

**CENTRAL INFORMATION COMMISSION**

**Club building, Opposite Ber Sarai Market, Old JNU Campus, New Delhi- 110067.**

**Tel: 011 - 26182593/26182594**

**Email: registrycab@gmail.com**

**File No : CIC/RM/A/2014/002005**

**In the matter of:**

Wg Cdr R K Mahajan(Retd)  
C-27 Loksangam Vihar CHS near  
Medipoint Hospital, Nagras road,  
Aundh, Pune-411007

...Appellant

Vs.

Central Public information Officer  
M/o Defence  
Air Officer Administration, Air HQ (VB)  
Rafi Marg New Delhi-110106

..Respondent

**Dates**

RTI application	:	04.12.2012
CPIO reply	:	11.01.2013
First Appeal	:	21.01.2013
FAA Order	:	22.03.2013
Second Appeal	:	22.02.2014
Date of hearing	:	07.09.2016

**Information sought:**

The appellant had sought extracts of ARs/comments by IO, RO and SRO for the year 1992 to 94, rules and policies for conducting promotion board meetings, notings and other related information.

**Grounds for Second Appeal**

The CPIO did not provide the desired information.

**Order**

<b>Appellant</b>	<b>:</b>	<b>Representative of Appellant</b>
<b>Respondent</b>	<b>:</b>	<b>CPIO, Wng. Cdr. Anil Kumar</b>

During the hearing the representative of the appellant submitted that he did not get information in connection with his RTI application dated 04.12.2012. The representative of the appellant submitted that adverse remarks were made and the copies of the related documents should be provided to him. He further submitted that adverse remarks should have been communicated to the concerned officer also.

The respondent CPIO submitted that information cannot be provided because the information was held by the public authority in fiduciary capacity under Section 8(1) (e) of the Act. The CPIO also relied on the Hon'ble Supreme Court's judgement in Dev Dutt's case that the APAR information can be divulged in regard to civilian services but the same can not be divulged in respect of military personnel.

**The Honourable Supreme Court of India by its decision dated 12 May, 2008 in the matter of Dev Dutt vs Union Of India & Ors in CIVIL APPEAL NO. 7631 OF 2002** held as under:

*“45. In our opinion, non-communication of entries in the Annual Confidential Report of a public servant, whether he is in civil, judicial, police or any other service (other than the military), certainly has civil consequences because it may affect his chances for promotion or get other benefits (as already discussed above). Hence, such non-communication would be arbitrary, and as such violative of [Article 14](#) of the Constitution.”*

In the light of the above Hon'ble Supreme Court of India dicta, the CPIO's reply and the FAA's order are considered just & proper & accordingly ***the case is treated as closed.***

**[Amitava Bhattacharyya]  
Information Commissioner**

Authenticated true copy

(A.K.Talapatra)  
Dy. Registrar

