



J&K State Information Commission
Old Assembly Complex, Srinagar : 0194-2484267
Wazarat Road, Near DC office , Jammu: 0191-2520937.

www.jksic.nic.in

File No: SIC/CO/SA/211/2014
Decision No: SIC/CO/SA/211/2014/715

Title:- Dr. Sanjay Kumar Bhasin V/s PIO Health & Medical Education Department

Jammu
08.01.2015

This is a second appeal filed by Shri Sanjay Kumar Bhasin, a resident of the State in this Commission on 11.11.2014. Shri I.R. Hamdani, Under Secretary-cum-PIO, Health & Medical Education Department, Shri Rais Ahmed, PLO-PIO, J&K PSC and the appellant attended. They have been heard.

Brief grounds of the appeal are that the appellant filed an RTI application before PIO, Health & Medical Education Department on 28.6.2014 which was received by the PIO on 8.7.2014 seeking following information:-

- a) certified copy of vigilance clearance of Dr. Ratnakar Sharma submitted to DPC/PSC for his promotion from Lecturer to Assistant Professor in the DPC/PSC held in May 2012.
- b) certified copy of Integrity Certificate of Dr. Ratnakar Sharma submitted to DPC/PSC for his promotion from Lecturer to Assistant Professor in the DPC/PSC held in May, 2012.
- c) If the said Dr. Ratnakar Sharma was promoted from Lecturer to Assistant Professor in the said DPC/PSC without these two mandatory requirements, what were the reasons thereof.
- d) Certified copies of representations of Dr. Zahoor Hussain, Lecturer Surgery, GMC Jammu which he submitted for his promotion as Assistant Professor from June 2011 to till date.

..2..

- e) certified copy of notings on the file sent by HME Deptt to Law Deptt in July-August 2011, sorting clarification in the case of Dr. Zahoor Hussain whether to consider his period of studentship for promoting him as Assistant Professor.

Having allegedly not received any response within 30 days, the appellant filed first appeal before FAA on 19.8.2014. Again having not received any order of FAA, appellant filed second appeal before this Commission seeking a direction for PIO and FAA to provide information under the Act to him.

The PIO, Health & Medical Education Department has informed the Commission that he has disposed of the RTI application vide his order dated: 8.8.2014. Vide this order, information on Point Nos c, d, & e was given. Regarding remaining information on point No a & b PIO had addressed a communication to PIO, J&K PSC on 8.8.2014 it on 14.11.2014. PIO Health & Medical Education Department submitted before the Commission that their office had not recommended the name of above said Doctor to PSC for DPC clearance, so he was not in possession of above sought information by the information seeker. That is why he forwarded a letter to PIO < J&K PSC for providing the information because it is the PSC who had recommended the name of Dr. Ratnakar Sharma for promotion. PIO J&K PSC has admitted that PIO H&ME had transferred part of this information to him. He further informed the Commission that he could not give this information as records were damaged in the floods. The PIO H&ME further insisted that notwithstanding his submission that he had forwarded this part of information to PIO, PSC, the information on point a & b providing a certified copy of vigilance clearance of Dr. Ratnakar Sharma was not in his possession because in the requisition of H&ME sent to J&K PSC for promotion of various faculty members of Govt. Medical College, Jammu Dr. Ratnakar Sharma's name was not proposed by the H&ME Department. This is evident from the agenda note for DPC of Govt. Medical College Jammu dated: 26.3.2012. The list of proposed candidates for promotions as submitted by the Health Department deals with recommendations made by PSC vide its communication No: PSC/DPC/HME/17/2012 dated: 10.5.2012. In agenda note for the Departmental Promotion Committee, the name of Dr. Ratnakar Sharma does not figure. The PIO H&ME has further brought to the notice of the Commission its letter to PSC under No: ME/NG/RTI/33/2014 dated: 8.8.2014 which clearly states that Dr. Ratnakar Sharma's name was not proposed by the administrative department for his regularization to the DPC/PSC and therefore, the document wise work and conduct/integrity and

vigilance clearance certificate of Dr. Ratnakar Sharma were not available with them. In brief, the Health Department has clearly asserted that the department has not proposed the name of Dr. Ratnakar Sharma for being considered by DPC and cleared by the PSC for promotion. Whereas the PIO PSC insisted that the PSC does not recommend any officer for promotion unless a requisition for the same is received from the administrative department. The Commission has also gone through the communication of PIO PSC addressed to the PIO Health Department dated: 26.12.2014 wherein they again reiterate that PSC does not on its own include any officer's name in the list for promotion. PIO Health Department has insisted that as Dr. Ratnakar Sharma's name was not at all figuring in the agenda note for DPC meeting, there is no question of sending his vigilance clearance to the DPC/PSC. The PIO, PSC has nothing in his support to prove that Dr. Sharma's name from Health & Medical Education Department was received along with vigilance clearance for consideration in DPC/PSC because since devastating floods in Kashmir valley, PSC has been constantly taking the stand that records were damaged. However, the affidavit to substantiate this claim has not been produced. The Commission, therefore, directs the PIO J&K Public Service Commission to explain why penalty proceedings under section 17 of the J&K State RTI Act may not be initiated against him for denying the information to the information seeker. His reply, if any, must reach this Commission within 30 days from the receipt of this order. The Commission has nothing further to add excepting the observations that allegations are that a particular doctor of Govt. Medical College Jammu has been cleared for higher promotion without his name being proposed by the administrative department and without his vigilance clearance and integrity certificate. This is an issue which is to be dealt with at the highest administrative level. It would not be difficult for the administration to find out whether GAD had issued any vigilance clearance obtained from Health Department and sent it to DPC/PSC. The PIO, PSC has made a pertinent observation that DPC does not consist only members of the PSC but the representatives from the administrative department and the General Administration Department. Though, there is no documentary evidence either given to the information seeker or produced before the Commission to prove that the Health & Medical Education Department had proposed the name of said Dr. Ratnakar for promotion; it remains a fact that senior officers of Health & Medical Education Department including the Commr/Secretary of Health & Medical Education Department were present in the DPC and nothing has been brought to the notice of the Commission whether they had objected the decision of inserting the name of the said Dr. Ratnakar Shamra in the

..4..

recommendations of Public Service Commission without any formal request from the Health & Medical Education Department. The DPC was chaired by one of the then senior members of J&K Public Service Commission.

With above observation, second appeal is disposed of.

Sd/-
(G.R. Sufi)
Chief Information Commissioner

No: SIC/CO/SA/211/2014

Dt:

Copy to:-

1. Chief Secretary, J&K State, Jammu
2. Commr/Secretary to Government, Health & Medical Education Department, Civil Secretariat, Jammu.
3. First Appellate Authority, Health & Medical Education Department, Civil Secretariat, Jammu.
4. Public Information Officer, Health & Medical Education Department, Civil Secretariat, Jammu.
5. First Appellate Authority, J&K Public Service Commission, Jammu
6. Public Information Officer, J&K Public Service Commission, Jammu.
7. Dr. Sanjay Kumar Bhasin
7. Private Secretary to Chief Information Commissioner
8. Guard file.

(G.Q. Bhat)
Registrar
State Information Commission