

ENTRAL INFORMATION COMMISSION
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Decision No. CIC/SM/A/2011/000368/SG/13751
Appeal No. CIC/SM/A/2011/000368/SG

Relevant Facts emerging from the Appeal:

Appellant: : Mr. Mithilesh Kumar Gupta
C/o Lovely Choice Centre,
Sandila Road, Bangarmau, Unnao,
Uttar Pradesh-241 501

Respondent: : CPIO
DOPT, Government of India,
Staff Selection Commission
Public Grievances & Pensions, Block No.12
Kendriya Karyalay Parisar, Lodhi Road,
New Delhi 110504

RTI application: 28/04/2010
PIO reply: 12/05/2010
First appeal 03/06/2010
FAA order 10/06/2010
Second appeal 31/08/2010

Information sought:

In reference to the above I would like to say that I have been qualified in CGL 2008 as an Inspector of Central Excise with rank SLD/320. In Paper IV of CGL (Main) Examination I have only 23 marks out of 100 which I don't believe. I have attached the printout of my marks available on website of SSC. Therefore I kindly request you to please provide for me the Photo Copies of my Paper IVth answer sheets, or if not possible, I may be given a chance to see my answer sheets so that I may be sure about my marks.

PIO's reply:

I am directed to refer to your letter/application on the subject mentioned above and to say that all the papers are checked/verified twice before the declaration of the result. There is no discrepancy in your marks as appearing in the Website.

2. As per policy decision of the Commission there is no provision of providing/showing the copy of the evaluated answer booklet to the candidates/applicants.

Grounds for First appeal:

Information should be provided.

FAA order:

Your appeal dated 03 .06.2010 has been considered. However, it is seen that a reply to your initial application has already been sent to you by Shri Satya Prakash, CPIO, SSC vide letter No.15/1/2009-C-III (Vol.111) dated 12.05.2010 (copy enclosed). Hence, your appeal stands disposed off.,,

Grounds for Second appeal:

Unsatisfactory response

Relevant Facts emerging during Hearing:

Both the parties were given an opportunity for hearing. However, neither party appeared. From a perusal of the papers it appears that the Appellant had sought photocopy of his answersheet of Paper-IV. The PIO has informed the Appellant that the papers are checked and verified twice and that there is no discrepancy in marks. The PIO has also stated that as per the policy of the Staff Selection Commission there is no provision of providing/showing the copy of the evaluated answer booklets to the candidates/applicants.

The PIO has claimed no exemption under any of the clauses of Section 8(1) of the RTI Act and has denied the information based on the Staff Selection Commission's policy. When a citizen applies under the RTI Act information has to be provided to him unless it is exempted under one of the provisions of Section 8(1) of the RTI Act. The PIO has erred in refusing to provide the information without any justification being offered as per the RTI Act. As per Section 19(5) of the RTI Act the onus to prove that a denial of a request was justified is on the PIO. Since no justification has been offered it appears to be a denial of information without any reasonable cause.

Besides the Central Information Commission in a full bench in Complaint No. CIC/WB/C2006/00223; Appeal Nos. CIC/WB/A/2006/00469; & 00394 on 23 April 2007 has decided:

“40. Insofar as examinations conducted by other public authorities, the main function of which is not of conducting examinations, but only for filling up of posts either by promotion or by recruitment, be it limited or public, the rationale of the judgments of the Supreme Court may not be applicable in their totality, as in arriving at their conclusions, the above judgments took into consideration various facts like the large number of candidates, the method and criteria of selection of examiners, existence of a fool-proof system with proper checks and balances etc. Therefore, in respect of these examinations, the disclosure of the answer sheets shall be the general rule but each case may have to be examined individually to see as to whether disclosure of evaluated answer sheets would render the system unworkable in practice. If that be so, the disclosure of the evaluated answer sheets could be denied but not otherwise. However, while doing so the concerned authority should ensure that the name and identity of the examiner, supervisor or any other person associated with the process of examination is in no way disclosed so as to endanger the life or physical safety of such person. If it is not possible to do so in such cases, the authority concerned may decline the disclosure of the evaluated answer sheets u/s 8 (1) (g).”

Thus the denial of information of a photocopy of the answer sheet of the Appellant by the PIO is without any justification.

Decision:

The Appeal is allowed.

The PIO is directed to provide an attested photocopy of the answersheet of the Appellant to him before 25 August 2011.

The issue before the Commission is of not supplying the complete, required information by the PIO within 30 days as required by the law.

From the facts before the Commission it appears that the PIO is guilty of not furnishing information within the time specified under sub-section (1) of Section 7 by not replying within 30 days, as per the requirement of the RTI Act.

It appears that the PIO's actions attract the penal provisions of Section 20 (1). A showcause notice is being issued to him, and he is directed give his reasons to the Commission to show cause why penalty should not be levied on him.

He will present himself before the Commission at the above address on **23 August 2011 at 4.30pm** alongwith his written submissions showing cause why penalty should not be imposed on him as mandated under Section 20 (1). ***He will also submit proof of having given the information to the appellant.***

If there are other persons responsible for the delay in providing the information to the Appellant the PIO is directed to inform such persons of the show cause hearing and direct them to appear before the Commission with him.

This decision is announced in open chamber.

Notice of this decision be given free of cost to the parties.

Any information in compliance with this Order will be provided free of cost as per Section 7(6) of RTI Act.

Shailesh Gandhi
Information Commissioner
29 July 2011

(In any correspondence on this decision, mention the complete decision number.) (SG)