



2024:DHC:6832-DB



\$~25

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

+ LPA 884/2024 & C.M. APPL. Nos. 51201-03/2024

GL SHARMA

.....Appellant

Through: Ms. Padma Priya and Mr.
Armaan Arora, Advocates.

versus

CENTRAL PUBLIC INFORMATION OFFICER

(CPIO)

.....Respondent

Through: Mr. Puneet Taneja, Mr.
Manmohan Singh Narula, Mr.
Amit Yadav and Mr. Anil
Kumar, Advocates.

%

Date of Decision: 4th September, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

1. Present appeal has been filed under Clause X of the Letters Patent Act, 1866 assailing the judgement dated 27th May, 2024 passed by the learned Single Judge of this Court in W.P.(C) No.7380/2020 titled "*GL Sharma vs. CPIO, National Thermal Power Corporation Ltd, New Delhi*" whereby the writ petition filed by the appellant was dismissed, *inter alia*, upholding the order of the Central Information Commissioner on the ground that the information sought by the appellant is vague and is primarily clarificatory in nature and it involves revealing of personal information of other employees.

2. The facts as enumerated in the present appeal are that the appellant



is a retired employee of the respondent organization who filed a number of applications seeking the benefit of the Voluntary Retirement Scheme (for short 'VRS') floated by the respondent organization between the years 2003 and 2004. It is stated that the benefit of the Scheme was not granted to the appellant and the appellant had to resign from the office due to his deteriorating health on 28th July, 2006.

3. The appellant challenged the refusal of VRS in the High Court of Himachal Pradesh by filing a writ petition bearing W.P.(C) No.74/2006. The said writ petition was dismissed *vide* judgement dated 25th June, 2012 premised on the stand of the respondent organization that no employee was granted VRS between 2004-2005 and that the appellant did not qualify the stipulated period of one and a half (1.5) years as per the policy. The said order passed by the learned Single Judge was challenged before the Division Bench of the High Court of Himachal Pradesh in an appeal bearing LPA No.400/2012 which was also dismissed. The matter was taken up to the Apex Court. The Apex Court remanded the matter back to the CMD of the respondent organization (NTPC) to re-consider the matter of relaxation afresh after giving an opportunity of being heard to the appellant within a period of two months.

4. Accordingly, the appellant submitted a detailed representation to the CMD, NTPC. However, the said representation was rejected on 4th July, 2017. It appears that the appellant challenged the said rejection by preferring a writ petition bearing W.P.(C) No.2512/2018 before this Court. During the pendency of the said writ, the appellant approached the Central Public Information Officer (for short 'CPIO') of the respondent organization by filing an RTI application seeking complete set of note-sheets approving requests of the executives of the respondent organization



who were granted voluntary retirement under VRS. The said information was denied and the matter was assailed up to the Central Information Commissioner (for short 'Information Commissioner'). The Information Commissioner rejected the Second Appeal *vide* the order dated 8th June, 2020 by holding that the queries raised by the appellant regarding the reasons and documentations of the VRS applications are clarificatory in nature and also held that the information sought was very wide and general in nature. Aggrieved by the said rejection, the appellant filed the underlying writ petition.

5. Ms. Padma Priya, learned counsel appearing for the appellant states that the learned Single Judge had committed an error while considering the case of the appellant. She states that the learned Single Judge had dismissed the writ petition on the premise of the RTI query submitted by the appellant as noted in para 7 of the impugned judgment, whereas in para 2 of the impugned judgment, learned Single Judge quoted the RTI query submitted by the appellant at a subsequent stage of the proceedings in the year 2018. She states that so far as dismissal of Second Appeal challenging rejection of RTI application dated 28th May, 2018 is concerned, the appellant has not challenged the same. She states that by inter-mixing the two queries, the learned Single Judge has erroneously dismissed the underlying writ petition. She states that what the appellant sought was only inspection of the complete set of note sheets approving requests of the respondent organization Executives for grant of voluntary retirement under the VRS Scheme as per the particular VRS Circular Number and Date. She states that learned Single Judge without considering the prayer of the appellant dismissed the writ petition on the ground that the appellant was seeking personal information of the



employees of the respondent, which was barred under section 8(1)(j) of the Right To Information Act, 2005 (for short 'Act').

6. She further submits that the reliance on section 8(1)(j) of the Act by the learned Single Judge was not even the ground of rejection by the Information Authorities below. In fact, she states that the rejection by the Information Commissioner *vide* the order dated 8th June, 2020 was on the ground that the information sought was vague and clarificatory in nature. She states that the Information Commissioner further held that the information sought was very wide and general in nature and required compilation of extensive records, which could not be possibly directed of the CPIO. Learned counsel for the appellant states that learned Single Judge has, without even appreciating the frivolousness of the reasons of rejection by the Information Commissioner, entered into the realm of rejecting the prayers of the appellant on an entirely different basis.

7. Learned counsel for the appellant submits that the information sought by the appellant was only relatable to the other Executives/Employees of the respondent organization, who were granted VRS, while the appellant was denied the said benefit. She states that this information was neither personal nor vague and could have easily been provided by the respondent organization. She states that while the appellant was denied VRS, another employee was admittedly granted VRS in a similar situation as that of the appellant. In these circumstances, she states that the appellant had sought the information which was neither vague nor clarificatory. She states that the learned Single Judge was unable to appreciate this argument.

8. Learned counsel for the appellant also submits that according to the provisions of the Act, information sought by an applicant ought to be



furnished and the denial could only be on the basis of exceptions carved out in section 8(1)(j) of the Act. Since the original rejection by the Information Authorities including the Information Commissioner of the RTI query submitted by the appellant was not on the basis of bar under section 8(1)(j) of the Act, the impugned judgment predicated on the said basis, would be wholly illegal and unwarranted. She prays that the impugned judgment be set aside and the Authorities be directed to furnish the information sought.

9. *Per contra*, Mr. Puneet Taneja, learned counsel who appears for the respondent organization reiterates the grounds of dismissal as observed by the learned Single Judge in the impugned judgment. Additionally, he states that the service matter regarding non-grant of VRS to the appellant by the respondent organization was a subject matter of a writ petition bearing W.P.(C) No.2512/2018 which was dismissed on 23rd January, 2024. He states that from a reading of the information sought, it is apparent that the same is intruding into the personal information of the employees of the respondent organization who were granted VRS. He states that the same is impermissible in law and prays that the present appeal be dismissed with costs.

10. We have heard Ms. Padma Priya, learned counsel for the appellant as also Mr. Puneet Taneja, learned counsel for the respondent organization and have perused the records of the case.

11. We have perused the information sought by the appellant *vide* the RTI query dated 16th May, 2018, as also the order dated 8th June, 2020 of the Information Commissioner passed in the second appeal. We note that the Information Commissioner has dismissed the second appeal on the basis that the CPIO could not be asked to compile the data as sought since



the information sought was spread over non specific voluminous VRS records contained in numerous files. The Information Commissioner has also observed that the CPIO is expected to provide information which is available with him and he is not required to collect and compile the information on the demand of an applicant. While dismissing the second appeal, the Information Commissioner relied upon the judgment of this Court in ***The Registrar, Supreme Court of India vs. Commodore Lokesh K. Batra and Others, 2014 SCC OnLine Del 6832***. The Information Commissioner also observed that the CPIO cannot be expected to compile the information which requires disproportionate diversion of the resources of the public authority by relying upon the judgment of the Supreme Court in ***Central Board of Secondary Education and Anr. vs. Aditya Bandopadhyay and Others, (2011) 8 SCC 497***.

12. We have also perused the impugned judgment and note that apart from considering the reasons for rejection of the second appeal by the Information Commissioner, the learned Single Judge by applying the judicial and analytical mind has concluded, on the basis of the facts of the case, that the appellant was seeking information which was barred under section 8(1)(j) of the Act. The argument that the learned Single Judge could not have examined the dispute on a different and alien ground to the one relied upon by the Information Commissioner to reject the second appeal, does not commend itself to us. In a given case, that too under Article 226 of the Constitution of India, the Constitutional Court has wide and overarching jurisdiction and powers to examine a particular issue on the touchstone of whether the dispute infracts any provision of law. The powers of the Constitutional Court, therefore in our considered opinion, can neither be curtailed nor circumscribed in such narrow compass.



Looked at from that point of view, learned Single Judge had all the right, authority and jurisdiction under the Constitution to appreciate all contours of law surrounding the subject matter. (See – ***Govind & Ors. vs. State (Govt. of NCT of Delhi) & Ors, 2003 SCC OnLine Del 348***)

13. In order to appreciate the nature of information sought by the appellant, it would be appropriate to reproduce the same hereunder:

*“Central Public Information Officer
NTPC Ltd
Core 6, 6th Floor, Scope Complex,
7 – Institutional Area, Lodhi Road,
NEW DELHI-110 003*

Sub: Application for Inspection of records under RTI Act 2005

Dear Sir,

You are requested to provide me the following records for my inspection:

“Complete set of Notesheets approving requests of NTPC Executives for grant of Voluntary Retirement under Voluntary Retirement Schemes of NTPC as stated below:

Reference of VRS Circular no. & date:-

- 1) 451/2000 dt 21.11.2000*
- 2) IOM dt 14.06.2001*
- 3) 492/2002 dt 18.06.2002*
- 4) 508/2003 dt 21.05.2003*
- 5) 540/2004 dt 01.12.2004*
- 6) 553/2005 dt 01/04/2005”*

Kindly intimate me time, date and place for inspection of specified records in original.

No fee is being paid since time required for inspection is less than one hour vide RTI Rules.”

14. It is apparent that the appellant is seeking the note sheet of those employees/executives of the respondent organization who were granted VRS from the year 2000 through till the year 2005. It is also apparent that the appellant has a grouse against the respondent on that account as the



appellant was denied VRS while other employees were granted the said benefit. Undeniably, while the writ petition bearing W.P.(C) No.2512/2018 challenging the rejection of the representation of the appellant by the CMD, NTPC was pending, the appellant had *vide* RTI Application dated 16th May, 2018 sought the aforesaid information. It has also not been disputed by the appellant that while the underlying writ petition was pending, the writ petition bearing W.P.(C) No.2512/2018 filed by the appellant in regard to the non-grant of VRS was dismissed by a learned Single Judge of this Court on 23rd January, 2024. On a query, learned counsel for the appellant fairly admitted that the appellant had received the details of the information in respect of another employee who was similarly situated as the appellant, which was put to use in the said writ petition. It is worth noting that despite such information having been placed before another learned Single Judge, yet the writ petition of the appellant was dismissed. It is clear from the above that the appellant wanted to have the information in respect of all employees for the purpose of utilizing the same in his writ petition. Apparently, this is a fit case where we could conclude that the information sought was in the nature of a “*roving and fishing enquiry*”. This kind of information, but obviously, cannot be divulged. Neither the Information Authorities nor the Constitutional Courts could be invoked for the purpose of collecting data as if an application for discovery and interrogatory is being filed. In fact, such practices should be and are deprecated.

15. The query of the appellant also clearly indicates that the appellant is seeking information of numerous employees which are personal in nature and are irrelevant to the cause of the appellant. Apparently, the former employees of the respondent organization may have had varied and



different reasons for seeking VRS. Equally, the respondent may have had applied its discretion according to the facts of each case, holding some as deserving and some as not. Either way, the nature of information appears to be personal to such employees. It is clear that no information falling within the exceptions carved out in section 8(1)(j) of the Act can be divulged to third parties. It is not even the case of the appellant that there is any public interest, much less larger public interest involved in the information sought. Thus, there is no merit in the said contention. (See- ***Canara Bank vs. CS Shyam & Anr.***, (2018) 11 SCC 426 and ***Kamal Bhasin vs. Central Public Information Office***, LPA 764/2024). The relevant paragraph of the judgment in the case of ***Kamal Bhasin*** (*supra*) is extracted hereunder:

*“15. Apart from the above, even before us the appellant was unable to demonstrate any larger public interest in such disclosure of information. Rather, it appears that the said information would have caused unwarranted invasion of privacy of the individuals. So far as the issue of larger public interest is concerned, this Court had, in a recent judgment dated 18th July, 2024 in ***Ravi Prakash Soni vs. Central Information Commission and Ors.***, LPA 523/2024 in para 22, held as under:-*

“22. We have also considered the issue of refusal of information on the grounds of lack of larger public interest. It appears from the orders of the information authorities as also the impugned judgement of the learned Single Judge that this issue has not commended itself to either the authorities or to the learned Single Judge. The reason is not far to see. Apparently, the appellant appears to be seeking some information relating to the bank locker held by the late father, pending disputes between the legal heirs and there cannot possibly be any public interest in that, much less any larger public interest. The words “larger public interest” would, in our view, have an impact on a broad section of the society and not individual interests or conflicts. It cannot be defined in a straight jacket formula and has to be interpreted on a case to case basis. Suffice it to say that the appellant has not been able to demonstrate, in the facts of the case, as to what that “larger public interest” would be. On this aspect too, we concur with the reasoning of the learned Single Judge.”.”



The relevant paragraph of **CS Shyam** (supra) is extracted hereunder:

“13. In Girish Ramchandra Deshpande case [Girish Ramchandra Deshpande v. CIC, (2013) 1 SCC 212 : (2013) 1 SCC (L&S) 150] , the petitioner therein (Girish) had sought some personal information of one employee working in Sub-Regional Office (Provident Fund), Akola. All the authorities, exercising their respective powers under the Act, declined the prayer for furnishing the information sought by the petitioner. The High Court in the writ petition filed by the petitioner upheld [Girish v. CIC, WP No. 4221 of 2009, order dated 16-2-2010 (Bom)] the orders. Aggrieved by all the order, he filed special leave to appeal in this Court. Their Lordships dismissed the appeal and upholding the orders [Girish v. CIC, WP No. 4221 of 2009, order dated 16-2-2010 (Bom)] [Girish v. CIC, 2011 SCC OnLine Bom 1782] passed by the High Court held as under: (Girish Ramchandra case [Girish Ramchandra Deshpande v. CIC, (2013) 1 SCC 212 : (2013) 1 SCC (L&S) 150] , SCC p. 217, paras 12-13)

“12. We are in agreement with the CIC [G.R. Deshpande v. Provident Fund Commr., 2009 SCC OnLine CIC 7549] and the courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show-cause notices and orders of censure/punishment, etc. are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act. The performance of an employee/officer in an organisation is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression “personal information”, the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.

13. The details disclosed by a person in his income tax returns are “personal information” which stand exempted from disclosure under clause (j) of Section 8(1) of the RTI Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information.”.

16. So far as the contention regarding the alleged error committed by



the learned Single Judge in intermixing the query noted in para 7 and para 2 of the impugned judgment is concerned, we are of the firm opinion that there is no such error. This is for the reason that the learned Single Judge has only brought out the nature of the two queries and yet, has clearly discussed the nature of information sought and has categorically concluded that the same are barred under the exceptions in section 8(1)(j) of the Act. It is apposite to extract section 8(1)(j) of the RTI Act hereunder:

“8. Exemption from disclosure of information.—(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—

a. xxx

b. xxx

c. xxx

d. xxx

e. xxx

f. xxx

g. xxx

h. xxx

i. xxx

j. information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the Appellate Authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information.”

Since we too, after examining the queries, have concluded that the information cannot be divulged under the said legal bar, we do not find



2024:DHC:6832-DB



any reason, much less cogent reasons to interdict the reasoning given by the learned Single Judge on the above count. The said argument is therefore meritless and is rejected.

17. In that view of the matter, we find no reason to interfere with the impugned judgment and resultantly, the appeal, along with pending applications, if any, is dismissed, however, without any order as to costs.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

SEPTEMBER 04, 2024/kct