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இலங்கை மனித உரிமைகள் ஆணைக்குழு
HUMAN RIGHTS COMMISSION OF SRI LANKA

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My No. }

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Your No. }

දිනය } 2024.10.15
திகதி }
Date. }

N.F. Rifasa
Palanagar,
Muthur-02.

-Petitioner-

HRCSL Application Case No: HRC/TRM/25/2023

vs

Secretary,
Ministry of Public
Administration,
Home Affairs, Provincial
Councils and Local
Government
Colombo-07.

-Respondent-

Synopsis of the Complaint

The complainant has made a complaint to the Human Rights Commission of Sri Lanka on 28th of February, 2023 alleging *inter alia* that she has been excluded from the unemployed graduate appointment list published on 02nd September 2020 by the Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government.

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Head Office }

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இல. 14, ஆர்.ஏ.த.மெல் மாவத்தை, கொழும்பு-04.
No. 14, R.A.De Mel Mawatha, Colombo -04.

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Chairman }

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The complainant has graduated with a Bachelor of Science (Special) Degree in Speech & Hearing Sciences in University of Kelaniya on 01st December 2018. The complainant has applied for the jobs recruitment programme for unemployed graduates -2020. As per the letter bearing number HAI/12/GT/2/2020 and dated 27th February 2020 of Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government, complainant has been appointed as a graduate trainee for a period of one-year attached to Divisional Secretariat, Muthur.

Later, the complainant has been attached to MOH Office Muthur through the letter bearing number MU/DS/EST/GT/2020 and dated 30th March 2020 by Divisional Secretariat, Muthur. However, this jobs recruitment programme for unemployed graduates -2020 has been postponed and refunctioned on 02nd September 2020. In relation to that refunctioning, a new list of selected unemployed graduates has been published.

The complainant has stated that her name was not included in the aforesaid selected list and was included in the rejected list by mentioning the reason for rejection as having a foreign degree. However, as the complainant's degree is a local one, she has made several appeals via e-mail and registered post through the Divisional Secretariat, Muthur regarding her exclusion from the appointment of Graduate Trainees for the Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government on 20th August 2020, 21st August 2020, 09th September 2020 and 04th January 2021. However, as to the complainant, the said ministry has not entertained her appeals.

Therefore, the relief requested by the complainant from the Human Rights Commission of Sri Lanka is to reinstate her job appointment with salaries related to the period of loss of employment.

Submission of the Respondent

In accordance with the report of the respondent Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government bearing number PS/GT/HRC/2022 and dated 22nd March 2023, the Presidential Secretariat had made all arrangements regarding the appointment of unemployed graduates and the finalized selected and rejected lists had been submitted to the Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government by the Presidential Secretariat.

As per the aforesaid report, the respondent Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government had published a notice in their website calling appeals regarding the said appointments on 23rd August 2020. After considering appeals, the respondent Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government had appointed eligible graduates as graduate trainees on 01st February 2021 and 26th March 2021. Furthermore, it has been stated that the respondent had terminated jobs recruitment programme for unemployed graduates -2020 by appointing a total of 58,116 unemployed graduates in three turns.

Moreover, it has been stated in the above mentioned report that the failure of the complainant to appeal within the prescribed time period has led to the rejection of her appointment and the complainant's name had been included in the list of appeals received after the termination of the said jobs recruitment programme for unemployed graduates -2020.

Observations

It has been observed in the investigation that the said complainant has obtained a Bachelor of Science (Special) Degree in Speech & Hearing Sciences from University of Kelaniya on 01st December 2018 and has applied for the jobs recruitment programme for unemployed graduates -2020.

Further, it has been noticed that the complainant has been appointed as a graduate trainee for a period of one-year attached to Divisional Secretariat, Muthur by the letter bearing number HAI/12/GT/2/2020 and dated 27th February 2020 of Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government.

Moreover, it has been observed that this jobs recruitment programme for unemployed graduates -2020 has been postponed due to the General Election 2020 and refunctioned on 02nd September 2020 with the publication of a new list of selected unemployed graduates on 16th August 2020. In addition, it has been noted that the name of the complainant was not included in the aforesaid selected list and her name was included in the rejected list under number 604 mentioning the reason for rejection as Foreign Degree.

However, as per the degree certificate of the complainant it has been revealed that the complainant has obtained a Bachelor of Science (Special) Degree in Speech & Hearing Sciences from University of Kelaniya on 01st December 2018 and it is not a foreign degree. Therefore, it has been observed that the respondent Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government has erroneously recognized the degree of the complainant as a foreign degree and the rejection of her appointment as a graduate trainee based on that erroneous recognition is not justifiable.

Furthermore, it has been noticed by the commission that the respondent Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government had published a notice on 23rd August 2020 in their website calling appeals regarding the rejection of appointments since being a member of Employee Provident Fund (EPF) and doing a job. It had been mentioned in the said notice to submit the appeals to the Divisional Secretary of the relevant Divisional Secretariat before 15th September 2019. In the aforesaid notice appeals had not been called regarding the rejection due to foreign degrees.

In accordance with the documents submitted by the complainant, it has been revealed that the complainant has submitted her appeal to Divisional Secretary of Divisional Secretariat, Muthur on 09th September 2020 even though appeals from graduates who were rejected due to foreign degrees had not been called. It reflects that the complainant has submitted her appeal before the prescribed deadline. Therefore, it has been revealed to the commission that the fact mentioned in the report of the respondent Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government bearing number PS/GT/HRC/2022 and dated 22nd March 2023 regarding the failure of the complainant to submit her appeal within the prescribed time period cannot be admitted.

Further, the Regional Office, Trincomalee of the Human Rights Commission of Sri Lanka has called a report from the Presidential Secretariat regarding this complainant on 18th August 2023 and the Presidential Secretariat has responded to the Regional Office by a letter bearing number PS/LAD/1/47 and dated 11th September 2023 stating that the petitioner had failed to file an appeal within the time limit.

Additionally, at the inquiry which was held on 09th November 2023 at the Regional Office, Trincomalee of the Human Rights Commission of Sri Lanka in line with this complaint, the respondent Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government has admitted that some sort of an injustice has occurred to the complainant.

Conclusion

In the above circumstances, it is concluded that the fundamental right of the complainant guaranteed under Article 12 of the Constitution of the Democratic Socialist Republic of Sri Lanka, 1978 which emphasizes Right to Equality has been violated by the respondent Ministry of Public Administration, Home Affairs, Provincial Councils and Local Government as the complainant's appointment has

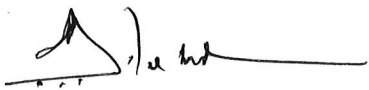
been excluded without attentive consideration of documentation. Any form of discrimination will not be tolerated under Article 12. Therefore, the respondent should be held accountable for the infringement of aforesaid fundamental right of the complainant.

Recommendation

The respondent shall appoint the complainant as a Development Officer with the relevant salary step she is entitled to, as if she had been appointed on 3rd January 2022, along with the other unemployed graduates of the Jobs Recruitment Programme for Unemployed Graduates - 2020 without back wages.

It is notified to the respondent to implement the aforementioned recommendation before 26. 11 . 2024 and report back to the Human Rights Commission of Sri Lanka on the progress made with respect to measures taken to implement the recommendation, in terms of Section 15(7) of the Human Rights Commission of Sri Lanka Act No. 21 of 1996.

Also, it is notified to the complainant to inform the Commission about the implementation or non-implementation of the recommendation within a week from the prescribed date of implementation and the requests submitted after the date will not be considered.



Justice L.T.B. Dehideniya

Chairperson

Human Rights Commission of Sri Lanka

Justice L.T.B. Dehideniya
Judge of the Supreme Court (Retired)
Chairman

Human Rights Commission of Sri Lanka
Copy to: Minister,

Ministry of Public Administration, Home Affairs, Provincial Councils,
And Local Government, Colombo 07.



Nimal G. Punchihewa

Commissioner

Human Rights Commission of Sri Lanka

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Nimal G. Punchihewa
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Commissioner
Human Rights Commission of Sri Lanka