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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **W.P.(C) 6148/2018**  
**R. S. TANWAR**

..... Petitioner

Through: Mr.Sanjay K.Shandilya, Adv.

versus

**JOINT SECRETARY AND ADDL. REGISTRAR CENTAL  
INFORMATION COMMISSION AND ANR.**

..... Respondent

Through:

**CORAM:**  
**HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**ORDER**

% **25.04.2019**

1. The present petition has been filed by the petitioner challenging the order dated April 13, 2018 passed by the Central Information Commission (for short 'CIC') whereby the CIC has imposed a penalty of ₹25,000/- upon the petitioner herein under Section 20 of the RTI Act for giving insufficient information to the respondent No.2.
2. The brief facts are, the respondent No.2 lodged a complaint on April 11, 2016 alleging that the employer has not deposited its share of provident fund amount and therefore action be taken to recover the amount along with penal interest and damages. On May 31, 2017, the respondent NO.2 filed an application under the RTI Act seeking information regarding the action

taken on his complaint dated April 11, 2016. It is the case of the petitioner that the application was marked to the Central Public Information Officer, Office of Additional Central Provident Fund Commissioner, New Delhi. It is his case that upon restructuring of Zonal / Regional offices consequent to implementation of organisational and Cadre Restructuring in EPFO, the Head Office issued distribution of work load amongst newly created Regional Officers in terms of the average contributing members on the basis of geographical proximity of establishments in the concerned office to the concerned Additional CPFC. This distribution came with effect from June 01, 2017.

3. It is his case that the application under the RTI filed by the respondent No.2 was transferred to Public Information Officer, Delhi South, Dwarka, New Delhi, since, Delhi South was the concerned office for providing the requisite information. The petitioner was the link officer in absence of the Public Information Officer, Delhi South. He accordingly, sent a reply on the application of the respondent No.2, wherein the petitioner has stated as under:-

*“With reference to your RTI application, it is to inform you that an Enforcement Officer has been deputed to verify the facts of your complaint. You will be further informed accordingly”.*

4. The respondent No.2 being aggrieved by the information provided, submitted first appeal in the office of Additional Provident Fund Commissioner, New Delhi alleging that the information sought by him has not been provided. He also alleged that the said information was not provided within 30 days. The First appeal was transferred to the concerned First Appellate Authority, regional office, Delhi South, Dwarka, New Delhi.

5. On September 07, 2017, the First Appellate Authority passed an order directing the concerned CPIO to provide detailed information in respect of action taken upon receipt of complaint of the respondent No.2. It was further directed that if any part of the information relates to another CPIO, the same be forwarded to the concerned officer. It was further directed that the order be implemented and complied within 10 days with information to the First Appellate Authority. The respondent No.2 filed a Second Appeal against the order of the First Appellate Authority on December 07, 2017. It is the case of the respondent No.2 that the information sought has not been given.

6. On January 31, 2018, the CIC on the Second Appeal filed by the petitioner has directed the CPIO to provide the status of settlement and about payment of ₹51,000/- of PF amount due. The matter was finally

decided by the CIC wherein it held that the petitioner has not complied with the direction of CIC dated January 31, 2018. The CIC also held that the respondent No.2 was neither intimated within which time his issue would be settled and the CPIO has only been able to produce the accounts of ₹27,000/- and therefore the inaction on the part of the CPIO was evident. The CIC also observed that the CPIO failed to explain the reason for delay in assessment of arrears apart from the exact status of recovery from the establishment. It held that the information provided to the respondent No.2, both in response to the RTI application on July 06, 2017 and March 05, 2018 were incomplete. Accordingly, it imposed the penalty, as noted above.

7. The learned counsel for the petitioner submits that the order of the CIC is illegal as it, before imposing the penalty has come to a conclusion that the CPIO has not furnished the information within the time specified. He also stated that the respondent No.2 has not alleged anywhere about any mala fide on the part of the petitioner for not providing the information sought by him. According to him, the CIC has failed to appreciate that the petitioner had no role even at the time of passing the order by the First Appellate Authority and in view of clarification given by him at the hearing and as such, the petitioner could not have been held responsible. He would

rely upon the judgment passed by this Court in the case of *Ankur Mutreja v. Delhi University 2012 (190) DLT 764*, wherein this Court has held that imposition of penalty does not follow every violation of the Act but only such violations, as are without reasonable cause, intentional and mala fide.

8. Having heard the learned counsel for the petitioner, I find that there is no infirmity in the order passed by the CIC, inasmuch as the respondent No.2 vide his letter dated May 31, 2017, sought the following two information:-

*“1. Whether my complaint addressed to Addl.CPF Commissioner sent by aforesaid speed ost EV 556867325 has been received or not? If it has been received then the details of action taken in respect of the same be informed date wise along with certified copies of the record, to me.*

*2. Please provide me date wise details of action taken since beginning till date, including imposition of penal interest and appropriate damages, along with the certified copies of the documents in respect of my aforesaid complaint addressed to Addl.CPF Commissioner, Delhi – 110052. In the complaint it was pointed out that there was wilful default in respect of contributions (contribution of both i.e. employer and member employee) in my Provident Fund A/c No.DS/NHP/0019848/000/0001709 due to which an arrear of Rs.51494.00 (Rupees fifty one thousand four hundred ninety four only) is standing, which is already detailed in my complaint.”*

9. In response to the said application, the reply given by the petitioner on July 06, 2017 which has already been reproduced above reveals that the

information as sought has not been given. In other words, the petitioner except stating that the Enforcement Officer has been deputed to verify the facts of the respondent No.2's complaint, no further information as sought, has been given. That apart, on January 31, 2018, as noted by the CIC, the CIC had directed the CPIO to inform the latest status of the respondent No.2's complaint. The order is reproduced as under:-

*“2. The appellant complained that his employer establishment had defaulted in paying the PF amount and not more than one tenth of the total PF amount was credited into his account. He had submitted all documents required for sanction of amount but the amount was not recovered from the establishment. The CPIO had assured that payment will be made soon after recovery is completed but there is no development in the status till date.*

*3. the Commission directs the respondent authority to provide complete information sought along with latest status of payment to the appellant, within 15 days of receipt of this order.*

*4. the appellant listed out following for imposing penalty:*  
*(i) for not responding to the RTI within 30 days*  
*(ii) for responding through letter without his name and signature*  
*(iii) when the First Appellate Authority returned appeal to CPIO for reconsideration, no action was taken*  
*(iv) Appellant suspects that the CPIO is preventing action against the complaint as it is against him and his office which is supposed to maintain the accounts, for which it is suspected that the CPIO has vested intention interest in not providing information sought.*

*5. The Commission directes Mr.R.S.Tanwar, CPIO to show cause why maximum penalty should not be imposed upon him for not responding to RTI application within 30 days and also give answer to allegations of the appellant listed in paragraph 4.*

*6. The response must reach this Commission, before 01.03.2018 and the matter is posted for compliance and penalty proceedings on 01.03.2018.”*

10. The response to the same was in terms of letter dated March 05, 2018

wherein the following has been stated:-

*1. The applicant's PF contribution can be viewed on member ledge (copy enclosed).*

*2. The enquiry under Section 7A of the EPF & MP Act 1952 is under process against the establishment of the defaulting period of April 2011 to March 2016 from the determination of PF and allied dues.*

*3. The establishment has reported to be closed and not depositing any contribution since March 2016 onwards.*

*4. As per order of Hon'ble Saket Court, premises of the establishment is sealed.*

*5. All records are kept within the sealed premises of the establishment. Due to sealing , the establishment is unable to produce the records before the 7A authorities.*

*6. It is also known that due to reallocation of pin codes of Delhi region, the establishment has not been transferred to R.O. (Delhi East), Jhilmil Indl. Area, New Delhi – 110095. Previously, it was being dealt at R.O. Dlehi (South), Dwarka, New Delhi-110075.”*

11. So, it is seen that on both the occasion i.e July 06, 2017 and March 05, 2018, the petitioner has not furnished the information as sought by the petitioner and also directed by the CIC. If that be the finding of fact, I am afraid that this Court cannot re-appreciate the conclusion arrived at by the CIC. The relevant reasoning given in para 5 of the impugned order, reads as under:-

*“5. It is clear that Mr. R.s. Tanwar has not complied with this Commission’s order dated 31.01.2018. The CPIO was directed to provide the status of settlement and about payment of Rs.51,000/- of PF amount due to him. Neither he was intimated the status nor told about the time within which his issue would be settled. The CPIO has only been able to produce the account of Rs.27,000/- whereas the claim of the appellant stand at Rs.51,000/-. The inaction of the CPIO is evident. The CPIO has also failed to explain the reasons for delay in assessment of arrears apart the exact status of recovery from the establishment. The information provided to the appellant both in response to RTI application on 06.07.2017 and after CIC’s directions dated 05.03.2018, is found incomplete.”*

12. So, from the above, it is clear that the information to the original RTI application as given on July 06, 2017 was incomplete. Similarly, the information as given vide letter dated March 05, 2018 was also incomplete and there is no sufficient cause shown by the petitioner for not giving the said information. It is admitted case that the petitioner was Link Officer of CPIO when letter dated July 06, 2017 was written. So, the imposition of

penalty is justified.

13. The reliance placed by the learned counsel for the petitioner on the judgment of this *Ankur Mutreja v. Delhi University (supra)* is misplaced inasmuch as the judgment itself says, if the information is denied without a reasonable cause then the denial of the information may result in imposition of penalty. This precisely has happened in the case in hand. The writ petition is dismissed. No costs.

**V. KAMESWAR RAO, J**

**APRIL 25, 2019/ak**