



J&K State Information Commission  
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File No: SIC/CO/SA/213/2014  
Decision No: SIC/CO/SA/213/2014/706

Title:- Gurpreet Singh V/s PIO Service Selection Board  
Jammu  
26.12.2014

This is a second appeal filed by Shri Gurpreet Singh, a resident of the State, in this Commission on 28.10.2014 against the failure of PIO to provide information. The Commission heard Shri Farooq Ahmad Baba, Secretary-cum- FAA and Shri Shamim Kripak, AO-cum- PIO of SSB on 26.12.2014. However, in spite of best efforts of the Commission, the appellant Shri Gurpreet Singh did not respond to the notices of the Commission for attending before the Commission and substantiating his averments made in his second appeal that he did not receive any response to his RTI application dated: 4.6.2014. In absence of the appellant, the Commission has found following facts from the records produced by the appellant alongwith his second appeal and submissions made by the PIO. The PIO brought it to the notice of this Commission that there is a discrepancy in the appellant's contentions of having filed RTI application on 1.5.2014 or 19.4.2014. The Commission has found that the RTI application attached with the second appeal bears date of 19.4.2014. The appellant

has not mentioned what was the mode of sending the RTI application. However, the PIO has submitted before the Commission with documentary evidence that RTI application was received by SSB in their office vide their Receipt No: 1034 dated: 4.6.2014 which bears signatures of the appellant. In this application, the appellant had asked following information from the PIO:-

1. Please provide merit list details of candidates selected for the post of Cultural Assistant District Cadre Poonch;
2. Also provide the photo copies of application forms of selected candidates with enclosures;
3. Provide him the details of the documents of selected candidates verified or not.

However, in the RTI application attached with his second appeal, an additional information has been sought i.e copy of advertisement notice No I of 2011 dated: 31.1.2011. In absence of repeated failure of appellant to attend the Commission and explain his case, the Commission is constrained to accept PIO's version that the RTI application attached with the second appeal does vary. Similarly, in the second appeal, the appellant has submitted that RTI application was filed on 1.5.2014 which was sent through Registered Post. Even these averments seem to be not correct on the basis of documents shown by the PIO to the Commission. However, having observed these discrepancies in the appellant's case, the appeal of the appellant is still considered on merits.

The PIO has submitted before this Commission that he had sought the assistance of APIO Shri Ishwar Dutt, Section Officer in the SSB vide his letter dated: 10.6.2014. The APIO responded to PIO's request under Section 5 vide his communication under No: SSB/Adm/RTI-449/2014/1313/14 dated: 23.7.2014 providing part information i.e merit list of the candidates and regarding other part of the information, he intimated the PIO to collect same from the camp office. However, the PIO passed the order under Section 7 of 10.9.2014 under No: SSB/Div/744/RTI/2014/1149. The appellant not being fully satisfied with this reply, preferred first appeal before the FAA on 6.8.2014. FAA had provided an opportunity

of being heard to the appellant on 14.10.2014. FAA also sought comments from the PIO before the adjudication of appeal. The procedure followed by the FAA is in accordance with spirit of RTI Act. The FAA has mentioned in his order that the appellant attended in response to his notice; from the records as produced by the FAA, it is seen that there is no attendance of the appellant before the FAA and FAA has submitted that his attendance has been marked in the note sheet inadvertently. In absence of any counter by the appellant, the Commission has accepted the version of FAA. This version gets strengthened by further facts that the appellant even did not attend the Commission inspite of Commission's number of notices to him. During earlier hearing, the Commission somehow contacted the appellant on telephone and on telephone again he insisted that no information was received by him. The main plea of the appellant has been that the PIO did not provide the information. It becomes very difficult for the Commission to establish the allegations of RTI seekers if they neither attend before First Appellate Authority and nor appear before the Commission inspite of these impediments, the Commission directed the PIO on 1.12.2014 to produce documentary evidence like dispatch register etc before the Commission to prove that appellant has been provided the information. The PIO Shri Shamim Kripak has sent the information to the appellant vide Despatch No: SSB/Div/J/2014/RTI/ 1149 dated: 10.9.2014. It has also been confirmed by the Senior Post Master Jammu that Speed Post Article No: EE889737105IN stands delivered at GDS BPM Gadigarh, Miran Saheb. Hence, Commission has no alternative but to accept the contention of the PIO that order under section 7 of the State RTI Act, 2009 was sent to the appellant before he filed second appeal in this Commission. In the other grounds of appeal, the appellant has prayed that PIO be directed to provide the information. But the information as already stated above has been duly dispatched to the appellant which has been delivered by the postal authorities to the appellant

before the date of filing of second appeal. Hence the grounds of the appeal are dismissed. In other grounds of appeal, the appellant has prayed for imposition of penalty on PIO, API and also FAA. The Commission has considered this ground of appeal. The provisions of section 17 makes it quite clear that penalty, if any, to be imposed on PIO or APIO is to be imposed only if the Commission is of the opinion that “the Public Information Officer has without any reasonable cause..... has not furnished information within the time or has denied the request for information or knowingly given incorrect, incomplete or misleading information”. Hence, the Commission is of considered opinion that the penalty proceedings, if any, have to be initiated only after the satisfaction of the Commission and not on the dictates of the information seeker. This legal position has further been confirmed by various highest judicial institutions while dealing with RTI matters raised in various writ petitions. However, as the PIO has failed to pass order within 30 days, he is required to explain the reasons which prevented him from passing the order within the stipulated time so that the Commission could consider initiation of penalty under Section 17 of the State RTI Act, 2009. His reply, if any, must reach this Commission within one month.

Second appeal is accordingly disposed of.

Sd/-

( G.R. Sufi )

Chief Information Commissioner

Copy to:-

1. First Appellate Authority, J&K Services Selection Board, Jammu.
2. Public Information Officer, J&K Services Selection Board, Jammu
3. Shri Gurpreet Singh S/o Sh. Surinder Singh C/o Koshal Parihar, R/o 43-B Lane No: 20, Bhawani Nagar, Janipur, Jammu
4. Private Secretary to Chief Information Commissioner
5. Guard file

( G.Q. Bhat )

Registrar

State Information Commission