

CENTRAL INFORMATION COMMISSION

Appeal No.CIC/WB/A/2008/01424 dated 11.8.2008,  
Complaint Nos. CIC/WB/C/2008/00616 dated 6.6.08  
& CIC/WB/C/2009/000056 dated 19.2.09

Right to Information Act 2005 – Section 18 & 19

Decision announced: 3.2.2010

**Appellant** - Shri Sharad Singhal & Sh. J.P. Singhal

**Respondent** - Department of Personnel & Training (DoPT).

Decision announced: 3.2.2010

**Facts:**

These are two complaints and one appeal moved by Shri Sharad Singhal, IPS & his father Shri J. P. Singhal of Gandhi Nagar, Jind, Haryana seeking information from DOPT

**File No. CIC/WB/A/2008/01424**

In this case, by an application of 20.3.08 Shri Sharad Singhal applied to the Director (AIS), DOPT seeking the following information:

- “(a) The detail and expert advice given by your office on my request application no. dated 26.9.2007, 12.11.2007, 17.12.2007, 26.12.2007 & 23.2.2008.
- (b) Detail copy of noting pages of the file dealing my request application dated 26.9.2007, 12.11.2007, 17.12.2007, 26.12.2007 & 23.2.2008 sent by MHA for advice and comments to your office.”

To this Shri Sharad Singhal received a response dated 22.4.08 from CPIO Shri Ziley Singh Vical, Desk Officer, informing him as follows:

“The relevant file could not be located as the dealing hand is on long leave. He is likely to join in the second week of May, 2008 and thereafter the relevant information would be made available to you. The inconvenience caused is regretted.”

Subsequently on 29.5.08 he has received a further response from CPIO Ms. Mansi Mehta, Section Officer informing him as below:

“It is intimated that this section is not able to trace the file in which your request for exemption from basic training has been dealt. Even it is not confirmed that some file from the MHA regarding the above issue has been sent. In view of this, your application dated 26.3.2008 under RTI Act, 2005 is being forwarded to the M/o Home Affairs for further clarification.”

In the meantime, CPIO Shri B.B. Gopinath, Director, MHA who then transferred this on 16.6.08 to JS(P) under section 6 (3) of the RTI Act, 2005, acknowledged the application transferred by DOPT on 10.6.08 .

In his order of 14.7.08 on the first appeal of appellant in the DOPT Shri S. Jainendra Kumar, DS has arrived at the following conclusion:

3. From the detail conveyed by the CPIO as above also after the examination of the case, I see that all possible efforts were made by the CPIO to trace out the relevant records, so that the information sought by you could be conveyed to you, and all these efforts being not fruitful, a reply was sent to you conveying that the CPIO was not in possession of the information sought by you. There is no willful or deliberate attempt in the DOPT to deny information sought by you under the RTI Act. One difficulty is that a number of references made in such matters are examined on single file system and returned to the administrative Ministry with advice/ views at various levels and at times copies of such advice/ views are not retained in the concerned section managed by the CPIO.
4. Notwithstanding the above, the CPIO is being advised to pursue the matter with the concerned sections/ offices in the Ministry of home Affairs' to ascertain whether they had made any reference to DOPT in response to the various applications made by you, and if so, details of the advice/ observations given by the Department of Personnel & Training thereto.”

Appellant Shri Sharad Singhal's prayer before us in second appeal is as below:

***“You are, therefore, requested to issue suitable instruction to M/o DOPT, North Block, New Delhi to supply the information under RTI Act, 2005 immediately and necessary disciplinary***

***action may be taken against the defaulting official who are sitting over the matter.”***

The issue in this case is clearly as to (i) who holds the information sought by appellant Shri Sharad Singhal and (ii) if this is the MHA why has that public authority failed to response the transferred application from the DOPT.

File No. **CIC/WB/C/2008/00616**

In an order of 14.7.08 Shri S. Jainendra Kumar, D.S. has come to the following conclusion :

- “3. From the detail conveyed by the CPIO as above also after the examination of the case, I see that all possible efforts were made by the CPIO to trace out the relevant records, so that the information sought by you could be conveyed to you, and all these efforts being not fruitful, a reply was sent to you conveying that the CPIO was not in possession of the information sought by you. There is no willful or deliberate attempt in the DOPT to deny information sought by you under the RTI Act. One difficulty is that a number of references made in such matters are examined on single file system and returned to the administrative Ministry with advice/ views at various levels and at times copies of such advice/ views are not retained in the concerned section managed by the CPIO.
4. Notwithstanding the above, the CPIO is being advised to pursue the matter with the concerned sections/ offices in the Ministry of home Affairs’ to ascertain whether they had made any reference to DOPT in response to the various applications made by you, and if so, details of the advice/ observations given by the Department of Personnel & Training thereto.”

Since this Decision had not come to our notice, in this case by decision of 24.8.09, we had found as follows:

“Because the 1<sup>st</sup> appellate authority has not addressed the questions of complainant, which are of direct concern to his public authority and because the complainant has pleaded no ground for making a direct complaint to us u/s 18(1)(e), the Commission has decided to remand this complaint to the First Appellate Authority & Director (Service), Department of Personnel and Training, North Block New Delhi to dispose of the complaint of Shri Singhal within

ten working days from the date of receipt of this decision, under intimation to Shri Pankaj Shreyaskar, Jt Registrar, Central Information Commission. If not satisfied with the information provided on his 1<sup>st</sup> appeal, appellant Shri Singhal will be free to move a 2<sup>nd</sup> appeal before us as per Sec 19(3).

In disposing of this appeal, the appellate authority will satisfy himself on the issue of delay in response beyond that promised in the initial response, and if required approach this Commission for initiation of proceedings under section 20 of the RTI Act for imposition of penalty and/ or recommending appropriate disciplinary action.”

Consequently, in an order of 14.9.09 Shri R. K. Gupta, DS (AIS) and FAA, DOPT has found as follows:

- “6. Further, it is also seen that First Appellate Authority had also given a reply vide letter of even number dated 14<sup>th</sup> July, 2008, a copy of the same is enclosed. In the application to the CIC, the appellant does not seem to have mentioned of the fact of preferring the appeal before the first appellate authority dated 20<sup>th</sup> June, 2008. Again the matter has been checked with the concerned dealing Assistant, he has mentioned that the requisite documents are not traceable.
7. As per directions of CIC, the matter is disposed of with the observation that there had been no delay on the part of then CPIO in giving the final reply after an interim reply was sent.
8. A copy of this order is also sent to appellate authority, MHA to look into the matter and give a suitable reply to Shri Sharad Singhal, as the communication referred to by the appellant perhaps, were addressed to Ministry of Home Affairs.”

Subsequently, in a rejoinder Shri Sharad Singhal has submitted that he has now received the order of the DOPT of 14.9.09 but has complained as follows:

“MHA has supply partly information vide their letter dated 24.9.2009 addressed to your good self with a copy to me instead of complete information to avoid the displeasure of CIC. The MHA has not supplied the complete information i.e.

- (i) Disposal of my request application of dated 12.11.2007, 26.12.2007, 23.2.2008.

- (ii) MHA has not also supplied details copy of noting pages of the file dealing my request application dated 26.9.2007, 12.11.2007, 17.12.2007, 26.12.2007 & 23.2.2008 sent by MHA to DOPT for advice and comments of DOPT and MHA.”

**File No. CIC/WB/C/2009/000056**

By an application of 15.7.08 Shri J. P. Singhal, father of Shri Sharad Singhal has sought the following information from the Director, DOPT, Govt. of India:

- “A. Copies of OM issued by MHA Govt. of India New Delhi vide which MHA decided the request application dated 26.9.07, 12.2.07, 17.12.07, 26.12.07 and 23.3.08 of Shri Sharad Singhal, IPS(P)-59R.
- B. Copies of noting accorded by official / officer of MHA & DOPT of noting pages sheet of the file in which MHA Govt. of India, New Delhi has decided the request application dated 26.9.07, 12.12.07, 17.12.07, 26.12.07 and 23.2.08 of Sh. Shard Singhal IPS (P)-59R.
- C. Copy of noting recorded by MHA Govt. of India, New Delhi DOPT, Govt. of India on the noting pages sheet of the file in which MHA, Govt. of India cancelled the candidature of Shri Byomkesh Padipta Kumar Panda (Rank No. 53CSE-2006) and written to DOPT for upgradation of service allocation list of IPS (CSE 2006)
- D. Copy of noting recorded by MHA, Govt. of India, New Delhi and DOPT Govt. of India, New Delhi on the noting pages / sheets of the file in which MHA Govt. of India recommended to cancel candidature of the candidates (CSE-2007) Shri Byomkesh Padipta Kumar Panda (Rank No. 53) Jitendra Singh Sandhu (Rank No. 329) Shri C. Sudhakar (Rank No. 199) Ms. Samriti Goel (Rank No. 158) Sh. Sharad Singhal (Rank No. 64) Shri Vidhi Kumar Vidhi (Rank No. 328) and Shri Pawan Kumar (Rank No. 102).
- E. Copy of office memorandum issued to candidates to cancel the candidature of IPS candidates (CSF 2007) the who has not join the basic training on the basis of CSE-2006.
- F. Copy of noting recorded by MHA Govt. of India and DOPT on the noting pages / sheets of the file in which it has been decided by MHA in consultation with DOPT to cancel the candidature of IPS candidates (CSF-2006) who has not joined the basis training.”

On not receiving a reply, Shri Singhal has moved an appeal on 2.9.08 and on still not receiving a response has moved a second appeal before us on 30.10.08 with the following plea:

***“Non supply of information under RTI Act 2005 is clear refusal to supply the information under RTI Act, 2005. It is requested that the above said information may kindly be got supplied under RTI Act 2005 from Director, DOPT and further requested to initiate the disciplinary action against the delinquent officials / officers of DOPT, Govt. of India, North Block, New Delhi who had failed to supply the information under RTI Act, 2005.”***

In response to our appeal notice, CPIO Shri R. K. Gupta, US, DOPT has indicated that a reply to the questions asked by Shri J.P. Singhal, which is simply a copy of the request of 15.7.07 was received in the AIS Section on 31.7.08 and transferred to the MHA on 5.9.08. A copy of this letter of 5.9.08 is also appended in which CPIO Shri S.S. Shukla, US informs Shri J.P. Singhal as follows:

“It is informed that as the information sought for in the application pertains to IPS officers for which the MHA is cadre controlling Authority. Hence the RTI application is being forwarded to Shri Rajender Kumar, CPIO, MHA with a request to take necessary action on the application under RTI Act 2005 under intimation to this department. Further, as per records, we do not have any previous reference available with us from MHA on the subject.”

The appeal was heard through videoconference on 3.2.2010. The following are present:

**Appellant**

Shri J. P. Singhal father of Sh. Sharad Singhal

**Respondents**

Shri R. K. Gupta, U.S., DOPT

Shri Rajinder Kumar, S.O., MHA

In the case in File No. **CIC/WB/C/2009/000056**, clearly all the questions asked are directed not to DOPT but to the MHA. Hence Shri J.P. Singhal who had earlier presented his letter of authorization from his son Shri Sharad Singhal

submitted that he had no complaint against the DOPT but MHA was deliberately seeking to deny his son his rights by concealing documents. Shri Rajinder Kumar, SO, MHA on the other hand submitted that all the information that MHA possessed in this matter has been provided to appellant including a copy of the advice received from the DOPT, which had been asked only in a single copy and not in all the files. Yet an equal number of appeals have gone directly to DOPT.

Appellant raised the question of file noting with regard to his complaint No. **CIC/WB/C/2008/00616** has stated that he has been given information only in regard to application No. 1 i.e. the application of 26.9.07 and not with regard to his requests of 12.11.07, 17.12.07, 26.12.07 and 23.2.08. To this Shri Rajinder Kumar responded by submitting that while he admitted that a copy of file notings had not been provided, appellant had been invited to inspect the documents. At any rate, this matter is the subject of appeal against the CPIO MHA, on which a separate hearing has already been held in this Commission but a decision is awaited.

### **DECISION NOTICE**

In all these cases, we find that information sought is alleged to be pending not with DOPT but with MHA. Hence the response may now only be received through the appeals concerning MHA already under process in this Commission. At this point, it may simply be noted that if file noting is the issue, this issue is long since decided and the matter closes with the issue of DOPT's OM No. 1/20/2009-IR dated 23.6.2009, which reads as follows:

“The undersigned is directed to say that various Ministries/Departments etc. have been seeking clarification about disclosure of file noting under the Right to Information Act, 2005. It is hereby clarified that file notings can be disclosed except file noting containing information exempt from disclosure under section 8 of the Act.

It may be brought to the notice of all concerned.”

Consequently, there is no further action called for by this Commission with regard to the DOPT. Hence the appeal and both complaints are hereby dismissed.

Announced in the hearing. Notice of this decision be given free of cost to the parties. These files may be appended with the appeals concerning the Ministry of Home Affairs for purpose of reference by the Bench considering those decisions and clubbed together in storage. Announced in the hearing.

(Wajahat Habibullah)  
Chief Information Commissioner  
3.2.2010

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  
3.2.2010