

		दूरभाष /Telephone :044-28331011 फेक्स /Fax :044-28331113
<p align="center"> OFFICE OF THE PRINCIPAL CHIEF COMMISSIONER OF GST AND CENTRAL EXCISE TAMILNADU AND PUDUCHERRY ZONE 26/1, महात्मा गांधी मार्ग, नुंगम्बाक्कम, चेन्नै-600 034 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai 600 034 </p>		

सी सं /C.No.II/39/332/2019-CCA.RTI.APPEAL

दिनांक/Dated : 28/08/2019

ORDER-IN-APPEAL NO. 07/2019-CCA-RTI(Appeals)
**(Order passed by Dr. K. Venkat Ram Reddy I.R.S.,
 Additional Commissioner and First Appellate Authority)**

1. This Order-in-Appeal is issued under Sub-Section (1) of Section 19 of the Right to Information Act, 2005.
2. An appeal against this order can be preferred to the Central Information Commission, 2nd Floor, 'B' Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi - 110 066, under Sub-Section(3) of Section 19 of the Right to Information Act, 2005.
3. An appeal against this order must be filed within 90 days from the date of receipt of this order.
4. For further information regarding procedure of appeals, please visit <http://cic.gov.in>

Shri Manoj Kumar Yadav
 Quarter No.- 4, Bolck-8,
 BCG Staff Quarters, No. 34,
 Velachery Main Road, Guindy,
 Tamilnadu - 600 032.

..... Appellant

Versus

The CPIO, Assistant Commissioner,
 Office of the Principal Chief Commissioner of GST & Central Excise, Chennai Zone,
 26/1, Mahatma Gandhi Road, Nungambakkam,
 Chennai - 600 034.

..... Respondent

Sub : Right to Information Act, 2005 - Shri Manoj Kumar Yadav - Appeal against the information furnished by the CPIO, Assistant Commissioner, vide C.No.II/39/326/2019-CCA-RTI dated 25.07.2019 - Passing of Order by First Appellate Authority under RTI Act, 2005 - Reg.

Shri Manoj Kumar Yadav, Quarter No.- 4, Bolck-8, BCG Staff Quarters, No. 34, Velachery Main Road, Guindy, Tamilnadu - 600 032 (hereinafter referred to as "the appellant") filed an appeal dated 31.07.2019 online under the Right to Information Act, 2005 (hereinafter referred to as "the RTI Act") against the reply given by the Central Public Information Officer, Office of the Principal Chief Commissioner of Central Excise, Chennai Zone, vide C.No.II/39/326/2019-CCA-RTI dated 25.07.2019.

2.1 The brief facts of the issue are that the appellant in his RTI application dated 11.07.2019 received online had sought the following information:

1. Copy of the Minutes or recommendations of Departmental Promotion Committee (DPC) for promotion to the grade of Senior Tax Assistant held on 30.03.2015 and 29.12.2015 for the year 2015-16.
2. Copy of the Minutes or recommendations of Departmental Promotion Committee (DPC) for promotion to the grade of Inspector held on 13.04.2017 for the year 2017-18.
3. Whether the Promotions for both the above grades were given in Pre- Cadre or Post-Cadre Vacancies.
4. Number of Vacancies or both the above grades left after conducting the above DPC.

2.2 The CPIO vide letter C.No. II/39/326/2019-CCA-RTI dated 25.07.2019 furnished reply in respect of the query mentioned in the said RTI application.

3.1 Aggrieved by the reply furnished by CPIO, the appellant filed an appeal dated 31.07.2019 before the First Appellate Authority under Section 19(1) of the RTI Act, 2005. The appellant stated that the CPIO has not provided the information sought for by him vide RTI Application dated 11.07.2019 and requested the First Appellate Authority to provide the information sought for by him.

DISCUSSIONS & FINDINGS

4. I have carefully gone through the RTI application, reply given by CPIO and appeal filed by the appellant.

5. The appellant has sought the proceedings of DPC held for the promotion of Inspectors and Tax Assistants contending that the same is not covered under Section 8(1)(j). The information sought is of confidential nature. It is informed that the note and minutes of DPC are exempt from disclosure under Section 8(1)(e) & 8(1)(j) of RTI Act, 2005.

6. In this regard, attention is invited to the judgment rendered in W.P.(C) 7923/2013 dated 21.11.2014 in the case of THDC India Limited Vs Chanda Biswas, where in it has been held that

"11. This Court is also of the opinion that the finding of public interest warranting disclosure of the said information under Sections 8(1)(e) and 8(1)(j) of the RTI Act and the procedure contemplated under Sections 11(1) and 19(4) of the RTI Act are mandatory in nature and cannot be waived. In the present case, the CIC has directed the petitioner to provide DPC minutes to the respondent without considering the defence of the petitioner under Section 8(1)(e) of the RTI Act and without following the procedure specified under Sections 11(1) and 19(4) of the RTI Act. It is pertinent to mention that Sections 11(1) and 19(4) of the RTI Act incorporate the principles of natural justice. Further, in the present case no finding has been given by CIC as to whether public interest warranted such a disclosure."

12. I find no reason to differ from the aforesaid decision. I am also unable to agree with the contention that the matter be remanded back to the CIC for considering it afresh as the conclusion in the case of R.K. Raturi (Supra) is definite; DPC minutes cannot be disclosed except in public interest and that too after following the procedure specified under Sections 11(1) and 19(4) of the Act.

13. In my view, the reasoning of the CIC that the respondent being an officer of the petitioner cannot be considered as a third party, is not sustainable. The information relating to ACRs and grading of an employee are personal to him and in this respect other employees are, definitely, not entitled to share that information".

7. As regards to the Appellant's contention that Kolkata Commissionerate has provided Minutes of the Meeting of the Departmental Promotion Committee (DPC), it is informed that the DPC contains confidential information about other officers, and also information as regards denial of promotion on account of various reasons such as disciplinary Proceedings cases etc. are personal in nature and do not warrant disclosure. Reference is also invited to the judgment delivered by Hon'ble High Court, New Delhi in the case of Thdc India Ltd. Vs R. K. Raturi in W. P.(C) 903/2013 dated 08.07.2014 wherein it was held that

"13. Consequently, this Court is of the view that ACR grading/ratings as also the marks given to the candidates based on the said ACR grading/ratings and their interview marks contained in the DPC proceedings can be disclosed only to the concerned employee and not to any other employee as that would constitute third party information. This Court is also of the opinion that third party information can only be disclosed if a finding of a larger public interest being involved is given by CIC and further if third party procedure as prescribed under Sections 11(1) and 19(4) of the RTI Act is followed".

8. In view of the above, I proceed to pass the following order.

ORDER

(i) I hold that the information furnished by the CPIO is sufficient and proper and there is no justification in the grievance of the appellant on the same. Hence, I reject the appeal as not maintainable under Right to Information Act, 2005.

K. Venkat Ram Reddy 28/8/2019

**(Dr. K. VENKAT RAM REDDY)
ADDITIONAL COMMISSIONER
FIRST APPELLATE AUTHORITY**

To
Shri Manoj Kumar Yadav
Quarter No.- 4, Bolck-8,
BCG Staff Quarters, No. 34,
Velachery Main Road, Guindy,
Tamilnadu - 600 032.

[By Speedpost with A/D]

Copy to:
The CPIO, Assistant Commissioner,
Office of the Principal Chief Commissioner of Central Excise, Chennai Zone.