

CENTRAL INFORMATION COMMISSION

Appeal No. CIC/WB/A/2009/00018 dated 4-2-2009

Right to Information Act 2005 – Section 19

Appellant: Shri Shyamal Kumar Halder,
Respondent: Dep't. of Personnel & Training (DOPT)
Decision announced : 8.3.2010

FACTS

By an application of 16-7-2008 Shri Shyamal Kumar Halder of S.K. Bose Road, Kolkata applied to the CPIO, DOPT seeking the following information:

- “1. The name of the method which should be followed in promotion from LDC (Group ‘C’ Ministerial Cadre post in the pay scale of Rs. 3050-75-4500/-) to UDC (Group ‘C’ Ministerial Cadre post in the pay scale of Rs. 4000-100-6000/-) and from UDC to Assistant (Group ‘B’ Non Gazetted post in the pay scale of Rs. 5500-175-9000/-) in terms of DOP&T OM No. 22011/5/91-Estt.(D) dated 27.3.1997.
2. The name of the method which should be followed in promotion from LDC (Group ‘C’ Ministerial Cadre post in the pay scale of Rs. 3050-75-4500/-) to UDC (Group ‘C’ Ministerial Cadre post in the pay scale of Rs. 4000-100-6000/-) and from UDC to Assistant (Group ‘B’ Non Gazetted post in the pay scale of Rs. 5500-175-9000/-) in terms of DOP&T OM No. 35034/7/97-Estt.(D) 8.2.2002.
3. The name of the method which should be followed in promotion from LDC (Group ‘C’ Ministerial Cadre post in the pay scale of Rs. 3050-75-4500/-) to UDC (Group ‘C’ Ministerial Cadre post in the pay scale of Rs. 4000-100-6000/-) and from UDC to Assistant (Group ‘B’ Non Gazetted post in the pay scale of Rs. 5500-175-9000/-) in terms of DOP&T OM No. 22011/5/91-Estt.(D) dated 27.3.1997 as well as DOP&T OM No. 35034/7/97-Estt. (D) 8.2.2002.”

To his Shri Shyamal Kumar Halder received a response from CPIO Shri A.K. Srivastava, US, DOPT dated 18-8-08 informing his as follows:

“With reference point nos. 1 to 3, all promotions are made as per the provisions contained in the respective RRS of the post. A copy of Model RRS is enclosed.”

Shri Shyamal Kumar Halder then made an appeal before the Appellate Authority to Ms. Smita Kumar, Director, DOPT dated 10-9-08 as follows:

“If all promotions are made as per the provisions contained in the respective RRs of the post, as to how, it is stated in sub-Para (i) of Para III of DOP&T OM NO. 22011/5/91-Estt.(D) dated 27.3.1997 that for all Group ‘C’ and ‘B’ posts, the bench mark would be ‘Good’ and the posts will be filled up by the method of ‘Selection-cum-Seniority’. Hence the reply furnished by US, CPIO, DOP&T is not justified.”

Upon this Director Ms. Smita Kumar in her order of 22-9-08 came to the following conclusion:

“In accordance with the provisions contained in Para 2 (f) read with Para 2 (j) of RTI Act, 2005, the CPIO is required to provide material information on the relevant subject, which is available in his/ her custody. I endorse the reply of CPIO.”

Shri Shyamal Kumar Halder, however, has then approached this Commission in second appeal with the following prayer:

“I request your honour to kindly direct 1st appellate authority, DOP&T to provide the correct information relating to DOP&T OM No. 22011/5/91-Estt.(D) dated 27.3.1997.”

The appeal was heard through videoconference on 8-3-2010. The following are present.

Appellant at NIC Studio, Kolkata

Shri Shyamal Kumar Halder

Respondents at CIC Chamber, New Delhi

Shri Alok Ranjan, Director (E-1)

Shri A. K. Srivastava, US(D)

CPIO Shri A.K. Srivastava submitted that appellant Shri Halder had sought specific information in his request of 16-7-08, to which he has been sent a specific reply on 18-8-08. His question regarding Para 3 of the OM of 27-3-1997 is, however, not specific. If he was to ask a specific question with regard to that OM that will also be answered.

Appellant Shri Halder on the other hand submitted that the particular promotion to which he has referred does not appear to lie within the RR cited, upon which Director Shri Alok Ranjan submitted that if any recruitment has been done or indeed OM issued that was in contradiction to the RR, it is overridden by the RR.

DECISION NOTICE

The information that appellant Shri Halder has been provided is that, in answer to all the three questions, it has been clearly informed by the CPIO Shri A.K. Srivastava that all such promotion is done strictly “as per the provisions contained in the respective RRS of the post”, a copy of which has also been provided. The question regarding OM of 27-3-1997 has been raised only at the level of 1st Appellate Authority and therefore, cannot be considered a part of the initial application, which is the subject of appeal before us. Besides, the issue raised in the hearing by appellant Shri Halder with regard to a specific promotion to which he has referred is again not a question that is asked in the present application. If appellant Shri Halder has any questions in regard to both these issues he is free to move a fresh application before the CPIO Shri A.K. Srivastava, Under Secretary (D), Dep’t. Of Personnel & Training, North Block, New Delhi seeking information on the same. However, it has now been clarified by the responses received by Shri Halder to his application of 16-7-2008, at present under appeal, is that promotion is required to be done under the RR and that in case any recruitment is done in violation of the RR, then RR will prevail and not any OM. If there is such a contradiction this can be a ground for representation within the Department, but cannot be the substance of a request under the RTI Act, 2005. For this reason we find this appeal without merit and it is hereby dismissed.

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

(Wajahat Habibullah)
Chief Information Commissioner
8-3-2010

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges prescribed under the Act to the CPIO of this Commission.

(Pankaj K.P. Shreyaskar)
Joint Registrar
8-3-2010