the Department of Economics and Statistics of the South Eastern University sent to the Vice Chancellor of the University regarding selection of Dr. A.C.M. Hanas was not considered at the process of shortlisting and selection of candidate to the post advertised by the University.

At the same time, the Human Rights Commission also called for a Compressive Report from the University Grants Commission regarding the findings numbered 1 – 4 above. Accordingly, the University Grants Commission (UGC) only answered 02 of the above findings (i.e. 1st and 3rd findings) and directed the Human Rights Commission to get the observation from the South Eastern University of Sri Lanka itself for the findings No. 2 and No. 4 referred to above.

Observation of the Human Rights Commission

Considering the arguments made by the Complainant, the counter arguments and reports received from the Respondents, the Human Rights Commission makes the following declaration.

1. The Argument of relevance of Degrees of Dr. A.C.M. Hanas

In deciding the relevance of the degrees of Dr. A.C.M. Hanas for the post of Senior Lecturer Grade I in the Department of Economics and Statistics, it is appropriate to consider a recent judgment delivered in the Court of Appeal in a similar case.

In the case of Bamunuarachchige V. University of Peradeniya and others, (2008) 2 Sri L.R. Court of Appeal held that

“A careful consideration of the Petitioner’s application marked 2R3 indicates that the petitioner obtained his post graduate qualifications in Micro Biology and not in the relevant subject, namely Agricultural Biology. In view of forgoing I cannot

hold that the Petitioner satisfies the qualification necessary for the appointment of Senior Lecturer Gr. II”

When considering the above judgment, it is crystal clear that Dr. A.C.M. Hanas does not have Degree in the subject of Economics and Statistics as required in the advertisement. Similarly, his Master Degree and his PhD are not in the relevant subject, namely in the subject of Economics and Statistics (Annexures 15,16 and 17). However, the qualifications of the complainant (Dr. A.L.M. Aslam) fulfilled the qualifications requested in the advertisement (Annexure I), Economics and Statistics (Vide annexures 3(a) – 3(c).

In addition, the Sri Lanka Quality Framework (SLQF) points out that a bachelor degree can be divided into two parts, namely designator and qualifier. Designator specifies the broad area of study for all degree, whereas the qualifier indicates the specialized area of the degrees. In order to use the qualifier, at least 50% of the minimum total credits should be consisted of degree. However, the degree : Bachelor, Master and PhD of Dr. A.C.M. Hanas indicate that he poses all the degree in the field of Agriculture and Agricultural Economics, not in Economic and Statistics.

According to Sri Lanka Quality Framework (SLQF), the duration of PhD should be 3 years after SLQL 6 or above (after obtaining the master degree). Here the duration of PhD of Dr. A.C.M. Hanas is only one year. Annexure 11 and 17 confirm that the duration of the degree of Doctor of Philosophy of Dr. A.C.M. Hanas is one year duration.

Further, it is observed that according to the UGC circular No. 08/2016(ii), the relevancy of the degree shall be approved by the Council of the University based on the recommendation made by the Head of the Department, Dean of the Faculty concerned and the Vice Chancellor.

Here, the Head of the Department did not accept the degrees of Dr. A.C.M. Hanas is relevant to the post and does not satisfy the need of the Department.

It is also noted that both the University Grants Commission and the South Eastern University of Sri Lanka failed to substantiate the degree of Dr. A.C.M. Hanas are relevant to the post of Senior Lecturer in Economics and Statistics with necessary material evidence.

In addition to the above, the Vice Chancellor of the South Eastern University of Sri Lanka declares that the basic degree of Dr. A.C.M. Hanas is Bachelor of Agricultural and his Master and PhD are Agricultural Economics. It is highlighted that Dr. A.C.M. Hanas recommended by the selection Committee to the post of Lecturer Gr. I in Economics does not have the degree of Economics and Statistics as requested in Annexure I.

Therefore, the marks given to Dr. A.C.M. Hanas for his bachelor degree (15 marks), Master degree (2.5 marks) and his PhD (7.5 marks) are illegal as his degree (Bachelor, Master and PhD) are not in the relevant subject, namely Economics and Statistics as indicated in annexure I.

2. **The argument of incomplete application**

On perusal of the application submitted by Dr. A.C.M. Hanas for the post of Lecturer Grade I, it is crystal clear that Dr. A.C.M. Hanas has not specifically answered in his application to the question "Have you ever been served with a vacation of post notice by any other University/ Government Institution? If so, please provide details".

Further it is noted that the South Eastern University itself had to verify from the candidate if he was served with vacation of post clearly as required. This indicates that the candidate has not declared his VOP. The Human Rights Commission considers the application of Dr. A.C.M. Hanas seems incomplete and that it should have been rejected before interview as per the advertisement.

3. **The argument for considering University level teaching experience**

According to the making scheme submitted by the University, the marks given to the university level experience worked at University of Peradeniya and College level are illegal. As he was with vacation of Post at University of Peradeniya he was not eligible to claims his service period before issuing vacation of post.

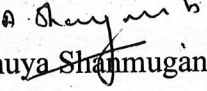
4. **The argument for the allegation of personal interest shown by Prof. M.M.M. Najim, former vice Chancellor**

In regard to the allegation of personal interest shown by the former Vice Chancellor, only the Head of the Department of Economics and Statistics accuses in his letter. Neither the complainant nor Head of the Department has not submitted any further material evidence to prove their claim. Therefore, the Human Rights Commission is of the view that this argument has not been accepted.

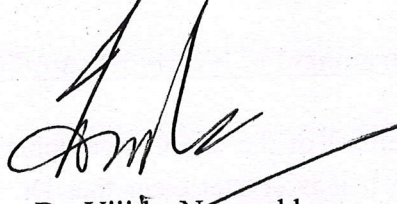
Conclusion

Considering the above, the Human Rights Commission holds that the complainant has been successful in establishing that the fundamental rights of the petitioner guaranteed in terms of Article 12(1) have been violated by the South Eastern University of Sri Lanka. This application is accordingly accepted. Further, the Human Rights Commission declares that the fundamental

rights of the complainant (Dr. A.L.M. Aslam) is violated in terms of Article 12(1) of the Constitution in the appointment delivered to Dr. A.C.M. Hanas.


Anushuya Shanmuganathan
Commissioner
Human Rights Commission.

Mek. Ms. Anusuya Shanmuganathan
Commissioner
Human Rights Commissioner of Sri Lanka


Dr. Vijitha Nanayakkara
Commissioner
Human Rights Commission.

Dr. Vijitha Nanayakkara
Commissioner
Human Rights Commission of Sri Lanka