

CENTRAL INFORMATION COMMISSION
Appeal No.CIC/WB/A/2007/00657 dated 15.5.2007
Right to Information Act 2005 – Section 19

Appellant - Syed Arshad Ali Azam Ali
Respondent - Department of Personnel & Training (DoPT)

Facts:

By an application of 29.1.07 Syed Arshad Ali Azam Ali of Mumbai applied to the CPIO / Dy. Secy., Dep't. of Telecommunications, seeking the following information:

“As to why FR 22 C is substituted by FR 22 (I) (A) (I) and what are the aims and objects for substitution of the same.

A certified copy of the relevant pages of the Note Sheets of the concerned File depicting the complete background of the substitution of the same be furnished for its proper meaning and/ or interpretation and also in cases where this proviso applied.”

To this he received a response from CPIO Ms. Urmila Rawat Section Officer, DOPT on 28.2.07-the application having been transferred to DOPT by the Department of Telecommunication through a letter of 2.8.07- as follows:

“The 4th Central Pay Commission recommended that FR 22 C should be made uniformly applicable for fixation of pay on promotion/appointment to higher posts & to amend the Rule accordingly. The recommendation of the 4th Central Pay Commission was accepted by the Govt and the rule was amended.

There are 4 provisos under a FR 22 C and one under FR 22 I (a) (I). Since you have not specified the proviso in you request this Dep't is not in a position to furnish the information in this regard.

Regarding copy of relevant page I of Note sheets of the concerned file, as per the clarification given under 'Frequently Asked Questions' on DOPT website '**Information**' **does not include file noting.**"¹

¹ Emphasis ours

Aggrieved by the refusal to provide him copies of requested file noting, appellant Syed Arshad Ali Azam Ali appealed to Ms. Rita Mathur, Dy. Secretary (Pa) DOPT in which he has specifically requested that “*the relevant pages of the note sheets*” be provided to him. In response, however, Ms. Simi R. Nakra, Dy. Secy. and first Appellate Authority, DoPT in her letter of 20.4.07 has responded as follows:

“You have preferred an appeal against the reply of the CPIO for not furnishing certified copies of the file notings. Your appeal has been considered and it is reiterated that as of now there is **no change in the stand of the Government mentioned in the FAQ on RTI on the Department of Personnel & Training website**² that file notings are not a part of information.”

The prayer of appellant before us in his second appeal is as below:

“The appellant, therefore, prays that the concerned authorities may be directed to furnish the relevant pages of the note sheets and the concerned information of the concerned file depicting the complete back ground of the substitution of FR 22 C by FR 22 (I) (a) (1) including the aims and objects for substitution of the same. The appeal be allowed.”

The appeal was heard through videoconference on 31.10.08. The following are present:

Appellant at NIC Studio, Mumbai
Shri Syed Arshad Ali Azam.

Respondents at CIC Studio, Delhi
Mrs. Simmi R. Nakra, Director.
Mrs. Urmila Rawat, Section Officer

Appellant submitted that his request is in keeping with earlier decisions of this Commission directing that note sheets are discloseable under the RTI Act, Ms. Simi Nakra Director, DoPT sought to justify the response of CPIO and herself by displaying a circular issued by Ms. Zoya U.S.(RTI) DOPT directing that such information should not be disclosed. On our putting the question to her as to

² Emphasised by us to demonstrate absurdity of refusal

whether departmental instructions could be used to override the law, however, she had no answer

DECISION NOTICE

As held by us in **Pyare Lal Verma vs. Ministry of Railways 29.1.2007** on 29.1.'07 in **appeal no. CIC/OK/A/2006/00154**, file noting is part of information and cannot be withheld. On these grounds **CPIO Ms. Urmila Rawat, will supply the copies of noting sought by appellant Shri Syed Arshad Ali Azam Ali within ten working days of the date of issue of this decision notice.**

It is clear that file notings fall well within the definition of information, as defined in sec. 2(f) and instructions given in this regard in Decision dated 26.6.2008 in **Appeal No. CIC/WB/A/2007/00223, Shri Anil Agrawal vs. D.O.P.T.** Moreover, the reasons given for refusal, giving weight to departmental instructions over the law as ruled, in a series of decisions of this Commission unchallenged by the errant public authority through Writ in any court, the response can only be described as flippant and vexatious. Moreover, as emphasizes b y us in quoting from the Decisions of both CPIO and 1st appellate authority, the refusal seeks no justification on the law but only on the basis of the Department's own convenience, by citing no better source of such a law other than the Departmental website, which can hardly be described as law. **We are, therefore, forced to conclude that the denial of information in this case amounts to a malafide denial of a request for information which makes it squarely liable for penalty of Rs. 25,000/- u/s 20(1).** The only remaining question is which individual should be held responsible either for direct violation being CPIO, or by being provided malafide directions by an officer thereby rendering that officer liable u/s 5(5) of the Act. Ms. Urmila Rawat Section, denied the information and Ms. Zoya under whose orders this information was denied will, therefore, show cause as to why each of them or both jointly should not be held liable for penalty of Rs. 25,000/- for malafide refusal of information, given that the orders of this Commission are explicit and unequivocal in this matter.

They will do this by **personal appearance before us on 27.11.2008 at 10.30 a.m.** The appeal is thus allowed

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

(Wajahat Habibullah)
Chief Information Commissioner
31.10.2008

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 Shreyaskar)
Joint Registrar
31.10.2008