

CENTRAL INFORMATION COMMISSION

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CIC/SH/A/2016/001118

Gopal Rao Gudi v. PIO, National Council of Science Museum

Important Dates and time taken:

RTI: 09.11.2015 FAO: Nil SA: 06.05.2016 Hearing: 03.02.2017 Decided on: 06.02.2017

FINAL ORDER

Parties Present:

6. Appellant: absent

Public authority: Mr Laxmi Naranayan, APIO and Mr Sarvesh Khare
Section Officer represented CPIO

FACTS:

2. The appellant sought information regarding ESI No., PF No., and other service details of the employees of the National Council of Science Museum along with implementation of 4 (1) (b) of the RTI Act, 2005. The appellant also sought to inspect the employees maintenance and management record u/s 2 (j) of the RTI Act. The CPIO stated that the services has been outsourced to M/s. Creative & Fidelity Management Solutions (India) Pvt. Ltd. And no service records in respect of the personnel deployed by the said agency at DSC for the outsourced monitoring and Upkeep services are maintained either in DSC or at the Museum. Being unsatisfied by the response, the appellant approached the Commission.

Decision:

3. The Section Officer, Mr Sarvesh Khare stated that the services are outsourced to M/s. Creative & Fidelity Management Solutions (India) Pvt. Ltd and no service records for the outsourced employees monitoring and upkeep services are maintained by them. Mr Laxmi Naranayan, APIO stated that copy of contract/agreement was provided to the appellant, Mr Gopal Rao Gudi and a copy of same was sent to Mr Nand Kumar, CPIO. Mr Laxmi Naranayan, APIO stated that there is single designated CPIO, APIO and FAA appointed by National Council of Science Museum for its centres at Gulbarga, Bangalore and Kolkata. The APIO is appointed in Gulbarga, FAA in Bangalore and CPIO in Kolkata Centre.

4. Mr Sarvesh Khare as section officer stated that he does not collect service records of outsourced employees from the agency. Sadly, Mr Laxmi Narayanan, APIO also did not guide the section officer or collected information from the outsourcing agency; instead forwarded RTI application to Mr Nand Kumar, CPIO. The Commission records its displeasure that National Council of Science Museum being the principal employer is not maintaining service records of its outsourced employees. It is the duty of principal employer under Contract Labour (Regulation and Abolition) Act to check the records of outsourcing agency or independent contractor submitted to them for payment of bills every month and ensure that the liability of employer is properly discharged. It has to voluntarily disclose so that the employee is informed about the terms of contract, his/her entitlement and right to get the salary credited to his account regularly apart from other benefits given by law. Section 21 (4) of the Contract Labour (Regulation and Abolition) Act provides that in case the contractor fails to pay the wages, the principal employer is responsible to make the payment of wages and also the contract labour employed by the contractor can claim wages either from the contractor or from the principal employer to pay wages to the employees, engaged by the contractor is recognized in section 21(4) of, the Contract Labour (Regulation and Abolition) Act, 1970.

In Indian Airlines vs Central Government Labour Court, 1987 (54) FLR 689, where a dispute has arisen between the employees engaged by a contractor who did not pay their wages and the employees filed their claim for their unpaid

wages against the management of Indian Airlines. The management contended that the Central Government has refused to make a reference for adjudication under section 10(1) of the Industrial Disputes Act and as such their application under section 33C (2) of the Act was not maintainable. However, the Labour Court accepted and allowed the application of the workers of the contractor and held that the application was maintainable. The High Court also upheld the contentions of the employees holding that there is no specific provision under the Contract Labour (Regulation and Abolition) Act to ensure the payment of wages to the workmen employed by the contractor and as such the workmen had rightly claimed their wages due to them by moving an application under section 33C(2) of the Industrial Disputes Act.

5. The Commission directs the Section Officer, Mr Sarvesh Khare considering him to be deemed PIO, Mr Laxmi Narayanan, APIO and Mr. Nand Kumar, PIO to show-cause why maximum penalty should not be imposed upon each of them for non application of mind and for not providing information and for stating that the no service records of outsourced employees are maintained by them as they are not their employee, within 30 days from the date of receipt of this order.

6. The Commission directs the public authority to provide certified copies of contract copy, records of bills payable to outsourced employees and to update information about service records of outsourced employees on their notice board/website regularly under section 4 (1) (b) of the RTI Act. The Commission also directs the public authority, National Council of Science Museum to appoint designated officers as CPIO, APIO and FAA at each of its regional office within 30 days from the date of receipt of this order.

Sd/-

(M. Sridhar Acharyulu)
Central Information Commissioner

Authenticated true copy

(Dinesh Kumar)
Deputy Registrar

Copy of decision given to the parties free of cost.

Addresses of the parties:

1. The CPIO under RTI,
District Science Officer,
Dist-Science Centre, National Council
of Science Museum, M/o Culture,
Municipal Garden, Gulbarga-585103.

2. Shri Gopal Rao Gudi,
H. No. 5-189/1, Near Noor Bagh
Bag Darga Road, Roza B
Kalaburagi-585104.