



Jammu and Kashmir State Information Commission

شہن یشن کمیٹ انفارمیری اسٹیٹسٹ نڈ کشمیری 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.CO.SA.590-2018

Decision No.SIC.CO.SA.590-2018/1133

Final Order

(Second Appeal)

- Appellant** : Sh. Harish Chander S/o Faqir Lal
R/o Nakshri, Bhaderwah
- Respondents** : First Appellate Authority (FAA)/Public
Information Officer (PIO) O/O Service
Selection Board, Srinagar, J&K.
- Date of registration** : 09-03-2018
- Date of decision** : 06-06-2018

Brief Facts:

Briefly the facts of this appeal are that the appellant filed an RTI application dated 10-04-2018 with the Public Information Officer (PIO), J&K Service Selection Board (SSB), Jammu seeking the following information:

1. Kindly provide me the details of the candidates who have been selected against the post of Junior Engineer Civil grade-II notified vide Advertisement notice dated 24-12-2010 against the 36th seat advertised under the Scheduled Tribe category which has been given to the Handicapped

category on the basis of horizontal reservation. Kindly provide the information points (i) (viii) as per the format given below:

- i. Name of the Candidate:*
- ii. Category of the Candidate:*
- iii. Academic Merit of the Candidate:*
- iv. Marks obtained in the interview:*
- v. Placement of candidate in the final merit list.*
- vi. Copy of the notification whereby such candidate was recommended for appointment.*
- vii. Nature and %age of disability.*
- viii. Copy of appointment orders issued in the favour selected candidates.*

As the appellant did not get the requisite information from the PIO, he filed 1st Appeal on 23-10-2017 with the First Appellate Authority (FAA), SSB. The FAA issued a notice dated 30-11-2017 thereby asking the appellant to appear for hearing before the FAA on 20-12-2017. As per the record, the FAA never passed any order in the 1st Appeal, however later on the PIO, SSB vide his communication dated 29-12-2017 provided some information to the appellant. Being aggrieved the appellant at last filed 2nd Appeal before the State Information Commission with the request that the information sought for by him through his basic RTI application may be provided to him. His 2nd Appeal was finally admitted in the Commission on 09-03-2018.

Proceedings before the Commission:

The 2nd Appeal was taken up for hearing before the Commission for the first time on 17-04-2018. The hearing was attended by Sh. Sanjay Gupta, PIO J&K SSB and the appellant, Sh. Harish Chander. During the hearing, the appellant submitted that there is a contradiction in the statement of the SSB in the counterstatement filed here before the SIC and one filed before the Hon'ble High Court as SSB has stated before the Commission that the 36th vacancy was already filled up by giving it to the handicapped category candidate but this has not been stated in the counter reply dated 16-04-2018 filed by the PIO before the Commission. They stated that no selection has been forwarded under ST/HC

category as per record which is evasive and not a clear cut denial of having filled the 36th vacancy.

After hearing both the parties, the hearing was adjourned with the directions to the PIO to reformulate the reply to the RTI application keeping in view the compliance report submitted by the J&K SSB before the High Court by virtue of which it has been brought to light before the Commission that 36th vacancy has been filled up by recommending the candidature of a handicapped category candidate. The PIO was directed to check all these facts before reformulating the reply. He was directed to do the needful within week's time from the date of receipt of this order. Registry of Commission was directed to fix the case again for hearing.

The case again came up for hearing before the Commission on 06-06-2018. The hearing was attended by Sh. Sanjay Gupta, PIO, J&K SSB. The appellant was heard through video conferencing from the Jammu office of the Commission. During the hearing, the PIO was asked regarding compliance of the Commission last interim order dated 17-04-2018. In reply the PIO submitted that he took up the matter with the concerned sections of the Board and has prepared his reply accordingly as per the records. He submitted that their stand remains the same as already communicated to the appellant vide their communications dated 28-12-2017 and 16-04-2018 and also to the Commission vide their counter reply dated 16-04-2018. In the said communications the PIO has given the final selection list of the candidates for the post of Junior Engineer Grade-II Civil State cadre. The appellant has also been informed that in response to Hon'ble High Court order dated 21-11-2014 in CMP No. 3311/2011 then filed in SWP No 2247/ 2011, ten posts in different categories were reserved and in compliance of the said courts order in SWP No. 163/ 2014 four candidates were selected i.e RBA/HC=01, and OM/HC=03. The appellant was further informed that no selection has been forwarded under ST/HC category to the indenting department. The appellant during the hearing, conceded to have received the said information.

Decision:

Having heard the parties and after going through the records, the Commission observes that the reply given by the PIO meets the requirements of the information sought for by the appellant through his basic RTI application. Under RTI law the PIO is supposed to furnish only that information which is available on records. He / She is neither to create nor to invent the information that is not existing on the records. In this case the PIO has furnished whatever information was available with him as per the records, therefore the information is deemed to have been provided to the appellant as per the law. The appellant during the hearing has also agreed with the statements of the PIO and is now satisfied with the information provided so far. Hence there remains nothing further for consideration in this 2nd Appeal, which is as such disposed of accordingly.

Copy of the order be given free of cost to the parties.

Sd/-

(Khurshid A. Ganai)

Chief Information Commissioner

J&K State Information Commission

File No: SIC.CO.SA.590-2018-_____

Dated: - -2018

Copy to:

01. First Appellate Authority (FAA), O/O SSB, Srinagar, **J&K** for information.
02. Public Information Officer (PIO), O/O SSB, Srinagar, **J&K** for information.
03. Private Secretary to HCIC for information of the HCIC.
04. Appellant, Sh. Harish Chander S/o Faqir Lal R/o Nakshri, Bhaderwah, District Doda for information.
05. Office File.

(Sheikh Fayaz Ahamd)

Registrar

J&K State Information Commission