

CENTRAL INFORMATION COMMISSION

(Room No.313, CIC Bhawan, Baba Gangnath Marg, Munirka, New Delhi-110067)

Before Prof. M. Sridhar Acharyulu (Madabhushi Sridhar), CIC
Central Information Commissioner

CIC/POSTS/A/2017/165271

Kanhaiya Lal Swami v. PIO, Department of Posts

Order Sheet: RTI filed on 17.10.2016, CPIO replied on 27.10.2016, FAO passed on 30.05.2017, Second appeal filed on 11.09.2017: First hearing on 01.12.2017 and Mr. B.L. Sharma Asst. Director represented the public authority (Show-cause notice was issued)

Proceedings on 04.01.2018: Appellant present, Public Authority represented by CPIO Mr. Sitaram Panchal; Directions and show cause issued.

Proceedings on 05.02.2018: Appellant present from NIC Jaipur, Public Authority represented by Mr. R.S. Shekhawat, CPIO & ADM (PLI) from NIC Jaipur;

Date of Decision – 13.02.2018: Penalty dropped.

ORDER

FACTS:

1. Appellant sought the following information (1) the copy of mark-sheet of Mr. Prashant Saini in the Postman cadre examination, (2) Whether Mr. Prashant Saini has gotten in through outsider or department quota and in which year, (3) Which post-office was he assigned to, (4) and (5) Copies of the transfer rules and procedure. The CPIO denied the information stating that it was third party information, the individual passed in the year 2015, Department concerned is different. The first appeal was disposed by the FAA and CPIO's response was upheld. Second Appeal was filed as he received the requested information after a delay of 7 months 13 days which resulted in mental and economic distress for the appellant.

2. The Commission's order dated 05.12.2017:

2. The appellant stated that complete information was furnished to the appellant but after a delay of seven months. The officer responded that the file was put up for action and delay was caused by the section for collecting the data. He cannot blame section officers and dealing clerks and justify the delay of seven months.

3. The Commission directs the CPIO to show-cause why maximum penalty should not be imposed upon him for not furnishing the information

sought by the appellant, before 04.01.2018. The case is posted for penalty proceedings on 04.01.2018.

3. The Commission's order dated 04.01.2018:

3. The CPIO Mr. Sitaram Panchal informed the Commission that he joined the office one month ago, earlier Mr. R.S. Shekhawat was the CPIO who should have responded to the RTI application. During the hearing the delay of 7 months was confirmed. The Commission directs Mr. R.S. Shekhawat, earlier CPIO at the time of RTI application to **show-cause** why maximum penalty should not be imposed against him for not providing the information within 30 days from the date of RTI application. The Commission directs the present CPIO to communicate this show-cause notice to Mr. Shekhawat and secure his explanation for CIC, before 05.02.2018.

Decision :

4. Shri R.S. Shekhawat, CPIO in his written explanation stated as under:

"The Humble respondent CPIO most respectfully submit as under before reply to the above show cause notice:

"That the answering respondent CPIO is the law abiding officer of the department and having highest regard for the orders passed by this Hon'ble CIC and never think to flout the orders passed by this Hon'ble CIC. However, if this Hon'ble Commission comes to the conclusion that the answering respondent CPIO has committed any mistake in complying the provisions of RTI Act/Hon'ble CIC, the same may kindly be treated as inadvertent mistake and respondent CPIO is tendering his unconditional apology before this Hon'ble Commission"

Reply in show cause notice:

- 1. That the applicant submitted his application dated 17.10.2016 to CPIO 1st, the Assistant Director (Personal & Recruitment). CPIO 1st provided information vide letter dated 27.10.2016 except point no. 4 & 5, for which the application was forwarded to Assistant Director (Staff), CPIO 2nd.*
- 2. That the CPIO 1st letter dated 27.10.2016 including first appeal dated 23.01.2017 alongwith 9 other RTI cases were put up through office supervisor of staff section before undersigned (CPIO 2nd) on 25.05.2017 on P-3/N of notesheet of file no. Staff/10-47/RTI/2017. **However copy of second appeal addressed to Hon'ble CIC has not been received from the appellant.***
- 3. That the matter related to non-compliance of RTI Act, accordingly the undersigned endorsed the case file immediately to higher authority, Director Postal Services (HQ) on the same day with the remark that "First we may dispose off all pending cases within 3 days" and "inquiry may be conducted to fix responsibility on erring official for abnormal delay for which ASP(P) may be detailed".*

4. On 26.05.2017 Director Postal Services (HQ) has approved the above proposal of the undersigned at P-4/N & 5/N of notesheet of file no. Staff/10-47/RTI/2017 with orders to fix the responsibility and also instructed to reply all RTI applications within prescribed time limit. The file was returned back to the undersigned and same has been returned to the branch for immediate compliance.
5. **In compliance of orders of higher authority Shri Sitaram Panchal, ASP (P) now present CPIO has been directed to conduct a inquiry to fix responsibility for abnormal delay in disposal of RTI applications and submit report within a week vide letter no. Staff/10-47/RTI/2017 dated 26.05.2017, which was awaited till my transfer from the post of AD(Staff) (CPIO 2nd).**
6. The information desired in Point - 04 & 05 by the seeker was provided to him free of cost vide letter dated 30.05.2017.
7. In view of above facts and circumstances, prima facie the CPIO 2nd has taken each and every possible step within his limits for compliance of RTI Act in true spirit. **However, to obey the principles of natural justice, the delay between CPIO 1st and CPIO 2nd of transmission of seekers application is required to be investigated to fix responsibility on the actual culprit and improve the office mechanism of dealing with the RTI applications.**
8. As per the Section 20 of RTI Act - 2005 the CPIO is liable to be penalized only if he has not furnished information within the time limit prescribed specified in Section 1 without any reasonable cause. But in this case, CPIO is not directly or indirectly responsible for the delay keeping in view above facts and circumstances. **Hence penalizing CPIO without any detailed inquiry by any senior officer will be against the principles of natural justice.**
9. Earlier in similar other case no. CIC/BS/C/2014/000299 filed by Dr. Ashok Kumar Parashar against Department of Post, CIC had ordered on 27.09.2016 as under:

"CPMG, Jaipur the nominated officer should send the inquiry report to the commission within 45 days from the date of receipt of this communication containing the reasons for not furnishing the complete and / or the delay in furnishing the information by the CPIO affixing responsibility and identifying the officer(s) so responsible."

It is most respectfully submitted that keeping in view the above facts and circumstances the delay between CPIO 1st and 2nd was beyond the control of CPIO 2nd and submission of delay put forth by the undersigned is reasonable. If Hon'ble CIC is still not satisfied with the reasons of delay, to avoid discrimination a detailed inquiry through a senior officer may kindly be ordered in the line of above order passed in similar case by the Hon'ble Commission in the interest of natural justice."

5. The Commission upon perusal of records finds that sufficient information is provided and there is no reason to interfere in this matter.

The explanation provided by the CPIO is satisfactory, hence penalty proceedings are dropped. Disposed of.

SD/-
(M. Sridhar Acharyulu)