



Before The State Information Commission, Kerala
Punnen Road, Thiruvananthapuram-695 039.

Tel:0471 2335199, Fax:0471 2330920
Email: sic@infokerala.org.in

AP.No. 157/2007/SIC
File No.1414/SIC-Gen1/2007

Shri.S.Radhakrishnan Nair,
Superintendent of Police (Retd)
No.142, Neerazhi Lane, Ulloor,
Thiruvananthapuram-695 011.

Appellant

Vs

1. Shri.Y.Anilkumar IPS,
State Public Information Officer, and
Inspector General of Police (HQ),
Police Head Quarters,
Thiruvananthapuram.

Respondents

2. Appellate Authority, and
Additional Director General of Police,
Police Headquarters,
Thiruvananthapuram.

ORDER

The appellant in this case is one Shri.S.Radhakrishnan Nair, a Retd.Superintendent of Police. He had sought some information from the Police Headquarters with regard to his service matters and that of two other Officers. The events that lead to the filing of the second appeal before this Commission could be chronologically narrated as follows:-

On 29.7.2006, he had put in a request before the SPIO, Police Department, to furnish him the copies of certain Govt.Orders and posting orders by the DGP in respect of S/s.S.Gopinath, and Jose George. His narration in the application was that S/s.S.Gopinath, Jimmy George, Jose George and

Moosa were selected as Reserve Sub Inspectors of Police as per G.O.(MS)142/75/Home dated 1.12.1975. S/s.S.Gopinath and Jose George were Reserve Inspectors in the Armed Reserve Police but subsequently they were given posting and promotion with retrospective effect that had prejudicially affected the interest of the petitioner. Therefore, he had requested for the following 5 documents:-

1. G.O.(Ms)No.142/75/Home dated 01.12.1975.
2. G.O.(Rt)No.2490/76/Home dated 29.10.1976.
3. G.O.(Rt)No.2147/85/Home dated 26.07.1985.
4. The DGo relating to the appointment of Sri.S.Gopinath as Reserve Inspector of Police basing on G.O.(Rt)No.2147/85.
5. The DGO relating to the appointment of Sri.Jose George as Reserve Inspector of Police basing on G.O.(Rt)No.195/87.

The PIO *vide* Ext A1 intimated the requester to get the copies of the Government Orders from the Secretariat because those departments were the departments that had issued the Govt.Orders. This intimation was dated 18.8.2006 and the same was marked as Ext A1. The requester had thereafter made an amendment in the pleadings (Ext A2) and, satisfied himself with the claim of only two documents *ie.*, item No.4 and 5 *viz.*, the DGO relating to the appointment of Shri.S.Gopinath and the DGO relating to the appointment of Shri.Jose George. The request of the appellant was rejected as the same was not available. Accordingly, on 8.12.2006 again a detailed reply was given to the requester to furnish some more details of the DGOs so as to locate the same. The requester had preferred a first appeal before the Appellate Authority on 1.2.2007, repeatedly requesting for the very same DGOs. The Appellate Authority also had rejected the claim because the DGO mentioned as item No.4 & 5 were not available.

The question that arises for consideration is whether the information could be furnished by the PIO or by the Appellate Authority?

This was a case in relation to a Departmental Promotion of certain Reserve Inspectors who were subsequently elevated to the IPS cadre. The appellant was aggrieved because he was overlooked in his seniority by giving retrospective effect to the promotions of S/s. S.Gopinatha and Jose George.

With regard to the claim and reply, there was no delay because the first reply in this matter by the PIO was dated 18.8.2006. After the amendment of the claim on 2.8.2006, the Director General himself had intimated the requester, the non-availability of the DGOs *vide* Ext A3 dated 15.9.2006.

The lengthy affidavit of the PIO and, the remarks submitted by the Appellate Authority, the Additional Director General of Police had narrated the earnest steps and attempts made by both of them to trace out the records. The consistent versions of the PIO and Appellate Authority were that the DGOs requested were issued on the basis of GO(Rt)2147/85 and GO(Rt)195/87. In other words, the DGP might have issued office orders based on two Govt.

Orders that related to 1985 and 1987. Apparently, these documents were not accessible by the PIO and Appellate Authority due to its non-availability. At the time of the personal hearing the appellant and the PIO were present. The appellant had agreed that the PIO had offered access to the record room and the appellant himself was permitted to search out the document, but he had not availed of this opportunity because it was impracticable for him to search it out. Another aspect to be considered in this case was that the information that were sought were posting orders or office orders issued by the DGP in respect of two other officers viz., one Mr.S.Gopinath and George Jose. It was some information connected with third party. Because the appellant was searching for departmental proceedings on the basis of Govt. Orders, the Commission was not strictly prohibiting the appellant from having this information though it was directly and indirectly related to certain other Officers. The Appellate Authority and the PIO could not be taken to task for non-availability of the document because of its antiquity. The PIO would say that hundreds of DGOs were issued every year and it was highly difficult to trace it out without the correct number and date of the DGOs which the appellant had failed to furnish.

In the present case, it was found that there was no willful withholding of information by the PIO and the Appellate Authority. Because the cause of the Retd. Officer is a genuine one and because the cause of action is still subsisting; for the purpose of natural justice, the Commission hereby provides an opportunity for the requester to search out the document. It is hereby ordered that the Appellate Authority may provide a reasonable opportunity to search out the document. The requester may be allowed a convenient day or two days to search the record room and shall be provided with the assistance of an employee of the headquarters who is conversant with the files and the records to trace out the document. No cost and fee shall be realised from the appellant for search. The appeal is disposed off accordingly.

Dated this the 24th day of July, 2007.