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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Judgment pronounced on : 09.10.2025**+ **W.P.(C) 13531/2018**

UNION OF INDIA AND ORS.

.....Petitioners

Through: Ms. Arunima Dwivedi (CGSC) along
with Ms. Monalisha, Ms. Himanshi
Singh, Mr. Sainyam, Advocates.

versus

KARTAR SINGH

.....Respondent

Through: Mr. Saurabh Seth Advocate (Amicus
Curiae) along with Ms. Sumeera Seth,
Ms. Neelampreet Kaur and
Mr. Abhiroop Rathore, Advocates.**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****JUDGMENT**

1. The present petition has been filed by the petitioner assailing the order dated 14.05.2018, passed by the Central Information Commission (hereinafter "CIC") in Application no. CIC/AB/C/2016/000073, whereby a penalty of Rs.8,000/- was imposed upon the petitioner no.2/Deputy Director (Establishment), Shri Prabir Roy, (CPIO) on the ground of alleged denial of requisite information under the provisions of the Right to Information Act, 2005 ("RTI Act").

2. The factual background, as set out by the petitioner, is that the respondent herein had filed an online RTI application dated 29.08.2015 seeking copies of Departmental Promotion Committee (DPC) proceedings wherein Shri K.K. Sharma, the respondent himself (Shri Kartar Singh), and



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Shri S.C. Bajpai were considered for absorption in Group 'A' III. The respondent also sought details regarding the date and year of absorption in Class-I for each of the aforementioned individuals, and expressed willingness to pay the necessary fee for the documents as per applicable rules under the RTI Act.

3. On 07.10.2015, the CPIO issued a reply to the said RTI Application of the respondent. The said reply reads as under:

"Information that is available at this distant date are the notifications dated 05.09.1991 and 22.07.1992, copies thereof are provided herewith. The relevant files are not available. Hence, no further information can be supplied by this office. However, since UPSC is the custodian of DPC minutes, the applicant, if so desire, may approach UPSC for copies of DPC minutes."

4. The respondent filed the first appeal on 03.10.2015, which the Estt.(GP) Branch received on 17.02.2016; however, as the response to the application dated 29.08.2015 had been issued on 07.10.2015, no steps/ order was issued pursuant to the first appeal.

5. Thereafter, the respondent filed a second appeal before CIC on 16.02.2016. A reply thereto was issued by the Railway Board (first Appellate Authority).

6. Subsequently, *vide* notice dated 21.07.2017, a date for hearing was fixed for the applicant/respondent. However, the date so fixed was postponed and ultimately, a hearing was conducted by the CIC on 29.11.2017, pursuant to which a Show Cause Notice was issued to the concerned CPIO vide order dated 28.12.2017. The CPIO submitted a reply to the said notice on 11.01.2018, which has been referred to in the CIC's final order dated 14.05.2018, as under:

"Sh. Prabir Roy submitted that the appellant had asked for copies of



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DPC minutes in which he, alongwith Sh.K.K Sharma and S.C Bajpai were considered for absorption in Group “A”. The DPC minutes are a part of the file in which the same was examined and submitted to the competent authority for obtaining the approval of the competent authority before issuing promotion orders. In the instant case, the relevant file (No. E(GP) 86/1/58) not being available, information sought for was regretted to the complainant. He also submitted that the RTI applications calling for copies of DPC minutes used to be referred to the UPSC U/s 6 (3) of the RTI Act since they are the custodian of DPC minutes. The UPSC returned such RTI applications on the plea that once the UPSC sends the relevant DPC minutes to the Ministries concerned, the concerned ministries/depts become the sole custodian of the DPC minutes. As promotions are decided by them on the basis of DPC Minutes, it is for the Ministries concerned to provide copies of DPC minutes to the concerned RTI applicants. It was on this premise that the said RTI application was not referred to the UPSC U/s 6(3) of the RTI Act and the appellant was rather advised to approach the UPSC, in case he so desired for obtaining copies of the relevant DPC minutes. In fact the appellant indicated in para 5 of his complaint memo dated 16.02.2016 submitted to the CIC that he did approach the UPSC on 03.02.2016 but he was told the same thing that it was for the Ministry concerned to provide the desired information to him. The CPIO concerned submitted that such reply was provided to the appellant in good faith to facilitate the applicant.”

7. Despite submission of a compliance report in response to the directions issued on 28.12.2017, the CIC issued a second Show Cause Notice dated 22.03.2018 to the concerned CPIO, alleging non-compliance and directing his appearance before the Commission on 18.04.2018. The response furnished by the respondent, as regards the Show Cause Notice dated 28.12.2017 is annexed as Annexure P-13 (colly) to the present petition. The relevant portion of the same is reproduced as under:

*“To
Shri Amitava Bhattacharyya,
Hon ble Information Commissioner,
Central Information Commission,*



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Baba Gangnath Marg,
Munirka,
New Delhi-110067.

Sir,

Sub: Reply to show-cause notice.

Ref: Your decision dated 28.12.2017 (File No. CIC/AB/2016/000073).

I have been asked to explain the following:-

- (i) Why improper reply was provided to the appellant; and
- (ii) Why the said RTI application was not transferred u/s 6(3) of the RTI Act to the CPIO, UPSC in case the holder of information was UPSC.

2. My humble submissions in this regard are as under:-

The appellant had called for copies of DPC minutes in which he, alongwith S/Shri K.K. Sharma and S.C. Bajpai were considered for absorption in Group 'A'. The DPC minutes are a part of the file on which it is examined for obtaining the approval of the competent authority before issuing promotion orders. In the instant case, the relevant file (No. E/(GP)/86/1/58) not being available, information sought for was regretted to the appellant. It will be further relevant to mention that RTI applications calling for copies of DPC minutes used to be referred to the UPSC u/s 6(3) of the RTI since they are the custodian of DPC minutes. However, they returned the RTI applications on the plea that once UPSC sends DPC minutes to the Ministries concerned, they become the sole custodian of DPC minutes as promotions are made by them on the basis of DPC minutes and as such, it is for the Ministries concerned to provide copies of DPC minutes to the RTI applicants. It was on this premise that the said RTI application was not referred to the UPSC u/s 6(3) of the RTI Act and the appellant was rather advised to approach the UPSC, if so desired, for copies of DPC minutes. In fact, the appellant, as indicated in Para 5 of his 2nd appeal to CIC dated 16th February, 2016 (copy enclosed), did approach the UPSC on 03.02.2016 when he was told the same thing that it was for the Ministry concerned to provide the desired information to him.

3. In view of what has been explained above, I believe that I had given reply to the appellant based on facts and to the best of my knowledge and belief.

Yours faithfully

-sd-

(Prabir Roy)

Dy. Director, Estt. (GP)
Railway Board"



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8. Ultimately, the CIC passed its final order dated 14.05.2018. The relevant portion of the said order is reproduced as under:

“Decision:

The Commission noted that the then PIO, Sh. Prabir Roy did not provide the sought for information to the appellant in the present case. Not only that he provided a wrong reply to the appellant concerned to approach the UPSC for obtaining a copy of the DPC minutes pertaining to his organization forgetting/ignoring in the process that the UPSC had returned the concerned file to the railway board earlier in view of the consistent stand taken by the UPSC to send all such case paper(s) to the concerned organizations once the process of consultation with the UPSC is completed.

The Act on the part of Sh.Roy amounts to denial of sought for information under the relevant provision of the RTI Act. Therefore, the Commission finds it to be a fit case to impose a token penalty of Rs.8000/- recoverable in four equal monthly installments upon him.

The Commission hereby imposes penalty of Rs.8000/- on the Deputy Director (Establishment), Sh. Prabir Roy for denial of the Requisite information under the provision of the RTI Act. Accordingly, he is directed to pay a sum of Rs.8000/- in 4 equal monthly installments. The Director (establishment) Railway Board, is directed to recover the amount of Rs.8000/- from the salary payable to Sh.Prabir Roy and remit the same by way of demand draft drawn in favour of 'PAO CAT' New Delhi in 4 equal monthly installments. The first installment should reach the Commission by 10.06.2018 and the last installment should reach by 10.09.2018. The Demand Draft should be sent to Sh. S.P Beck, Joint Secy. (Admn.), Room No. 506, Central Information Commission,CIC Bhawan, Baba Gangnath Marg, Munirka, New Delhi-110067.”

9. Learned counsel appearing for the petitioner submits that the information sought by the respondent was furnished to the extent it was traceable. In respect of the remaining portion, where the information was not available, the factual position regarding its non-availability was duly



communicated to the respondent. It is further submitted that, in good faith, the respondent was advised to approach the Union Public Service Commission (UPSC), as the said information might be available with that authority.

10. It is the petitioner's case that where information (as sought) is not available, the same cannot be construed as 'denial' or 'refusal' to supply the same.

11. Learned counsel for the petitioner further contends that the impugned order is internally inconsistent, in as much as the observations recorded by the CIC in the impugned order itself contradict the conclusion reached therein. It is pointed out that the impugned order itself notes that the relevant file was not available, and in this regard the following observations were made:

“Observation:

The Commission observed that the concerned CPIO had advised the applicant in this case to approach UPSC, as the file was not available with him at that point of time. However, he did not transfer the said RTI application U/s 6(3) of the RTI Act to the UPSC because of the stand taken by the UPSC that they are not the record holder in such cases as was communicated earlier to all ministries /depts./organizations under Govt. of India by the UPSC.”

12. In the circumstances, there is merit in the contention of the petitioner that malafides cannot be attributed to the concerned CPIO for the manner in which the response (dated 07.10.2015) was framed to the respondent's RTI query.

13. Notwithstanding however, it is noticed that the penalty that was imposed on the concerned CPIO has already been paid and recovered. Learned counsel for the petitioner concedes that given the passage of time,



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no directions be issued with regard to the recovery thereof from the respondent.

14. The petition is, accordingly disposed of in the above terms.

SACHIN DATTA, J

OCTOBER 09, 2025/ss