Central Information Commission

CIC/OK/A/2009/000131-AD

Dated June 12, 2009

Name of the Applicant : Mr.S.K.Nagarwal
Name of the Public Authority : NWR, Jaipur

Background

1. The Applicant filed an RTI application dt.18.7.08 with the CPIO, NWR, Jaipur. He requested for information against 7 points including the following:
   i) What is the procedure of including an official in secret list. To provide procedure details for all possible circumstances under which an official is required to be put into secret list.
   ii) Copies of all circulars, rules, provisions, guidelines, directions of Railway Board, DoPT and CVC regarding secret list and works/functions not to be entrusted to officers borne on Secret List/Agreed List.
   iii) Same information for Agreed list as asked in 1 and 2 above
   iv) To inform if any amendments/correction slips have been issued to the paras 322.1 and 322.5 of the IRVM along with copies of any circulars which deviate from provisions of the two paras.
   v) Copies of Letters/circulars listed as references at the end of Chapter 3 of IRVM
   vi) Date of receipt of 1st stage advice, date of issue of major penalty charge sheet to the officer, date of inclusion in the Secret list, date of issue of NIP an date of exclusion from Secret list of officers working/worked in N.W. Railway who have been learnt to have faced/facing major penalty proceedings, a list of whom was provided by the Applicant
   vii) Date of inclusion in the Secret list and date of issue of any chargesheet, date of issue of any NIP and date of exclusion from Agreed list of officers working/worked in N.W. Railway, a list of whom was provided by the Applicant
The CPIO replied on 14.8.08 furnishing point wise information while denying information regarding inclusion and exclusion from Agreed/Secret list as per CIC’s decision no. CIC/AT/A/2007/00229 dated 14.5.09. He stated that the first stage advice of officers in respect of 3 individuals is denied under provisions of Section 8(1)(j) of the RTI Act. He also denied information regarding first stage advice against other officers as mentioned in point 6 under provisions of 8(1)(j) and 8(1)(d) of the RTI Act as the cases are not yet finalized. Regarding the issue of NIP and chargesheet, he stated that the same is being gathered from Personnel Department of HQ and would be conveyed to the Appellant soon. Not satisfied with the reply the Appellant filed an appeal dt.12.9.08 with the Appellate Authority commenting on the information provided by the CPIO. He stated that the names of officers who are facing major penalty are already known to him and therefore there is no case of disclosure of names. Moreover when dates of issue of SF-5 have been provided and it is also provided that all persons receiving SF-5 are put in secret list then there is no question of secrecy in their names. Hiding the dates of receipt of CVC advice and dates of inclusion in Secret list is thus unlawful and malafide. He added that the referred decision of CIC pertains to disclosure of names of officers in the Agreed list which is not the case here. Hence the reference is misplaced. The Applicant alleged that the Vigilance Department is running a racket of extortion under which those who pay bribes are not included in the Secret list even after getting major penalty chargesheet and if included are not shifted from the sensitive posts. The Appellate Authority replied on 6.10.08 stating that the CPIO has already provided the relevant information. Aggrieved with this reply, the Applicant preferred an appeal before the CIC on 12.11.08 requesting for relief in the form of supply of full information while applying Section 10(1) if required, imposition of penalty on the PIO and maintaining and publishing on website all the circulars sought in the RTI application and names of officers in Secret list/Agreed list as per provisions of Section 4(1)(a) and 4(1)(b) (v) and (vi) of the RTI Act.

2. The Bench of Mrs. Annapurna Dixit, Information Commissioner, scheduled the hearing for June 12, 2009.
3. Mr. M.K. Sharma, APIO and Mr. Suresh Chandra, Dy. CVO represented the Public Authority.

4. The Applicant was present during the hearing.

**Decision**

5. The Applicant submitted to the Commission that he had not received information against points 6 and 7 of the RTI request. The Commission noted that the points 6 and 7 related to information about Agreed and Secret lists.

6. The Commission studied the New Vigilance manual of the CVC and noted the following about Agreed and Secret lists:

322.1 One of the measures to combat corruption is to maintain watch on the activities of public servants who are of doubtful integrity. For this, two lists namely ‘Agreed list’ and list of public servants of gazetted status of doubtful integrity also known as ‘Secret list’ are prepared by the Railway Board Vigilance annually in accordance with the directives of Department of Personnel and Training and Central Vigilance Commission.

322.2 The Secret list is prepared in the light of criteria laid down for the purpose namely:

(a) Officers convicted in a Court of Law on a charge of lack of integrity or for an offence involving moral turpitude but on whom in view of exceptional circumstances, a penalty other than dismissal, removal or compulsory retirement is imposed.

(b) Officers awarded departmentally a major penalty:
   (i) On charge of lack of integrity
   (ii) On charge of gross dereliction of duty in protecting the interests of Government although the corrupt motive may not be capable of proof
   Or

(c) Officers against whom proceedings for a major penalty or a Court Trial are in progress for alleged acts involving lack of integrity or moral turpitude ; or

(d) Officers who were prosecuted but acquitted on technical grounds, and in whose case, on the basis of evidence during the trial, there remained a reasonable suspicion against their integrity.

322.5 Due to issue of the list on annual basis, names of those officers who are advised major penalty action by CVC in the intervening period, do not find place in the Secret list. Similarly, some officers may continue
to be on the Secret list even when either exonerated or taken up for minor penalty action subsequent to inquiry.

322.6 The Agreed list is prepared annually in consultation with CBI and contains the names of such officers whose integrity and honesty is under cloud.

322.7 The Agreed list is prepared in consultation with the CBI every year. The Agreed list is meant only for the purpose of intensive vigilance and carrying out preventive checks.

322.14 The extant instructions arbitrate that the Agreed list should be kept strictly confidential.

7. On studying the extracts from the Manual given hereinabove, it is the Commission’s considered opinion that since both ‘Agreed list’ and ‘Secret list’ are prepared with the intention of maintaining a watch on the activities of public servants who are of doubtful integrity, that very purpose would be lost if the information about such persons is revealed.

8. From the RTI request of the Appellant it is clear that the Appellant himself is not sure whether all the individuals in his list in point 6 have faced major penalty proceedings or not and in point 7 whether they are on the Agreed list or not since in both the points he has only stated that he has ‘learnt’ about them. It is therefore clear from what the Appellant has written that he does not know which of the individuals are on the Agreed list or which of those on his list have faced major penalty and therefore, providing dates and other details to the Appellant would amount to providing new information to him which is not only personal but may, if revealed impede the prosecution of offenders. Moreover, it is clear from Section 322.5 that every officer who has been advised a major penalty action may not be in the Secret list so the Appellant’s contention that all those who have been advised major penalty are automatically on the Secret list is not correct and hence his further contention that since he already knows the names, dates of inclusion in the Secret list can be given, has no merit.

The Commission, keeping the above mentioned facts in mind and in the light of point 322.14, denies disclosure of information against points 6 and 7.
which is about individuals on the Agreed and Secret lists, to the Appellant under Sections 8(1)(j), 8(1)(h) of the RTI Act. Rest of the information has already been provided.

9. The appeal is accordingly disposed of.

(Annapurna Dixit)
Information Commissioner

Authenticated true copy:

(G. Subramanian)
Asst. Registrar

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