Order on Appeal under Section 19 of the RTI Act, 2005

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Shri B.K. Bisaria, 8/24 Vikasnagar, Lucknow-226022 (hereinafter referred to as the Appellant) has filed the above mentioned appeal, aggrieved by the reply furnished by Section Officer (M-II) vide letter dated 18.11.2014 stating that the answer provided are not satisfactory. Through this appeal he has requested to provide information for point No. (8) & (9) of his RTI application dated 1.10.2014.

On going through the case record, the following are observed from the records available in the Section:

(8) In this connection it is informed that DOPT in its OM No. 1/7/2009-IR dated 1.6.2009 clarified that "the definition of information can not include answers to the questions like 'why' justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information.

(9) I am satisfied with the reply of CPIO. The information as available in the record has been provided by the CPIO.

With above order, the Appeal stands disposed of.

If applicant is not satisfied with the reply of the first Appellate Authority he can approach for second appeal in Central Information Commission, B-Wing, 2nd Floor, August Kranti Bhawan, Bhikaji Kama Place, New Delhi-66.

(Farida M. Naik)
Appellate Authority & Director,
Room No. 303-D Wing, Ministry of Mines
Shastri Bhawan, New Delhi
Phone No.23384593
1. Shri B.K. Bisaria, 8/24 Vikasnagar, Lucknow-226022
2. CPIO, Ministry of Mines, Shastri Bhawan, New Delhi
   P.I Cell w.r.t. to letter No.2/258/2014-PICell dated 14.1.2015
OFFICE MEMORANDUM


The undersigned is directed to say that the High Court of Bombay at Goa in the above referred case has held on 3.4.2008 that the term ‘information’ as defined in the Right to Information Act does not include answers to the questions like ‘why’. The relevant part of the judgement is reproduced below:

"The definition of information cannot include within its fold answers to the question ‘why’ which would be same thing as asking the reason for a justification for a particular thing. The public information authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information."

2. This may be brought to the notice of all concerned.

(K.G. Verma)
Director
Tel: 23092158

1. All the Ministries / Departments of the Government of India
2. Union Public Service Commission/ Lok Sabha Sectt./ Rajya Sabha Secretariat/ Cabinet Secretariat/ Central Vigilance Commission/ President’s Secretariat/ Vice-President’s Secretariat/ Prime Minister’s Office/ Planning Commission/Election Commission.
4. Staff Selection Commission, CGO Complex, New Delhi
5. O/o the Comptroller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi
6. All officers/Desks/Sections, DOP&T and Department of Pension & Pensioners Welfare

Copy to: Chief Secretaries of all the States/UTs.
भारत सरकार
खान मंत्रालय

विषय - सूचना का अधिकार अधिनियम, 2005 के तहत श्री. बी. के. बिसारिया, लखनऊ, से प्राप्त अपील के संबंध में।

श्री. बी. के. बिसारिया, लखनऊ से प्राप्त मूल अपील दिनांक 08.01.2015 को इस पत्र के साथ उद्धित कार्यवाही हेतु भेजा जा रहा है।

आपसे अनुरोध है कि उक्त अपील/पत्र का निर्देशन दिनांक 10.02.2015 से पूर्व किया जाए और प्रतिलिपि सूचनायें पी.आई. सेल को भी भेजी जाए।

(कमलेश गांवा/Kamlesh Gauba)

संलग्न: मूल अपील/FTS No. 40105.

श्रीमती फरिदा एम. नाईक, निर्देशक/अपीलीय अधिकारी (M-III), खान मंत्रालय,
पी.आई. सेल/PI Cell U.O. No. 2/258/2014-PI दिनांक/Dated 14.01.2015
No. NFSG/1AA/BKB-RTI/2014

From: B.K. Bisaria
8/24 Vikas Nagar,
Lucknow-226022

Sub: First Appeal under RTI Act 2005

Details of Applicant:
Name: B.K. Bisaria
Address: 8/24 Vikas Nagar, Lucknow-226022
Application No. & Date: 2014/6001 / NFSG/BKB-RTI/2014 dt. 01 October 2014 addressed to CPIO, PMO, New Delhi which was forwarded to MOM
Deemed CPIO: Shri Ravinder Kumar, Section Officer, Ministry of Mines New Delhi-110001
(Application received through CPIO, PMO, New Delhi)

I had submitted an application under RTI Act 2005 to Shri Syed Ekram Rizwi, Central Public Information Officer, Prime Minister’s Office, South Block, Raisina Hill, New Delhi – 110001 on 01st October 2014 (Copy enclosed) for getting information under RTI Act 2005 as PMO is head of entire Central Government. This was forwarded by Shri Rizwi to Ministry of Mines (Shri Ravinder Kumar, Section Officer). New Delhi for providing information. Shri Ravinder Kumar, provided information vide letter No. 331/2014-M II dated 18th Nov 2014 (received on 15 December 2014 & Copy enclosed). I am not satisfied with the reply provided by Shri Kumar. In this connection I would like to draw your kind attention towards point wise reply provided by Shri Ravinder Kumar and my objections.

Point (1)
Query: Second Administrative Reforms Commission (II ARC), set up in August 2005, under the Chairmanship of Shri Veerappa Molly in Chapter 4 in Table 4.1 entitled “A List of All the Organized Group ‘A’ Central Civil Services in Government of India” listed Geological Survey of Geological Survey of India under Ministry of Mines at Sl. No. 29 as Organised Group-A service. Which department of Govt. of India provided the information to II ARC that Geological Stream of GSI is Organised Group-A along with a copy of letter or communication giving this information to II ARC

Reply of CPIO: The information sought under point 1 is not available in this Ministry.

My Objections: No Comments

Point (8)
Query: Please provide copy of gazette notification or office order prior to 01-01-2006 declaring Geological Survey of India as Organised Group-A service.

Reply of CPIO: No gazette notification or office order issued prior to 01-01-2006 by this Ministry declaring Geological Survey of India as Organised Group-A

My Objections: Shri Kumar informs that no Gazette notification is issued prior to 01-01-2006. MOM vide its letter No. 123/2008 dated 16-01-2009 addressed to DG, GSI informs that Geology Stream of GSI is Organised Group-A service quoting Ministry of Finance OM No. F.12/21/74-1C dated 14 Nov 1975 implying that Geology Stream is Organised Group A since 1975 i.e. prior to notification of new service rules. If no gazette notification is issued than on what basis MOM has informed DG, GSI that Geology Stream is Organised Group A before notification of new service rules.

Point (9)

Reply of CPIO: Geology Stream was conferred Group-A organised service status from the date of notification of service rules of Central Geological Service i.e., from 29-09-2010 (Which is available in the
public domain i.e. in the e-gazette portal and GSI portal). In this connection this is also informed that as per letter No. 1/23/2008 dated 16-01-2009 (copy enclosed) that Organised service status is a prospective one with the notification of Service Rules. It is also informed that DOPT vide OM No. 1-11019/12/2008/CRD dated 20-11-2009 given certain attributes of Group A Organised Service and it was clarified in para 2 of the said notification that there is nothing to suggest that any service fulfilling these criteria would automatically conferred the status of Organised Group service. An Organised Service is one which is constituted consciously as such by Cadre Controlling Authorities only through an established procedure.

My Objections:

The contention of Deemed CPIO Shri Ravinder Kumar is wrong that Geology Stream is conferred Organised Group-A status w.e.f. 29-09-2010 i.e. date of notification of service rules. He has further given wrong information that Organised Service status is a prospective one with the notification of Service Rules. As already mentioned above this letter nowhere says that “prospective one with the notification of Service Rules”. Thus he has wrongly quoted the letter. MOM in its letter dated 16-01-2009 informs that Geology Stream is Organised Group A and further states that DOPT OM No. 22/1/2000-CRD dated 06-06-2000 will be effective from prospective date. Letter further states that the Recruitment Rules for all grades of Geology Stream would need to be accordingly amended. Thus Shri Kumar has given wrong information.

MOM on 16-01-2009 prior to notification of RR informs DG, GSI that Geology Stream of GSI is Organised Group A. MOM is very well aware that DoPT had informed Shri Gurpreet Singh Jaggi in an RTI reply vide letter No. 1-11019/8/2006-CRD dated 11th July 2008 that Geology Stream of GSI is Organised Group-A service, again before notification of service rules. GSI has given benefits of 6 CPC recommendations of pay parity with two year junior IAS for Organised Group-A service to Geology Stream officers who have superannuated before notification of service rule (29-09-2010) implying that Geology Stream is Organised Group A prior to notification of Service Rules.

Hon. CAT Bangalore and Hon. Karnataka High Court in case related to MN Ramachandra Rao vs Union of India (MOM) had clarified that prospective date of MOM letter dated 16-01-2009 means date of issue of DOPT OM dated 06-06-2000. The court further clarified that Geology Stream of GSI is Organised Group-A since 31-07-1982, as per DOPT OM No. 5/12/79-PP-II dated 31 July 1982 in which Geology Stream of GSI is referred as Organised Group A service at SI No. 23 in its annexure. The Karnataka High Court has also clarified that prospective date in the MOM letter dated 16-01-2009 means date of issue of DOPT OM. The SLP of Union of India (MOM) against Hon. Karnataka High Court order is also dismissed by the Hon. Supreme Court on 17-10-2014. Dismissal of SLP means that geology Stream is Organised Group A at least since 1982.

Ministry of Finance vide OM No. F.12/21/74-1C dated 14 Nov 1975 gave benefits of Organised Group service to geologists of GSI on promotion from Geologist (Jr) to Geologist (Sr) again conforming that Geology stream is organised group-A service at least since 1975.

Thus Shri Ravinder Kumar’s contention that Geology Stream was conferred Group-A organised service status from the date of notification of service rules of Central Geological Service i.e., from 29-09-2010 is wrong and misleading as MOM, DOPT and Ministry of Finance much earlier than new service rules mentioned that Geology Stream of GSI is Organised group a service. I, thus, request you to please provide correct information to my query.

The letter does not mention if Shri Ravinder Kumar has given reply as CPIO as he has signed the letter as Section Officer. This letter does not state his status under RTI Act 2005. He has also not given name of 1st Appellate Authority which is mandatory. However, he was kind enough to provide FAA details through email.

Yours’ faithfully,

B.K. Bisaria
RTI MATTER

No.31/1/2014-M.II
Government of India
Ministry of Mines
New Delhi, Dated: 18.11.2014

To,

Shri B.K. Bisaria,
8/24 Vikasnagar,
Lucknow-226022

Subject: Information sought under RTI Act, 2005 - reg.

Sir,

Please refer to your application dated 5.10.2014 under the RTI Act, 2005 received through PI Cell of this Ministry under reference U.O No.2/258/2014-PI dated 21.10.2014. The application has been transferred by Prime Minister Office vide letter No.RTI/6931/2014-PMR dated 13.10.2014 to this Ministry for furnishing reply to point 1,8 & 9, which are as under:

(1) The information sought under point 1 is not available in this Ministry.

(8) No gazetted notification or office order issued prior to 1.1.2006 by this Ministry declaring Geological Survey of India as Organised Group 'A' Service.

(9) Geology stream was conferred Group 'A' organized Service status from the date of notification of Service Rule of Central Geological Service i.e., from 29.9.2010 (which is available in the public domain i.e. in the e-gazetted portal and GSI portal). In this connection this is also informed that as per letter No.1/23/2008 dated 16.1.2009 (copy enclosed) that Organised service status is a prospective one with the notification of Service Rule. It is also informed that DOPT vide OM No.I-11019/12/2008-CRD dated 20.11.2009 (copy enclosed) given certain attributes of Group A Organised Service and it was clarified at para 2 of the said notification that there is nothing to suggest that any service fulfilling these criteria would automatically conferred the status of Organised Group service. An Organised Service is one which is constituted...
consciously as such by Cadre Controlling Authorities only through an established procedures.

Encl: As above.

Yours faithfully,

(Ravinder Kumar)
Section Officer
Tele: 23384223
E.mail: ravinder.kr64@nic.in

Copy for information to:-
(ii) Prime Minister Office w.r.t. their letter No.RTI/6931-PMR dated 13.10.2014
(iii) Guard File.
No. 20141001 / NFSG/BKB-RTI/2014

From: B.K. Bisaria
8/24 Vikasnagar,
Lucknow-226022

Sub: Information under RTI Act 2005

SIR,

I am asking these informations from PMO because I had asked many of these informations from DOPT under RTI Act 2005 which it could not provide saying that information is not available with DOPT. I am thus seeking these informations under RTI Act 2005 from PMO being head of entire Central government.

Please provide following information under RTI Act 2005.

1. Second Administrative Reforms Commission (II ARC), set up in August 2005, under the Chairmanship of Shri Veerappa Moily in Chapter 4 in Table 4.1 entitled “A List of All the Organized Group ‘A’ Central Civil Services in Government of India” listed Geological Survey of India under Ministry of Mines at Sl. No. 29 as Organised Group-A service. Which department of Govt of India provided the information to II ARC that Geological Survey of GSI is Organised Group-A along with a copy of letter or communication giving this information to II ARC.

2. Which Central Government Ministry/ Department provided this list of 58 Organised Group-A departments as mentioned above to II ARC?

3. Please inform if all the Organised Group-A services / departments have similar RR on Organised Group-A pattern prior to 01-01-2006.

4. Please inform and provide a copy of any guidelines issued by Govt. of India prior to 01-01-2006 to Organised Group-A services of Central Govt. to modify their recruitment rules on Organised Group-A pattern.

5. Please provide names or list of all Organised Group-A Central govt. departments / services prior to 01-01-2006.

6. Please provide the list of Organised Group-A services for which gazette notification or office order is issued declaring them Organised Group-A prior to 01-01-2006.

7. Please provide a list of Organised Group-A services for which no gazette notification or office order is issued and are still considered as Organised Group-A prior to 01-01-2006.

8. Please provide copy of gazette notification or office order prior to 01-01-2006 declaring Geological Survey of India as Organised Group-A service.


11. Please provide copy of gazette notification or office order prior to 01-01-2006 declaring Indian Economic Service, Indian Audit & Accounts Service, Indian Defence Accounts Service and Indian Postal Service as Organised Group-A service.

I am enclosing a two postal orders Nos. 65C522579 & 65C522580 of Rs 5/- each (Totalling Rs ten only). Please fill in the payees name in the postal order.

Yours’ faithfully,

B.K. Bisaria