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W.P.(MD)NO.18520 OF 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.No.18520 of 2012 AND
M.P.No.1 of 2012

Senior Superintendent of Police Offices,
Madurai Division,
Madurai – 625 002.

... Petitioner

Vs.

1. The Central Information Commissioner,
Central Information Commission,
Room No.308, 'B' Wing,
August Kranti Bhawan,
Bhigaji Carna Place,
New Delhi -66.

2. U.Karthick
3.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records in No.CIC/LS/A/2012/000910 dated 10.04.2012 on the file of the first respondent and quash the same.

For Petitioner : Mr.K.Govindarajan,
Deputy Solicitor General of India.

For R-2 : No appearance.

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ORDER

Heard the learned Deputy Solicitor General of India appearing for the writ petitioner.

2.The second respondent has been served and his name is also printed in the cause list. However, he has not chosen to enter appearance.

3.The second respondent aspired to join the indian army. He had submitted his application to the Staff Selection Commission in response to a recruitment notification. The application was sent through post on 17.08.2010. Instead of delivering the postal article, to the Staff Selection Commission, Chennai, it was erroneously delivered to the TNPSC. After the mistake was noticed, the article was delivered to the Staff Selection Commission, Chennai after the last date for receipt of application. As a result, the second respondent lost his opportunity of obtaining public employment.



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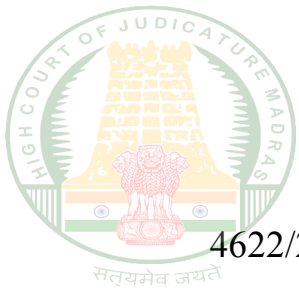
4.The second respondent submitted an application to the Postmaster, Gandhinagar Post Office, Madurai under the Right to Information Act wanting to know the actual date of delivery in the office of the Staff Selection Commission, Chennai. This information could not be furnished. Before the appellate authority also, the second respondent was not successful in obtaining the information. Hence, second appeal was filed before the Central Information Commissioner, New Delhi. The Commission castigated the Postal Department and awarded compensation of Rs.5,000/-. Challenging the same, this writ petition has been filed.

5.Section 19(8)(b) of the Right to Information Act, 2005 empowers the Commission to require the public authority to compensate the complainant for any loss or other detriment suffered. The Hon'ble Division Bench of the Bombay High Court in the decision reported in **2022 SCC OnLine Bom 9248 (Santana Nazareth vs State of Goa)** held that compensation could not be directed in the absence of any prayer for compensation. I am of the view that the applicant must specifically pray for award of



compensation. There is a sound reason for incorporating such a stipulation. There must be a factual basis and a formal prayer. Only then, this aspect can be investigated and an appropriate order passed. When there is no prayer at all, the question of granting relief does not arise. In the case on hand, admittedly, the second respondent did not putforth any prayer for awarding compensation. Merely because the petitioner was found to have suffered hardship cannot entitle him to payment of compensation unless a case of loss or sufferance of detriment was specifically set up in the appeal/complaint that was before the Commissioner at his instance. On this score alone, the order impugned in this writ petition is liable to be set aside.

6. Section 19(8)(b) of the Act was considered by the High Courts of Bombay and Delhi. In ***Santana Nazareth***, The Hon'ble Division Bench of the Bombay High Court held that compensation as in Section 19(8)(b) is intended to be provided to the information seeker by the public authority on proof of loss or sufferance of detriment by the former because of negligence, carelessness or recalcitrance of the latter. The Hon'ble Delhi High Court in W.P.(C)



4622/2019 vide order dated 24.07.2024 (vide **PIO, RP Cell, South Delhi**

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Municipal Corporation vs Central Information Commissioner) held

that award of compensation under Section 19(8) of the RTI Act hinges on a clear demonstration that the information officer possessed, yet unfairly withheld the requisite information.

7.In the case on hand, the original authority as well as the appellate authority have stated that the information sought for by the applicant was not available. The Commission did not reject the said stand. Nowhere is there any finding that the information was deliberately withheld by the public authority. I concur with the view taken by the High Courts of Bombay and Delhi that compensation under the aforesaid provision can be awarded only if the information was unfairly withheld. On this ground also, the order impugned in this writ petition has to be set aside.

8.The case on hand can be approached from yet another perspective. The RTI Act, 2005 set out the practical regime of right to information for citizens and to promote transparency and accountability in the working of every public authority. One can



safely conclude that the power to award compensation can only be to compensate the complainant for any loss or other detriment suffered by him on account of the non-furnishing of information. In the impugned order, the Commission has granted compensation for loss of job opportunity. The complainant no doubt had suffered detriment on account of delayed delivery of the postal article. For this, the complainant can claim damages by moving the Consumer fora or the Civil Court. The Information Commission can grant compensation only in respect of loss or detriment suffered by the individual on account of the failure on the part of the Information Officer or the appellate authority under the RTI Act. The purpose for which compensation is awarded must bear a direct nexus with the scope of the Act. The default or lapse on the part of the authority under the RTI Act alone can furnish the cause of action for awarding compensation. If the cause of action on the other hand is relatable to any other aspect, the remedy lies elsewhere. Section 19(8)(b) of the Act would be inapplicable to cover such situations.



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9.The order impugned in the writ petition is set aside. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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