



2024:DHC:774



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

Date of decision: 30th JANUARY, 2024

IN THE MATTER OF:

+ **W.P.(C) 12189/2018 & CM APPL. 47291/2018**

GOVT OF NCT OF DELHI & ANR.

..... Petitioners

Through: Mrs. Avnish Ahlawat, SC for
GNCTD with Mrs. Tania Ahlawat,
Mr. Nitesh Kumar Singh, Ms.
Laavanya Kaushik, Ms. Aliza Alam
and Mr. Mohnish Sehrawat,
Advocates.

versus

SIDDHARTH HANDA

..... Respondent

Through: Mr. Anuj Aggarwal and Ms. Shreya
Kukreti, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. Vide the present Writ Petition the GNCTD seeks to challenge the Orders dated 31.08.2017 and 07.12.2017, passed by the Central Information Commission in F.No.CIC/DSSSB/A/2017/154364 & F.No.CIC/SA/A/2016/901806 holding that there was a delay on the part of the Public Information Officer (*hereinafter referred to as "the PIO"*) of the Delhi Subordinate Services Selection Board (*hereinafter referred to as 'the DSSSB'*) in responding to the RTI application filed by the Respondent and has directed the Petitioner to pay compensation of Rs.3,00,000/- to the Respondent herein for the loss suffered by him due to arbitrary and unjustified delay in providing the information as sought for.
2. The facts, in brief, leading to the present Writ Petition are that in



2012, the DSSSB invited applications for selection to the post of Junior Engineer (Electrical and Mechanical) under Post Code 14/12 vide Advertisement No.02/12 (*hereinafter referred to as 'the Post in question'*). In the said advertisement, 39 vacancies were advertised and the last date for filing the application forms was 15.06.2012. It is pertinent to note that though the advertisement provided for manual application forms but by the end of 2012, the candidates were also permitted to apply through online mode as well.

3. It is stated that Court cases were filed by other Departmental candidates of Delhi Jal Board for consideration of their candidature for the advertised post which delayed the process.

4. It is stated that the examination was conducted and 251 candidates (comprising of 234 new candidates and 17 departmental candidates) were shortlisted for interview. Interviews were conducted on various dates. It is stated that the Interview of the Respondent herein was conducted on 25.03.2015.

5. It is stated that the name of the Respondent was mentioned as Siddharth Manda in place of Siddharth Handa. It is stated that the marks of the interview were declared by the Board on 08.04.2015. When the result was declared, the name of the Respondent herein was again mentioned as Siddharth Manda in place of Siddharth Handa. It is stated that the Respondent was selected to the post under the Scheduled Caste category.

6. It is stated that after declaration of results, the dossiers of the selected candidates were forwarded to the Project & Planning (P&P) Branch for onward transmission to the user department vide letter dated 15.09.2015. The Respondent filed a representation dated 01.09.2015 stating that there



was a spelling error in his name.

7. The Respondent also filed an application under the Right to Information Act on 07.09.2015 seeking the status of his representation. On 14.09.2015, the Public Information Officer (PIO) of the Board forwarded the representation of the Respondent to the Deputy Secretary Scrutiny and IT Branch for providing the requisite information.

8. Material on record discloses that, in the interregnum, five dossiers including the dossier of the Respondent were returned because of the discrepancy in the name. The Dossiers were returned to the interview cell for removal of the discrepancies. Vide letter dated 01.01.2016, the interview branch while examining the proposal for correction of name of the candidates had requested the Scrutiny branch for their comments on the discrepancies. It is stated that the Scrutiny Branch vide their note dated 29.02.2016 reported that the offline applications of the post code 14/12 are not available with them. It was, therefore, suggested that either the interview cell or the CC-II Branch may issue a corrigendum regarding correction of the name of the candidates.

9. It is stated that the matter was also examined by the IT branch on 07.03.2016, wherein they were informed of the decision undertaken in the Board Meeting held on 16.07.2015. The Board held that the names of the candidates and other details will only be changed in the OARS for the post codes, for which examinations have yet not been conducted. The Board also held that for all the remaining codes, the corrections were to be done by the result processing Branch. It is stated that the proposal for the correction of particulars of the Respondent herein was submitted by the IT Branch in March, 2016 and the same was approved on 15.07.2016 and a corrigendum



was issued on 26.07.2016.

10. It is stated that the Respondent herein filed an appeal before the First Appellate Authority regarding his RTI application since no answer was forthcoming from the PIO of the Petitioner. Since the First Appellate Authority was also not answering to the query of the Respondent, the Respondent approached the Central Information Commission. The CIC held that there was no justification on the part of the CPIO in not providing the information. The CIC, thereafter, issued a show cause notice to the CPIO to show cause as to why a penalty should not be imposed on the CPIO for the delay on his part in providing the information. By the order impugned herein, the CIC held that on account of inaction and inefficiency on the part of the Petitioner herein, the Respondent had to suffer financial loss of approximately Rs.40,000/- per month for a period of at least eight to nine months. The CIC also held that the Respondent had also suffered the loss of seniority over the same period. The CIC, therefore, directed the Petitioner herein to compensate the Respondent to the tune of Rs.3,00,000/- on account of loss and detriment suffered by the Respondent due to arbitrary and unjustified delay on the part of the Petitioner herein. It is this Order which has been challenged by the Petitioner in the present Writ Petition.

11. It is contended by the learned Counsel for the Petitioner that penalty of Rs.3,00,000/- could not have been imposed on the Petitioner as compensation because the CPIO was not responsible for the delay in appointment of the Respondent. He states that the delay in appointment of the Respondent was primarily due to the time taken in the correction of the name of the Respondent which was done by the examination branch. He further states that the delay in providing information cannot be a measure of



calculating the loss suffered by an applicant while computing compensation under the RTI Act.

12. Per contra, learned Counsel for the Respondent supports the judgment of the CIC.

13. Heard the Counsels for the parties and perused the material on record.

14. Section 19(8)(b) of the RTI Act gives the power to the CIC to compensate a complainant for the loss and detriment suffered by him due to the delay in getting access to the information. Section 20 of the RTI Act deals with penalty in case the Public Information Officer fails to provide the information in a prescribed time limit. Section 19(8)(b) (c) & (d) and Section 20 of the RTI Act reads as under:

" Section 19. Appeal.

....

(8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to--

.....

(b) require the public authority to compensate the complainant for any loss or other detriment suffered;
(c) impose any of the penalties provided under this Act;
(d) reject the application.

.....

Section 20. Penalties.

(1)Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal 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, refused to receive an application for information or has 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 or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal 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 and persistently, failed to receive an application for information or has 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 or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action



against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him. "

15. A reading of Section 19 of the RTI Act shows that the CIC has the power to compensate in case of undue delay in supplying the information. Section 20 of the RTI Act deals with imposition of penalty on the Central Public Information Officer or the State Public Information Officer, as the case may be, if it is found that they have, without any reasonable cause, refused to receive an application for information or has 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 or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished. The reason for awarding compensation is the monetary loss suffered by the Respondent in his delayed appointment. This Court is of the opinion that the delay in providing information regarding the representation of the Petitioner is not the reason for delay in his appointment. The delay in appointment was primarily due to the time taken by the Board in correcting the name of the Respondent. The CPIO is not concerned with rectification of records. The delay in appointment of the Respondent has taken place because of the rectification of records and the delay in his appointment is not because of the delay in providing the information on the part of the CPIO. The reasoning of the CIC for coming to a conclusion that the delay in furnishing information as sought for by the Respondent in his representation, has resulted in



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monetary loss to the Respondent, therefore cannot be sustained.

16. Undoubtedly, there is a delay in supplying the information to the Respondent/ complainant and the reason given by the Petitioner for delay in supplying the information are not tenable for which the CIC ought to have imposed penalty under Section 20 of the RTI Act. In the facts and circumstances of this case, this Court is inclined to impose penalty of Rs.20,000/- on the Public Information Officer for delay in furnishing the information as sought for by the Respondent herein.

17. Accordingly, the Writ Petition is disposed of and the Orders dated 31.08.2017 and 07.12.2017 are set aside. Pending applications, if any, also stand disposed of.

SUBRAMONIUM PRASAD, J

JANUARY 30, 2024

Rahul