



In the Tripura Information Commission
P. N. Complex - Gorkhabashi Agartala

Complaint No 27 of 2007-08.

Mr. M.A.Khan, Retd PCCF
66- Prakash Vihar, Dharampur
P.O.- Araghar, Dehradun
Uttarakhand - 248001.....Complainant

Vs

Sri S. Bandopadhyay, Joint Secretary to the Government of Tripura, Finance
Department (State Public Information Officer).....Opposite Party

In the matter of a complaint under section 18(1)
of the Right to Information Act, 2005.

PRESENT:

1. Sri B.K.Chakraborty
State Chief Information Commissioner

2. Sri D.K.Daschaudhuri
State Information Commissioner

For the Appellant: None

For the Opposite Party: Sri S. Bandopadhyay, Joint Secretary to the
Government of Tripura, Finance Department (SPIO).

Date of lodging appeal : 01.11.2007

Dates of hearing argument: 26.11.2007

Date of pronouncing judgment: 17.12.2007

JUDGMENT & ORDER

Facts:

1. This complaint arises out of the written application bearing No.2007-08/57-Appeal dated 26.10.2007 of Mr. M.A. Khan (here in after referred to as the (Complainant) received by this Commission on 01.11.2007 by speed post.

2. The contention of the complainant is that in Appeal No-9 of 2007-08 brought by the complainant against the First Appellate Authority (FAA) and the State Public Information Officer (SPIO) in the Finance Department, Government of Tripura, this Commission delivered the judgment on 19.09.2007 and passed orders at paragraph- 27, inter-alia, as follows :-



- (iii) Sri S. Bandopadhyay, Joint Secretary to the Government of Tripura, Finance Department being the SPIO is hereby directed to provide the second item of information in the light of the discussions made in paragraph 20 above free of cost within a period of 15 days from the date of passing of this judgment and order.
- (iv) Sri S. Bandopadhyay, Joint Secretary to the Government of Tripura, Finance Department being the SPIO is directed to render necessary assistance to the appellant for inspection of the relevant file pertaining to processing of the pension proposal of the appellant during the period from 17.01.2005 to 01.02.2006 in the Finance Establishment Branch so that the appellant could ascertain and indicate the specific file notings required by him within 30 days of passing of this judgment and order and thereafter on receipt of written clarification from the appellant, the SPIO shall provide free of cost the photocopies of those file notings if not barred by any of the provisions of section 8(1) of the Act, within a period of next 15 days from the date of receipt of the written clarification from the appellant".

It is alleged that in compliance with the above orders, the SPIO in the Finance Department, Government of Tripura vide his letter No.F.1(5)-JS/FIN/2007 dated 01.10.2007 provided information, which according to the complainant was perfunctory and did not take care of the information sought for by him. Hence, the complainant urged before this Commission for issuing necessary direction to the concerned SPIO to provide specific information and also to penalize the SPIO for not supplying specific information in time.

3. The complainant also challenged the propriety of the discussion made in paragraph -21 and the order contained in paragraph-27 (iv) of the judgment and order dated 19.09.2007 passed by this Commission in Appeal No-9 of 2007-07. The complainant sought for amendment of the above relevant portion of the judgment and order on the basis of the materials on record.

4. On perusal of the written application of the complainant, this Commission found that the complainant sought for two kinds of reliefs. Firstly, for issuing necessary direction to the SPIO for providing specific information in compliance with the order of this Commission and secondly, for amendment of the discussion made by this Commission in the judgment and order passed in Appeal No-9 of 2007-08. As regards allegation of non-furnishing of the specific information by the concerned SPIO, cognizance is taken of the complaint under section 18(1) of the RTI Act, 2005 (for short the Act). The matter relating to the amendment of the judgment and order passed by this Commission in Appeal No-9 of 2007-08 is also taken up in this proceedings separately in respect of which, the OP is not considered to be a necessary party.

5. In response to the summons, Sri S.Bandopadhyay, Joint Secretary to the Government of Tripura, Finance Department and SPIO appeared and submitted a written representation along with a copy of the revised information sent to the complainant vide letter No. F.1(5)-JS(FIN)/2007/dated 24.11.2007.

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6. At the very outset, we like to dispose of the matter relating to the request of the complainant for amendment of the judgment and order dated 19.09.2007 passed by this Commission in Appeal No-9 of 2007-08. We have carefully gone through the records and judgment and order of the above appeal. The manner in which the complainant criticized the judgment and order is not at all acceptable. This Commission gave adequate reasons for the decision relying on the papers and the documents produced by both the parties. The complainant had been given enough opportunity of placing his case before this Commission in course of hearing. The factual position as narrated in the discussion of the judgment and order was based on the written representations of the OPs, copies of which were duly furnished to the complainant. The question of amending the judgment and order arises only when there occurs any clerical or arithmetical mistake or accidental slip or omission. But, we find no misrepresentation or clerical mistake or error apparent on the face of the records in the judgment and order passed in the above appeal to warrant amendment of the judgment and order in issue as sought for by the complainant. Therefore, the request of the complainant for amendment of the judgment and order stands rejected.

Point for decision:

7. In order to dispose of the complaint, the following points are to be decided: -

- (i) Whether the information provided by the SPIO to the complainant in compliance with the order dated 19.09.2007 of this Commission passed in Appeal No-9 of 2007-08 were adequate and specific?
- (ii) Is the OP being the SPIO is liable to be penalized under section 20 of the Act?

Reasons for decision:

8. Point No.(i): The order contained in paragraph -27 (iii) of the judgment and order dated 19.09.2007 passed by this Commission in Appeal No-9 of 2007-08 pertain to the second item of information as mentioned in the written request dated 23.01.2007 of the complainant, which runs as follows :-

"(ii) Specify the Rule under which a retiring Government servant is required to submit no demand certificate from the concerned Department and the Estate Officer, PWD before his retirement to get his pension proposal forwarded to the AG, Tripura when he is entitled to retain a Government quarter at least for 2 months at normal rent after his retirement. (second item)".

9. The OP being the SPIO vide his letter No.F.1(5)-JS/FIN/2007 dated 01.10.2007 provided the following information to the complainant :-

" In compliance to above I would like to inform you that CCS (Pension) Rules, 1972 was adopted by the State Government vide Notification of Finance (General) Department No.F.1(3)-FIN(G)/ 79 dated 8th August, 1978 and the same came into force on and from 18th September, 1974. At the time of such adoption rule 75 was in the CCS(Pension) Rules, as well as adopted in the Pension Rules. Subsequently Central Government had modified/ deleted so many provisions of



CCS(Pension) rules including Rule 75 (as quoted in Para 20 of the Judgment). But the State Government though modified/ deleted some of the provisions in the adopted Rules but the Rules 75 still not deleted. Accordingly, the provision of the Rule 75 was reflected in reply. However, the deleted matter that very in the rule has been incorporated by the Central Government in Rule 72,73 and 74 of CCS(Pension) Rule".

10. Thereafter, the OP being the SPIO provided revised information to the complainant vide his letter No.F.1(5)-JS(FIN)/07 dated 24.11.2007, the relevant portion of which is quoted below :-

" Specific revised information in this regard is provided here under :

Rule book available in the Finance Department is old and unedited. Since after adoption of CCS(Pension) Rule in the State, State did not amended it as and when Central Government amended it. Latest issues of CCS(Pension) Rule have been collected and from this it reveals that as per CCS(Pension) Rule 57(ii)(i), Government of India's decision in this regard is that Administrative Ministries/Departments concerned are required to furnish list of government servants in occupation of government accommodation along with applications from the individual, on the prescribed form, for issue of ' No Demand Certificate' to the Directorate of Estate at least two years before the date of superannuation of the official concerned. Under the existing orders, the Directorate of Estates in turn would issue and advance ' No Demand Certificate' to the department concerned with a copy endorsed to the individual concerned 8 months before the date of superannuation informing: -

- (i) the amount of license fee due up to that period, i.e. eight months prior to the date of superannuation ;*
- (ii) the monthly rate of recovery of license fee for the rest of the service i.e. eight months; and*
- (iii) the amount of license fee recoverable for two months (now four months) period of retention allowed after retirement.*

On receipt of the application of the individual officer further procedure of adjustment and recovery of dues pertaining to government accommodation will be guided by Rule 72,73 etc. Therefore, from the government of India's decision below rule 57 it is found that the individual government servant has to apply in a prescribed format for issue of No Demand Certificate to the Directorate of Estates at least 2 years before from the date of superannuation of the officer concerned though no rule directly says that a government servant has to apply for such No Demand Certificate. It is only Government of India's decision below Rule 57 of CCS(Pension) Rule where it has been made mandatory for the retiring government servant to make an application in prescribed format to the Directorate of Estates 2 years before superannuation".

11. We have scrutinized the two sets of information provided to the complainant by the SPIO as narrated above. We are of the view that although there was inadequacies in the information provided by the OP on 01.10.2007, but the revised information provided by the SPIO on 24.11.2007 satisfied the requirement of information sought for by the complainant and it amounted to

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adequate and sufficient compliance of the order contained in paragraph 27 (iii) of the judgment and order dated 19.09.2007 passed by this Commission in Appeal No-9 of 2007-08. The first point is decided accordingly.

12. Point No.(ii): As regards the claim for penalizing the SPIO for not providing specific information in time, the explanation of the OP is that in absence of the latest edition of the relevant Pension Rules Book, being misled by the old book, he provided inappropriate information on 01.10.2007. However, he has provided the revised information after going through the latest edition of the Pension Rules Book. For awarding penalty under section 20 of the Act, it is necessary to establish that the SPIO acted with malafide intention or has made delay without reasonable cause to provide the information, which are absent in the present case. We are fully satisfied with the explanation given by the SPIO for providing initial inappropriate information and the delay caused in providing the revised information. So, we are to hold that it is not an appropriate case for awarding penalty to the SPIO as sought for by the complainant.

Decision:

13. In fine, the complaint is dismissed on contest.

14. Let copy of this judgment and order be sent to the complainant the OP. Also send a copy of this judgment and order to the Principal Secretary to the Government of Tripura, Finance Department being the head of the Public Authority.

15. Pronounced.

Sd/-
(D.K.Daschaudhuri)
State Information Commissioner

Sd/-
(B.K.Chakraborty)
State Chief Information Commissioner

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Authenticated.

a 12/11/07
(S.C. Saha)
Secretary

Tripura Information Commission



TRIPURA INFORMATION COMMISSION
P. N. Complex: Gorkhabasti: Agartala

Complaint No. 27 of 2007-08/11/75-77

December 17, 2007

Copy to:

1. Mr. M.A.Khan, Retd PCCF, 66- Prakash Vihar, Dharampur, P.O.- Araghar, Dehradun, Uttarakhand - 248001 (Complainant).
2. Sri S. Bandopadhyay, Joint Secretary to the Government of Tripura, Finance Department (State Public Information Officer).
3. The Principal Secretary to the Government of Tripura, Finance Department (Head of the Public Authority).

a 12/11/07
(S.C. Saha)
Secretary

Tripura Information Commission