

CENTRAL INFORMATION COMMISSION
Club Building, Opposite Ber Sarai Market,
Old JNU Campus, New Delhi - 110067.
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Decision No.CIC/SG/A/2009/003158/6654Penalty
Appeal No. CIC/SG/A/2009/003158

Appellant : Dr. O. P. Nagar
E-972, Saraswati Vihar,
Delhi-110034

Respondent : Mr. Surender Kumar,
OS (Appeal) & deemed PIO
Directorate of Education (GNCTD),
R.No.222, Old Secretariat
Delhi-110054

RTI application filed on : 23/03/2009
PIO replied : 17/04/2009
First Appeal filed on : 27/07/2009
First Appellate Authority order : 21/08/2009
Second Appeal Received on : 11/12/2009
Notice of Hearing Sent on : 02/01/2010
Hearing Held on : 01/02/2010

Appellant sought information regarding vacancies of PGT(Hindi & Pol. Science) for 2006-07,07-08-09 with allocation of these vacancies for Departmental promotion, Direct quota , reserved categories.

SI	Information Sought	Reply of PIO
1.	No. of vacant post of PGT (Hindi) existed during: 2006-07, 07-08, 08-09.	At present the number of vacant posts of PGT (Hindi) is 41. Vacancies are not identified as Gen, SC, ST, and OBC. Information pertaining to the year 2006-07, 2007-08, 2008-09 is not available.
2.	No. of vacancies allocated for a. Departmental promotion: b. Direct Recruitment:	As per Recruitment Rules 25% posts are filled by Direct Recruitment and 75% post are filled by Departmental Promotion.
3.	No. of vacancies filled by a. Departmental promotion: b. Direct Recruitment:	Same as reply 2.
4.	No. of vacancies of PGT (Hindi) caused by creation of posts, promotions to the post of vice Principal, resignations etc on or after 10/01/2009.	Such information is not available in E-II Branch. Since resignations are finalized at the level of DDE concerned and promotion.
5.	a. Whether the Department would initiate any action against such irresponsible Head of the offices. b. Whether the eligible incumbents so suffered due to negligence of Head of office would be eligible for notional fixation and seniority after their promotion. c. Whether they would be allowed step up. d. What remedial action, the Department	a) It is a hypothetical question. No available information has been asked for. b) same as (a) c) same as (a) d) same as (a)

	proposes to take up to provide justice for such sufferers?	
6.	Did any back-log exist in respect of: a. Reserved quota b. Direct recruitment quota	a. Yes b. Not calculated yet.
7.	If yes, the number of such quota (a) Reserved quota, (b) Direct quota.	a. Exact figure can be given after completion of Roster as per Govt. of India instructions b. same as (a)
8.	Similar Information regarding the posts of PGT-Political Science.	At present the number of vacant posts of PGT (Pol.Sc) is 57. Same reply given above may be treated for the post of PGT (Pol. Sc)

PIO (HQ)'s Reply:

Application was forwarded to ADE(E-II) & ADE(Sectt) vide letter dated 26/03/2009.

Grounds for First Appeal:

Non-specific & irrelevant information provided.

Order of the First Appellate Authority:

“The Appeal was heard on presence of the Appellant, PIO(HQ) along with OS(E-II) represented the Department.

For question 1, 2 & 3 specially reply year-wise vacancy to be given by the E-II branch as asked by the Appellant. Question no. 4 reply to be given by E-II branch. Information required had been given.”

Grounds for Second Appeal:

Non-specific, irrelevant & incomplete information.

Relevant Facts that emerged during the Hearing on 02 February 2010:

“The following were present

Appellant: Mr. Ram Krishna on behalf of Dr. O. P. Nagar;

Respondent: Mr. Sanjay Kaushik, Deemed PIO & ADE Establishment-II Branch;

Mr. Anjum Masood, Public Information Officer (H.Q.) & ADE (R.T.I. Cell);

The Appellant states that he has received the information sent by PIO, ADE (E-II) Branch Mr. Sanjay Kaushik which was sent on 07/12/2009 to PIO (HQ) and received subsequently by the Appellant. The FAA had ordered the information to be given on 21/08/2009 and this order was given to Mr. Sanjay Kaushik on 01/12/2009. Mr. Anjum Masood PIO (HQ) states that the FAA's order was not sent to Mr. Sanjay Kaushik by OS (Appeal).”

Commission's Decision dated 02 February 2010:

“The appeal is allowed.

The information has been received by the Appellant.”

Facts leading to Showcause:

The issue before the Commission was of not supplying the complete, required information by the deemed PIO and OS (Appeal) within 30 days as required by the law. From the facts before the Commission it appeared that the deemed PIO was guilty of not furnishing information within the time specified under sub-section (1) of Section 7 by not replying within 30 days, as per the requirement of the RTI Act. Hence a showcause notice was issued to him, and he was directed give his reasons to the Commission to show cause why penalty should not be levied on him on

05 March 2010 at 3.30pm.

Relevant Facts emerging during Hearing on 05 March 2010:

The following were present:

Respondent: Mr. Surender Kumar, OS (Appeal) & deemed PIO;

The First Appellate Authority had given an order on 21/08/2009 directing the PIO to provide the information. The information could not be provided as Mr. Surender Kumar, OS(Appeal) who was responsible for forwarding this to the PIO did not forward it. He states that he forgot to forward the order of the FAA to Mr. Sanjay Kaushik who was deemed PIO and ADE(Establishment). Because of this laxity in doing his duty the Appellant did not get the information. The delay caused by Mr. Surender Kumar is of 100 days and there is no reasonable cause offered by him for this delay.

In view of this the Commission sees this as a fit case for levy of penalty under Section 20(1) of the RTI Act on Mr. Surender Kumar. Since Mr. Surender Kumar did not send the FAA's order to the deemed PIO Mr. Sanjay Kaushik for 100 days the information was delayed. The Commission therefore imposes a penalty on Mr. Surender Kumar OS(Appeal) of Rs.25000/- which is the maximum penalty which can be levied under the RTI Act.

Decision:

As per the provisions of Section 20 (1), the Commission finds this as a fit case for levying penalty on Mr. Surender Kumar, OS (Appeal) and deemed PIO. Since the delay in providing the information has been over 100 days, the Commission is passing an order penalizing Mr. Surender Kumar Rs. 25000/ which is the maximum penalty under the Act.

The Chief Secretary of GNCT of Delhi is directed to recover the amount of Rs.25000/- from the salary of Mr. Surender Kumar and remit the same by a demand draft or a Banker's Cheque in the name of the Pay & Accounts Officer, CAT, payable at New Delhi and send the same to Shri Pankaj K.P. Shreyaskar, Joint Registrar and Deputy Secretary of the Central Information Commission, 2nd Floor, August Kranti Bhawan, New Delhi – 110066. The amount may be deducted at the rate of Rs.5000/ per month every month from the salary of Mr. Surender Kumar and remitted by the 10th of every month starting from April 2010. The total amount of Rs.25000 /- will be remitted by August, 2010.

This decision is announced in open chamber.

Notice of this decision be given free of cost to the parties.

Any information in compliance with this Order will be provided free of cost as per Section 7(6) of RTI Act.

Shailesh Gandhi
Information Commissioner
05 March 2010

(In any correspondence on this decision, mention the complete decision number.)^{Rej}

- 1- The Chief Secretary
GNCT of Delhi
New Delhi

- 2- Shri Pankaj K.P. Shreyaskar,
Joint Registrar and Deputy Secretary
Central Information Commission,
2nd Floor, August Kranti Bhawan,
New Delhi – 110066