

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment reserved on : 11.04.2013
Judgment pronounced on : 16.04.2013

+ **LPA No.1043/2011**

RAJEEV DHAWAN Appellant

Through: Appellant in person

versus

CPIO MARD THE RTI CELL
PUNJAB NATIONAL BANK Respondent

Through : Mr.Jagat Arora and Mr. Rajat
Arora, Advs.

CORAM:

**HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V.K. JAIN**

V.K. JAIN, J.

1. The appellant who is a practising advocate of this Court had, on the demise of his father, who was working with the respondent- Punjab National Bank, applied for compassionate appointment on 17.6.2004. However, during pendency of his application seeking compassionate appointment, there was a change in the policy of the bank which substituted the compassionate appointment scheme by *ex gratia* payment. As a result, the petitioner was not granted compassionate appointment. He filed W.P(C) No.6611/2011 seeking directions to the respondent bank to give appointment to him on compassionate ground, which has been

dismissed by the learned Single Judge, and a separate LPA against that order is pending.

2. The appellant had been approaching CPIO of the PNB seeking various information and inspection of records pertaining to compassionate appointments as also rejection of 116 applications pending on 29.10.2004 seeking appointments on compassionate basis. The CPIO responded to the applications vide replies dated 28.8.2008, 24.11.2008 and 2.4.2009 and provided some information while denying most of the information invoking Section 8(1) of the RTI Act. Not satisfied with the information supplied by CPIO, the appellant filed appeals before the First Appellate Authority on 8.9.2008, 28.11.2008 and 20.4.2009, which were disposed of by the First Appellate Authority vide order dated 4.10.2008, 19.12.2008 and 21.5.2009 respectively, concurring with the decision of CPIO. Being aggrieved from the order of the First Appellate Authority, the appellant filed four separate appeals before the Central Information Commission. This was also the case of the appellant that all the information supplied to him pursuant to the order of the Commission dated 26.6.2009 was wrong. His contention was that the date of receipt of his application shown in the counter affidavit was different from the date shown in the information provided to him. In one case, the appellant wanted to know the basis for the appointing some individuals on compassionate ground even though their applications had been received later than many others. In another case, he sought verification regarding those appointed on compassionate basis since January, 1999. He wanted to know not only the names of those who got employment but also the

names of deceased employees against whom such appointments were made and other details in this regard. The information supplied to him including only the name of the applicants and the date of receipt of their applications. During the course of hearing before the Commission, the appellant stated that he would be satisfied if he was given inspection of the files for the year 2002 to 2004. The Commission accordingly directed CPIO Bank to permit the appellant to inspect all the files/ registers/ records/ documents/ correspondence/ files, notings regarding the entire process of appointment under compassionate employees scheme of the bank for the period 2002-2003 and 2003-2004. This was to include the applications received from the candidates, the processing of those applications and the final decision of the Competent Authority in each case. The CPIO of the bank was also directed to forward a detailed note on the discrepancies with respect to the date of receipt of the application. It was further directed that if after inspection of record the appellant would identify some record for photocopy, the CPIO shall make photocopies of those pages and provide certified copies of the same to the appellant.

3. Pursuant to the order passed by the Commission on 14.12.2009, the CPIO of the bank requested the appellant, vide letter dated 9.1.2010 to inspect the record on 18.1.2010. After carrying out the inspection on 18.1.2010, the appellant filed another application dated 21.1.2010 seeking inspection of some more documents. The appellant wanted to inspect the record of 116 cases seeking appointments. The CPIO vide letter dated 23.1.2010 informed the appellant that though there was no specific

reference to these files in the order of the Commission, they had taken up the matter with the concerned Division and it would take some time to collect that record and therefore he could inspect the aforesaid record on 29.1.2010. Since the appellant had also sought appointment letters and joining letters of all the candidates, he was informed that such letters were not available with CPIO, as they were maintained by the concerned zonal offices. It was also intimated to the appellant that the discrepancies with respect to date of receipt of the application had already been clarified to him vide letter dated 18.1.2010, during his visit to the office. The appellant was also requested to provide the list of the documents, certified copies of which were required by him. The appellant sent a letter dated 27.1.2010 to the CPIO seeking certified copies of certain applications mentioned in the letter along with the recommendations of the Zonal Managers and the appointment letters in those 63 cases. Vide letter dated 3.2.2010, the CPIO supplied certified copies of the various record to the appellant and again clarified that appointment letters and joining reports were not available with him. The appellant again wrote a letter dated 24.2.2010 seeking certified copies of the documents mentioned in the said letter. The said letter dated 24.2.2010 was replied by CPIO vide communication dated 4.3.2010 informing him that the entire record had been inspected by him and the documents/ records identified by him had already been provided to him vide letter dated 3.2.2010, in compliance of the order of the Commission dated 14.12.2009.

4. The appellant made a complaint to the Commission on 15.6.2010, alleging therein that the respondent had refused to abide by its order by not providing certain information sought by him and not supplying certified copies of certain documents to him. The appellant also submitted an application to the CPIO of the Commission, seeking information mentioned in the letter from the Commission. The Commission responded to the said application of the appellant vide letter dated 22.7.2010 and informed him that his complaints were placed on file and put before the Commissioner and since the bank has complied with the directions given in the orders passed by the Commission, it was decided to treat the matter as closed. The appellant made yet another application to the CPIO of the Commission on 30.7.2010 seeking certain information. That application was responded by CPIO of the Commission vide his letter dated 27.8.2010.

5. A perusal of the file annexed to CIC dated 28.6.2010 would show that the complaints received from the appellant along with reply if received from the bank and the compliance report submitted by the bank to the Commission were placed before the Information Commissioner who agreed that the appellant had been provided the requisite information, but he had been unnecessarily filing complaints/ applications under RTI Act not only against the bank, but also against the CPIO. The Commission treated its order dated 11.12.2009 as fully complied with and closed the case.

Being aggrieved from the order dated 26.8.2010, W.P(C) No.2529/2011 was filed by the appellant. The said writ petition having

been dismissed by the learned Single Judge vide the impugned order dated 12.10.2011, the appellant is before us by way of this appeal. The appellant had also sought following directions in the writ petition:

1. Under the circumstances stated hereinabove your petitioner most humbly and respectfully prays that the gracious Hon'ble Court may please to cancel/ set aside the order dated 28.6.2010 passed by the authorities of The Central Information Commission (enclosed as Annexure "O" with this writ petition).
2. That a writ in the nature of mandamus do issued commanding the CPIO of PNB to provide all the true and correct certified copies of all the documents/ files/ registers/ records/ correspondences/ file notings regarding the entire process of appointment under compassionate employment scheme of the bank for the period of 2002-2003 and 2003-2004. This would include the applications received from candidates, the processing of those applications, the final decision of the competent authority in each case, all the correspondences done by the bank authorities with the family of the applicant and all the communications done by the bank authorities with their different offices (i.e. Regional Office, Zonal Office, Head Office etc.) as directed by the Hon'ble Central Information Commission vide order dated 14.12.2009.
3. That a writ in the nature of mandamus do issued commanding the CPIO of PNB to provide all the true and correct certified copies of all the above stated documents to the petitioner free of cost (as enshrined in Section 7(6) of the RTI Act, 2005).

4. That the Hon'ble High Court is most humbly prayed to take strict penal actions and disciplinary against the CPIO Shri N. Jayaraman of PNB as enshrined under Section 20 of the RTI Act, 2005 as the CPIO of PNB earlier (vide letter no.MARD/RTI/305/2008 dated 2.4.2009) deliberately and with malafide intentions refused to provide information to the petitioner under the RTI Act, 2005 by giving false and lame excuses.
5. That the Hon'ble High Court is most humbly prayed to take strict penal actions and disciplinary against the CPIO Shri S.K. Mohla of PNB under Section 20 of the RTI Act 2005 who (vide letter no. MARD/RTI/APPEAL/38/2008 and 05 & 08/2009 dated 3.2.2010) deliberately and with malafide intentions refused to provide information to the petitioner under the RTI Act, 2005 by giving false and lame excuses even after the clear orders of the Hon'ble Central Information Commission dated 14.12.2009.
6. That due to such kind of illegal attitude of the CPIO of PNB, the petitioner could not get true and correct information in time as a result of which he could not get employment on compassionate grounds in PNB and still unemployed and unmarried even at the age of 35 years. Therefore, the Hon'ble Court is prayed to provide exemplary compensation and costs of this petition to the petitioner under section 19(8)(b) of the RTI Act, 2005 from the CPIO Shri N. Jayaram & CPIO Shri S. K. Mohla of PNB for deliberately denying information to the petitioner by giving false and lame excuses.

6. The only question which arises for our consideration in this case is as to whether the Central Information Commission was justified in holding, vide order dated 26.8.2010, that the requisite information has been supplied to the appellant and, therefore, the order passed by it on 11.12.2009 stands fully complied with.

7. Section 20 of the Right to Information Act, to the extent it is relevant for our purpose provides that where the Commission at the time of deciding any complaint is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, not furnished information within the time specified under sub- section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information which was the subject of the request or obstructed in any manner the furnishing of information, it shall impose a penalty of two hundred and fifty rupees each day till information is furnished but the total amount of such penalty cannot exceed twenty- five thousand rupees. The use of the expression “*is of the opinion*” clearly indicates that primarily it is for the Commission to form opinion on the basis of complaint made to it and the response/ comments given by the concerned CPIO/ State Public Information Officer in respect of such complaint as to whether the requisite information was supplied to the complainant or not. Once the Commission is of the opinion that the requisite information has been supplied, there would be no scope for interference by the Court in exercise of its writ jurisdiction unless it is shown that the opinion formed by the Commission was based on no

material or was based on material extraneous to the subject matter of the complaint.

8. From a perusal of the decision of the Commission dated 28.6.2010, we find that in compliance of the order passed by it on 11.12.2008, the CPIO of the bank had vide letter dated 15.1.2009 informed the Commission that he had provided the list of 116 deceased employees mentioned in the order dated 11.12.2008. The appellant acknowledged the receipt of the said information vide his letter dated 20.1.2009, but alleged that the information supplied to him was false and misleading inasmuch as the date of his application was wrongly mentioned. The bank filed an affidavit in this Court mentioning therein that the correct date was 16.6.2004 though in their reply to the direction of the Commission they had stated the same to be 21.7.2004. The Commission noted that the bank had vide its letter dated 11.1.2010 explained the aforesaid discrepancy. The explanation given by the bank in this regard has been extracted in the decision of the Commission and need not be reproduced by us. We also note, from the decision of the Commission, that the bank had stated in its rejoinder that the date of receipt of the application for Employment on Compassionate Basis was not material inasmuch as the application could be processed only after receipt of complete information. The Commission was of the view that the grievance of the petitioner was more to a case of appointment on compassionate ground rather seeking any information. It was also noted that for this purpose that the appellant had already filed a case in this Court where the date of receipt of his application had been correctly mentioned.

As regards the complaint made by the appellant against the CPIO, the Commission rejected the application of the appellant stating that he had been misguided by the CPIO, noticing that the CPIO Mr. Tarun Kumar had only certified the copies of the documents as received by him from the bank. The Commission also noticed that the information pursuant to another order passed by it had already been supplied to the appellant vide letter of the bank dated 8.2.2007. The Commission was of the view that though the appellant had been provided the requisite information, he was unnecessarily making complaints/ applications under RTI Act.

9. We have examined the decision of the Commission, we are of the view that the decision/ opinion of the Commission dated 28.8.2010 is based on cogent and relevant material and it cannot be said that the opinion formed by the Commission was based on no material or was based on the material which was extraneous to the subject matter of the complaint made by the appellant. We are satisfied that the requisite information with respect to compassionate appointments made on behalf of the bank during the relevant period has already been supplied to the appellant and, therefore, there was no genuine cause for him to make a complaint to the Commission alleging disobedience of its orders by the bank. We are satisfied that the real grievance of the appellant is with respect to denial of compassionate appointment to him, and that issue is subject matter of another appeal, i.e., LPA No.1076/2011.

10. The appellant has referred to the decisions in **Express Newspapers Pvt. Ltd. and others vs. Union of India and others** [AIR 1986 SC 872],

D.D. Suri vs.A.K. Barren and others [AIR 1971 SC 175], *Gyan Chand and others vs. State of Haryana and others* [AIR 1971 SC 333], *Radheshyam Dube vs. The District Inspector of Schools and others* [AIR 1987 SC 1628], *The State of Haryana and others vs. Rajendra Sareen* [TIR 1972 SC 1004]. In our opinion, none of the judgment relied upon by the appellant deals with the issue involved in this appeal and therefore these judgments are of no help to the appellant.

We find no merit in the appeal and the same is hereby dismissed.
There shall be no orders as to costs.

V.K.JAIN, J

CHIEF JUSTICE

APRIL16, 2013
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