Sri Saurabh Tewari

DDG (E&F)

Appellate Authority

DOT Hq

Sanchar Bhavan

NEW DELHI.

Subject Information sought under RTI Act 2005.

This has reference to my RTI Dated 10.10.2017 and reply of CPIO dated 21.11.2017 and received by u/s on 24.11.2017 (copy enclosed for ready reference).

In this context.the u/s would like to state the following

Point No. 1 and 2. Not relevant

Rule 11. Of the CCS Conduct Rules does not apply:

Letters under reference have been addressed to DDG(E F)and to Member(F) who are the very people who have access to above office information and hence are authorized to communicate the same.

Rule 11 of the CCS Rules only mandates how the information is not to be disclosed to those who are not related with the matter. The undersigned is directly related to the matter under consideration and thus is entitled to get the information which is wilfully and arbitrarily being denied.

Rule 116. of the Manual of Office procedure does not apply:

The RR is a public document which concerns the present and future of the entire Service as well as of the applicant being a member of the Service.

Thus information re. the same can never be construed as permitting communication of classified information in unauthorized manner or for improper gains to govt. servant.

Rather,it is a public document and thus information re. the same can and should be disclosed under RTI Act as per above extant Rule.

The relevant rulings by which the above RR is declared as a classified document as well as the authority who has declared the same may be furnished.

Rule 118 Of the Manual of Office Procedure does not apply:

As per DOT Notification of 13th June,the office of the CGCA is an attached office of DOT.

Futher,as stated, above information nor files containing such information can be treated as 'classified'.

(6)

No. 33-09/2017-SEA-I
Government of India
Ministry of Communications (Sanchar Mantralaya)
Department of Telecommunications (Doorsanchar Vibhag)
20, Ashoka Road, Sanchar Bhawan,
New Delhi-110 001

Dated: 21.11.2017

To

Ms. Sumita Purkayastha,
D-II/113, Kaka Nagar,
New Delhi -110003

Sub: Information under RTI Act, 2005

Kindly refer to your application dated 10.10.2017 on the above subject. The information relates to IP&T AFS Gr "A" is given below:-

S.No	Information sought for	Reply
1	Rules & regulations regarding divulging of details of above	Rule 11 of CCS Conduct Rules, Rule 118 of Manual of Office Procedure and Rule 116 of Manual of Office Procedure.
2	Circumstances and justification as to non divulging the details of above file.	Copy of Note sheets of file No. 08-02/2012-SEA-I(Pt.) is enclosed (02 pages)
3	Copy of proposal put up regarding undersigned request to give a copy of revised RR for the post of CGCA	
4	Copy of the note sheet & all related documents showing approval of the competent authority on decision conveyed of above letter	
5	Name and designation of competent authority which has approved above decision along with reason thereof.	
6	Whether DPC for Apex level post has been initiated	NO
7	Whether RR for the post has been notified	NO
8	Time frame as per rules and Cabinet approval received for finalization and notification of RR for the post of CGCA	Copy of Cabinet approval and Cabinet Note is enclosed (58 pages).
9	Whether RR notification is commensurate with above and Cabinet approval	This does not constitute information under clause 2(f) of RTI Act, 2005

2. The appeal, if any, against the information furnished herein may be preferred before Sh. Saurabh Kumar Tiwari, Deputy Director General (E&F), Department of Telecom, who is the Appellate Authority, within 30 days from the date of issue of this letter.

Yours sincerely,

Aprajita Sharma

(Aprajita Sharrma)
Director (SEA) & CPIO
Ph. 23036728

(5)

No. 33-09/2017-SEA-I
Government of India
Ministry of Communications (Sanchar Mantralaya)
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20, Ashoka Road, Sanchar Bhawan,
New Delhi-110 001

Dated: 18.01.2018

APPELLATE ORDER ON APPEAL DATED 21.12.2017 FILED BY MS. SUMITA PURKAYASTHA

I, Saurabh K. Tiwari, the Appellate Authority in the Department of Telecommunications have carefully gone through the appeal dated 21.12.2017 filed by Ms. Sumita Purkayastha:-

Facts of the case:-

1. Ms. Sumita Purkayastha sought the information under RTI Act, 2005 vide her application dated 21.11.2017.
2. The grounds of Appeal are as under :-

2.1 **Reply to Points No. 1 and 2 of OA by CPIO not relevant**

Rule 11 of the CCS Conduct Rules does not apply:

Letters under reference have been addressed to DDG (E&F) and to Member (F) who are the very people who have access to above office information and hence are authorized to communicate the same.

Rule 11 of the CCS Rules only mandates how the information is not to be disclosed to those who are not related with the matter. She is directly related to the matter under consideration and thus is entitled to get the information which is wilfully and arbitrarily being denied.

Rule 116 of the Manual of Office Procedure does not apply:

The RR is a public document which concerns the present and future of the entire service as well as of the applicant being a member of the Service.

Thus information re. the same can never be construed as permitting communication of classified information in unauthorized manner or for improper gains to govt. servant.

Issued 18/1/2018

Rather, it is a public document and thus information re. the same can and should be disclosed under RTI Act as per above extant Rule.

The relevant rulings by which the above RR is declared as a classified documents as well as the authority who has declared the same may be furnished.

Rule 118 of the Manual of Office Procedure does not apply

As per DoT Notification of 13th June, the office of the CGCA is an attached office of DoT. Further, as stated, above information nor files containing such information can be treated as classified.

Information re. RR as stated above is of concern for the entire service as well as that of the applicant being a member of the Service.

Thus, it is obvious that the CPIO's reply in misleading and leads to denial of information.

Relevant and upto date information on the same may be furnished.

2.2 Reply to Points 3, 4 and 5 of OA by CPIO

From information furnished by CPIO, it is evident that the decision not to divulge details has been taken at the level of the DDG (E&F). The file notings have also been put up misleadingly.

Applicant has not asked for details of any DPC, but merely a copy of the RR which has been sent to DOPT and requested to ensure that DPC is held in time so as not to hamper career prospects of the Applicant.

Thus the question of non divulging of details of DPC does not apply here.

As per file notings furnished by CPIO, only the draft letter (DFA) has been approved

A copy of the final letter approved by the Competent Authority re. non divulging of details may be furnished.

Point No. 5

Information has not been furnished by CPIO

Same may be furnished forthwith

2.3 Reply to Point No. 6, 7, 8 of OA by CPIO

Information along with relevant up to date reasons may be furnished on reasons for not holding of DPC/Non Notification of RRs in view of the time frame as per Rules and Cabinet Approval received for the same.

All relevant information may be furnished

3. **Decision on the Appeal**

1. The information against her application dated 10.10.2017 as available with the CPIO, has already been provided to Applicant-Appellant. The RTI Act, however does not require the CPIO to deduce conclusion form the material in the form as held by the CPIO and supplying the conclusion so deduced to the applicant.

2. Further, justifications/reasons, while taking a decision does not come within the scope of definition under Section 2 (f) of the RTI Act.

3. A copy of the final letter approved by the Competent Authority as asked for by Applicant-Appellant under points No. 3,4,5 has already been forwarded to her vide letter No. 08-02/2012-SEA-I(Pt.) dated 09.06.2017. However, copy of the same is again enclosed.

4. In view of the aforesaid, the Appeal stands disposed off accordingly.

Decision
18/1/19

(Saurabh Kumar Tiwari)
DDG (E&F) & Appellate Authority

To,

Ms. Sumita Purkayastha,
D-II/113, Kaka Nagar,
New Delhi -110003