

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

OA No. 060/00096/2014 Date of decision- 11.11.2014

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)**

MES No. 506883 Sh. Prahlad Singh S/o Late Sh. Himal Chand, aged 51 years, presently working as Assistant Engineer (QS&C) in the O/O Garrison Engineer (Utility), Chandimandir.

...APPLICANT

BY ADVOCATE : Sh. Jagdeep Jaswal

VERSUS

1. Union of India, through Secretary, Ministry of Defence, North Block, New Delhi.
2. Engineer in Chief, E-in-C's Branch, Army Headquarters, Kashmir House, New Delhi.
3. Director General (Pers) 'M' Sectt, Military Engineers Services, E-in-Cs Branch, Integrated HQ of MoD (Army), Kashmir House, New Delhi - 110011.
4. Chief Engineer, Northern Command, Headquarters, C/o 56 APO.
5. Chief Engineer, Western Command, Headquarters, C/o 56 APO.
6. Central Record Office, C/o CE Delhi Zone.

...RESPONDENTS

BY ADVOCATE: Sh. Sanjiv Dhaiya.

ORDER (ORAL)

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J):-

The present O.A is directed against an information supplied under the RTI Act, 2005 on 28.10.2013 in pursuance to application dated 03.02.2012 filed by the applicant.

2. Learned counsel for the applicant submitted that as he has not received any order passed by the respondent department on his claim and only he has been communicated vide letter dated 28.10.2013 in response to a query under RTI Act, 2005, that he is not entitled for grant of financial upgradation and accordingly, his case was rejected. Therefore, the information provided under RTI may be quashed, and he may be extended the consequential benefits.

3. Learned counsel for the respondents submitted that till date the authorities have not passed any order on the claim of the applicant and the competent authority will pass the order. In absence of such order, he can not ask for quashing of an information obtained under RTI Act, 2005.

4. Perusal of letter dated 28.10.2013 (Annexure A-1) makes it clear that an information was provided under RTI Act, 2005 in pursuance to an application filed by the applicant regarding rejection of his claim for financial upgradation, and as per the settled law of the Courts, the

information provided under RTI Act can not be quashed. In this regard, view taken by the Central Administrative Tribunal, Bombay Bench in OA No. 572, 573 & 537/2013 **Raj Narayan Bhagwati Prasad etc. Vs. UOI etc.** decided on 25.09.2013 is relevant and is being reproduced in extenso for ready reference as under:

“18. We will now consider the question whether this Tribunal has got jurisdiction or power under sec. 19 of the Administrative Tribunals Act, 1985 to quash a communication sent by the Information Officer/Appellate Authority under the Right to Information Act, 2005. Admittedly, Annexure A.1 and A.3 communications have been issued by Public Information Officer under Act 2005 on applications submitted before the said authority seeking certain information and Annexure A.2 is an order passed by the Appellate Authority under the said Act. According to the learned counsel for the applicants this Tribunal is vested with power to quash such information/communication issued by the Public Information Officer/Appellate Authority under the Act of 2005.

19. We have carefully perused the two decisions of the apex Court cited by the learned counsel in Centre for PIL and in S. Rangarajan (supra). These two decisions do not deal with the issue that arises for consideration in this case in any manner at all. The two decisions rendered by the Allahabad High Court also do not have any relevance to the issue on hand.

20. In this context it may be noticed that the jurisdiction, powers and authority of this Tribunal have been clearly delineated in Chapter III of the Administrative Tribunals Act 1985. Section 14 (1) of the Act postulates that save as otherwise expressly provided in this Act, the Central Administrative tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all Courts [except the Supreme Court] in relation to all service matters as well as recruitment and matters concerning recruitment to any All India Service or to any Civil Service of the Union or a civil post under the Union etc. Section 3 (q) defines service matters, thus:

Service matters in relation to a person, means all matters relating to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other

authority within the territory of India or under the control of the Government of India, or as the case may be, of any Corporation (or Society) owned or controlled by the Government as respects (i) remuneration (including allowances), pension and other retirement benefits;

(ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;

(iii) leave of any kind;

(iv) disciplinary matters; or

(v) any other matters whatsoever;

21. Annexure A.1 to A.3 are undoubtedly some pieces of information pertaining to certain issues in relation to the service of the applicants.

Admittedly these informations were furnished on specific requests made to the competent authority under Act of 2005. The above information gathered by the applicants can undoubtedly be used by them for all collateral purposes in a court of law or before any other competent authority. However, such information cannot be sought to be quashed and set aside before this Tribunal in view of the prohibition contained in Sec.23 of Act 2005. Section 23 reads thus:

23: Bar of jurisdiction of courts: No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.

22. The provisions contained in the Section quoted above, will make it abundantly clear that this Tribunal cannot exercise jurisdiction in respect of communication/information furnished by the competent authority under Act of 2005, leave alone quashing of those communications in a proceeding instituted u/s 19 of the Act, 1985.

23. It is pertinent to note that a procedural mechanism has been provided under Act of 2005 to secure access to information. The preamble of the Act itself makes it manifestly clear that the very object of the Act is to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities. As has been mentioned earlier the information so gathered can be used as a tool to preserve the legal rights of the citizens.

The said information will help in promoting transparency and accountability in the working of every Public Authority since such information's are vital to the functioning of any democracy. Annexure A.1 to A.3 in our view, cannot be challenged before

this Tribunal under Sec.19 of the Administrative Tribunals Act for the reasons stated hereinabove. Even assuming the information contained in Annexure A.1 to A.3 are adverse to the applicants their remedy is not to seek quashing of those orders under Sec. 19 of the Act 1985.

24. In this context we may also mention that Annexure A.2 order passed by the appellate authority which is common in all these cases is addressed only to the applicant in O.A.537/2013 and that too in response to some information sought by him in relation to his service. Curiously applicants in O.A. 572/13 and 573/13 have also challenged the very same order even though they are not parties to the said proceeding before the appellate authority. Still further, the appellate authority had made it clear in Annexure-A-2 communication that the applicant would be at liberty to prefer an appeal if he was not satisfied with the information furnished to him. Obviously applicants have not exhausted the statutory remedy.

Thus the OAs were dismissed."

5. Faced with this situation, learned counsel for the applicant prayed that let the respondents be directed to pass the order qua grant of financial upgradation under ACP/MACP Schemes, in respect of the applicant.

6. Learned counsel for the respondents does not object to the prayer made by learned counsel for the applicant. However, he prayed that sufficient time may be granted.

7. Considering that respondents have not passed any order on claim of the applicant and without going into the merits of the case, we dispose of the present O.A with a direction to the respondents to pass appropriate speaking orders on the claim of the applicant supported with the reasons within a period of two weeks from the date

of receipt of a certified copy of this order. The order so passed be duly communicated to the applicant. The applicant if aggrieved would be at liberty to challenge the same on the original side in appropriate court of in accordance with law.

8. No costs.

(UDAYKUMAR VARMA)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 11.11.2014

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