



Jammu and Kashmir State Information Commission

شہن یشن کمیٹ انفارمیر اسٹیٹسٹ کشمیر جموں ا

(Constituted under the Right to Information Act, 2009)

Wazarat Road, near DC Office Jammu, 0191-2520947, 2520937

Old Assembly Complex, Srinagar, 0194-2506660, 2506661

www.jksic.nic.in

File No. SIC/J/A/64/2017

Decision No. SIC/J/A/64/2017/70

Final Order

(Second Appeal)

- Appellant : Sh. Subash Chander Tidyal.
- Respondents : First Appellate Authority (FAA)/
Director, Health Services, Jammu and
Public Information Officer (PIO)/Chief Medical
Officer, Health & Family Welfare Department,
Jammu.
- Date of Registration : 24.08.2017
- Date of Decision : 24.11.2017

Brief Facts:

The appellant Sh. Subash Chander Tidyal, S/o. Late Sh. D.N. Tidyal, R/o. 485 Housing Colony, Janipur, Jammu-180007 while exercising his right to information filed an RTI application dated: 08.05.2017 under section 6 of the J&K Right to Information Act, 2009 (hereinafter Act for short) with the PIO/Chief Medical Officer, Health and Family Welfare Department, Jammu seeking the following information:

- (1) *Please provide the month wise detail of 2 1/2 days salary which has been drawn in respect of Sh. Shafqat Hussain, Jr. Pharmacist, Pawan Singh JH1, Bahadur Sr. Pharmacist and Rakesh Khajuria Head Pharmacist from the date they are working in the sections Birth/Death Record Section, Disability Section and Drug Store till date.*
- (2) *Please provide the photocopies of monthly attendance report of Mr. Shamsheer Singh H/Educator (assisting with S/K) for the month of Jan. 2017, Feb. 2017 & March 2017.*
- (3) *Please provide the photocopy of order regarding attachments of Shamsheer Singh H/Educator in the store/CMO office Jammu.*
- (4) *Please intimate the total amount of 2 1/2 days salary which has been drawn in favour of Mr. Shafqat Hussain, Pawan Singh, Bahadur Sr. Pharmacist and Rakesh Khajuria, Head Pharmacist for the month of April 2017.*
- (5) *Please intimate Mr. Shamsheer Singh H/Educator is drawing 2 1/2 days salary from the concerned Department; presently detailed to assist with Storekeeper (CMO office Jammu).*

Aggrieved by the non-response of the PIO within the stipulated time, the appellant filed First Appeal with the FAA/Director, Health Services, Jammu on 19.06.2017. The FAA too did not provide him the requisite information. At last, the appellant approached the State Information Commission (SIC) by filing 2nd appeal which was admitted on 24.08.2017 after completion of deficiencies.

Proceedings:

The appeal was listed for hearing for the first time before the SIC on 23.10.2017. Deputy Director, O/O Director, Health Services, Jammu, Chief Medical Officer, Health & Family Welfare, Jammu and the appellant were heard through Video Conferencing from Jammu office of the State

information Commission. The hearing was adjourned with the following directions:

"After hearing both the parties, the State Information Commission (SIC) observed that the PIO has not correctly applied his mind in replying to the RTI application filed by the applicant/now appellant. Moreover, the FAA has not himself disposed of the First Appeal which is unprecedented and a clear violation under the J&K RTI Act, 2009. In view of the above, the FAA and the PIO are directed to file counter statement before the next date of hearing."

This 2nd appeal was admitted in the SIC on 24.08.2017 and first sixty days expired on 24.10.2017 but owing to the need for conduct of more hearings for appropriate and final disposal of the appeal, the time period for the disposal was extended by another 60 days upto a maximum of 120 days from the date of filing the appeal in terms of section 16(11) of the J&K RTI Act, 2009.

The appeal was again listed on 24.11.2017. The hearing was attended by FAA/Dr. Gurjeet Singh Soodan, Director, Health Services, Jammu, PIO/Dr. Sanjay Turki, Chief Medical Officer, Health and Family Welfare Jammu and the appellant.

During the hearing the appellant submitted that the PIO has replied to his previous RTI application and provided information about the lump sum amount of 2 1/2 days salary drawn by the employees of the CMO office Jammu. However, when asked for month-wise detail of 2 1/2 days salary vide the present RTI application dated: 08.05.2017, the PIO refused

to share the information taking ground of personal information. The appellant further alleged that the department is paying the 2 1/2 days salary to number of employees who are not entitled to it.

The PIO, on the other hand, submitted that appellant has time & again filed RTI applications seeking information of similar type. Further, appellant has some personal vendetta against the officials of the CMO's office. The FAA and the PIO also informed that 2 1/2 days salary benefit has been extended by the Government and was applicable to a large number of employees in the H&ME Department/institutions. The FAA/Director, Health Services, Jammu stated that in principle they have no objection in providing the information. The PIO and FAA stated that they have a right to deny the information sought for through repeat RTIs if the same has already been provided through earlier RTI/RTIs.

Decision/Directions:

The State Information Commission (SIC) after hearing the parties and going through the available record observed that although the appellant may have preferred multiple RTI applications before the PIO of CMO office, but here in the present RTI application, information sought for by the applicant/appellant is only about details of 2 1/2 days salary. Salary details are generally not treated as personal information and when issues of public interest are raised by the RTI applicant, then the PIO is under obligation to provide the information. Otherwise also, under section 4 (b)(x) of the J&K RTI Act, 2009 the Public

Authority is under obligation to disclose 'the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations.'

Keeping in view the submissions and allegations of the appellant put forth during the hearings, the present appeal is disposed of with the directions to the PIO to provide the balance information sought for through the RTI application dated: 08.05.2017 and not provided so far by him, to the appellant/the then RTI applicant from the available office records within a period of 30 days from the date of receipt of this order. The PIO is within his right to reject repeat RTIs by the appellant or his representative asking for the information already provided in response to earlier RTI/RTIs.

*With these directions the second appeal is disposed of.
Copy of this decision be given free of cost to the parties.*

Sd/-
(Khurshid A. Ganai) IAS Retd.
Chief Information Commissioner
J&K State Information Commission

No: SIC/J/A/64/2017_____

Dated: . .2017

Copy to:

1. Registrar, J&KSIC for information and necessary action.
2. FAA/Director, Health Services, Jammu for information.
3. PIO/Chief Medical Officer, Health & Family Welfare Jammu for information and necessary action.
4. Private Secretary to HCIC for information of the HCIC.

5. Appellant/Sh. Subash Chander Tidyal, S/o. Late Sh. D.N. Tidyal, R/o. 485 Housing Colony, Janipur, Jammu-180007.
6. Office file.

(Rita Koul)
Deputy Registrar
J&K State Information Commission