



IN THE TRIPURA INFORMATION COMMISSION
P. N. Complex, Gorkhabasti : Agartala

Complaint No 16 of 2008-09.

Smt. Ila Deb, Stenographer
Tripura Jute Mills Ltd.
Hapania, Agartala
West Tripura.....Complainant

Vs.

Sri A.K.Gupta, Senior Production Officer, Tripura Jute Mills Limited, Hapania,
Agartala, West Tripura (State Public Information Officer).
.....Opposite Party

In the matter of the complaint under section 18(1)
of the Right to Information Act, 2005.

PRESENT:

1. Sri B.K.Chakraborty
State Chief Information Commissioner

2. Sri D.K.Daschaudhuri
State Information Commissioner

For the Complainant: The complainant Smt. Ila Deb herself.

For the Opposite Party: Sri A.K.Gupta, Senior Production Officer, Tripura Jute -
Mills Limited, Hapania, Agartala, West Tripura (State
Public Information Officer).

Date of lodging the complaint: 18.08.2008


Dates of hearing: 20.09.2008 , 25.10.2008 and 17.11.2008

Date of pronouncing the judgment: 12.12.2008

JUDGMENT AND ORDER

Facts:

1. This complaint arises out of a written application dated 18.08.2008 of Smt. Ila Deb (here in after referred to as the complainant) received by this Commission on the same date. The case of the complainant is that the Opposite Party (OP) Sri A.K.Gupta, Senior Production Officer, Tripura Jute Mills Limited



(TJML), Hapania, Agartala, West Tripura and the State Public Information Officer (SPIO) was directed by this Commission vide its order dated 07.03.2008 passed in Appeal No-22 of 2007-08 to provide complete information against items 3,6,7 and current status of the records pertaining to the information against items 1,2,4 & 5 as mentioned in the written request dated 03.12.2008 of the complainant within a period of 15 days from the date of passing of the said judgment and order. In compliance with the above directions of this Commission, the OP vide his letter F.No.TJ/MM/RTI/02 dated 21.03.2008 provided the information to the complainant. According to the complainant, the information provided by the OP under his letter referred to above could partially satisfy the information demanded under item No-3 of her written request dated 03.12.2007 and she was completely dissatisfied with the information provided against other six items of information. Under this complaint, the complainant sought for issuing a direction to the OP for providing correct information. Along with the written complaint, the complainant furnished photocopies of the relevant judgment and order and the information provided by the OP.

2. On perusal of the complaint with enclosures, we find adequate materials to take cognizance of a complaint under section 18(1) of the Act.

3. In response to the summons, the OP Sri A.K.Gupta, Senior Production Officer, TJML, Agartala, and the SPIO appeared and submitted his written representation. Considering the facts and the circumstances of the case, in order to ascertain the factual position, this Commission directed the Managing Director (MD) of TJML being the head of the Public Authority to appear and produce the files bearing numbers (i) No.TJ/Estt(1)/1989 (ii) No.TJ/ADMIN(10)/89/RD and (iii) No.TJ/ADMIN(7)/Vol-II/89/RD for inspection by this Commission. In response, Sri D. Datta, MD, TJML appeared before this Commission and produced the files bearing numbers (i) No.TJ/ADMIN(10)/89/RD and (iii) No.TJ/ADMIN(7)/Vol-II/89/RD, each in two volumes. It was stated by the MD, TJML that the file bearing No.TJ/Estt(1)/1989 had not been found in spite of thorough search in his office.

4. Heard oral submissions made by the complainant, the OP and Sri D. Datta, MD, TJML being the head of the Public Authority. Also inspected the two files in four volumes by this Commission.

Point for decision:

5. The only point for consideration is whether or not the OP provided adequate information to the complainant in compliance with this Commission's order dated 07.03.2008 passed in Appeal No-22 of 2007-08.

Reasons for decision:

6. The source of this complaint is the alleged non-compliance of this Commission's order dated 07.03.2008 passed in Appeal No-22 of 2007-08. So, it is pertinent to reproduce the above decisions here, which run as follows:-





"(i)The Respondent 2 being the SPIO shall provide complete information against items 3, 6 and 7 and the current status of the records pertaining to the information against items 1,2,4 and 5 as mentioned in the written request dated 03.12.2007 of the appellant in the light of the discussion made in paragraph - 9 above within a period of 15 days from the date of passing of this judgment and order free of cost under intimation to this Commission.

(ii)The Respondent 1 being the head of the Public Authority shall take appropriate disciplinary action against the officials who have failed to produce the memorandum of first appeal of the appellant in issue before the Respondent 1 being the FAA and the action taken should be confirmed to this Commission immediately."

7. It is also necessary to reproduce the information sought for by the complainant under her written request dated 03.12.2007, which were described in paragraph - 6 of the aforesaid judgment and order and are reproduced below:-

"(i) Photocopies in respect of Minutes cum proceedings, recommendation, merit list/select list drawn by the recruitment board or selection board/committee of TJML for fill up the post of Stenographer of TJML in the year 1989.

(ii) Photocopies in respect of Memorandum for constitution of Departmental Promotion Committee for filling up, the post of PA to MD, TJML by which Smti. Manorama Biswas has been promoted and gradation/seniority list of Stenographer for the year 1998 and 1999.

(iii) Photocopies in respect of minutes cum proceedings, recommendations, merit list of DPC for promotion of Smti. Manorama Biswas in the post of PA to MD, TJML.

(iv) Photocopies in respect of post creation sanctioned order of the Govt. of Tripura/BOD, TJML for the post of PA to MD, TJML and its continuation order(s).

(v) Photocopies of Recruitment Rules for the post of PA to MD, TJML.


(vi) Whether TJML has narrated as terms and conditions in offer of appointment letter(s) (23-08-1989) for appointee stenographer that she/they will be entitled to the annual increment & confirmed in the post only after the successful completion of the probation period and allowed offer acceptance time/period, joining time- convey information.

(vii) Photocopies of order(s) of competent authority for approval of promotion to the post of PA to MD, TJML & procedure of such promotion approval."

8. It is also pertinent to quote here the paragraph -9 of the aforesaid judgment and order since in the decision portion of the judgment and order, the OP was directed to provide the information in the light of the discussions made in the said paragraph, which runs as follows:-

"After careful appreciation of the information provided by the Respondent 2, we are of the view that the information already provided by the Respondent 2 satisfied partial disclosure of the information sought for under items No.3, 6, and

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7. We are not at all satisfied with the reasons given by the Respondent 2 for not providing the remaining 4 items of information. Denial of information on the ground of non-mentioning of file number/volume number is not acceptable since the SPIO is under obligation to render necessary assistance to a requester to get the description of the information intelligible. We do not consider it necessary to make discussion on the admissibility of the information sought for disclosure item-wise. It is very much clear from the photocopy of the file note as quoted in paragraph- 7 above that the Managing Director, TJML signed an order in pursuance of the note after having approval of the concerned Minister. So, the Respondent 2 being the SPIO was under obligation to provide a copy of the said order to the appellant. That apart, in the covering letter, the Respondent 2 informed the appellant only some portion of the terms and conditions of the service, details of which are supposed to have been contained in the offer of appointment. Therefore, in order to make complete disclosure about the terms and conditions of the service, the Respondent 2 should have provided a copy of the offer of appointment in issue to the appellant. In case of non availability of the information, the actual current status of the records should have been disclosed to the appellant against each item of information sought for. So, the appellant is entitled to have access to the complete information against items 3,6 and 7 and the actual current status of the records pertaining to the information against items 1,2,4 and 5 sought for by the appellant, which the Respondent 2 being the SPIO is under obligation to disclose. The first issue is decided accordingly."

9. Now, it is to be scanned the information provided by the OP vide his letter No.F.No.TJ/MM/RTI/02 dated 21.03.2008, the contents of which are reproduced below:-

" Madam,

Reference to the Judgment & Order passed by the Hon'ble Tripura Information Commission on 07.03.2008 in the matter cited above, I am providing the complete information against items 3,6&7 and current status of the records pertaining to the information against items 1,2,4 & 5 as mentioned in your written request dated 03.12.2007 in the light of discussion made in para -9 of the Judgment & Order as follows:-

Item 3- There was no existence of DPC at the time of the promotion in the post of P.A. to M.D., TJML in June 1999. So, the photocopies in respect of minutes cum proceedings, recommendation, merit list of DPC for promotion of Smt. Monorama Biswas in the post of P.A. to M.D., TJML could not be provided. It may be mentioned that a photocopy of the note sheet containing the recommendation of the Managing Director regarding the promotion of Smt. Monorama Biswas in the post of P.A. to M.D., TJML and the approval of the Minister, I&C, Govt. of Tripura (Chairman, TJML) has already been supplied to you vide letter No.F.TJ/MM/SQC(6)/2275 dated 01.01.2008. Another note sheet containing the comparative analysis of performances of Smt. Monorama Biswas who was promoted to the post of P.A. to M.D., Smt. Ila Deb, Stenographer and



Shri Promode Roy, Stenographer and explanation for considering Smt. Biswas as senior to Smt. Deb at Annexure-I is further supplied herewith.

Item 6- Photocopies of offers both dated 23.08.1989 for appointment to the post of Stenographer issued to both you and Smt. Monorama Biswas are supplied herewith at Annexure-II & III, from which you will find the required information as mentioned in item 6.

Item 7 - Photocopy of order of the Managing Director vide NO. TJ/MD(3)/Vol-II/RD/219-23 dated 15.06.1999 for promotion of Smt. Monorama Biswas in the post of P.A. to M.D., TJML is supplied herewith at Annexure-IV. The photocopy of the order of the Managing Director to Smt. Monorama Biswas vide No. TJ/MD(3)/RD/845-53 dated 30.12.1998 to function as P.A. to M.D., TJML is also supplied herewith at Annexure-V.

Present status of items:


Item 1 - All the file lists of MD's Office, Administrative and Personnel Section were examined and a thorough search was conducted in those sections to locate file related to the appointment matters of Stenographer in 1989, but no such file was found. There is no reference also in the BOD Minutes Book in respect of the appointment matters of Stenographer in 1989. You were also asked to assist the concerned sections to locate the file containing the required documents vide letter No. TJ/MM/RTI/01 dated 01.03.2008, but you did not come forward. As such, the documents under Item 1 could not be provided.

Item 2 - Departmental Promotion Committee was not constituted for filing up the post of P.A. to MD, TJML by which Smt. Monorama Biswas had been promoted. So, the memorandum in respect of the same could not be supplied to you.

Item 4 - A photocopy of the page of Project Report of TJML duly approved by the Government of Tripura, in which the post of Secretary to M.D., TJML is included in the required manpower list, is supplied herewith at Annexure- VI. But, the BOD created the post of P.A. to MD at the very inception stage of TJML and the management appointed persons in that post whenever the post became vacant as per the required qualification and experience. It may be mentioned that the BOD, in its 138th meeting held on 10.06.1998, approved a RR for TJML in which the post of PA to MD was included and decided to send the same to the Government for concurrence. Although the concurrence has not yet been received by TJML but the above mentioned approval of BOD indicates the continuation of the post of P.A. to MD in TJML. Mention may also be made in this regard that the Government had asked TJML in April, 2001, much after the promotion of Smt. Monorama Biswas in the post of P.A. to M.D. to include following clause in the Memorandum of Association/Article of Association:-

Appointment of any official in TJML shall not be made without approval of Finance Department.

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Item 5 – As mentioned under items 4, a RR was framed by the management which was approved by the BOD in its 138th meeting held on 10.06.1998 and was sent to the Government for concurrence, but the said concurrence has not yet been received by TJML. As such the copy of the R.R. for the post of P.A. to M.D., TJML is not supplied. However, the criteria fixed for direct recruitment and promotion as per the said R.R. is given below for your information:-

- i) No. of post – 1 (one).
- ii) Scale of pay - Rs. 650-1250/- (subject to revision from time to time).
- iii) Educational and other qualification for direct recruitment – Graduate with ability to take dictation at a rate of 80 w.p.m. and type writing speed of 40 w.p.m. with 3 years experience.
- iv) Method of recruitment – By promotion, failing which by direct recruitment.
- v) In case of recruitment by promotion/transfer, grades from which promotion to be made – Promotion from Steno-typist (Head Clerk) with 8 years regular service in TJML."

10. We have carefully studied the information provided by the OP in response to this Commission's direction given in Appeal No-22 of 2007-08. The OP was directed to provide complete information in respect of items 3, 6, 7, which according to us have been satisfied by the OP by providing the information under his letter dated 21.03.2008. In respect of the remaining information, the OP was directed to inform the complainant the correct status of the records pertaining to those information. The OP being the SPIO in his letter dated 21.03.2008 categorically described the facts and the circumstances leading to the current status of the records pertaining to the information. This Commission also examined the relevant files in original as produced by the MD, TJML but, found no trace of the records pertaining to the information sought for by the complainant. The MD, TJML stated before this Commission in writing that a vigorous search was conducted to trace out the third file as demanded by this Commission but, that file could not be traced out. Since, the records pertaining to the information are not available within the reach of the SPIO, the OP being the SPIO cannot be blamed for not providing the information as he is not expected to create any records for disclosure. The current status of the records as stated by the OP, according to us had fully satisfied the directions given by this Commission in its order dated 07.03.2008 passed in Appeal No- 22 of 2007-08. So, the complaint is liable to be dismissed.

11. Before parting with the judgment and order, we are constrained to direct the MD, TJML being the head of the Public Authority that he should take immediate steps to fix up responsibility followed by appropriate disciplinary action for causing mismanagement of the records of the TJML and submit a report on the action taken by him in the light of the direction given by this Commission in paragraph 11(ii) of its judgment and order dated 07.03.2008 passed in Appeal No -22 of 2007-08.

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Decision:

12. In fine, the complaint is dismissed on contest.
13. The MD, TJML being the head of the Public Authority is directed to submit an action taken report in the light of the observations made in paragraph - 11 above within a period of 30 days from the date of passing of this judgment and order.
14. Let copy of this judgment and order be sent to the complainant, the OP and the Managing Director, TJML, being the head of the Public Authority.
15. Pronounced,

Sd/-
(D.K. Daschaudhuri)
State Information Commissioner

Sd/-
(B.K. Chakraborty)
State Chief Information Commissioner

Authenticated.


(S.C. Saha)
Secretary
Tripura Information Commission

TRIPURA INFORMATION COMMISSION
P. N. Complex: Gorkhabasti: Agartala

Complaint No - 16 of 2008-09/1523-525

December 12, 2008

Copy to: -

1. Smt. Ila Deb, Stenographer, Tripura Jute Mills Ltd, Hapania, Agartala, West Tripura (Complainant).
2. Sri A.K. Gupta, Senior Production Officer, Tripura Jute Mills Ltd, Agartala. (State Public Information Officer) - OP.
3. Sri D. Datta, Managing Director, Tripura Jute Mills Ltd, Hapania, Agartala (Head of the Public Authority).


(S.C. Saha)
Secretary
Tripura Information Commission