

CENTRAL INFORMATION COMMISSION

Appeal No. CIC/WB/A/2007/00960 dated 20-9-2007

Right to Information Act 2005 – Section 19

Appellant: Dr. A.K. Singh

Respondent: Union Public Service Commission (UPSC)

FACTS

By an application of 12.2.2007 Dr. A.K. Singh applied to the Secretary, UPSC seeking the following information:

“I request you to kindly provide me the information about the action taken on my representations as per the RTI Act. Please also furnish the details regarding time validity of the panel of selected candidates, and what are the names in order of merit of this panel.”

To this he received a response on 23.2.2007 from Under Secretary and CPIO, UPSC. This was followed by another RTI request from Dr. A.K. Singh of 2.3.2007 in which he sought further information as follows:-

“The representations dated 31st August 2005 and 6th September, 2005 submitted by me meant to learn the causes and grounds on which the court order dated 8th July 2004 in OA-2666/2003 was not entertained by the Army Headquarters/ Ministry of Defence. Government of India. I also intended to know as why the UPSC did not allow me to participate in selection process.

As regards the age limits is considered the undersigned was within prescribed age limits when his services were terminated.

As the service of the applicant was sub-judice to the court which ordered his re-engagement, it was only a point of natural justice that the UPSC could have invited the undersigned to the process of regularization of the service in the context.

The above representation meant to learn the above points. Yet the reply tendered under the RTI Act is silent on both the above points and facts. The relevance of above mentioned RTI Act becomes meaningless and useless as per your response.

Please send a letter detailing the required proceedings. The letter received is mum on critical part of my representation dated 12th February, 2007. It is inadequate and disoriented reply to my query.”

Upon this he received a response on 21.3.2007 from Ms. Kalpana Rajsinghot, Jt. Secretary and CPIO as follows:-

- “1. His representations dated 31.8.2005 and 6.9.2005 were considered in the Commission on 6.9.2005 and 9.9.2005 respectively and it was decided that his candidature has been rightly rejected on the ground of his being overage. Copies of noting cannot be provided as these relate to functioning of core area of the Commission and would harm the protected interests of the Commission. The same is exempted from disclosure under Section 8 (1) (d) of the RTI Act.
2. & 3. In this case, the reserve panel, under normal circumstances, was valid up to 11.3.2007 and it can be extended up to 11.9.2007 in exceptional cases. The Recommendation letter for one post of Lecturer in Political Science was issued on 15.9.2005. As the recommended candidate did not join, name of another candidate was recommended on 8.2.2007 from Reserve List.
4. It is reiterated that the Commission is not aware of any such Ad hoc Rules and file no. F. 1/475/95-R. I cited by the applicant does not deal with Ad hoc Rules as contended by him.
5. He was not called for interview as his candidature was rejected on the ground of his being over age.
6. The prescribed age limit is determined as on the closing date which in this case was 19.8.2004. His date of birth being 23.11.1965 and his service were terminated on 15.6.1999 as also mentioned by him in his representations referred to in para (1”) above, hence, he was over age as on 19.8.2004 and his candidature was rightly rejected on the ground of his being over age.
7. In view of para (6) above, the fact of his service matter of the applicant being sub-judice and court order of his re-engagement as stated by him was not relevant for calling him for interview for the post in question.”

Appellant has then moved his first appeal only on 18.6.2007 challenging the application of exemption under section 8 (1) (d). There was no request for condoning the delay. The appeal was, therefore, not entertained by order of Shri Biresh Kumar, Addl. Secretary dated 21.6.2007 as follows:-

“The decision of the CPIO, UPSC has been despatched to the appellant on 21st March, 2007 through speed-post. It has been telephonically confirmed from the Manager, Speed Post Centre, New Delhi that the said consignment has been delivered to the consignee on 26th March 2007. This means the present appeal has been filed after a period of 83 days. Thus it is clear that the present appeal of Dr. Ashok Kumar Singh is time barred because he has filed his appeal after the prescribed period of thirty days. The appellant has not given any reason for delay in filing the appeal. Hence his appeal is not entertained being time- barred.”

Appellant’s prayer before us is as below:-

“It is prayed to the CIC to provide proper information and oblige the undersigned.”

There is no request for condoning the delay. Only an explanation for the delay in moving his first appeal, which is as follows:-

“The service of the applicant is sub-judice to the court which ordered his re engagement. Due to concerned court hearings and applicants hope on the judiciary the appeal was filed after a period of only 83 days,”

The appeal was heard on 9-3-2009. Following are present.

Appellant

Dr. Ashok Kumar Singh.

Respondents

Shri Mahendra Sharma, Dy. Secretary.

Shri Ashok Mehta, DS & CPIO.

Shri G. K. Sharma, SO.

Smt. Amita K. Chaudhary, Advocate.

Ms. Aditi Gupta, Advocate.

Appellant Dr. A.K. Singh has cited the reasons for the delay quoted above submitting that this is a request for condoning the delay, in fact there is no such request.

DECISION NOTICE

This Commission has been considerate in condoning delays in appeal in most cases. However, this is usually in response to a request for such condoning. In this case there is no such request either before the first appellate authority or before us, only an explanation for the delay in first

appeal, which seeks to declare that having failed in court appellant took recourse to an appeal under RTI. This reflects not any impediment but basically lack of comprehension, even an affront to the law, which can hardly be taken as a valid excuse. On the other hand we find the CPIO had been at pains to answer each of the questions raised by appellant Dr. A.K. Singh. For the above reasons **this appeal fails and is hereby dismissed.**

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

(Wajahat Habibullah)
Chief Information Commissioner
9-3-2009

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
9-3-2009