

CENTRAL INFORMATION COMMISSION
Appeal No. CIC/WB/A/2009/000294 dated 16.3.2009
Right to Information Act 2005 – Section 19

Appellant - Shri B. M. Garg

Respondent - Department of Personnel & Training (DoPT)

Decision announced : 8.4.2010

Facts:

By an application of 6.8.08 Shri Brij Mohan Garg of Uttam Nagar, New Delhi applied to the CPIO, DOPT seeking the following information:

“Whether the above said regular service rendered under Govt. of U.P. / Rajasthan / Haryana and counted for pensionary benefits in the new organization. (Delhi Jal Board) is to be counted alongwith regular service in the new organization for the purpose of getting financial up gradation under the Assured Career Progression Scheme?”

To this, Shri Brij Mohan Garg received a response dated 11.9.08 from CPIO Shri A. K. Srivastava, Under Secretary informing him as follows:

“As per clarification on ‘point of doubt’ No. 43 issued by this department OM No. 35043/1/97-Estt. (D) (Vol. IV) dated 18.7.2001 service rendered in an autonomous body / statutory body /State Government is not to be counted for the purpose of grant of financial up gradation under ACP Scheme. A copy of the extract of above clarification is enclosed.”

Aggrieved by this response, Shri Garg moved an appeal before Ms. Smita Kumar, Director (E-I) DOPT contending as follows:

“The reply sent by CPIO citing clarification on Point of Doubt No. 43 is contradictory to clarification on Point of doubt No. 39 of the same office memorandum and hence violation of Fundamental Rules.”

Upon this, Ms. Smita Kumar, Director, in her order of 31.10.08 came to the following conclusion:

“In accordance with the provisions contained in Para 2(f) read with Para 2(j) of RTI Act, 2005, the CPIO is required to provide material information on the relevant subject, which is available in his/her custody. The relevant information has been made available by the

CPIO. It is not the intent of RTI Act to give clarifications, justifications or to confirm the presumptions regarding policy issues. Therefore, I endorse the reply given by the CPIO.”

In his second appeal before us appellant Shri Brij Mohan Garg has prayed as follows:

“It is prayed that the matter may kindly be perused and an appropriate decision may be taken for the sake of equity and justice.”

The appeal was heard on 8.4.2010. The following are present:

Appellant

Shri Brij Mohan Garg

Respondents

Ms. Smita Kumar, Dir. (E-I)

Shri A. K. Srivastava, US

It was pointed out to both CPIO & Appellate Authority that their responses transgressed the limit of Sec. 7(1) and Sec. 19(6). Respondents pleaded for an opportunity to verify facts from the receipt register. Appellant Shri Brij Mohan Garg on the other hand conceded that what he claimed was an alleged misinterpretation of the rules, which in his view are being applied unfairly. Hence his appeal.

DECISION NOTICE

Appellant’s plea before us in second appeal is for what he considers “equity & justice”. This Commission is not a judicial institution like a court of law. Our jurisdiction is, therefore, limited to ensuring that information, as defined in Sec. 2(f) that is. held by or under the control of any public authority is provided, however unjust or inequitable such information might be. The CPIO Shri Srivastava has then sought to satisfy appellant by giving him a clarification, which is a generally accepted principle in the DoPT, which was not incumbent on him. Under the circumstances, therefore, the appeal before us in the present case is misplaced and is hereby dismissed.

Nevertheless, Shri Brij Mohan Garg is advised that should he be nursing a grievance against Government for the manner in which the rules have been applied in a particular case, he is free to take recourse to the Centralized Public Grievance Redress & Monitoring System administered by the Department of Administrative Reforms & Public Grievances in the Ministry of Personnel, Public Grievances & Pensions. For further information on this, he may access the public grievance portal at www.pgportal.gov.in .

Moreover, we find that as noted above, there has been a violation of the time limit prescribed u/s 7(1) of the RTI Act. CPIO Shri A. K. Srivastava has sought time to verify the documents in this regard. He will, therefore, submit a report in writing **by 26th April, 2010** addressed to Shri Pankaj K.P. Shreyaskar, Joint Registrar in this Commission as to why he should not be held liable for a penalty of Rs. 1250/- @ Rs. 250/- a day from the date when the information sought became due i.e. 6.9.08, to the time when the information was actually provided i.e. 11.9.08.

Announced in the hearing. Notice of this decision be given free of cost to the parties.

(Wajahat Habibullah)
Chief Information Commissioner
8.4.2010

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges, prescribed under the Act, to the CPIO of this Commission.

(Pankaj K.P. Shreyaskar)
Joint Registrar
8.4.2010