

CENTRAL INFORMATION COMMISSION
Appeal No. CIC/WB/A/2009/0000132 dated 19.2.2009
Right to Information Act 2005 – Section 19

Appellant - Shri Nand Kishore Gupta
Respondent - Dep't. of Personnel & Training (DOPT)
Decision announced : 8.3.2010

Facts:

By an application of 10.6.08 addressed to the President's Secretariat, Shri Nand Kishore Gupta of Malviya Nagar, Jaipur (Raj.) applied to the CPIO President's Secretariat seeking the following information:

- '1. Please provide action taken information against DOP&T because DOPT failed to his duty as watchdog of the Government ensuring that certain accepted standards and norms, as laid down by them are followed by all Ministries/ Departments.

Ministry of Railway & North West Railway not implement above policy letter in Indian Railway & North West Railway: Please provide copy of Railway Board & North West Railway letter, which issued on basis of above DOP&T memorandum/ letter.

2. Please inform what is the aim to issue policy circular/ DOP&T Department while North West Railway and Ministry of Railways not followed his policy circulars/ decision DOPT not performed his duty as watch dog of the Government ensuring that certain accepted standards and norms, as laid down by them.
3. In which date President Office implement parliament decision of 5 days week working with 40 hours in field/ subordinate offices administrative offices of North West Railways, West Central Railways, Northern Railways & Jaipur Division (North West Railways) as implement other Zonal Railways.
4. What is the resign that North West Railway & Ministry of Railway not followed Parliament Decision and not compliance DOPT order. In which date North West

Railways & Ministry of Railway start to follow DOPT & Parliament Decisions.'

This application was transferred by CPIO Shri Faiz Ahmad Kidwai on 17.5.08 to the following:

- “1. Central Public Information Officer
D/o Personnel & Training, North Block, New Delhi.
2. Central Public Information Officer
M/o Railways, Rail Bhavan, New Delhi.”

Consequently, through a letter dated 4.7.08, CPIO Shri A. K. Cashyap, Under Secretary, DOPT has informed appellant Shri Nand Kishore Gupta as follows:

- “(1, 2 &4): It is the duty of each Ministry/ Department to implement the policy of the Government. On any specific complaint made to this Department with respect to an issue, which is in the domain of this Department, necessary action is taken on such a complaint. You have not specified any case in your letter specifying violation of the reservation policy. As regards implementation of reservation policy in the Ministry of Railways and orders issued in that regard may be sought from the Ministry of Railways since this department does not compile orders made by other Ministries/ Departments.
- (3) The information sought by you is the concern of Shri A. K. Sharma, US (Estt 'C'), DOPT, North Block, New Delhi. Accordingly, your application is being transferred to him for sending you information.”

This was followed by a response dated 10.7.08 from Shri Sunil Kumar, CPIO, Railway Board, attaching a letter received from the Directorate, as follows:

“Department of Personnel & Training's OM No. 36012/2/96-Estt. (reservation) dated 2.7.97 has been implemented vide Ministry of Railways letter nos. 95-E (SCT)/49/5 (1) and 95-E(SCT)/49/5(2) dated 21.8.97 on all Indian Railways (copy enclosed). In regard to implementation of the same by North Western Railway. information may kindly be collected from the concerned Railway.”

This is followed by another letter from the APIO Shri V. K. Samuel of the Railway Board in pursuance of the application transferred by the DOPT informing

appellant Shri Nand Kishore Gupta that the response has been sent to him on 10.7.08.

Shri Nand Kishore Gupta has then moved an appeal before the President's Secretariat on 18.7.08 reiterating his initial request, a appeal before the DOPT, no copy of which is on the file, and an appeal before the Railway Board dated 1.8.08 in which he has complained that there is a contradiction between the two rosters for SC & ST prescribed by the DOPT and those adopted by the Railway Board, as below:

“Following difference both of them ‘TWO ROSTER

As per DOPT following Roster points reserved for (SC)

7,15,20,27,35,41,47,54,61,68,74,81,87,94,99,107,114,121,127,135,
140,147,154,162,168,174,180,187,194, 199

As per Railway Board following Roster points reserved for (SC)

4,12,16,24,30,38,44,56,64,70,78,82,90,96,104,110,
116,122,130,136,144,148,156,162,170,176,184,190,196

As per DOPT following Roster points reserved for ST

14,28,40,55,69,80,95,108,120,136,148,160,175,188,198

As per Railway Board following Roster points reserved for ST

8,20,34,46,60,72,86,100,114,126,140,152,166,180,192.

In her order of 19.8.08 Ms. Rasika Chaube, Appellate Authority, President's Secretariat has dismissed the appeal, as follows:

“It is seen that the appellant is dissatisfied with the replies he received from the Ministry of Railways and DOPT. Since no further action is required to be taken by the CPIO of the President's Secretariat, the appellant is advised to approach the appellate authorities of the concerned departments for the redressal of his grievance. The appeal stands dismissed.”

The appeal before him has also been dismissed by appellate authority Shri K. G. Verma, Director, DOPT on 18.8.08, as follows:

“The issues raised by the appellant are vague. Otherwise also he has raised questions like why a particular Ministry has not taken action on some orders of the DOPT etc., which are beyond the cope of the RTI Act. He wants to know the reasons for inaction of the Ministry of Railways from the Department of Personnel &

Training which is difficult to understand. I don't think that anything beyond what the CPIO has stated can be said in the matter.

The appeal is disposed off accordingly.'

Shri S. N. Mukherjee, Addl. Member (Commercial) / Appellate Authority, Railway Board has provided further clarification in his order on 22.10.08 as per information received from Directorate, as below:

"In this connection it is clarified that rosters prescribed DOP&T were model rosters and Ministries were advised to prepare their own rosters on the basis of model rosters issued by DOP&T O. M. dated 2.7.97. Ministry of Railways has adopted the principle of rounding off while fixing roster points for SC/ST/OBC categories. The fraction of 0.50 and above has been rounded off to next integer subject to the condition that total reservation in any case in a cadre may not exceed 50 %.

It is also informed that rosters issued vide Ministry of Railway letter dated 21.8.97 has been challenged before CAT/ Jodhpur and at present the matter is sub-judice before Hon'ble Supreme Court in the case of Shri R. K. Gaur vs. Union of India.'

Appellant Shri Nand Kishore Gupta's prayer before us in second appeal is as below:

"Please provide me all information President Office & Cabinet Secretary, Govt. of India or Ministry of Railways."

What he has challenged in his grounds for appeal, however, is only the information provided by the Railways, as below:

"Ministry of Railways sends incomplete & false information."

Shri S Sarkar Jt Director, Railway Board has, in his response dated 3.3.10 to our appeal notice, submitted as below:

"Shri Nand Kishore Gupta in his appeal before the Commission has mentioned that incomplete and false information has been provided by CPIO/ Railway Board. In this connection, it is mentioned that only the complete and correct information that was available with Ministry of Railways was furnished by the CPIO/ Railway Board. As regards differences in the roster prescribed by DP&T and

Ministry of Railways is concerned, it is only due to application of principle of rounding off by the Ministry of Railways. This aspect has already been brought out in the information supplied vide board's letter dated 22.10.2009 (copy enclosed). It has also been intimated that the rosters issued by the Ministry of Railways by application of principle of rounding off are under challenge before Hon'ble Supreme Court. The Hon'ble Supreme Court heard the matter on 28.1.2010 (copy enclosed) and directed to list the matter after 2 months.'

The appeal was heard by videoconference on 8.3.2010. The following are present:

Appellant at NIC Studio, Jaipur
 Shri Nand Kishore Gupta
Respondents at CIC Studio, New Delhi.
 Shri G. S. Pundir, US, DOPT
 Shri S. Sarkar, JDE, Railways
 Shri Shree Prakash, S.O. E(SCT)-I

Appellant Shri Nand Kishore Gupta, while acknowledging that the question of rosters is now before the Supreme Court of India and, therefore, beyond the jurisdiction of this Commission, he wished to know the action taken by the Railway Board with regard to his question on 'Office Hours', which was the issue raised in his letter of 7.11.1986, addressed to the DOPT. He further submitted that he has not received a copy of the North-West Railway's letter issued on the basis of DOPT's memorandums/letters. Finally, appellant Shri Nand Kishore Gupta sought to know what action DOPT has taken for non-compliance of its directions by the Ministry of Railways. In this context he sought the action taken on an order on classification of posts issued by the DOPT on 20.4.1998 with regard to the following posts:

S. No.	Description of posts	Classification of posts
1.	A Central Civil post carrying a pay or a scale of pay with a maximum of not less than Rs. 13,500/-.	Group A
2.	A Central Civil post carrying a pay or a scale of pay with a maximum of not less than Rs. 9,000 but less than Rs. 13,500/-	Group B
3.	A central Civil post carrying a pay or a	Group C

	scale of pay with a maximum of over Rs. 4,000 but not less than Rs. 9,000/-	
4.	A central Civil post carrying a pay or a scale of pay the maximum of which is Rs. 4,000 or less	Group D

Appellant wished to know what directions have been issued by the Railway Board in compliance with this order.

Shri J. S. Pundir, US, DOPT invited our attention to the response given to appellant Shri Nand Kishore Gupta by CPIO Shri A. K. Cashyap on 4.7.08 in which he had informed appellant that Q. No. 3, which concerns working hours has been transferred to another Section of the same Ministry (and not to the Ministry of Railways). In response, CPIO Shri A. K. Verma, US (JCA Section), DOPT had informed Shri Gupta as follows:

“With respect to implementation of 5 day week in the administrative offices of the Government of India, you may please see O.M. No. 13/4/85-JCA dt. 21.5.1985, which has already been sent to you, vide our letter dated 2.6.2008 in which it is clearly mentioned that “to introduce 5 day week in the civil administrative offices of the Govt. of India with effect from 3rd June, 1985.”

Respondent Shri S. Sarkar, JDE Railways submitted that such information as was held by the Railway Board on the question of rosters, has indeed been provided to appellant Shri Nand Kishore Gupta. He had not received any request with regard to working hours, which would have required a response. With regard to the copy of the Railway Board & North-West Railway letter issued on the basis of the DOPT memorandum / letter, the Railway Board’s response had already been provided to appellant Shri Nand Kishore Gupta, a fact not contested by appellant in the hearing, except to submit that he had not heard from NW Railway.

DECISION NOTICE

The substance of the application and subsequent appeals is indeed what appellant Shri Nand Kishore Gupta perceives to be a contradiction in rosters prescribed by the DOPT and Railway Board on SC / ST employees. A response to this is also what has been concentrated upon by the Railway Board, which matter now in any case having passed through CAT, Jodhpur, is now before Supreme Court of India and, therefore, does not merit any scrutiny at our level. On the other hand, it is also a fact that subsidiary information with regard to action taken in compliance with the DOPT's advice, has been provided only in part. Hence the information required in response to the request for copies of letters issued on the basis of the DOPT memorandums / letters with regard to the North-Western Railways and on the order of DOPT of 20.4.98 which concern the Establishment Wing of the Railway Board are still pending. Shri S. Sarkar, JDE will, therefore, transfer these parts of the application to the concerned Wings of the Railway Board with the direction that information as held by them be provided to appellant Shri Nand Kishore Gupta within ten working days of the receipt of this Decision Notice.

It is also clarified for the information of the appellant Shri Nand Kishore Gupta that the Ministry of Personnel, Public Grievances & Pensions, is a Ministry of the Government of India exercises no administrative control over the Railway Board. However, matters of personnel management are indeed the responsibility of the Ministry of Personnel, Public Grievances & Pensions, but their implementation is the responsibility of the concerned Ministry. While the Ministry of Personnel, Public Grievances & Pensions is, therefore, expected to convey the Government decisions on that subject to the concerned Ministry, it is for the Ministries themselves to implement these Govt. orders and not for the DOPT to enforce implementation.

Appellant Shri N. K. Gupta is also advised that if he is not satisfied with the response given by the CPIO Shri A. K. Verma, Under Secretary to the single request replied to by the DOPT, he is free to move an appeal before the

concerned Appellate Authority, or seek information on compliance with the Railway Board which, it appears from his submission in the hearing, are the principal cause of concern for appellant Shri Nand Kishore Gupta. The appeal is, therefore, allowed in part. There will, however, be no costs.

Appellant Shri Nand Kishore Gupta has also complained that in response to an earlier complaint before Information Commissioner Shri O. P. Kejariwal, the Railway Board had been asked to refrain from harassing him, which advice has not been complied with. This matter can be looked into by the Registrar General, CIC.

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

(Wajahat Habibullah)
Chief Information Commissioner
8.3.2010

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 K.P. Shreyaskar)
Joint Registrar
8.3.2010