

केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi-110067

द्वितीय अपील संख्या / Second Appeal Nos.:
CIC/BARCM/A/2019/603606

CIC/BARCM/A/2019/635438
CIC/BARCM/A/2019/640014
CIC/BARCM/A/2019/640027
CIC/BARCM/A/2019/646766

Shri Pankaj Kumar
अपीलकर्ता/Appellant

VERSUS/बनाम

PIO
Chief Administrative Officer (A),
Bhabha Atomic Research Centre,
Central Complex, Third Floor,
BARC Trombay, Mumbai-400085

...प्रतिवादीगण / Respondent

Date of Hearing : 03.05.2021
Date of Decision : 04.05.2021
Chief Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

Since both the parties are same, the above mentioned cases are clubbed together for hearing and disposal.

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, hearings through video conference were scheduled after giving prior notice to both the parties. Later, the hearings were held in audio conference mode after informing both the parties, in view of the rapid increase in Covid-19 infections. The Appellant and Shri Shriram S, Chief Administrative Officer, BARC, Trombay participated in the hearing through audio conference.

| Case No. | RTI Filed on | CPIO reply | First appeal | FAO | 2 nd Appeal received on |
|----------|--------------|------------|--------------|------------|------------------------------------|
| 603606 | 10.12.2018 | 27.12.2018 | 14.01.2019 | 28.01.2019 | 25.02.2019 |
| 635438 | 10.12.2018 | 08.01.2019 | 14.01.2019 | 05.02.2019 | 06.03.2019 |
| 640014 | 13.12.2018 | 07.01.2019 | 14.01.2019 | 15.02.2019 | 07.05.2019 |
| 640027 | 08.12.2018 | 24.12.2018 | 14.01.2019 | 26.02.2019 | 07.05.2019 |

(1) CIC/BARCM/A/2019/603606

The Appellant filed an RTI applications dated 10.12.2018 seeking information on the following 2 points:

1. Provide Scanned/Soft/Xerox copies of screening committee reports for screened in & screened out employees for interview for Scientific Assistant/C from Scientific Assistant/B based on confidential reports /annual performance assessment reports (APAR) from year 2007 to year 2011 in BARC Mumbai, BARC Tarapur, BARC Kalpakkam, BARC Vizag.
2. Provide Scanned/Soft/Xerox copies of screening committee reports for screened in & screened out employees for interview for Scientific Assistant/C from Scientific Assistant/B based on confidential reports /annual performance assessment reports (APAR) from year 2007 to year 2011 in NAPS, MAPS, RAPS 1-8, KGS 1&2 , KGS 3&4, NPCIL HQ Mumbai, TAPS 1&2, TAPS 3&4, KAPS 1 &2, KAPS 3& 4, Kudankulam site of Nuclear Power Corporation of India Limited (NPCIL).

The PIO, Chief Administrative Officer (A), Bhabha Atomic Research Centre, Trombay vide letter dated 27.12.2018 replied as under:-

| Sr. No. | Information Sought | Information Given |
|---------|---|--|
| 1. | Provide scanned/soft/xerox copies of screening committee reports for screened in & screened out employees for interview for Scientific Assistant/C from Scientific Assistant/B based on confidential reports/Annual performance Assessment reports (APAR) from year 2007 to year 2011 in BARC Mumbai, BARC, Tarapur, BARC, Kalpakkam, BARC Vizag. | The information sought relates to personal information of the officials concerned. As per CIC decision No. CIC/ACCGI/A/2017/163946 dated 07.06.2018 "the information in relation to the personal details of individual employee such as the date of his/her joining, designation, details of promotion earned, date of his/her joining to the Branch where he/she is posted, the authorities who issued the transfer orders etc. are personal in nature." Hence exempt under section 8(1)(j) of the RTI Act, 2005. |

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 14.01.2019. The FAA vide order dated 28.01.2019 upheld the reply of PIO.

Feeling aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

Facts emerging during the hearing

The Appellant stated that screening committee reports of other employees was not personal information. Furthermore, a copy of the judgements/ orders referred to by the CPIO/ FAA should have been provided to him.

The Respondent referred to their written submission dated 28.04.2021 wherein while referring to the decision of the Commission in

CIC/ACCGI/A/2017/163946 it was stated that copies of screening committee reports of employees for interview from Scientific Assistant/ B to Scientific Assistant C based on their individual APAR are personal information to the individual concerned. A reference was also made to the decision of the Supreme Court in CPIO, Supreme Court vs SC Agrawal dated 13.1.2019.

Decision

Keeping in view the facts of the case and the submissions made by both the parties, the Commission is of the view that an appropriate response as per the provisions of the RTI Act, 2005 has been provided by the Respondent. In his application, the Appellant has sought persona information of third party employees which is exempted u/s 8 (1) (j) of the RTI act, 2005 as rightly pointed out by the CPIO. Hence, no further intervention of the Commission is required in the instant matter.

With the above observation, the instant Second Appeal stands disposed off accordingly.

(2) CIC/BARCM/A/2019/635438

The Appellant filed an RTI application dated 10.12.2018 seeking information on the following 2 points:

1. Provide Scanned/Soft/Xerox copies of detailed marks of written exams, practicals, viva voce, seminar presentation and on the job training in one year training course on health physics (12th batch) conducted by health physics division, BARC from 01.02.2006 to 31.01.2007.
2. Provide pay fixation full details of myself (emp no-1426308 in Narora atomic power station, Nuclear Power Corporation of India limited) on 01.02.2007 by NAPS HR.

The PIO, Chief Administrative Officer (A), Bhabha Atomic Research Centre, Trombay vide letter dated 08.01.2019 replied as under:-

| Sr. No. | Information Sought | Information Given |
|---------|--|--|
| 1. | Provide scanned/soft/Xerox copies of detailed marks of written exams, practicals, viva voce, seminar presentation and on the job training in one year training course on health physics (12 th batch) conducted by Health Physics Division, BARC from 01.02.2006 to 31.01.2007. Certificate of grading after training is attached as supporting documents. | Since the Information sought is more than 10 years old, the same is weeded out. However, it is Informed that after completion of Viva Voce, Practical & Seminar total marks obtained by trainees have already been communicated to them. |

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 14.01.2019. The FAA vide order dated 05.02.2019 upheld the reply of PIO.

Feeling aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

Facts emerging during the hearing:

The Appellant stated that the information was denied without providing a copy of the weeding out circular. He also denied that total marks were provided to the candidate after viva voce, practical and seminar.

The Respondent referred to their written submission dated 28.04.2021 wherein it was stated that as per the record retention schedule dated 02.03.1978 followed by their department application for appointment and other relevant papers, the record retention period for the kind of documents sought by the Appellant is 10 years. Since the information sought is more than 10 years old, it is weeded out.

Decision

Keeping in view the facts of the case and the submissions made by both the parties, the Commission is of the view that an appropriate response as per the provisions of the RTI Act, 2005 has been provided by the Respondent. As per the Act, only such information that is held and available on the record of the public authority can be provided. Hence, no further intervention of the Commission is required in the instant matter.

With the above observation, the instant Second Appeal stands disposed off accordingly.

(3) CIC/BARCM/A/2019/640014

The Appellant filed an RTI application dated 13.12.2018 seeking information on the following 2 points:

1. *Provide scanned/soft/hard copy of merit list/selection list of Stipendiary trainees category-1 candidates recruited by Health physics division of DAE/BARC in following batch:*
 - a) *7th batch of Health physics division of DAE/BARC (One year training course from 30 July 1999 to July 2000 by Health physics division, DAE/BARC)*
 - b) *8th batch of Health physics division of DAE/BARC (One year training course from 01 March 2001 to March 2002 by Health physics division, DAE/BARC)*
2. *Provide the certified copy of circular by competent authority of BARC Mumbai & NPCIL HQ Mumbai regarding Compensatory off leave.*
 - a). *Eligibility of Employees to avail compensatory off.*
 - b). *Also provide copy regarding avail compensatory off with Earned leave, casual leave, commuted leave, Half pay leave. Is compensatory off added with other leaves or not.*

If compensatory off is to be availed alone, then provide circular regarding this. If compensatory off is to be not availed along with other leaves, then provide circular regarding this also. If compensatory off is to be availed with other leaves, then provide circular regarding this also.

The PIO, Chief Administrative Officer (A), Bhabha Atomic Research Centre, Trombay vide letter dated 07.01.2019 replied as under:-

| Sl. No. | Information Sought | Information Given |
|---------|--|--|
| 1. | Provide scanned/soft/hard copy of merit list/selection list of Stipendiary trainees Category-1 candidates recruited by Health Physics Division of DAE/BARC in following batch: a) 7 th batch of Health Physics Division of DAE/BARC (one year training course from 30 July 1999 to July 2000 by Health Physics Division/BARC). b) 8 th batch of Health Physics Division of DAE/BARC (One year training course from 01 March 2001 to March 2002 by Health Physics Division, DAE/BARC). | In the absence of Advertisement Number, information sought cannot be provided. |
| 2. | Provide the certified copy of circular by competent authority of BARC Mumbai & NPCIL HQ Mumbai regarding Compensatory Off leave. a) Eligibility of Employees to avail compensatory off. b) Also provide copy regarding avail compensatory off with Earned Leave, Casual Leave, Commuted Leave, Half Pay leave. Is compensatory off added with other leaves or not. If compensatory off is to be availed alone, then provide circular regarding this. If compensatory off is to be not availed along with other leaves, then provide circular regarding this also. If compensatory off is to be availed with other leaves, then provide circular regarding this also. | A certified copy of circulars issued in BARC, Mumbai vide Ref. Nos.: 1/3/94-SR&W/1862 dated November 25, 1994 & 29/1/88-SR&W/2003 dated October 11, 1996 is enclosed (2 pages). The details of availing compensatory off with Earned Leave, Casual Leave, Commuted Leave, Half Pay leave is as per CCS (Leave) Rules which is available in the public domain. The other details sought are not covered under the definition of 'information' as per section 2(f) of the RTI Act, 2005. |

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 14.01.2019. The FAA vide order dated 15.02.2019 directed the PIO to provide only the names of candidates selected & absorbed in the Health Physics Division (HPD) against Advt. No. 3/98(R-II) within 15 days from the date of issue of the Appellate order.

In compliance of the FAA's order, the PIO, Bhabha Atomic Research Centre, Trombay vide letter dated 19.02.2019 provided the information to the Appellant.

Feeling aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

Facts emerging during the hearing:

The Appellant stated that in his application he had clearly indicated the training batch and date of commencement of training on point 1 a and b of the RTI application. Hence, the information could be collated and provided by the Respondent on that basis.

The Respondent referred to their written submission dated 28.04.2021 wherein it was stated that the FAA in its order had directed that information be provided for point no 1 (a) and did not mention anything for point no 1 (b). Accordingly, the CPIO provided the information for point 1 (a). Since the Appellant had not indicated the advertisement for point no 1 (b), BARC is not in a position to provide the information.

Decision

Keeping in view the facts of the case and the submissions made by both the parties, the Commission is of the view the response of the CPIO is in conformity with the provisions of the RTI Act, 2005. Hence, no further intervention of the Commission is required in the instant matter.

With the above observation, the instant Second Appeal stands disposed off accordingly.

(4) CIC/BARCM/A/2019/640027

The Appellant filed an RTI application dated 08.12.2018 seeking information on the following 2 points:

1. *Provide Scanned / Soft/ Xerox copies of list of Screened in & Screened out candidates applied for Stipendiary trainees category -1 posts (SI no. 1.8 & 1.9 for physics & chemistry discipline respectively) for written examination /interview by your department in BARC Advertisement No. 1/2004(R-1).*
2. *Also provide reason for screened out for appearing in written examination for above discipline in above ADVERTISEMENT.*

The PIO, Chief Administrative Officer (A), Bhabha Atomic Research Centre, Trombay vide letter dated 24.12.2018 replied to the Appellant as under:-

| Sl. No. | Information Sought | Information Given |
|---------|---|--|
| 1. | Provide scanned/soft/Xerox copies of list of Screened in & Screened out candidates applied for Stipendiary trainees Category-I posts (SI.No.1.8 & 1.9 for physics & chemistry discipline respectively) for written examination/Interview by your department in BARC Advertisement No.1/2004(R-1). | The information pertains to Advertisement No. 1/2004(R-1) which is around 14 years back. Hence the required documents are not available in this Centre. |
| 2. | Also provide reason for screened out for appearing in written examination for above discipline in above Advertisement. | As per section 2(f) of the RTI Act, 2005, the PIO can provide information which exists in material form and not expected to give any reasons/opinions on any matter. |

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 14.01.2019. The FAA vide order dated 26.02.2019 directed the PIO to provide the list of selected candidates in Physics & Chemistry discipline against Advt. No. 1/2004(R-I) within 15 days from the date of issue of the order after applying severance clause as per section 10 of the RTI Act, 2005.

In compliance of the FAA's order, the PIO, Bhabha Atomic Research Centre, Trombay vide letter dated 07.03.2019 furnished the list of selected candidates in Physics and Chemistry Discipline after applying the severance clause u/s 10 of the RTI Act, 2005.

Feeling aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

Facts emerging during the hearing

The Appellant stated that the information was denied without providing a copy of the weeding out circular.

The Respondent referred to their written submission dated 28.04.2021 wherein it was stated that as per the record retention schedule dated 02.03.1978 followed by their department application for appointment and other relevant papers, the record retention period for the kind of documents sought by the Appellant is 10 years. Since the information sought is more than 10 years old, it is weeded out.

Decision

Keeping in view the facts of the case and the submissions made by both the parties, the Commission is of the view that as per the provisions of the RTI Act, 2005 only such information that is held an available on the record of the public authority can be provided. Hence, no further intervention of the Commission is required in the instant matter.

With the above observation, the instant Second Appeal stands disposed off accordingly.

(5) CIC/BARCM/A/2019/646766

The Appellant filed an RTI application dated 10.04.2019 seeking information on the following 14 points:

1. *Norms/guidelines for recruitment & absorption of Stipendiary trainees ST/ SA (Category-1) for Science graduates/ Diploma Holder in Engineering in DAE/BARC from year 1998 to 2009.*
2. *Norms/guidelines for weightage of training for Stipendiary trainees ST/ SA (cat-1) for first promotion after absorption as SA/B from year 1998 to 2009 in BARC.*
3. *Promotion norms for Scientific assistants (ST/ SA-cat-1) after absorption as SA/B from year 1998 to 2009 in BARC.*
4. *Norms/guidelines for APAR submission for Scientific assistants after grading (ST/ SA- cat-1) as SA/B from period 01.02.2007 to 30.06.2010. Provide APAR period specifically who has absorbed as Scientific assistant/B on 01.02.2007 after one year Stipendiary training. From 01.02.2007 to 31.07.2008 what is the break up of APAR period. How many APAR period for 01.02.2007 to 31.07.2008. Provide norms/guidelines regarding submission of APAR period from 01.02.2007 to 31.07.2008.*
5. *Norms/guidelines for recruitment & absorption of Scientific officers through BARC Training school in DAE/BARC from year 1998 to 2009.*

6. Norms/guidelines for weightage of training for Trainee Scientific officers for first promotion after absorption as SO/C from year 1998 to 2009 in BARC.
7. Copy of advertisements for BARC advt. no. 3/98(R-1), 4/98(R-1 & R-II), 2/99(R-I & R-II), 3/99(R-I & R-II), 4/99(R-I & R-II), 01/2000(R-1 & R-II), 02/2000(R-1 & R-II), 03/2000(R-I & R-II), 04/2000(R-I & R-II), 1/2001(R-II).
8. List of candidates selected & absorbed against BARC advt. no. 3/98(R-1), 4/98(R-1 & R-II), 2/99(R-I & R-II), 3/99(R-I & R-II), 4/99(R-I & R-II), 01/2000(R-1 & R-II), 02/2000(R-1 & R-II), 03/2000(R-I & R-II), 04/2000(R-I & R-II), 1/2001(R-II). Information sought from NPCIL.
9. Norms/guidelines for recruitment & absorption of Stipendiary trainee ST/SA (Category-1) for Science graduates/Diploma Holder in Engineering in NPCIL from year 2000 to 2009.
10. Norms/guidelines for weightage of training for Stipendiary trainees ST/SA (cat-1) for first promotion after absorption as SA/B from year 2000 to 2009 in NPCIL.
11. Promotion norms for Scientific assistants (ST/SA-cat-1) after absorption as SA/B from year 2000 to 2009 in NPCIL.
12. Norms/guidelines for APAR submission for Scientific assistants after grading (ST/SA-cat-1) as SA/B from period 01.02.2007 to 30.06.2010. Provide APAR period specifically who has absorbed as Scientific assistant/B on 01.02.2007 after one year Stipendiary training. From 01.02.2007 to 31.07.2008. What is the break up of APAR period? How many APAR period for 01.02.2007 to 31.07.2008. Provide norms/guidelines regarding submission of APAR period from 01.02.2007 - 31.07.2008.
13. Norms/guidelines for recruitment & absorption of Scientific officers through NPCIL from year 2000 to 2009.
14. Norms/guidelines for weightage of training for Trainee Scientific officers for first promotion after absorption as SO/C from year 2000 to 2009.

The PIO, Chief Administrative Officer (A), Bhabha Atomic Research Centre, Trombay vide letter dated 09.05.2019 furnished a point wise reply in respect of points 1 to 8 to the Appellant and transferred point nos. 9 to 14 to NPCIL.

Subsequently, in continuation of early letter dated 09.05.2019, the PIO, Chief Administrative Officer (A), Bhabha Atomic Research Centre, Trombay vide letter dated 31.05.2019 furnished information to the Appellant.

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 13.06.2019. The FAA vide order dated 09.07.2019 directed the PIO to provide a copy of TC Circular no. TC/1(53)/89/2011/68760 dated 01.08.2011 and extracts from promotion norms of Scientific Assistants during 1991, 2003 & 2009 within 15 days from the date of issue of the order and upholds the reply of PIO for remaining points.

In compliance of the FAA's order, the PIO, Bhabha Atomic Research Centre, Trombay vide letter dated 10.07.2019 provided information to the Appellant.

Feeling aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

Facts emerging in Course of Hearing:

A written submission has been received from the PIO and Chief Administrative Officer (A) BARC, Trombay dated 28.04.2021 wherein while stating that the Appellant in his Second Appeal had sought direction for information on point no 4, it was stated that the information sought by the Appellant was in the nature of seeking clarification to a hypothetical situation which does not come within the purview of Section 2 (f) of the RTI Act, 2005.

The Appellant stated that the information sought was available with the Respondent Public Authority and was deliberately denied to him. He stated that norms/ guidelines regarding weightage of training for Stipendiary Trainees for first promotion after absorption as sought in point no 2 was a generic query. Similarly, he clarified that in point no 4 he was inter alia seeking information regarding circulars pertaining to the number of APAR's that were required to be submitted for the period mentioned in his RTI application for promotion of ST/ SA to SA-B post. Thus, he stated that this information should be available with the Public Authority.

The Respondent referred to their written submission dated 28.04.2021 wherein it was stated that the Appellant in his Second Appeal had sought direction for information on point no 4, which is in the nature of seeking clarification to a hypothetical situation which does not come within the purview of Section 2 (f) of the RTI Act, 2005.

Decision:

Keeping in view the facts of the case and the submissions made by both the parties, the Commission is satisfied with the response provided on all points except point no 4 and directs the CPIO to re-examine the same in view of the submissions made by the Appellant during the hearing and give a revised response to him by 30.06.2021.

With the above direction, the instant Second Appeal stands disposed off accordingly.

Y. K. Sinha (वाई. के.सिन्हा)

Chief Information Commissioner (मुख्य सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणितसत्यापितप्रति)

S. K. Chitkara (एस. के. चिटकारा)

Dy. Registrar (उप-पंजीयक)
011-26180514

