

CENTRAL INFORMATION COMMISSION

Appeal No. CIC/WB/A/2009/00142 dated 19-2-2009

Right to Information Act 2005 – Section 19

Appellant: Shri R. K. Prasad, Doranda, Ranchi

Respondent: Dep't of Personnel & Training (DOPT)

Decision announced 10.3.'10

FACTS

By an application of 9-7-2008 Shri R. K. Prasad of Doranda, Ranchi applied to the CPIO, DOPT seeking the following information:

- '1. Please supply the photocopy of office note with full details on the action taken in the Representation dated 7.4.2008 of Ram Kishore Prasad regarding request for Re-consideration/ Re-examination for bungling committed in the appointment of Judicial Member Central Administrative Tribunal by Mr. Budh Prakash, the then Director, Mr. Pradeep Kumar Deo Joint Secretary and Mr. A. K. Agarwal, Secretary, DOPT in case of Shri Ram Kishore Prasad practising, Advocate, Jharkhand High Court, Ranchi in 2nd Half of 2001 for favouring Mr. J. K. Kausik of Rajasthan, a waiting list candidate.
2. What action has been taken on the letter of PMO, ID No. 2/3/2008 PNP-3/581771 dated 29.4.2008 and letter No. L-15012/3/2008- dated 29.4.2008 of Government of India Ministry of Law & Justice (Department of Justice).
3. That in light PMO letter and letter of Ministry of Law and Justice whether the case of R. K. Prasad, again put up for reconsideration/ re-examination to Hon'ble CJI/ ACC if yes please supply the photocopy of office note with final order if any. If not why?
4. that since two post of J. CAT is vacant the case of R. K. Prasad has been placed to competent authority for reconsideration in the matter and appropriate action in view of Hon'ble PMO and Hon'ble Ministry of Law and Justice letters, if yes please send the photocopy of the same.
5. Please supply the complete file noting of File No. A. 11013/21/2000 AT in case of appointment of two Vice Chairman and Three Judicial Members in the CAT of first half of 2001 with final note to Hon'ble CJI and final note/ final approval of ACC with their appointment letters photocopy.
6. Please supply the photocopy of the complete file noting of file No. A-110130/20/2001 AT regarding appointment of seven Judicial Members and three Administrative Members

- in CAT to the second half of the Calendar year 2001 with full note send to Hon'ble CJI and ACC with their final approval with copy of appointment letters.
7. That in the file noting of Mr. Budh Prakash, Director of DOPT dated 20.7.2001 in para 8 mentioned that the Committee, after taking into consideration all relevant factors, recommended seven names for appointment as Judicial Member and three names for Administrative Members and IB report of R. K. Prasad was also clear nothing was adverse against him then why the offer of appointment was not given to Mr. R. K. Prasad and fraud and bungling was played by the above named officials of DOPT.
 8. Please supply the photocopy of the meeting's of 18.7.2001 held under the Chairman shop of Hon'ble Supreme Court Judge.
 9. That a clear cut fraud and bungling was committed by Mr. Budh Prakash, the then Director, Mr. Pradeep Kumar Deo, the then JE and Mr. A. K. Agarwal the then Secretary, DOPT and file of DOPT is speaking the truth in appointment of second half of 2001 in favouring Mr. J. K. Kaushik then what action is being taken against them?
 10. Please supply the complete file noting and final order passed if any in case of James K. Joseph who was selected for appointment on the post of Administrative Member of CAT and Hon'ble CJI has ordered for re-consideration his case, please also send the final order passed by Hon'ble CJI and ACC.
 11. Please supply the complete file noting of appointment of 1st half of 2007 and 2nd half of 2007 and 1st half of 2008 of appointment of Judicial and Administrative Members of CAT with note send to Hon'ble CJI and final order and approval of ACC with photocopy of their appointment letters.
 12. Whether any rule has been framed about the power of Selection Committee and power of DOPT in the matter of appointment of Judicial Member and Administrative Members. Please send the photocopy of the same rule and govt. notification of DOPT.
 13. Please send the photocopy of if any that the Minister In charge, Director, Joint Secretary, Secretary can change the selection committee list and send the own list to Hon'ble CJI and ACC for their approval according to own choice of DOPT.
 14. Please send the photocopy of Govt. notification and rule if any of power and function of Director, Joint Secretary, and Secretary of DOPT regarding the appointment of Judicial and Administrative Member of CAT.

15. Can the Director, Joint Secretary, Secretary and Minister In-charge of DOPT change the list of Selection Committee made for appointment of Judicial/ Administrative Members and send the own proposal to Hon'ble CJI/ ACC for their approval? Can they by pass the Selection Committee.'

To this Shri R. K. Prasad received a response from CPIO Shri A.K. Patney, US, DOPT dated 18-8-08 answering to each of his question point-wise as follows:

- “1 to 3 Suitable action has been taken on the representation of Shri Ram Kishore Prasad and his representations forwarded by PMO and Ministry of Law. Copies of note sheet of the action taken can't be supplied as per DOP&T's guidelines.
4. The candidate is required to apply afresh with reference to the vacancies notified from time to time.
- 5 & 6 Copies of the complete file No. A-11013/21/2000-At and A-11013/20/2001-AT have already been supplied vide letters of even number dated 4.12.2007 and 10.10.2006 respectively.
7. this is not true. There was no mention of IB Report.
8. Copies of the minutes of the meeting held on 18.7.2001 are enclosed.
9. This does not appear to be true.
10. The matter was reviewed by the Selection Committee in its meeting held on 24.9.2005 and it was decided to withdraw its earlier recommendation appointing Shri James K. Joseph as Administrative Member. Copies of note sheet of the action taken can't be supplied as per DOP&T's guidelines.
11. Copies of note sheet of the action taken can't be supplied as per DOP&T's guidelines.
- 12 to15 A Copy of the Administrative Tribunals (Procedure for appointment of Vice-Chairmen and Members) Rules, 2006 is enclosed.”

Nevertheless, Shri R. K. Prasad has moved an appeal before the Appellate Authority, Director, DOPT dated 6-8-08 with the following plea:

“So by this appeal I am requesting that please direct the CPIO to supply me the papers as demanded by me by my letter dated 9.7.2008 (photo copy enclosed) with a direction to supply full papers with DOPT guidelines in this regards. The papers which was supplied has been misplaced.”

Upon this Appellate Authority, Ms. Manju Pandey, Director (AT) in her order of 1-9-08 held as follows:

“As far as the request of supplying copies of note sheets where in the various decisions have been taken is concerned, the CPIO has rightly denied these in view of the DOP&T order regarding the same. The CPIO is directed to return the unused sum of money to Shri Ram Kishore Prasad.”

Shri R. K. Prasad, however, has then approached this Commission in second appeal with the following prayer:

“It is prayed to direct the concerned officials to supply me the papers and information under RTI Act as requested by me letter dated 9.7.2008 for which I have paid the cost Rs. 90/-.”

The grounding on which Shri R. K. Prasad has based this plea is as follows:

“It is matter of right to know what was against him, why he was not appointed. No authority disclose what was the material for not appointment. It is a case of corruption and violation of human rights fraud done by DOPT Officials. So direction may kindly be given to supply me the papers as requested by me as letter dated 9.7.2008. The cost and penalty be also imposed.”

The appeal was heard through videoconferencing on 10-3-2010. The following are present.

Appellant at NIC Studio Ranchi

Shri R. K. Prasad

Respondents at CIC Chamber, New Delhi

Mrs. Manju Pandey, Director (AT)

Shri P. K. Patney, US (AT)

Respondent Ms. Manju Pandey submitted that the response to the original RTI application and first appeal have been given in accordance with the departmental policy at that time. However, on revision of this policy on the recommendation of Central Information Commission and on receipt of the appeal notice in the present case the remaining file noting has also been provided. Although this amounted to 200 pages, it has been provided at the cost received which was Rs. 90/-.

Appellant Shri Prasad conceded that the noting has, in fact, been received but submitted that he had not yet received the noting sought at Paras 5 and 6 or indeed a reply to questions 9 and 15.

In response Ms. Manju Pandey, Director, DOPT submitted that response to both these questions had, in fact, been sent together with file noting in compliance with another decision of Central Information Commission. She invited our attention to question No.7 in appellant's own application in which he has referred to the file noting of Mr. Budh Prakash, Director which was the file noting, a copy of which has earlier been supplied to him, which would indicate that this had indeed been received by him.

DECISION NOTICE

Having heard the case and examined the records we find that all the information that qualifies as information as defined under Section 2 (f) of the RTI Act 2005 sought by appellant Shri Prasad has now been provided to him. Para 9 of his initial application is not a request for information but an allegation of fraud made by appellant Shri Prasad against the then Director Shri Budh Prakash, Jt. Secretary Shri Pradeep Kr. Deb and Secretary Shri A.K. Agrawal. The RTI Act has no mechanism to deal with such allegations which have to be made to the appropriate authority in Government. Besides, in response to question No. 12 the rules regarding powers of the selection committee and the DOPT in the matter of appointment of judicial and administrative members have already been provided to appellant. The question placed in point No.15 clearly is with regard to those rules, on the basis of which appellant Shri R.K. Prasad is free to come to his own conclusion, since there is no further information which CPIO will hold in this matter other than that which has been provided.

While, therefore, we find that no substance remains in this appeal, the outstanding file noting having been provided to appellant, as agreed to by him in the hearing, in order to ameliorate any difficulty or misunderstanding, CPIO Shri

A.K. Patney will now send a duplicate copy of the response given to points 5 and 6 of his application to appellant Shri R.K. Prasad. There being no further issue pending decision in this regard the appeal is disposed of accordingly.

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

(Wajahat Habibullah)
Chief Information Commissioner
10-3-2010

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
10-3-2010