

CENTRAL INFORMATION COMMISSION

Complaint No. CIC/WB/C/2007/00602 dated 18-11-2007

Right to Information Act 2005 – Section 18

**Complainant:** Dr. A.S.D. Roy

**Respondent:** Dep't of Personnel & Training (DOPT)

**FACTS**

By an application of 29-5-07 Dr. A.S.D. Roy of Hill Top, Nagpur applied to the CPIO, Shri A.K. Srivastava, Under Secretary, DOPT seeking the following information:

- I. What is called, 'promotion' in terms of Govt. Service?
- II. Whether promotion (other than ACP) in the same pay scale can be awarded?

If so then-

- (a) What are the conditions/ rules under which such type of practice is adopted?
  - (b) Can an employee be promoted (regular promotion) without benefit of higher pay scale/ grade of pay?
  - (c) Can an employee be promoted for higher designation only (other than ACP) i.e. without higher pay scale/ grade of pay?
  - (d) Whether Departmental promotional committee (DPC) can recommend the regular promotion for the designation only or for higher pay scale/ grade of pay only or for both?
  - (e) Whether, there is any provision for half (1/2) promotion i.e. promotion for designation or promotion for higher pay scale/ grade of pay only i.e. at the time of regular promotion, only one thing designation or higher pay scale/ grade of pay?
- III. Whether by adding one extra increment in the same pay scale can be treated as next higher pay scale/ grade of pay which is neither exist in the pay scale structured by Vth Central Pay Commission nor approved by the DoPT, government of India?
  - IV. Can ACP and regular promotion be treated in two different ways in terms of pay scale/ grade of scale?
  - V. What does it means that higher pay scale/ grade of pay?
  - VI. Whether by adding one more increment in the same grade/ pay scale can be treated as next higher pay scale/ grade of pay and moreover can it be utilized for ACP/ Regular promotion?"

On not receiving a response Dr. Roy moved an appeal before the 1<sup>st</sup> Appellate Authority, DOPT with following plea:

“After a lapse of more than 30 days nothing has been informed to me in this regard. As per Right to Information Act, 2005, it may be considered as deemed refusal to supply/ furnish the information by the concerned authority.”

In response to the appeal Ms. Smita Kumar, Director E-1 in her letter of 14-8-07 sent the following response to Dr. Roy:

“This is with reference to your letter dated 18<sup>th</sup> July regarding appeal under RTI Act against the non supply of the information by CPIO for your RTI application dated 29.5.2007. It has been informed by Under Secretary (Estt. D) that as per the section records, no such RTI application has been received by him. Accordingly your application is not being treated as appeal under RTI Act.”

Ms Kumar has, however, dealt in her response in general terms with the issue of promotion in the same grade. Appellant’s prayer before us in his second appeal is as below:

***“That the benefit under the law shall be extended to me, as per proviso of the RTI Act, 2005 and the CIC is requested to kindly issue relevant order/s to CPIO/PIO, DoPT, Govt. of India, New Delhi for furnishing (Certified copies) to the applicant under RTI Act, 2005 at earliest.***

***It is appealed that action may be recommended/ initiated as per proviso of Sub-section 1&2 of Section 20 so that the very purpose of enactment of the RTI Act, 2005 shall not be defeated.”***

In response to our appeal notice CPIO, Mr. A.K. Srivastava has submitted as follows in his letter of 16-2-2009.

“Original application of Dr. A. S. D. Roy dated 29.5.2007 sent to the CPIO had not been received by the undersigned. As such no reply could be sent to him by the undersigned as CPIO within the stipulated period of 30 days.

On receipt of his appeal dated 18.7.2007 to the 1<sup>st</sup> Appellate Authority, in the absence of original application the same was not treated as the first appeal. However, a reply was sent to him by Smt. Smita Kumar, Director (Estt-1) vide this Department’s letter of even no. dated 14.8.2007.”

To this Dr. Roy has submitted a rejoinder pleading that the reply from Ms. Smita Kumar was only received by him together with letter of 16-2-2009

besides he is not satisfied with the response because it does not provide the information sought by him.

The appeal was heard through video-conference on 29-6-2009. The following are present.

**Appellant** (at NIC Studio, Nagpur)

Dr. A.S.D. Roy.

**Respondents** (at CIC Studio, New Delhi)

Mr. A.K. Srivastava, US, DOPT

Mr. A.K. Srivastava submitted that he had received a copy of the original application together only with the appeal notice. However, he felt that the answers sought by Dr. Roy had been given in the letter of Ms. Smita Kumar dated 14-8-07.

### **DECISION NOTICE**

Whereas it is indeed correct that Ms. Smita Kumar has addressed the issue in Dr. Roy's original application it is also a fact that the answer has not gone in the form in which it is sought. Section 7 (9) of the RTI Act is specific in mandating that "*an information shall ordinarily be provided in the form in which it is sought*" subject to certain qualifications which do not apply or have been pleaded in this case.

**CPIO Shri A.K. Srivastava will reply to the application of 29-5-2007 of Dr. A.S.D. Roy point-wise within 10 working days of the date of receipt of this decision notice.** Since this information was not sent even within a month of the appeal notice of this Commission dated 28-1-2009 with which respondent Shri Srivastava has told us he has received the application, it will now be provided free of cost u/s 7 (6) of the RTI Act 2005. However, since the application had not been received by the CPIO the question of invoking Section 20 of the Act does not arise. **In this manner this Appeal is allowed.**

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

(Wajahat Habibullah)  
Chief Information Commissioner  
29-6-2009

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  
29-6-2009