



The State Information Commission, Kerala
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AP.No.99/2006/SIC
File No.2680/SIC-Gen/2006

Shri.N.Rajendran,
Surya, ARA 100
Vilabhagom Gardens,
Mannanthala, Trivandrum-695 015.

} Appellant

Vs

Public Information Officer,
Finance Department,
Govt. Secretariat,
Thiruvananthapuram.

} Respondents

Appellate Authority,
Finance Department,
Govt. Secretariat,
Thiruvananthapuram.

ORDER

The appellant Shri.N.Rajendran was a Retd.Joint Secretary of the Govt. of Kerala. He had preferred Ext A1 request u/s. 6 of the RTI Act before the SPIO, Finance Department, Govt. of Kerala. The relevant portion of the information required by him, for the sake of brevity and accuracy, could be reproduced as follows:-

"Hence in order to ascertain the reasons for such denial, I want to verify file leading to G.O.(P)No.180/2006/Fin. dated 18.4.2006 (correspondence as well as note file) as per the enabling provisions of Right to Information Act, 2005".

On 23.5.2006, by about 12 noon, in obedience to the letter dated 17.5.2006, he had verified the file in the O/o. Smt.Ponnamma Mathew, Additional Secretary (Pension). He was not satisfied with this verification and alleged that he had verified both the correspondence file and the note file and found that many of the papers and pages are missing. In view of this discovery, he once again approached the PIO with a review application and the review petition was marked as Ext A2. The Review Petition was not allowed and was rejected u/s 7(8) of the RTI Act. This rejection order of Review Petition was marked as Ext A4.

Finally he had preferred a first appeal before the First Appeal Officer/Appellate Authority on 20.7.2006 u/s. 19(1) of RTI Act and finally preferred the second appeal u/s. 19(3) of RTI Act before the SIC,Kerala, on 24.8.2006.

The questions that arise for consideration are (i) Whether the appellant was given an opportunity and facility to verify the information sought for by him? (ii) Whether there was any willful with-holding of the information away from the appellant?

Answer: Both these queries are raised to have a meticulous and methodological analysis of the facts and transactions in this case and to groom

up the facts to find out whether the requirement of the appellant had been sufficiently met by the appropriate authorities? Basically, the two questions are inter-linked and inter-related. A common analysis was enough and sufficient to answer both these questions.

The primary requirement was seeking permission or verification of the full text of the 'file leading to G.O.(P)No.180/2006/Fin dated 18.4.2006. Govt. Orders on revision of pension and other pensionery benefits on the basis of the 8th Pay Commission Report as approved by the Govt. in *toto*'. Of course, this prayer in the second appeal was strictly in tune with his prayer in Ext A1 request u/s.6 of the RTI Act and also in Ext A2 Review Petition and also in Ext A3, the first appeal. The PIO had permitted his request vide letter dated 17.5.2006 i.e. well within the time limit. Ext A1 request was dated 2.5.2006 and the permission was granted by letter dated 17.5.2006 [the letter was issued by the SPIO, Smt.Ponnamma Mathew, Addl. Secretary (Pension)]. This letter was not before the Commission but it was an admission in Ext A2 Review Petition of the appellant. And the appellant had also admitted in Ext A2 that on 23.5.2006 itself he had verified the file in the presence of a Section Assistant one Mr.Ajayan of B4 seat. In other words, at the level of the PIO, there was no denial of information to the appellant. But it was allowed within a short period of 15 days.

The contention now was whether there was missing of any pages? The appellate authority after a detailed examination of the whole matter made the

following order Ext A5. The Appellate Authority had contented that the appeal was inadmissible because there was no denial of information in this case. The request to go through the file was permitted. There was neither denial nor non-disclosure of information and hence, the appeal was rejected.

Prima-facie, this Commission finds that the reasoning of the Appellate Authority was correct. But the appellate authority had failed to notice the complaint that there are missing of pages in the note file and a reasonable opportunity to search it out was also within the purview of the jurisdiction of the appellate authority. Therefore, this SIC had entertained the second appeal and an enquiry was conducted to find out the missing pages. Therefore, the remarks of the Appellate Authority was called for. The remarks of four pages had narrated the whole history of G.O.(P)125/2006 dated 17.3.2006 and G.O.(P) 180/2006 dated 18.4.2006. The earlier G.O. had explained the elements of pension revision on the recommendations of the Pay Revision Commission. The second G.O. was with regard to the revision of pension that related to the benefits of State Govt. pensioners and Family Pensioners in supercession of the first G.O. The Appellate Authority had further narrated that the original draft was refined several times, considering the suggestions that evolved in the discussions which lead to the final draft. There were revisions of the draft and there was no violation of the rules of business by the Finance Department. So this detailed remarks marked as Ext A6 of the A/A was the answer to many of the queries raised by the appellant.

The Commission had a thorough enquiry with regard to this allegation. The PIO and the appellant were summoned on 20.10.2006 by about 11.15 A.M. *vide* notices of this Commission Ext A7 and Ext A7(a). The PIO and the appellant were heard. The File leading to G.O.(P)180/2006 was produced by the PIO and was examined. Again, on another occasion *ie.*, 7.11.2006 also, the appellant and the Principal Secretary *ie.*, A/A were summoned and it was found that pages to 1 to 116 of the correspondence file was missing. The notice summoning the appellant and the A/A to appear before the Commission on 7.11.2006 was marked as Ext A8 and Ext A8(a). In the Commission sitting, the Commission was satisfied that the pages of the case file was missing. Therefore, it was found that the correspondence file was part and parcel of the main file and removal of the same would render the information incomplete. The minutes of the Commission was marked as Ext A9. The missing of the pages will have to be found out and, therefore, the PIO of the Finance Department had again afforded an opportunity to the appellant to verify and scrutinize the entire file and connected records of the said Section to find out the missing pages. Accordingly, Smt.Ponnamma Mathew, the Additional Secretary had issued a letter dated 8.11.2006 permitting the appellant to verify the said file and connected paper either on 9th or 10th of November 2006. The said letter was marked as Ext A10. The appellant was not satisfied even with this facility. He repeatedly butted the very same point of missing of pages and agitated the files before the Commission. Finally, the Commission had summoned the file and caused it to be verified in the presence of the Finance Expert of the Commission. The decision and the letter intimating this decision

to the PIO and the appellant are marked as Ext A11 and A11(a). The file was produced by 3.P.M. on 30.3.2007. The Finance Expert had remarked that the file relating to G.O(P)180/2006 was produced before him. The pages 1 to 116 was produced separately and it related to the notes files. This remark of Finance Expert was marked as Ext-X. Even then, the appellant had filed another letter stating that the correspondence draft file was still missing. The letter was marked as Ext A12.

It is to be seen that before the Finance Expert, the file in its entire form was produced. Pages 1 to 116 were produced as the Note file. The appellant was even then not satisfied with the production. The RTI Act guarantees provision for perusal of information or provision for procurement of information. Giving access to an information was the essence of the RTI Act. Thrice the appellant was given opportunity and facility to verify the file once before the PIO, twice before the Commission and lastly on a fourth occasion a thorough scrutiny was made in the presence of the Finance Expert of this Commission. Sufficient opportunity was provided to facilitate the requirement and mandate of the Act. The Commission finds no more rationale and justification in entering into a finding that the file was still missing.

The appellant was unnecessarily harping upon his own case. The pleadings had underwent a sea change. What he requested was permission to peruse the file. Now, he raised the contention that the PIO or the A/A or whomsoever who had dealt with the file had caused destruction of certain

pages of the file. This was an entirely new development which he had never raised before the PIO.

Therefore, the Commission finds that there is no merit in the appeal and the appeal is dismissed.

Dated this the 3rd day of August, 2007.