



Jammu and Kashmir State Information Commission

جموں اینڈ کشمیر اسٹیٹ انفارمیشن کمیشن

(Constituted under the Right to Information Act, 2009)

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File No. SIC/K/SA/81/2017

Decision No. SIC/K/SA/81/2017/93

Appellant: Sh. Anil Kumar C/o M. K. Koul
R/o Nanak Vihar Lower Muthi Jammu

Respondent: First Appellate Authority (FAA)/Deputy
Director, Directorate of Health Services,
Kashmir, Srinagar
Public Information Officer (PIO)/Chief
Medical Officer, Kulgam

Date of Registration : 20-10-2017

Date of Decision : 22-01-2018

Brief Facts:

This appeal arises out of the RTI application filed by the appellant with PIO/CMO Kulgam seeking information with regard to premature retirement of Shri Chaman Lal Koul, Nursing Orderly, and also providing the copies of date of birth certificate, educational

qualifications and service book of the official. The PIO provided the required information to the appellant except the copy of the date of birth certificate of Shri C. L. Koul. During the hearing on 27-12-2017, the PIO submitted that Shri C. L. Koul has sought premature retirement from the service and is no longer on the rolls of the department. The PIO further submitted that the date of birth certificate of Shri C. L. Koul was not available in his office as the official was not appointed in district Kulgam. He was basically appointed in Public Health Centre, Sallar, Anantnag on 11-09-1989 and was transferred to block Kulgam on 17-03-1997 wherefrom he voluntarily retired in the year 2014. The PIO further submitted that as per the date of birth recorded in the service book of the official, his date of birth was 13-12-1957 which has been recorded on the basis of the matriculation certificate issued by the Board of School Education vide Roll No. 12782 at S. No. 3747. However, the year of passing of the matriculation examination is not recorded in the service book. The PIO further submitted that the date of birth certificate may possibly be available in block Sallar where Shri C. L. Koul was appointed. Accordingly, vide interim order dated 27-12-2017, the Commission directed the Directorate of Health Services to take effective steps to get the date of birth certificate of Shri C. L. Koul located from the office of BMO, Sallar and BMO Sallar was accordingly treated as deemed PIO and directed to locate the date of birth certificate of Shri C. L. Koul and produce it before the Commission on the next date of hearing.

This appeal again came up for hearing today on 22-01-2018. The hearing was attended by Dr. Kunzes Dolma, Dy. Director of DHSK, Dr. M. Shafi, CMO Kulgam, Dr. Abida Kawoosa, PIO Directorate of Health Services, Kashmir, Dr. B. S. Tulla, BMO Sallar and Dr. Rafi Salati, BMO Kulgam. The appellant did not attend the hearing today.

BMO Sallar appeared before the Commission today and informed the Commission that the records pertaining to the appointment of Shri C. L. Koul, Nursing Orderly could not be found as all the records of Medical Block Sallar were destroyed in a devastating fire incident in the year January, 1995. He also produced a copy of the FIR lodged with regard to this fire incident, which was taken on record.

After hearing the CMO/BMO Kulgam and BMO Sallar as well as PIO of Directorate of Health Services, it has been established that the records pertaining to the date of birth certificate of Shri C. L. Koul are no longer available in the office of PIO Kulgam or Block Sallar. The said employee has since voluntarily retired from Government service and hence is no longer under the administrative control of the PIO. As per the provisions of the RTI Act, a Public Authority can only be directed to provide the information which is available with it. Since the date of birth certificate of Shri C. L. Koul is not available with the Public Authority, the PIO cannot be forced to manufacture the record. The PIO had made efforts to get a copy of the date of birth certificate

from Shri C. L. Koul but he refused to provide the same stating that he is no longer a Government employee and is not bound to produce the certificate before the PIO. The appellant can get a copy of the date of birth certificate only from the Board of School Education wherefrom Shri C. L. Koul has passed the matriculation examination.

In view of the fact that all other information has been provided to the appellant except the date of birth certificate of Shri C. L. Koul, which is not available with the PIO, the appeal is disposed of with no further orders/directions.

Sd/-

(Muhammad Ashraf Mir)
State Information Commissioner

Copy to the:-

1. Deputy Director, Directorate of Health Services Kashmir (FAA)
2. Public Information Officer (PIO)/Chief Medical Officer, Kulgam
3. Block Medical Officer, Sallar
4. Block Medical Officer, Kulgam
5. Mr. Anil Kumar C/o M. K. Koul R/o Nanak Vihar Lower Muthi Jammu

(M. S. BHAT)
Deputy Registrar,
J&K State Information Commission, Sgr