

Central Information Commission, New Delhi
File No.CIC/WB/C/2008/00513
Right to Information Act-2005-Under Section (19)

Date of hearing : **26 August 2013**

Date of decision : **26 August 2013**

Name of the Appellant : **Dr. P.K. Srivastava,**
Scientist – C, Research Extension Centre,
Distt – Una, Himachal Pradesh.

Name of the Public Authority : **CPIO, Department of Personnel &**
Training, North Block,
New Delhi – 110 001.

The Appellant was present.

On behalf of the Respondent, the following were present:-

- (i) Ms. Mukta Goel, Director (E-I),
- (ii) Ms. R. Gayathri, US (RR)

Chief Information Commissioner : **Shri Satyananda Mishra**

2. Both the parties were present during the hearing had made their submissions.

3. In this case, on a complaint received from the present Complainant, the CIC had passed an order in 19 May 2008 directing the Department of Personnel and Training (DoPT) to pay a compensation of Rs. 43,240 to the complainant for not providing the information to him in time. The DoPT had

challenged this order before the Delhi High Court. In its order dated 9 April 2013, the Delhi High Court quashed the order of the CIC regarding payment of compensation and remanded the case back to the CIC to pass an appropriate order under section 20(1) of the Right to Information (RTI) Act after hearing both the parties.

4. Following the above direction, we heard both the parties. The respondent representing the DoPT submitted that the original RTI application dated 20 March 2008 could not be physically found in the RR section and that could be the reason why the then CPIO had not an occasion to respond to it. She clarified further that since the then Under Secretary in charge this particular section had retired, it could not be ascertained from him if he had any knowledge of the original RTI application. She also submitted that the Appellant had filed a second RTI application on 2 July 2008 which was duly received and the CPIO concerned had replied to that application on 22 July 2008. In fact, the complainant had filed a first appeal against that reply and the Appellate Authority had disposed of the appeal by providing copies of certain Office Memoranda issued by the Department, from time to time, on the subject of Flexible Complementing Scheme (FCS), the main subject of the RTI application.

5. Now, the question is whether the CPIO concerned should be penalised for not responding to the original RTI application dated 20 March 2008. We have carefully considered the facts of the case. We understand that this RTI application had been received in the Department as recorded in the computerised data base of the Department. However, it was not physically available in the (Recruitment Rules) RR section responsible for providing the

relevant information. Now that the Under Secretary in charge of that section is no longer in service, having retired in the meanwhile, it would never be possible to find out what exactly happened to that RTI application or why it was not physically available.

6. As per the admission of the complainant himself, his subsequent RTI application of 2 July 2008 contained the very same queries, which he had raised in his 20 March application. Both the CPIO and the Appellate Authority had adequately dealt with this application at their respective levels. We agree with the CPIO that the queries were hypothetical in nature and she could not provide any information. What the complainant had desired was not exactly information in a sense it is understood in section 2(f) of the RTI Act, but the interpretation of existing government orders on the subject of FCS. This is completely beyond the duty and responsibility of the CPIO. In spite of this the Appellate Authority had provided to the complainant at her level the copies of the OMs issued by the Department, from time to time, on this subject. It is for the complainant to find out if the OMs contain any answer to his queries. In case, the OMs do not contain the answer to his queries, he can take up the matter through the Silk Board with the DoPT. It is a common practice for the DoPT to offer appropriate advice on the references made by various ministries and departments of the government on service matters; no such advice, however, can be given to any individual RTI applicant by the CPIO of the Department.

7. In view of the above, we do not see any particular reason to impose any penalty on the CPIO concerned. The case is disposed off accordingly.

8. Copies of this order be given free of cost to the parties.

(Satyananda Mishra)
Chief Information Commissioner

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.

(Vijay Bhalla)
Deputy Registrar