

CENTRAL INFORMATION COMMISSION

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F.No.CIC/AT/A/2006/00207		F.No.CIC/AT/A/2006/00208
F.No.CIC/AT/A/2006/00209		F.No.CIC/AT/A/2006/00210
F.No.CIC/AT/A/2006/00283		F.No.CIC/AT/A/2006/00284
F.No.CIC/AT/A/2006/00285	&	F.No.CIC/AT/A/2006/00286

Dated, the 20th September, 2006.

Appellant : Wing Commander Shakul Tyagi, 25 Wing, Air Force, Air Force Station, Rajoukri, New Delhi – 110 067.

Respondent : Wing Commander R L Syngal, CPIO, Air Force, Air Headquarters, Vayu Bhawan, New Delhi-110 011.

Air Marshal H.S. Gankal, Appellate Authority, Air Officer-in-Charge Administration, Air Headquarters, Vayu Bhawan, New Delhi-110 011.

Wing Commander S.Tyagi has filed two batches of 8 appeals against the orders of the Appellate Authority (AA), Air Marshal H.S. Gankal, and the CPIO, Wing Commander R.L. Syngal in each of the 8 cases.

2. The broad subject of appeal is common to all the 8 cases with minor variations. The Appellate Authority and the CPIO have supplied to the appellant a part of the information requested by him and turned down the request for certain items of information on grounds of State security as provided under exemption clause 8(1)(a) of the RTI Act.

3. The parties were called for a hearing today (i.e. 11.9.2006). The appellant was present in person, the Appellate Authority was represented by Wing Commander S.K. Pai, the CPIO-Wing Commander R.L. Syngal was present in person, and was assisted by Wing Commander R.P. Singh, Sgt. P.K. Yadav and Group Captain Narendar.

4. Arguments were heard separately for each appeal.

Case No.CIC/AT/A/2006/00207

Through his application dated 5.5.2006 (Application no.22533/P/004/1), the appellant asked for the following information:

“(a) **Document 1** – Total training cost of a permanent commission pilot with breakdown (for all streams) for the year 2005-2006.

- (b) **Document 2** - Total training cost of a permanent commission pilot with breakdown (for all streams for the year 1992-1993).
- (c) **Document 3** - Policy on the time bound recovery period of the training cost, with respect to permanent commission pilots (if any).
- (d) **Document 4** - If no policy on time bound recovery of the training cost exists then documents showing recover of the training cost from pilots who go on retirement / premature retirement / superannuation.”

The CPIO passed a common order on batch of 5 petitions including the present one on 2.6.2006, in which he denied most of the information to the appellant on grounds of it being exempted under Section 8(1)(a) of the RTI Act. The Appellate Authority, in his common order for the batch of 5 appeals including the present one, dated 5.7.2006, held that the cost of training of the PC pilots, SSC (Helicopter) Pilots and SSC (Women) Helicopter pilots was available on the Indian Air Force (IAF) website, where the appellant could easily access the same.

During arguments today, the CPIO and the representative of the Appellate Authority pointed out that the total training cost in respect of PC pilots for the year 2005-2006 and the total training cost of PC pilots for the year 1992-93 for all the streams have been supplied to the appellant. Thus, in respect of document 1 and 2 specified by the appellant, the requisite information had been furnished.

In response to appellant's plea for furnishing him the break-down of each item of the expenditure on account of the training of PC pilots, the Air Force officers averred that disclosure of itemized expenditure will disclose extremely sensitive information, and must therefore, be barred under section 8(1)(a) of the RTI Act. It was pointed out to them that the appellant had received similar information from the Army and the Navy. However, given the apprehension expressed by the Air Force authorities about the disclosure of very detailed information about the cost break-up, it was suggested to them and was agreed by them, that instead of the detailed break-up of costs, they may supply to the appellant the break-down of gross cost at each stage of training of the PC pilots for the years 2005-06 and 1992-93 respectively.

It is, therefore, directed that the CPIO will furnish to the appellant the stage-wise cost as mentioned above within 3 weeks from the date of receipt of this order.

As regards Document-3, the CPIO and the representative of the Appellate Authority were at pains to point out that the Air Force maintained no such information, viz. time-bound recovery period of training cost of PC pilots, because premature exit is not allowed to the PC pilots except under the policy for this purpose. When the PC pilots are allowed to leave as per the policy on this account, the Air Force does not force the pilots to defray the cost of their training. As no such information is maintained by Air Force, it cannot be supplied to the appellant.

There is merit in this argument. The Air Force cannot be compelled to supply information to an applicant which the IAF does not even maintain. It is, therefore, directed that there is no obligation on the part of CPIO to furnish this information to the appellant.

As regards Document – 4, in view of the decision above, this does not arise. The CPIO need not furnish any information in regard to this topic.

Case No.CIC/AT/A/2006-000208

In his appeal dated 18.5.2006 to the CPIO, the appellant had sought the following information:

Document 1	“Government of India policy letter signed by an officer of the rank of Under Secretary or above, applicable to flying Branch Officers, indicating the amortization period of training costs and amplifying the maximum period of time beyond which no recovery of costs can be made in view of sufficient service rendered by the Officer.”
Document 2	“Air Force policy letter applicable for flying branch officers amplifying the Government of India policy letter above and amplifying:- (i) Maximum period of time beyond which recovery of cost cannot be made. (ii) Recovery formula for calculating recovery of training cost, applicable to flying branch officers, on a pro rata basis, on the number of years of service rendered, provided it is lesser than the maximum period, beyond which recovery cannot be made.”
Document 3	“In the likelihood of no policy document of GOI / IAF existing, on the amortization period of training cost recovery, applicable to flying branch officers, I wish to seek any GOI / IAF policy (Statutory / Non-Statutory) indicating the recovery to be made from all flying branch officers at the time of superannuation / premature retirement (irrespective of the Rank / period of service rendered), in light of the projected exorbitantly High Training costs incurred on the training of Flying Branch Officers.”

The main request in this appeal is disclosure of information on the policy regarding amortization period of training cost of PC Pilots and SSC (helicopter) Pilots. Such information seems to have been supplied to the appellant by the other two wings of the Indian Armed Forces, i.e. the Army and the Navy.

The Appellate Authority, in his letter dated 1.9.2006, had replied to this contention of the appellant by stating that the Air Force does not maintain information regarding amortization of the training cost because no such recoveries are ever made. The IAF does not maintain an amortization schedule for each type of training. As this information is not maintained, it cannot be supplied to the appellant.

The contention of the Appellate Authority is upheld. The IAF cannot be compelled to disclose information it does not keep in the regular course. The examples of the Army and the Navy cited by the appellant are irrelevant. The Services have their own policy regarding premature exit of officers and there is no reason why they must converge. As the IAF follows a policy of not recovering the cost of training from such of its officers whom it allows to retire prematurely, it is unnecessary for it to maintain any amortization schedule, which is relevant only when training-cost-recovery is practised as a norm.

It is, therefore, directed that the CPIO is not required to supply any such information to the appellant in respect of documents 1, 2 & 3 above.

Case No.CIC/AT/A/2006-000209

The appellant has requested for directions to the Appellate Authority and the CPIO to provide him the following specific information:

- “(a) To direct the Air Force authorities to provide specific information regarding amortization period of courses done in India of up to six months duration, as similar unclassified financial information has already been given by the Indian Army which is not restricted under section 8(1)(a) of the RTI Act.”

In his original request dated 17.5.2006, the appellant had requested the PIO for three documents as follows:

- “(a) **Document 1** – Total training cost and also cost of training per week, of the following courses:-
- (i) Qualified Flying Instructors Course
 - (ii) Junior Commanders Course
 - (iii) Jungle & Snow Survival Course
- (b) **Document 2** – The amortization period with respect to each of the above said three courses.
- (c) **Document 3** – If no amortization period exists, then documents showing recovery of the training cost from officers who go on retirement / superannuation.”

During discussions, the CPIO and the representative of the Appellate Authority pointed out that the information in regard to items (a) and (b) above, corresponding to documents 1 and 2, have been provided to the appellant.

As regards document 3, the Air Force officers again pointed out that officers who are allowed to proceed on premature retirement are not obliged to defray the cost of their training. No such information can be given because no such information exists.

It is held that as regards document 3 above, there is no obligation on the CPIO to provide any information to the appellant.

In respect of documents 1 and 2 listed at (a) and (b) above, the appellant was not satisfied with the details of amortization period furnished to him by the PIO. It was explained by the IAF officers that the Air Force maintains amortization period only for courses of six months duration or longer; for courses of lesser durations, the amortization period is not worked out. As such, what has been furnished to the appellant is the amortization period for courses of duration of six and above six months.

The CPIO shall give a formal reply to this effect to the appellant, within one week from the date of receipt of this order.

Case No.CIC/AT/A/2006-000210

The appellant has come up with a plea to provide him the information requested by him through his application dated 5.6.2006 addressed to the CPIO.

He has urged the Commission,

“To direct the Air Force authorities to forward relevant financial, unclassified and auditable documents, as sought, not restricted under section 8(1)(a) of the RTI Act.”

The request of the appellant made originally to the CPIO was as regard the following:-

- “(a) **Document 1** – Total training cost of a SSC Helicopter pilot with breakdown for the year 1992-1993.
- (b) **Document 2** – Total training cost of a SSC (Women) Helicopter pilot with breakdown for the year 2005-2006.
- (c) **Document 3** – Policy on the time bound recovery period of the training cost, with respect to Short Service Commission pilots (if any).

- (d) **Document 4** – If no policy on time bound recovery of the training cost exists then documents showing recovery of the training cost from Short service Commission pilots who go on retirement after ten years engagement period.”

During arguments today, the PIO pointed out that as regards Documents 1 and 2 above, the appellant has already been furnished with the information regarding the cost of training of PC pilots. He explained that there was no difference in the cost of training of PC and SSC Helicopter pilots as well as of the SSC (Women) Helicopter pilots vis-à-vis the SSC Helicopter pilots and their PC counterparts.

The appellant has requested a break-up of the cost of this training. The CPIO and the representative of the Appellate Authority pointed out today that this information has been supplied to the appellant and there was nothing more that could be given.

The appellant requested that the CPIO may give him a formal communication that the information furnished to him in regard to these two items (Documents 1 & 2) was complete and that no further information could be provided.

It is directed that the CPIO shall provide the aforesaid communication to the appellant within one week from the date of receipt of this order.

In respect of Documents 3 and 4, the CPIO and the representative of the Appellate Authority pointed out that this information is not maintained by the Air Force, as was explained in other appeals in this batch, and hence could not be furnished to the appellant.

This contention is upheld and the CPIO is absolved from any obligation to furnish any such information to the appellant.

Case No.CIC/AT/A/2006-000283

This appeal is against the denial of information contained in the appellant's original request dated 9.5.2006 to the CPIO. The information sought by the appellant are reproduced as below:

- “(a) **Document 1** – Total training cost of Sqn Ldr (Retd.) J S Ahuja (22557), who was trained on fighters, subsequently on helicopters and finally on surface to air guided weapons (including the cost of all training courses which he underwent.
- (b) **Document 2** – Document showing recovery of the above said training cost in Toto from the above said Officer.
- (c) **Document 3** – If no training cost was recovered before granting premature retirement then reasonable justification for the same.”

This information was denied to the appellant under Section 8(1)(a) of the RTI Act.

During discussion today, the Air Force officers present as respondents pointed out that Sqd. Leader (Retd.) J.S. Ahuja was, no doubt, allowed to take premature retirement from the Air Force. The appellant is quite right in making that statement about Sq. Leader (Retd.) Ahuja, but where the appellant is wrong is in assuming that the cost of training was recovered from Sqd. Leader Ahuja on account of his taking premature retirement. Sqd. Leader Ahuja was allowed to take premature retirement as per the extant Government policy. The Air Force does not allow its officers to take premature retirement and, when it does, no cost is recovered from them.

It was pointed out that in view of the position in respect of Document 1, the questions raised in Documents 2 and 3 become redundant.

It is directed that the position as orally stated by the respondents during hearing today shall be communicated to the appellant formally in writing within a week from the date of receipt of this order. There shall be no orders in regard to documents 2 and 3.

Case No.CIC/AT/A/2006-000284

On 26.5.2006, the appellant requested information in four documents which were as follows:

- “(a) **Document 1** – Elaborative Reasons for rejection of premature retirement in respect of Sqn Ldr S Tyagi (22533-F) on PR application dated 30 Aug 04.
- (b) **Document 2** – In light of the recommendations by three immediate superior officers i.e. Commanding Officer, Air Officer Commanding an command HQ, which were in favor of the applicant, what fact about the case made Air HQ reverse the decision which lead to the rejection order. Document showing detailed remarks of various authorities at Air HQ on the application submitted as above.
- (c) **Document 3** – Documents showing verification of the compassionate grounds (post authentication of the grounds as applicable and genuine, by the Commanding Officer, leading to recommendation of the case) preferred in the above said application with investigative reports/ formal investigation / court of inquiry (if any), which led to the final rejection order.
- (d) **Document 4** – If no investigative report suggesting re-verification of the case is available, then documents amplifying other considerations which supported the final rejection order.”

The CPIO replied to the request of the appellant, through his communication dated 21.6.2006, at-serium as follows:

- “(i) Shortage of Helicopter pilots in the IAF is the reason for rejection of your PR application.
- (ii) The intermediary authorities only give their recommendations on the application of an officer. They may not have the data on overall manning position in the IAF. Air HQs has an overall view of the manning and operational requirements of the IAF and thus decision is taken keeping overall interest of the organization in mind.
- (iii) Five documents were enclosed with your PR application dated 30 Aug 04. Two relating to appointment of your wife as Dental Surgeon and three documents pertaining to schooling of your child. All these documents were considered as genuine and thus required no verification.
- (iv) All documents forwarded by you were considered at the time of taking considered decision.”

The appellant filed an appeal dated 22.6.2006 before the Appellate Authority. In this appeal, the appellant had questioned the CPIO's contentions and the information supplied by him to the appellant as being factually incorrect and not being in conformity with the extant policy of the Air Force.

The Appellate Authority examined the contents of the appeal and passed a speaking order. In the order, which the Appellate Authority passed, he went beyond the scope of the information furnished by the CPIO and directed that detailed replies to the queries made by the appellant should be given. This part of the order of the Appellate Authority is worth reproducing.

- “(a) Shortage of helicopter pilots in the IAF was the reason for rejection of his PR application. Pilots of the IAF are required to perform duties for various organizations such as UN Peace Keeping Mission, PSUs, State Govts. Etc, when directed by the Govt. of India. This is over and above the operational commitments of the IAF. The responsibility to fulfill all such commitments as directed by the Govt. of India rests solely with the IAF and due to this, the shortage exists.
- (b) Five documents were enclosed with his PR application dated 30 Aug 04. Two related to appointment of his wife as a dental surgeon and three to schooling of his child. All these documents were considered genuine and thus required no verification.

- (c) With respect to other cases of premature retirement as expressed by the officer, it is seen that each officer's case is considered on individual merits in accordance with the policy on the subject keeping in view the manpower situation and the operational requirements of the service. While some names as mentioned by the officer have been permitted to leave, there are also scores of others whose requests have been rejected.
- (d) As regards the officer's contention as to why, while being fully fit, was he posted on a ground tenure. The reasons were;
 - (i) To locate him as close as possible to his family so as to enable him to resolve his problems.
 - (ii) To help him resolve his personal problems which he would not have been able to do, had he been posted to an active flying unit.
 - (iii) In any case, this posting does not preclude him from getting back to flying at a later date.
- (e) In response to Appellant's Grounds of the Civil Writ Petition (para 'd') filed by him in the Hon'ble High Court of Delhi, the counter affidavit of UOI and Others (Respondents) submitted to the court states "It is however evident from the petitioner's submission at Para 'd' of Grounds of the Writ Petition that the intention for premature retirement was not marital discord but to seek employment for better prospects."

It may be seen from the above, that the Appellate Authority has, besides stating the broad reasons for the shortage of pilots, given reasons for why the appellant was given a particular posting. This is an evidence of the clarity of the thinking regarding IAF's placement policies and its willingness to share the information with its officers without any hesitation.

The appellant, on the other hand, seems to be using the RTI Act as a tool to obtain from his employers, the Air Force, an explanation for the manner of the exercise of the latter's discretion in respect of his premature release as well as his posting. He has contested the ground of shortage of pilots used by the IAF in refusing his request for premature release. The assessment of whether the number of pilots the Air Force has is adequate or not is to be made by the Air Force alone. It cannot be subjected to debate or be critiqued by interested parties. This Commission will not allow the appellant, or his like, to ask the Air Force to prove to him how there was a shortage of pilots. He has no such right. The information regarding the reasons for the rejection of the appellant's plea for premature release from the Air Force as furnished to him is complete and accurate information. Its validity is not open to question under the RTI Act just because the appellant holds a different view.

The AA has pointedly and clearly given information as asked for by the appellant through documents 1 to 4 as listed by him.

It is directed that no further information in respect of Document 1 need be furnished to the appellant.

In regard to Documents 2, 3 and 4, as the Appellate Authority has given elaborate and comprehensive information to the appellant, which objectively states the reasons for the administrative decision taken by the IAF in his case, the appellant's plea should fail.

Case No.CIC/AT/A/2006-000285

Through his application dated 26.5.2006, the appellant sought the following information:-

- “(a) **Document 1** – Total no of Pilots who seeked [sic] premature retirement from 01 Jan 2004 to 30 Apr 06, on grounds of ‘possibility of breakdown of conjugal life, if officer continued in service’.
- (b) **Document 2** – Total number of cases (elaborate breakdown) found ingenuine / fake / construed on purpose, with investigative reports / formal investigation / COI report.
- (c) **Document 3** – Total number of cases which were verified and recommended by lower formations but rejected by Air HQ, and the reasons in detail for such rejections
- (d) **Document 4** – Total no. of cases accepted on the above said grounds and documents showing their verification in detail.”

This information was denied to him by the CPIO through his communication dated 21.6.2006, quoting exemption under Section 8(1)(a).

The matter came up in appeal before the Appellate Authority. The appellant took the plea that this information is not sensitive in nature and that the CPIOs of the Army and Naval HQrs. have supplied him similar information in respect of those Forces.

The Appellate Authority upheld the contention of the CPIO and rejected the appeal.

During hearing of the appeal, it was pointed out to the respondents that if information of this nature could be supplied to the appellant by the Army and the Navy, there could be an arguable case for Air Force to do the same. It would be somewhat odd and unconvincing for one Service to claim exemption from disclosure under Section 8(1)(a) and others to disclose similar information. This matter needs to be carefully looked into.

I am not inclined to pass any definitive order in this matter. The Appellate Authority is hereby directed to re-examine this matter in the light of the information provided to the appellant by the Army and the Naval HQrs. and to take a considered view regarding disclosing the same for the Air Force as well. If there is a justifiable ground for the Air Force not to disclose this information, as their counter-part Services have done, the reasons for this may be stated. The appellant shall be allowed to advance arguments before the Appellate Authority about disclosure of the information to him in respect of documents 1, 2, 3 and 4. This will be finalized within 3 weeks from the date of the receipt of this order. This appeal is remitted back to the Appellate Authority for fresh disposal.

Case No.CIC/AT/A/2006-000286

Through his application dated 9.5.2006, the appellant sought the following information from the CPIO:

- “(a) **Document 1** – Documents showing any shortage of pilots in the IAF in the year 1992-1993. If yes then indicate in numbers / percentage.
- (b) **Document 2** – Any policy changes made to overcome this shortage.
- (c) **Document 3** – Documents pertaining to any shortage in 2003-2004, if yes then indicate in numbers / percentages.
- (d) **Document 4** – Is there any shortage of Pilots still existing (in numbers / percentages). If yes then any remedial measures adopted.”

Through his order dated 21.6.2006, the CPIO turned down the appellant’s request under Section 8(1)(a), stating that disclosing such information would prejudicially affect the security of State.

A perusal of the information sought by the appellant reveals that he has requested two distinctive sets of information, through this application, i.e. the statistical details about the shortage of pilots in the IAF in 1992-93 and 2003-04, and the policy changes and remedial measures for overcoming the shortage.

Quite clearly, the information regarding the number and the extent of the shortage of pilots and the percentage of the shortage to the total strength of the pilots in the Air Force is a sensitive, security-related information. If disclosed, it should be possible to extrapolate the information to draw conclusions about the Air Force, which may not be in the best interest of the security of the country.

I am, therefore, inclined to agree with the CPIO that this information sought through Documents 1 & 3, attracts the exemption under Section 8(1)(a) and cannot be authorized to be disclosed.

As regards Document 2, the Air Force has stated that there is no information to be given. Even if the IAF had such an information, it would attract the exemption under Section 8(1)(a) of the Act, and would be barred from disclosure.

It is, therefore, directed that there is no obligation on the part of the Respondents to supply this information to the appellant.

In regard to Document 4, the IAF has acknowledged its shortage of pilots and even communicated it to the appellant as reason for the rejection of his request for premature release from the Air Force. The information thus stands disclosed.

All the 8 appeals are disposed of with the above directions.

Summary of Decisions	
Appeal No.	Decision
F.No.CIC/AT/C/2006/00207	<p><u>Document – 1 & 2</u></p> <p>It is, therefore, directed that the CPIO will furnish to the appellant the stage-wise cost as mentioned above within 3 weeks from the date of receipt of this order.</p> <p><u>Document – 3</u></p> <p>The Air Force cannot be compelled to supply information to an applicant which the IAF does not even maintain. It is, therefore, directed that there is no obligation on the part of CPIO to furnish this information to the appellant.</p> <p><u>Document – 4</u></p> <p>As regards Document – 4, in view of the decision above, this does not arise. The CPIO need not furnish any information in regard to this topic.</p>
F.No.CIC/AT/C/2006/00208	<p>It is, therefore, directed that the CPIO is not required to supply any such information to the appellant in respect of documents 1, 2 & 3 above.</p>

F.No.CIC/AT/C/2006/00209	<p><u>Document 1&2</u></p> <p>The CPIO shall give a formal reply to this effect to the appellant, within one week from the date of receipt of this order.</p> <p><u>Document 3</u></p> <p>It is held that as regards document 3 above, there is no obligation on the CPIO to provide any information to the appellant.</p>
F.No.CIC/AT/C/2006/00210	<p><u>Document 1 & 2</u></p> <p>It is directed that the CPIO shall provide the aforesaid communication to the appellant within one week from the date of receipt of this order.</p> <p><u>Document 3 & 4</u></p> <p>This contention is upheld and the CPIO is absolved from any obligation to furnish any such information to the appellant.</p>
F.No.CIC/AT/C/2006/00283	<p>It is directed that the position as orally stated by the respondents during hearing today shall be communicated to the appellant formally in writing within a week from the date of receipt of this order. There shall be no orders in regard to documents 2 and 3.</p>
F.No.CIC/AT/C/2006/00284	<p><u>Document 1</u></p> <p>It is directed that no further information in respect of Document 1 need be furnished to the appellant.</p> <p><u>Documents 2, 3 & 4</u></p> <p>In regard to Documents 2, 3 and 4, as the Appellate Authority has given elaborate and comprehensive information to the appellant, which objectively states the reasons for the administrative decision taken by the IAF in his case, the appellant's plea should fail.</p>

F.No.CIC/AT/C/2006/00285	I am not inclined to pass any definitive order in this matter. The Appellate Authority is hereby directed to re-examine this matter in the light of the information provided to the appellant by the Army and the Naval HQrs. and to take a considered view regarding disclosing the same for the Air Force as well. If there is a justifiable ground for the Air Force not to disclose this information, as their counter-part Services have done, the reasons for this may be stated. The appellant shall be allowed to advance arguments before the Appellate Authority about disclosure of the information to him in respect of documents 1, 2, 3 and 4. This will be finalized within 3 weeks from the date of the receipt of this order. This appeal is remitted back to the Appellate Authority for fresh disposal.
F.No.CIC/AT/C/2006/00286	<p>I am, therefore, inclined to agree with the CPIO that this information sought through Documents 1 & 3, attracts the exemption under Section 8(1)(a) and cannot be authorized to be disclosed.</p> <p>As regards Document 2, the Air Force has stated that there is no information to be given. Even if the IAF had such an information, it would attract the exemption under Section 8(1)(a) of the Act, and would be barred from disclosure.</p> <p>It is, therefore, directed that there is no obligation on the part of the Respondents to supply this information to the appellant.</p> <p>In regard to Document 4, the IAF has acknowledged its shortage of pilots and even communicated it to the appellant as reason for the rejection of his request for premature release from the Air Force. The information thus stands disclosed.</p>

Sd/-

(A.N. TIWARI)

INFORMATION COMMISSIONER

Authenticated by –

Sd/-

(L.C. SINGHI)

Joint Secretary & Additional Registrar

Address of parties:

1. Wing Commander Shakul Tyagi, 25 Wing, Air Force, Air Force Station, Rajoukri, New Delhi – 110 067.
2. Wing Commander R L Syngal, CPIO, Air Force, Air Headquarters, Vayu Bhawan, New Delhi-110 011
3. Air Marshal H.S. Gankal, Appellate Authority, Air Officer-in-Charge Administration, Air Headquarters, Vayu Bhawan, New Delhi-110 011.
4. In-charge, NIC.
5. Press E Group.