

		दूरभाष/ Telephone:044-28331011 फैक्स/ Fax :044-28331113
OFFICE OF THE PRINCIPAL CHIEF COMMISSIONER OF CGST AND CENTRAL EXCISE, TAMILNADU AND PUDUCHERRY ZONE 26/1,महात्मागांधीमार्ग, नुंगम्बाक्कम, चेन्नै-600 034 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai 600 034		

ORDER-IN-APPEAL NO. 10/2021-CCA-RTI(Appeals)
(Order passed by B. Senthilvelavan 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, CIC Bhawan, Baba Gangnath Marg, Munirka, New Delhi – 110 067, 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 Asokaraj S

Plot No. 11, 4th Cross Street,
Anjal Nagar, Madurai,
Tamilnadu – 625 018.

..... 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 – 600034.

..... Respondent

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Sub : Right to Information Act, 2005 – Shri Asokaraj S – Appeal against the information furnished by the CPIO, Assistant Commissioner, vide letter C.No.II/39/71/2021-CCA.RTI dated 08.07.2021 – Passing of Order by First Appellate Authority under RTI Act, 2005 – Reg.

Shri Asokaraj S, Plot No. 11, 4th Cross Street, Anjal Nagar, Madurai, Tamilnadu

– 625 018 (hereinafter referred to as “the appellant”) filed an appeal dated 20.07.2021 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 letter C.No.II/39/71/2021-CCA.RTI dated 08.07.2021.

2.1 The brief facts of the issue are that the appellant in his RTI application dated 10.06.2021 had sought the following information:

1. A copy of note sheet of the file in which the Compulsory Retirement of S.Asokaraj, Superintendent of GST & Central Excise (Retired under Rule 56 (j), Puducherry and the correspondences made in the said file of the Office of the Principal Chief Commissioner of GST & Central Excise, Chennai, which was dealt in the capacity of “APPOINTING AUTHORITY”.
2. A copy of the Principal Chief Commissioner of GST & Central Excise, Chennai’s findings, which necessitated the Principal Chief Commissioner of GST & Central Excise, Puducherry in invoking the Rule 56(j) and to send S.Asokaraj, then Superintendent of GST & Central Excise under Compulsory Retirement.
3. The Principal Chief Commissioner of GST & Central Excise, Tamilnadu & Puducherry Zone is/has been declared as the Cadre Controlling Authority of the officers/Staff of Customs, (other than Chennai Customs officers and Group A Officers), GST and Central Excise Officers, Tamilnadu & Puducherry Zone by the CBEC’s letter issued during 2003. In this regard, based on the above Board’s letter, provide a copy of powers and responsibilities and duties of the Cadre Controlling Authority.
4. The list of authorities, other than the appointing authority i.e. Principal Chief Commissioner of GST & Central Excise, Tamilnadu and Puducherry Zone, who are authorised to invoke the provisions of Rule 56(j) and also a copy of said order, if any available.
5. The information as to whether the Commissioner of GST & Central Excise, Puducherry is an appointing authority and if so, state the cadre/cadres for which he is an appointing authority alongwith the orders thereof.
6. The information about name/cadre of the authorised officer in Tamilnadu and Puducherry Zone to invoke the Rule 569 (j) of FRSR.
7. The information as to whether anyone can invoke the Rule 56 (j) of FRSR against any staff/officer in the Tamilnadu & Puducherry Zone.
8. A copy of the report sent by the Commissioner of GST & Central Excise, Puducherry regarding invocation of Rule 56 (j) of FRSR against S.Asokaraj.
9. The information on the details of action taken against the Commissioner of GST & Central Excise, Puducherry on the issue of abuse of power exercised by him (from invoking Rule 569 (j) etc), if he is not the appointing authority.

2.2 The CPIO vide letter C.No.II/39/71/2021-CCA.RTI dated 08.07.2021 furnished reply in respect of the queries mentioned in the said RTI application.

3.1 Aggrieved by the reply furnished by CPIO with respect to Point No. 1, 2 & 4 to 9, the appellant filed an appeal dated 20.07.2021 before the First Appellate Authority under Section 19(1) of the RTI Act, 2005.

3.2 The appellant requested the First Appellate Authority to pass OIA to provide him information as per his RTI application.

DISCUSSIONS & FINDINGS

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

5. The appellant vide RTI application dated 10.06.2021 had sought information regarding the compulsory retirement of Shri S. Asokaraj, Superintendent of GST & Central Excise, (retired under Rule 56(j)) Puducherry. The CPIO vide letter C.No.II/39/71/2021-CCA.RTI dated 08.07.2021 furnished reply in respect of the queries mentioned in the said RTI application.

6. The appellant had vide Point No. 1 of the RTI Application sought for copy of the note sheet and correspondence of the file in which the Compulsory Retirement of Shri S. Asokaraj, Superintendent of GST & Central Excise (Retired under Rule 56 (j), Puducherry) was dealt in the capacity of "Appointing Authority". In this regard, it is informed that as per Para 4 of the appendix to the DoPT letter No. 25013/1/2013-Estt(A) dated 21.03.2014, Committees shall be constituted in each Ministry/ Department/ Office to which all such cases shall be referred for recommendation as to whether the officer concerned should be retained in service or retired from service in public interest. In accordance with the instructions, the members of the Screening Committee and Reviewing Committee is constituted to review the cases of Group 'B' and 'C' officers under FR 56(j) and Rule 48(1)(b) of the CCS (Pension) Rules, 1972. Therefore, the request of the appellant to furnish the documents of this office dealt in the capacity of appointing authority could not be furnished since the decision was made by the Reviewing Committee but not in the capacity of Appointing Authority.

7. As regards to query raised vide Point No. 2, the appellant was informed by CPIO that the Principal Chief Commissioner being the Chairman of the Review Committee relied on the recommendations of the Screening Committee for invoking FR 56(j). Similarly the query raised vide Point No. 5, as to whether the Commissioner of GST & Central Excise, Puducherry is an appointing authority was also replied by the CPIO. However, it is observed that the appellant at the Appeal stage has sought clarifications from the reply given by CPIO by making inferences to CCS(CCA) Rules, 1965 which does not fall under the purview of "Information" in terms of Section 2(f) of the RTI Act,2005.

8. With regard to the appellant's contention in respect to Point No. 4 that the appointing authority cannot delegate the power of "appointing and dismissing or

sending anyone under compulsory retirement”, I find that the issue raised by the appellant in the appeal is in the form of ‘questioning the nature and quality’ of actions taken by the public authority, which is not permissible under the provisions of RTI Act, as upheld by the CIC in its decision in case No.CIC/AT/A/2006/00045 in respect of Dr. D.V. Rao Vs Department of Legal Affairs in which the CIC clearly stated that “*The underlying idea is clearly that the petitioner’s entitlement for information is only in respect of the categories of information mentioned in Sec 2. It is not open to an Appellant to ask, in the guise of seeking information, questions to the public authority about the nature and quality of their actions.*”

9. It is informed that CPIO had not replied that “Additional Commissioner is the proper officer to invoke the Rule 56(j) of FRSR” in reply to Point No. 6 as contended by the Appellant. The CPIO has only provided the copy of the Order of Review/Screening Committee constituted to review the cases of government employees under FR 56(j) and Rule 48(1)(b) of the CCS (Pension) Rules to the appellant.

10. The CPIO had provided a copy of the Order of Review/Screening Committee constituted to review the cases of government employees under FR 56(j) and Rule 48(1)(b) of the CCS (Pension) Rules to the appellant. The appellant had not been specific about his grievance in the appeal in respect of the reply given by CPIO to Point No. 7. He has just made a vague request to provide a fair and true reply.

11. With regard to the appellant’s contention with respect to Point No. 8, it is informed that no exclusive report was sent by the Commissioner, Puducherry to this office. Hence, the order of invocation of FR 56 (j) proceedings against Shri S. Asokaraj which was sent by the Commissioner, Puducherry to this office was provided by the CPIO to the appellant. It is also pertinent to mention here that with regard to the Commissioner’s order of invoking FR 56(j) proceedings, the Appellant has filed an appeal before the Hon’ble CAT. The minutes of the Screening Committee and the Review Committee meetings comprises of information relating to two prosecution cases filed by CBI and Disciplinary proceedings of the Department against Shri S. Asokaraj. The charges are still pending finalization. Since the investigation against the officer in two prosecution cases filed by the CBI are still pending and that the appeal filed against the FR 56(j) proceedings is subjudice, the report of the Screening Committee could not be provided in terms of Section 8(h) of the RTI Act, 2005.

12. For query raised vide Point No. 9 regarding the details of action taken against the Commissioner of GST & Central Excise Puducherry on the issue of abuse of power exercised by him, the appellant was informed that the information sought for is not available with this office. The appellant has been retired by invoking FR 56 (j). Without

any basis, the appellant has alleged that there is abuse of the power by the Commissioner, Puducherry. Since no such records in this regard are available, the CPIO had stated the facts to the appellant.

13. Further, I have also noticed that the Appellant has been submitting RTI Applications continuously on the same issue with similar and slightly altered queries not only with this office but also with Madurai and Puducherry Commissionerates coming under the jurisdiction of this Office and resorting to Appeal on flimsy grounds seeking redressal for his grievances, thereby wasting time and resource of the Public Authority, which is not in conformity with the spirit and purpose of the Right to Information Act, 2005. In this regard, I would like to rely on the decision/observation of CIC in the case of Shri Ramesh Chand Jain Vs Delhi Transport Corporation, GNCTD, Delhi in case No. CIC/AD/A/2013/001326-AS wherein it was held that

"The Commission noticed that several applicants seek some information from one wing of the public authority, and based on the responses file a bunch of RTI questions from the same or other wings of same public authority or from other authority. This will have a continuous harassing effect on the public authority. As the PIOs go on answering, more and more questions are generated out of the same and in the same proportion the number of repeated first appeals and second appeals will be growing

... though the right to information is a fundamental right of the citizens, it cannot be used indiscriminately to fulfil the demands of one individual. The Commission is also conscious of the fact that it is financed by the poorest man in this country who may be starving to death. The complainant by repeatedly filing similar RTI applications and appeals with the respondent public authority and the Commission is wasting public resources

Cases of disclosure of information to the repetitive applicants for their private purpose which promotes their private interest but not the public interest would cause substantial harm to the legitimate air of the Right to Information Act. Because of the repeated RTI application has an effect of clogging the public offices, it would amount to obstructing the free flow of information to deserving and genuine RTI applicants, besides preventing the officers from performing their general duties attached to their office.

The Commission finds it appropriate to frame certain guidelines, for the prevention of this kind of misuse, for the benefit and ready reference by Public Information Officers to refuse the repeated RTI Applications and advise appellate authorities to consider such repetition as ground among others for refusal".

14. It is also observed that the appeal seeks to redress the Appellant's grievance which is not in conformity with the spirit and purpose of the Right to Information Act, 2005. Further, this is not the forum to agitate such grievances. Therefore, I hold that

the appeal filed by the Appellant is beyond the nature and scope of the RTI act, 2005. Hence, there is no justification in the grievance of the appellant.

15. 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.

**(B. SENTHILVELAVAN)
ADDITIONAL COMMISSIONER
FIRST APPELLATE AUTHORITY**

Copy to:

Shri Asokaraj S

Plot No. 11, 4th Cross Street,
Anjal Nagar, Madurai,
Tamilnadu – 625 018.

Copy to:

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