

1.5 Procedure Adopted Upon Receiving Complaints

Each and every complaint/petition received by this office is entered in a separate register and then a specific number is allocated for that complaint. Thereafter, the complaints are classified according to the subjects such as; Pensions, Widows & Orphans' Pension Payments, Salary Anomalies, Salary Increments, Promotions, Lands, Unauthorized Constructions, Termination of Services, Reinstatement in office, Service Absorption, Admission to Universities/Schools, Misuse of Powers etc. These are the particular subjects allocated to and dealt with by the Office of Ombudsman and they belong to the category of "Management Service Officers" in the Government Service. Upon registering a complaint, it is referred to the respective Management Service Officer (Subject Clerk) and thereafter it is their duty to open up a file for each and every complaint. This selection of topic is being carried out by the Chief Management Service Officer at the office.

Once a file is opened in respect of a particular complaint, the subject clerk makes a minute in the file summarizing the contents of the complaint. Thereafter, he/she, having discussed the nature of the complaint with the Administrative Officer, both of them meet the Ombudsman and seek his advice and guidance as to the steps that are to be taken in connection with the complaint.

It is a very important meeting and, at that point, the Ombudsman carefully considers the contents of the complaint along with other documents annexed thereto. The first and foremost issue that would be looked into is to ascertain whether the complaint/allegation, falls within the jurisdiction of the Ombudsman. In determining this issue, Ombudsman carefully addresses his mind to the matters contained in Sections 10, 11 and 17 of the Parliamentary Commissioner for Administration Act (hereinafter referred to as the Act). If the complaint does not fall within the ambit of the Act, the complainant is informed forthwith giving reasons for the inability to proceed with the matter.

When the Ombudsman decides to proceed with the application, he makes appropriate orders as to the steps that are to be taken in connection with each and every complaint. If

the Ombudsman feels that it is necessary to obtain more information, such as the relief sought, and against whom the complaint is made, then such information is requested from the applicant. Thereafter, every effort is made to conclude the case in accordance with the provisions of the Act and very often it will depend on the nature of the complaint.

Having decided to proceed with the matter, generally, observations are called from the officers holding higher positions than the officials against whom the allegation is made. Many instances are found where the authorities have decided to grant relief soon after they receive the said letters by which the observations are being called. There are instances where this office had to send several reminders to get the observations on the issue. In a fair number of cases, the Ombudsman was able to see a meaningful outcome after exchanging several letters. In the event that the Ombudsman is unable to achieve an acceptable decision adopting such a process, the relevant parties are summoned to this office for a formal inquiry.

This inquiry is held observing the rules of natural justice giving every party an opportunity to present their respective cases in the presence of each other. Whenever a violation of a fundamental right or an injustice has been caused to the complainant, the Ombudsman makes every effort to ensure granting relief to the victim. If he fails to achieve an acceptable solution by such a cause of action, further inquiries are made to rectify the errors made. If the Ombudsman is unsuccessful in all such endeavours, he makes a determination on the issue and informs the same to the respondent-party to ensure that it is implemented within a given period of time. If no action is taken within the time so specified, the Ombudsman shall forward a copy of his report to His Excellency the President and to the Parliament for appropriate action. At this stage, it must be noted that the Office of Ombudsman always maintains strict confidence when following the procedure referred to hereinbefore.

Having mentioned the manner in which the applications are being processed and the actions taken thereafter, I will now refer to a few matters covering different areas where this office was able to grant reliefs to the applicants who sought the intervention by the Ombudsman. I believe it will be of somewhat assistance to understand properly the nature and the type of the applications made to this office during the year under review.

No. OMB/P/2/1/162

Name: Mr.W.H.Punyadasa

The applicant, Mr. W.H Punyadasa, is the eldest son of his family and is in possession of irrigated Land plot bearing No. 2776 of අ.භ.වී 73/4 which had been conveyed to his father by Sri Lanka Mahaweli Authority. However, His father had nominated his sister, W.H Manel Priyanthi as the successor to the aforementioned land plot. As a result, even though he has tried to obtain ownership of the aforementioned block of land for the past 26 years, he was unable to obtain a permit for the land. Finally, Mr. W.H Punyadasa made a complaint to us and sought relief.

Upon calling for reports from Sri Lanka Mahaweli Authority, they have sent a report stating that the irrigated land plot in question is the allotment of land marked Lot 2776 depicted in Plan No.අ.භ.වී.73/4 which is in extent of 1.276 Hectares. The report further states that the license bearing No.මම/උව/ජර/බ/54 had been issued in the name of the father of the complainant having nominated Hettige Manel Priyanthi, the daughter of the allottee, as the successor to the land. However, it is important to note that the applicant had developed and had been in occupation of the land continuously for a very long period of time. Afterwards, an inquiry was made from the Sri Lanka Mahaweli Authority to ascertain whether it was possible to hand over the irrigated land to the applicant W.H Pundayadasa, on the basis of his long-term possession of the land. Accordingly, we were informed that, though W.H Manel Priyanthi had been summoned for an inquiry to obtain her consent to transfer the land to the complainant, she had failed to attend the said inquiry.

Subsequently, we obtained the address of W.H Manel Priyanthi from the Sri Lanka Mahaweli Authority and inquired whether she would agree to hand over the land in question to her brother W.H Punyadasa. Her position was that, she could transfer the ownership of the land if she is commensurate with the present market value of the land. Upon informing Sri Lanka Mahaweli Authority of her stand and inquiring about any other possible reliefs that could be given to Mr. W.H Punyadasa, Mahaweli Authority informed that the land division of the Mahaweli Authority will convene another inquiry prior to making a final decision. As a result, the applicant has sent us a letter of gratitude dated 27.11.2020, informing that he was able to resolve his problem that existed for 26 long years due to the intervention by the Ombudsman.

No. OMB/P/2/4/4628

Name: Mrs. D.M.N.A. Dissanayaka

The applicant, D.M.N.A. Dissanayake had been appointed as a Pharmacist in 1993 and had been working at the Matale District Hospital until 29.07.2015. Thereafter, on 27.09.2014 she was promoted to the Special Grade in Pharmacy. The applicant complained that three officers who were promoted along with her, were given the promotion backdating it to read as 01.01.2013 and further stated that she was not treated in the same manner. She also complained that two other officers who are junior to her also had been promoted to the Special Grade with effect from the same date namely 01.01.2013. In this premise, it was her position that grave injustice had been caused to her due to these decisions and accordingly she requested that she also be given the promotion backdating it to 01.01.2013.

Pursuant to the calling of reports from the Director of Health services Central Province, it was revealed that initially, on 20.05.2013, three special Grade Posts in Pharmacy had been approved for the Central Province. Accordingly, three officers who obtained highest marks based on their seniority and merits were appointed on 15.08.2014. Due to the retirement of one of them, the applicant who had been in the 4th position in the seniority list also had been given the appointment to the Special Grade Pharmacist but with effect from 27.09.2014. another 02 Special Grade Pharmacist posts were approved for the Central Province on 05.08.2015 effective from 01.01.2013, even without a request being made by them. However, the appointments made subsequently of the two officers who were given special grade promotions were also backdated and was made effective from 01.01.2013. In which case, the appointment of the applicant should also have been backdated to read it as 01.01.2013 but it had not been made so. Accordingly, it was revealed and observed that there had been grave injustice caused to the applicant because the two subsequent appointments had been given with effect from 0.01.2013 to the officers who are junior to the applicant in their service and also with lesser merits.

Accordingly, upon clarifying the relevant facts to the Director of Central Provincial Health Services, the Department took necessary action to backdate the Special Grade Promotion in Pharmacy to the applicant to which the applicant was entitled to. As a result, the issue of the complainant which she had been trying hard to settle was successfully resolved with the intervention of this office.

No. OMB/P/2/4/4414

Name: Mrs.S.N.C.Dayarathne

The complainant, S.N.C. Dayaratne had applied and passed the Limited Examination for Recruitment to Class III of the Education Administrative Service, notice to which was published in the *Gazette Extraordinary* dated 18.12.2015. Though she had faced the oral interview which was held for the recruitment to the said post, she has not been given the appointment due to the absence of 1/3 of subject combination, in the subject of “Student Counseling and Guidance” in her degree. Thereafter, she had made a request to appoint her to the post on the basis that she has fulfilled the basic qualifications.

Pursuant to the calling of reports in this regard from the Education Services Committee of the Public Service Commission, an inquiry was held summoning the relevant officials of the Ministry of Education and the Education Services Committee of the Public Service Commission. In that inquiry, it was revealed that the appointment could be granted to the applicant if the relevant University confirms that there exist 1/3 subject combination for the subject of “Student Counseling and Guidance” in the syllabus of the degree obtained by her. Subsequently, with the intervention of the Ombudsman and upon receiving confirmation from the University of Colombo, the Education Services Committee of the Public Service Commission took steps to grant the applicant, the appointment in the Education Administrative Service.

Accordingly, the applicant who did not get an appointment despite fulfilling all the qualifications was able to obtain her due appointment, upon intervention by this office.

No: OMB/P/2/5/3347

Name: Mr.T.A.P.Karunaratne

An application had been made by T.A.P Karunaratne, a resident of No. 105/1, Gokarella, Balawattala, on 02.03.2020 stating that his transfer order was not being made effective by the authorities concerned. The applicant had been working at the Medical Supplies Division located at No. 357, Ven. Baddegama Wimalawansa Thero Mawatha, Colombo 10 since 05.05.2014. While working there in that office he had applied for a vacancy in the Kurunegala Regional Medical Supplies Division on 12.04.2018. However, despite the approval given by the Secretary to the Ministry of Health to transfer him to the North Western Provincial Public Service, his transfer order was not been carried out due to the reason that the applicant was liable for an offence committed by another pharmacist.

Upon inquiries been made from the Director - Medical Supplies Division in this regard, it was revealed that though the transfer procedure in transferring the applicant had already been completed, transfer order was not being made effective because the election had been declared by then. However, assurance was given to release the applicant to the North Western Provincial Public Service as soon as the election is over with regarding the alleged inquiry pending against another party. Having informed her the above decision, she was requested to inform us when the transfer is made effective. Thereafter, by her letter dated 09.09.2020, she informed us that she had been released from her present station to work in the North Western Provincial Service and enjoying it basically due to the intervention of this office.

No: OMB/P/2/6/2490

Name: Mrs. K.A.Wimalawathie

The facts of the complaint sent by Mrs.K.A.Wimalawathie dated 10.10.2014 are as follows. The applicant's complaint was that her lawfully wedded husband, Mr.M.D.Peter, with whom she got married in 1960, had been missing for about seven years since 1980. Therefore, she married to a person named Wijesiri Dharmaratne in 1990, believing honestly that Mr. Peter had died and also because she had found it difficult to raise 6 children born to her by the previous marriage with Mr. Peter. After a lapse of 4 years, in 1994, the first husband of the applicant who had been critically ill had returned home. As a result, her second husband has left her. Thereafter, she has started to live with her former husband Peter once again. Peter had died in the year 1997. After his death, she has obtained Widow's and Orphan's pension lawfully due to her by the marriage of her late husband Peter.

However, her pension had been suspended since 2009 for the reason that she had contracted another marriage for the second time while the existence of her first marriage. The complainant has further pointed out that the Department of Pensions had not taken action to pay the Widows 'and Orphans' Pension to her, despite the fact that there is a decision by court to the effect that the subsequent marriage to Mr. Dharmasiri is *void ab initio*, which was made in the divorce case filed in Ratnapura District Court in 2012.

Pursuant to the calling of reports in this regard from the Director General of the Department of Pensions, he has informed that the pension could not be paid to the complainant in terms of Article 31 (1) (1) of the Widowers' and Orphans' Pension Act.

However, a recommendation was made to the Department of Pensions that the applicant is entitled to obtain the pension and to take necessary action to pay the pension considering the said decision pronounced by Court. Decision made by Ratnapura District Court is that the applicant's subsequent marriage to Mr. Dharmasiri is a void marriage and should be considered it as there was no marriage contracted by the applicant with Dharmasiri.

Subsequently, with our intervention, the pension was paid to the applicant from January 2016. However, the Department of Pensions has stated that they will not be able to pay the arrears from 2009 to December 2015. Upon exchanging several lengthy correspondences from 2016, in the year 2018 we directed the Secretary to the Ministry of Public Administration to exercise his powers and approve the payments due to the applicant. Due to delays in exchanging correspondence between the Ministry of Public Administration and the Department of Pensions from 2018 onwards, we again inquired from the Secretary to the Ministry of Public Administration on 19.03.2019. Department of Pensions thereafter informed us that the Secretary to the Ministry of Public Administration has given his approval to pay the arrears of pension for the period from 2009 to 2016 as well. Consequently, Department of Pensions has informed us that action had been taken to pay the arrears of pension to the applicant in November 2020.

Even though, the applicant had made several requests to the officers continuously, for many years, to obtain the pension along with arrears, the relevant authorities had not given a favorable response. After the applicant submitted this complaint to our office in 2015 and due to the intervention by this office, action was taken to pay her the, Widows' and Orphans' pension with effect from the year 2016 and to pay the arrears of widows' and orphans' pension for the period 2009 to 2016 as well.

No: OMB/P/2/7/804

Name: Mr.A.M.Senanayake

The applicant, Mr.A.M.Senanayake retired from the public service on 25.04.2005. This complaint had been made by him on 06.03.2020 to obtain his correct pension along with arrears since he has retired as an officer attached to Sri Lanka Technological Service [Special Grade] though he had been a Public Health Field Assistant. Pursuant to the calling of reports in this regard from the Director General of Pensions, we were informed

that the arrears from 01.01.2008 to 30.06.2019 had been paid to the complainant along with the July 2020 pension.

Merely calling for reports from the Department of Pensions on 01.06.2020, the complainant was able to receive the arrears of pensions in a short period of two months that had been delayed for several years. Similarly, there is another applicant who has received the promotions due to his commitment and dedication, had complained to our office with some hope but with deep regret about the non-payment of his salary revisions. Having received the arrears of salary within a short time span, applicant who was overjoyed, has forwarded a letter of gratitude to show his sincerity.

No: OMB/P/2/7/414

Name: Mr.K.G.Bandupema

The applicant, Mr. K.G.Bandupema who was a member of the Sri Lanka Army Medical Corps, retired from the post of Authorized Officer Grade I on 14.12.2007, after serving the Army for 22 years 08 months and 27 days. Having retired, he has subsequently joined the active-duty in the Army again on 29.02.2013 and has served for 03 years 02 months and 09 days and thereafter resigned from that service on 07.05.2016 having put in 55 years of service altogether in the Army.

According to the Public Administration Circular No. 03/2016 issued on 31.12.2015, salary scale of public servants had been increased with effect from 01.01.2016. Accordingly, the salary increments of the employees of the Three-Armed Forces also were given in accordance with the said Management Services Circular 03/2016. Although two salary increments had been given to the complainant by that time, his complaint was that he had not being given the other salary increment which he was entitled as per the said Management Services Circular 03/2016.

in this regard we called for a report from the Directorate of Pay and Records in the Army. They informed us that a request had already been made to the Ministry of Defense for further advice in accordance with the Circular No.03/2016 to revise the salaries of those who served the Army in an emergency and also considering the services that they have rendered. Thereafter, we made inquiries also from the Ministry of Defense in this regard and it was followed by several exchange of correspondence. Finally, upon receiving

advice from the Attorney General on this question of revision of pension that was requested by the complainant, Ministry of Defense stated that the revised pension could be paid to the complainant in accordance with Management Service Circular No. 03/2016. Consequently, the applicant informed us by way of a letter of gratitude which is dated 12.02.2020, that he had received the salary increment which he had requested.

Even though, the applicant had been requesting the authorities to grant the relevant salary increment since 2017, those authorities have failed to respond favorably. However, the applicant was able to obtain successful results after he made the complaint to our office. Needless to say, that the applicant is not the only one who enjoyed the outcome of his request to this office but many such retirees and many other employees also were able to obtain the increment which they are entitled to according to the above circular. As a result, there had been a significant increase in the pensions and salaries of those persons who were not given the benefit of that increment. Accordingly, it is to be noted that a large number of people were able to obtain the salary increment based on the outcome of the complaint made to us by Mr. Bandupema.

No: OMB/P/2/9/833

Name: Mrs.N.A.Sandamali Priyanthika

The applicant, Mrs.N.A.Sandamali Priyanthika, complained that, though the documents that are necessary to change her address given in her National Identity Card, from Division No. 427, Lower Kosgama, East Grama Niladhari Division to Division No. 440, Neluwattuduwa Division had been handed over to the Grama Niladhari, he had refused to accept those documents. As a result, she was not able to obtain a new Identity Card.

This office called for observations from Seethawaka Divisional Secretary. Consequent to the calling of reports, he has directed the Grama Niladhari of Neluwattuduwa Division to carry out the above task. However, due to the failure of the Grama Niladhari to act accordingly, the applicant had to shift back to the previous place of residence to obtain the National Identity Card.

It is necessary to mention that whilst investigating into the above complaint, it was revealed that the husband of the Grama Niladhari of the said No.440, who neglected the duty, also was serving in the capacity of the Administrative Grama Niladhari (Supervisor), within the same Divisional Secretariat Division. Considering all those

As a result, the admission of the child of the applicant to the Grade 01 at ජ/අැමි / President's College was approved and the principal was informed accordingly. It was informed to the Director of Education (National Schools) as well by the letter dated 03.09.2020 to take necessary steps.

Subsequently, Complainant Mr. S.C. Leelaratne had sent a letter of Gratitude dated 28.09.2020 informing as that his child was admitted to Grade 01 at ජ/අැමි / President's College on 09.09.2020.

A similar complaint also lodged by Mr. K.P.W.S. Niroshana on 24.02.2020. Action was taken on that complaint too under file number OMB / P / 2/10/1609 and similarly we were able to admit the daughter of this applicant also to Grade 01 at ජ/අැමි / President's College.

No: OMB/P/2/10/1326

Name: Mr. R.P.J.Rankothge

The facts of the complaint sent by Mr. R.P.J. Rankothge dated 21.03.2018 are as follows. This applicant, has served Sri Lanka Transport Board for 33 years and due to hearing impairment and other ailments, he has retired from service on 14.10.2016. However, he had retired voluntarily in terms of the Circulars 'No. 01 of 2016 and / or No. 01 (i) of 2016' issued by SLTB. According to his retirement made under the said circular, the complainant was entitled to a compensation amounting to Rs. 2,048,970 / but the applicant had only received Rs. 1,862,700 / -. Therefore, the applicant's complaint was that he should be given the arrears amounting to Rs. 186,270 / -.

Upon considering the above issues, reports were called from the General Manager of Sri Lanka Transport Board. He has sent two reports dated 09.07.2018 and 13.11.2018. Accordingly, the Deputy General Manager (Administration) had informed that, since the applicant had failed to annex the certificate obtained for the training that he had underwent at the German Technical Training College, the period that he served at the Training College was not included when calculating his period of service. As a result, his service period was calculated as 30 years and compensation had been paid without calculating his training period at the Training College.

However, while expressing his view in this regard, the applicant stated that, his training period at the German Technical Training College had been recorded and found in his

personal file. He also submitted that his gratuity was paid taking into account his period of service as 33 years though only 30 years of service had been considered when computing the amount of Compensation.

Thereafter, inquiries were made from the Sri Lanka Transport Board in this regard. We were informed by a report dated 29.03.2019, that the reason for such a discrepancy was due to the applicant tendering the training certificate only after submitting the application for compensation. Therefore, even though the period he served at the college was included when paying the gratuity, it had not been considered when the compensation was paid.

Complainant had submitted the certificate of completion of his training by then, to the Sri Lanka Transport Board. Therefore, we observed that it is not justifiable to ignore the 03-year training period for the payment of compensation, merely because the delay in submitting the documents. Accordingly, a recommendation was made by this office to Deputy General Manager (Administration) by letter dated 04.06.2019, stating that if the applicant is entitled to receive the gratuity taking into account the duration of the training, there is no reason to withhold the compensation for the three-year training period.

Subsequently, Mr. R.P.J. Rankothge sent a letter of gratitude dated 24.01.2020, informing that he was able to receive the arrears of compensation from the Sri Lanka Transport Board.

Letters of gratitude sent by those who have obtained reliefs due to the Ombudsman's intervention are annexed for the purpose of completion of the Annual Report.