

केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi - 110067

द्वितीय अपील संख्या / Second Appeal No. **CIC/BARCM/A/2019/648925**

Dr. S Venugopal

... अपीलकर्ता / Appellant

VERSUS/बनाम

PIO, Bhabha Atomic Research Centre
Through: Shri Ram S - Chief Administrative
Officer

... प्रतिवादीगण / Respondent

Date of Hearing : 28.07.2021

Date of Decision : 28.07.2021

Chief Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

RTI application filed on : 03.03.2019
PIO replied on : 25.03.2019
First Appeal filed on : 06.04.2019
First Appellate Order on : 10.06.2019
2nd Appeal/complaint received on : 23.08.2019

Information sought and background of the case:

The Appellant filed an RTI application dated 03.03.2019 seeking information on the following 05 points:-

1. Names of the Scientists/Engineers in the grade of Outstanding Scientist in Bhabha Atomic Research Centre, Mumbai - 400 085, who have been granted Maximum admissible amount of Rs. 10,000/- (Ten Thousand) under Performance Related Incentive Scheme (PRIS) towards Individual Incentive (M plus N) component in the year 2010-11.
2. Names of the Scientists/Engineers in the grade of Outstanding Scientist in Bhabha Atomic Research Centre, Mumbai - 400 085, who have been granted Maximum admissible amount of Rs. 10,000/- (Ten Thousand) under Performance Related Incentive Scheme (PRIS) towards Individual Incentive (M plus N) component in the year 2011-12.
3. Names of the Scientists/Engineers in the grade of Outstanding Scientist in Bhabha Atomic Research Centre, Mumbai - 400 085, who have been granted Maximum admissible amount of Rs. 10,000/- (Ten Thousand) under Performance Related Incentive Scheme (PRIS) towards Individual Incentive (M plus N) component in the year 2012-13.

4. Names of the Scientists/Engineers in the grade of Outstanding Scientist in Bhabha Atomic Research Centre, Mumbai - 400 085, who have been granted Maximum admissible amount of Rs. 10,000/- (Ten Thousand) under Performance Related Incentive Scheme (PRIS) towards Individual Incentive (M plus N) component in the year 2013-14.

5. Names of the Scientists/Engineers in the grade of Outstanding Scientist in Bhabha Atomic Research Centre, Mumbai - 400 085, who have been granted Maximum admissible amount of Rs. 10,000/- (Ten Thousand) under Performance Related Incentive Scheme (PRIS) towards Individual Incentive (M plus N) component in the year 2014-15.

The PIO/Chief Administrative Officer(A) vide letter dated 25.03.2019 denied disclosure of information stating that it is personal information, placing reliance of an earlier decision dated 07.06.2018 passed by the CIC in case no. CIC/ACCGI/A/2017/163946. The information sought by the Appellant was thus denied under Section 8(1)(j) of the RTI Act.

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 06.04.2019. The FAA vide order dated 20.05.2019 stated as under:-

On perusal of the records it is observed that appellant is requesting for the names of Scientists/Engineers in the grade of Outstanding Scientist in BARC, Trombay who have been granted Maximum admissible amount of Rs.10,000/- (Ten Thousand) under PRIS(I) for the year 2010-11 to 2014-15. The appellant is informed that matters related to grant of PRIS(I) are personal in nature to the officer concerned as the number of increments awarded to him are based on his performance in the promotion interview, work output, etc. and hence invites exemption under section 8(1)(j) of the RTI Act, 2005.

However, the PIO is directed to provide number of Scientists/Engineers in the grade of Outstanding Scientist in Bhabha Atomic Research Centre, who have been granted Maximum admissible amount of Rs.10,000/- (Ten Thousand) under PRIS(I) for the period from 2010-11 to 2014-15 within 10 days from the date of issue of the Appellate Order.

In compliance with the directions of the FAA, the number of scientists/engineers in the grade of outstanding scientist in BARC for the period of 2010-11 to 2014-15 was provided to the Appellant, vide letter dated 22.05.2019.

Still aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

Facts emerging in Course of Hearing:

A written submission vide letter dated 23.07.2021 reiterating the facts mentioned above, relevant excerpts whereof are as under:

6. The appellant was informed that matters related to grant of PRIS(I) are personal in nature to the officer concerned as the number of increments awarded to him are based on his performance in the work output, etc. after review and hence invites exemption under section 8(1)(j) of the RTI Act, 2005.

9. The Performance Related Incentive Scheme (PRIS) towards Individual Incentive is awarded in recognition to the talent and scientific excellence exhibited by Scientists/Engineers and the skills shown by the supporting Scientific & Technical staff in realizing the organizational goals. There is a well defined multi level review mechanism which recommends grant of this incentive. The concerned Selection Committee/ Review Committee, after careful consideration of all important parameters like Individual performance, significance of contribution of the employee during aggregated period in the grade held, the total residency taken by an employee to earn the promotion, etc. will recommend the total number of variable increments.

10. In this regard it is respectfully submitted that CIC decision No. CIC/ACCGI/A/2017/163946 dated 07.06.2018 has mentioned that "the information in relation to the personal details of individual employee such as the date of his/her joining, designation, details of promotion earned, date of his/her joining to the Branch where he/she is posted, the authorities who issued the transfer orders etc. are personal in nature." Hence copies of performance reports of employees for various interviews based on which Performance Related Incentive Scheme (PRIS) towards Individual Incentive (M plus N) component granted are personal to the individuals concerned.

11. Further Hon'ble Supreme Court of India in Civil Appeal No. 10044 of 2010 titled as CPIO, Supreme Court of India vs. Subhash Chandra Agarwal in decision dated 13.11.2019 has observed that personal records and professional records including qualification, performance, evaluation, reports, etc. all relate to personal information.

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, hearing through audio conference was scheduled after giving prior notice to both the parties. Both parties participated and are duly heard through audio conference and reiterated their respective contentions, as already noted in the preceding paragraphs.

Decision

In the light of the factual matrix of the case at hand, the Commission finds no lacunae or legal infirmity with the response furnished by the Respondent. The contentions of the Appellant for seeking performance related information of third party, viz. the employer of the third party is legally flawed and wholly misplaced. Such information is clearly classified as personal information held in fiduciary capacity by the employer of the third party and disclosure thereof is likely to cause unwarranted invasion of privacy of the individual concerned.

Under the aforesaid circumstances, disclosure of any further information is not warranted, in terms of the provisions of the RTI Act.

The appeal is disposed off as such.

Y. K. Sinha (११११, ११११११११)
Chief Information Commissioner (११११ ११११११११ ११११)

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S. K. Chitkara (१११. ११११११११११)
Dy. Registrar (१११-११११११११)
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