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இலங்கை மனித உரிமைகள் ஆணைக்குழு
HUMAN RIGHTS COMMISSION OF SRI LANKA

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My No. }

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திகதி } 10 | 05 | 2015 .
Date }

The Group of Affected Employees
National Water Supply and Drainage Board
Regional Office
Akkaraipattu.

Complainant/s

Complaint No : HRC/KL/55/15

01. The General Manager
National Water Supply and Drainage Board
Ratmalana.
02. The Additional General Manager
National Water Supply and Drainage Board
Ratmalana.
03. The Regional Manager
National Water Supply and Drainage Board
Regional Office
Akkaraipattu.

Respondent/s

A brief synopsis of the complaint

The above complainants lodged a complaint at this office on 10th April 2015. They stated that, they were employees of the National Water Supply and Drainage Board and based in Akkaraipattu. They had been transferred to different stations by letters dated 31st March 2015 & 02nd April 2015. The General Manager, National Water Supply and Drainage Board had issued a circular bearing No: 13/2014 dated 09th June 2014 on a transfer scheme for the year 2015:

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பிரதான அலுவலகம் }
Head Office }
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தொலைபேசி }

14, අර්. ඒ. ජ මෙල මාවත, කොළඹ - 04.
14, ஆர்.ஏ.த. மெல் மாவத்தை, கொழும்பு - 04.
14, R. A. De Mel Mawatha, Colombo - 04.
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தவிசாளர் }
Chairperson }
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செயலாளர் }

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தொலைநகல் }
Fax }
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தூரித அழைப்பு }
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011-2505541 / 74
மின்னஞ்சல் }
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According to this transfer scheme, transfers are considered by a Transfer Board. Letters dated 02nd September 2014 and 24th September 2014 proclaimed the Annual Transfers of the employees for the year 2015. In terms of the annual transfer scheme, the transfer board considered their appeals with regard to the said transfers and by letters dated 25th November 2014 and 22nd December 2014 informed its decisions. The annual transfers for the year 2015 were finalized on 31st December 2014 and came into effect on 01st January 2015. The petitioners alleged that they were fraudulently transferred without any justification on the basis of political pressure.

Intervention by the Regional Office

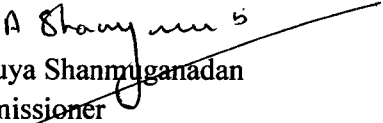
- The Regional Office called a report from the above respondents on 22nd April 2015 and requested to submit their response on or before 06th May 2015. The 1st respondent requested on 30th April 2015 from the Regional Office for a period of three weeks to submit their response.
- An inquiry was held on 05th May 2015 at 10.30 a.m. Mr. J.N. Careem, Regional Manager, National Water Supply and Drainage Board, Regional Office, Akkaraipattu stated that he was executing duties as Regional Manager at the Regional Office over the past one week and as such that he will submit a detailed report to the Commission on or before 20th May 2015 and further that action will be taken after consultation with the General Manager and Additional General Manager of the National Water Supply and Drainage Board, Rathmalana.
- The Second inquiry was held on 19th May 2015 at 10.30 a.m. The third respondents stated at the inquiry that if the petitioners submitted their requests and justifications, he would bring them for favorable consideration of the Senior Management of the office. The 1st and 2nd respondents did not attend the inquiry. The 3rd respondent further requested at the inquiry that the 1st and 2nd respondents were unable to attend the inquiry as they wanted time and space. There wasn't any written submission to the Commission for their failure to attend the inquiry.
- The petitioners stated that they were transferred to the different stations fraudulently in the middle of the year on the basis of political victimization. They alleged that they were not transferred according to what was stipulated in the transfer scheme as Annual transfers, Mutual transfers, transfers based on exigency of service or transfers based on disciplinary grounds. They stated that their Fundamental Rights were being violated by the management. They stated that they appealed with regard to said transfers to the General Manager and Regional Manager but that there was no response yet.
- The 1st and 2nd respondents have failed to submit their reports on the complaints yet, and the requested time period to furnish reports has lapsed.

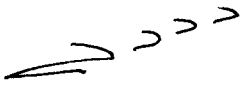
Observations and Sub Recommendations on the complaint :

- Appeals with regard to the transfers of the petitioners were not considered and no response to the appeals yet. It is a clear infringement of the Establishments Code, Chapter : 28.3.8. It says that the response from the authority should be given to the appeal within 14 days.
- The transfers had been issued with immediate effect totally disregarding the government transfer policy. There were a number of officers placed in the same categories as the petitioners exceeding the period in their stations than the petitioners at the National Water Supply and Drainage Board, Regional Office, Akkaraipattu. The Regional Office constitutes or functions with many sub units. Action had been taken in total contempt of the requirements of fairness and in violation of equal protection of the law enshrined in Article 12(1) and 12(2) of the Constitution.
- According to the Circular No: 13/2014 of the National Water Supply and Drainage Board, the officers are eligible for transfers on the basis of Annual Transfer, Mutual Transfer, Transfer based on Exigency of Service of Transfer based on Disciplinary grounds. The complainants had not given consent for mutual transfers and no disciplinary actions have been taken against the petitioners.

Further, the transfers were not based on exigency of service. The transfers were in violation of the Articles 12(1) and 12(2) of the Constitution.

- The transfers given to these officers or the petitioners were made in violation of the said transfer scheme of the National Water Supply and Drainage Board published in Circular No. 13/2014.
- Hence this Commission hereby directs the respondents to make arrangements to reappoint the complainants in their former stations and report back to the Human Rights Commission within one month from today.


Anusuya Shanmuganathan
Commissioner
Human Rights Commission of Sri Lanka.


M.H. Nimal Karunasiri
Commissioner
Human Rights Commission of Sri Lanka.

Ms. Anusuya Shanmuganathan
Commissioner
Human Rights Commissioner of Sri Lanka

Human Rights Commission of Sri Lanka
Commissioner
M.H. NIMAL KARUNASIRI