

FTS - 12192/2014

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BY SPEEDPOST

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First Appeal under the Rights to Information Act 2005

S. No. 864

22nd April 2014

To  
Shri Alok Kumar  
First Appellate Authority under the RTI Act 2005  
Director  
Ministry of Corporate Affairs  
Room No. 528  
Shastri Bhavan  
"A" Wing, 5th floor  
New Delhi- 110001

28/4/14  
VSC (100)  
PI  
PWT  
SKR  
R4

Sub: First Appeal under the Rights to Information Act 2005

Sir,

In terms of the provisions of the Rights to Information Act 2005 I am hereby submitting my First Appeal follows:-

By my letter dated 6th February 2014 to the CPIO of the Ministry of Corporate Affairs I had sought certain information. But the response of the CPIO by letter No. A-44011/15/2014-Ad.II dated 7th April 2014 does not contain the information sought, contrary to the provisions of the Right to Information Act 2005.

My humble submissions as first appellant under the Right to Information Act 2005 are furnished hereunder:-

SL. No.	My query	CPIO's response	My appeal submission
1	Kindly provide me information about the ratio and the basis followed in respect of ascertaining inter-se seniority of DR and DP upon promotion to or appointment in, as the case may be, JAG grade of ICLS between 1.05.2008 and 30.4.2009.	Only a seniority list as on 6.2.2009 for JAG grade officers and Recruitment Rules copy in MCA are attached.	No information about the ratio and basis followed in respect of ascertaining inter-se seniority of DR and DP upon promotion to or appointment in, as the case may be, JAG grade of ICLS between 1.05.2008 and 30.4.2009 has been provided by the CPIO. Information should have been provided regarding the Roster sequence for DP and DR promotion/appointment to JAG grade. Copy of the seniority list or the Recruitment Rules were never requested for.  Kindly provide me the roster sequence and ratio followed by MCA for ascertaining inter-se seniority/position of DR and DP

Question?

			upon promotion to or appointment in, as the case may be, to the JAG grade of ICLS between 1.05.2008 and 30.4.2009.
2	<p>Whether any DP slot was remaining unfilled in 2008 before or in between any of the DR slots to which the following persons were appointed in November 2008 in JAG grade of ICLS:-</p> <p>(i) Sri J K Jolly (ii) Sri Manmohan Juneja (iii) Sri M R Bhat</p>	<p>The information sought are in nature of query and is not covered under the definition of 'information' under clauses (f) and (j) of the RTI Act. Public Information Officer is not supposed to create information or to interpret information or to solve problems raised by the applicants or to furnish replies to hypothetical questions.</p>	<p>The reply furnished is evasive and contrary to the provisions of the RTI Act. The information sought was in the form of "YES" or "NO" only. The query was definite and based on actual event which should have been contained in records of Ministry and not hypothetical. No information needed to be created, since the information should be very well possessed by the Ministry. No interpretation of any information is required. Only information pertaining to the roster sequence position as existed only around 5 years back was requested for. No solution to any problem is sought. The information should have been provided from the records maintained by Ministry itself.</p> <p>Information sought was whether any DP slot between the three DR slots in Roster for promotion to JAG grade which the three officers named in the query were appointed, remained unfilled within 31.12.2008. Reply should have been in YES or NO only.</p>
3	<p>If answer to query no.2 is YES, please provide me information about particulars, slot number and total numbers of the said DP slots which remain unfilled</p>	-do-	<p>The query was definite and based on actual event which should have been contained in records of Ministry and not hypothetical. No information needed to be created, since the information should be very well possessed by the Ministry. No interpretation of any information is required. Only actual information about the particulars, slot number and total numbers of</p>



			the said DP slots which remained unfilled on 31.12.2008 were requested for. No solution to any problem is sought. The information should have been provided from the records maintained by Ministry.
4	Whether any DP slot (for DR-DP inter se seniority), which was existing before or in between the slots to which the 3 officers named in query number 2 above were appointed on DR basis in the JAG grade was left unfilled as on 31.12.2008 for no DP candidate being available.	-do-	The reply furnished is evasive and contrary to the provisions of the RTI Act. The information sought was in the form of "YES" or "NO". The query was definite and based on actual event which should have been contained in records of Ministry and not hypothetical. No information needed to be created, since the information should be very well possessed by the Ministry. No interpretation of any information is required. Only information about the DP slots actually remaining unfilled on 31.12.2008 was requested for. The information should have been provided from the records maintained by Ministry.
5	If answer to query number 4 is YES, particulars of number of such DP slots left unfilled as on 31.12.2008 should be provided in the reply	-do-	The query was definite and based on actual event which should have been contained in records of Ministry and not hypothetical. No information needed to be created, since the information should be very well possessed by the Ministry. No interpretation of any information is required. Only actual information about the DP slots which remained unfilled on 31.12.2008 were requested for. No solution to any problem is sought. The information should have been provided from the records maintained by Ministry.
6	According to the DOPT calendar whether the DPC held in January	-do-	The reply furnished is evasive and contrary to the provisions of the RTI Act. The information sought

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A/b

	<p>2009 for promotion of STS grade officers to JAG grade, pursuant to which order no.A-32011/5/2005-Admn.II dated 5.2.2009 was issued by Ministry of Corporate Affairs, Government of India, was supposed to be held before 1.1.2009</p>		<p>was in the form of "YES" or "NO". The query was definite and based on actual event which should have been contained in records of Ministry and not hypothetical. No information needed to be created, since the information should be very well possessed by the Ministry. No interpretation of any information is required. Ministry is aware about the DOPT Calendar for holding DPCs for compliance and only answer in YES or NO form was requested as to whether the DPC meeting was supposed to be held before 1.1.2009 according to the calendar.</p>
7	<p>If answer to query number 6 is YES, please provide information about what was the earliest date on which the DPC was supposed to be held in accordance with the DOPT calendar.</p>	-do-	<p>This is a definite query seeking definite information supposed to be derivable from the records of the Ministry. Ministry is aware about the DOPT Calendar for holding DPCs for compliance and if the DOPT calendar was not complied with that fact should be also known to Ministry and in that case the earliest date for holding the DPC meeting should also obviously be known to the Ministry. Information as known to Ministry was requested for. No information was required to be created. No information in any particular proforma or format was requested for.</p>
8	<p>If answer to query no.6 is "Yes" please provide reasons (date-wise for the entire period of delay) for the delay in holding the DPC.</p>	-do-	<p>This is a definite query seeking definite information supposed to be derivable from the records of the Ministry. Ministry is aware about the DOPT Calendar for holding DPCs for compliance and if the DOPT calendar was not complied with that fact should be also known to Ministry and in that case the</p>

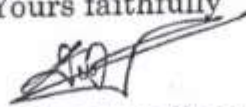


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			reasons for delay in holding the DPC meeting should also obviously be known to the Ministry. Information as known to Ministry was requested for. No information was required to be created. No information in any particular proforma or format was requested for.
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Sir, the information sought by me from the CPIO were of grave importance to my life and career. If I am kept deprived of the said bona fide information it is driving me to utter frustration and despair which, I apprehend, may eventually lead to fatal consequences for me.

Yours faithfully



(Debasish Bandopadhyay)  
C/o Smt S Dey

P-168, Sector-B, Metropolitan Co-operative Housing Society,

Kolkata-700105

Kolkata,  
Dated 22<sup>nd</sup> April 2014

S. No. 7(A)

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No.A-44011/15/2014-Admn.II  
Government of India  
Ministry of Corporate Affairs

.....  
New Delhi, dated 19th May, 2014

To

Shri Debasish Bandopadhyay,  
C/o Smt. S. Dey,  
P-168, Sector B,  
Metropolitan Cooperative Housing Society,  
Kolkata-700 105.

Sub: Appeal under Right to Information Act, 2005 against decision of Shri Rakesh Kumar, CPIO,  
Ministry of Corporate Affairs, New Delhi.

Sir,

Please refer to your appeal dated 22.04.2014 aggrieved by the reply of CPIO dated 07.04.2014. The reply of CPIO was examined by the undersigned. The information as available in the file has been provided by the CPIO and he is not supposed to reply to your questions posed to the CPIO. In this regard attention is invited to the decision of the CIC in Case No.CIC/AT/A/2006/0095 dated 21<sup>st</sup> April, 2006 where a decision has been given that:

*"The RTI Act does not cast on the public authority any obligation to answer queries, as in this case, in which a petitioner attempts to elicit answers to his questions with prefixes, such as, why, what, when, whether, if, etc. The petitioner's right extends only to seeking information as defined in Section 2(f) either by pinpointing the file, document, paper or record, etc., or by mentioning the type of information as may be available with the specified public authority."*

In view of the above, the reply of CPIO appears to be as per the Act.

2. The appeal is disposed as above.
3. Appeal, if any, can be filed against the decision of Appellate Authority with CIC within 30 days of receipt of this communication.

Yours faithfully,

  
(Alok Kumar)  
Director  
Tel: 23382386

Copy for information to:

1. Monitoring Cell (RTI) MCA
2. CPIO, MCA [Shri Rakesh Kumar, US(AD.II)]

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Anand  
Sachin  
20/5/14

LD-43/257013

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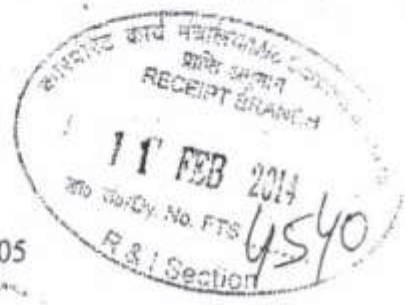
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323, Sector-46,  
Faridabad, Haryana  
M.: +91-9811814560

**(Dr.) A.K. Doshi**  
B.Com, LL.M., Ph.D (Law), F.C.A.  
Ex-Member Company Law Board  
Government of India

To,

RTI Officer  
Ministry of Corporate Affairs  
Garage No.14, "A" Wing,  
Shastri Bhawan, Rajendra Prasad Road  
New Delhi - 110001.



Sub: Seeking information under RTI Act, 2005

Sir/Madam,

I Dr. Ajit Kumar Doshi at present residing at H.No. 323, Sector - 46, Faridabad, Haryana. I was working in Hindustan Zink Ltd. then A Govt. of India undertaking from 03.07.1968 to 18.05.1972 and in National Textiles Corporation Ltd. A Govt. of India undertaking from 20.05.1972 to 30.09.1974 all details have been furnished.

May kindly be provided with the below mentioned information:-

Copy

1. Kindly intimate why the above mentioned period has not been taken into account for the purpose of pension with effect from 01.01.1998 inspite of giving all the details. Kindly re-fix the pension from 01.01.1998 and orders be issued for P.P.O. No. 263669800095 dated 27.04.1998.

Please provide the above said information U/S 7(6) of RTI Act, 2005

To the best of my knowledge the information sought does not fall within the restrictions contained in section 8 and 9 of the Act; and it pertains to your office.

This is to certify that I Ajit Kumar Doshi am a citizen of India & Ex-Member of Company Law Board.

A fee of Rs. 10/- has been deposited vide receipt no.

Dated

*Ajit Doshi*  
Prof. (Dr.) A.K. Doshi  
H. No. 323, Sector - 46,  
Faridabad, Haryana

Dated: 07/02/2014

14/2/2014  
12/2/14



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Speed Post

No. A-44011/16/2014-Ad.II  
Government of India  
Ministry of Corporate Affairs

'A' Wing, 5<sup>th</sup> Floor, Shastri Bhawan,  
New Delhi, dated the 7<sup>th</sup> April, 2014

To.

Prof.(Dr.) A.K. Doshi,  
H.No.323, Sector-46,  
Faridabad, Harayana,

Sub: Information under Right to Information Act, 2005.

Sir,

Please refer to your application dated 7.2.2014 received by CPIO Ad.II on 10.3.2014 through Nodal CPIO, Ministry of Corporate Affairs on the subject mentioned above and to say that the information sought is in question form. As such, it is not covered under the definition of information under Section 2 (f) of RTI Act.

2 If you are not satisfied with the reply, you may file appeal to Ist Appellate Authority within 30 days of receipt of information at the following address:

Shri Alok Kumar,  
Ministry of Corporate Affairs,  
5<sup>th</sup> Floor, "A" Wing, Shastri Bhawan,  
New Delhi-110001.

Yours faithfully,

*Rakesh Kumar*  
(Rakesh Kumar),

Under Secretary to the Govt. of India & CPIO  
Ph: 23383507

Copy to:

- 1. Monitoring Cell (RTI), MCA, w.r.t. their O.M. No. 1/1/2014-Coord. (RTI) dated 28.2.2014.
- 2. Under Secretary, Ad.IV Section w.r.t. their O.M. No. A-45011/20/2014-Ad.IV dated 6.3.2014

*Handwritten signatures and initials*

*Handwritten initials*



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लोक सूचना अधिकारी  
मिनिस्ट्री ऑफ कॉरपोरेट अफेयर्स  
5वीं तल, ए-विंग  
शास्त्री भवन  
नई दिल्ली-110001

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विषय : सूचना का अधिकार अधिनियम 2005 के अन्तर्गत।

महोदय,

सूचना का अधिकार अधिनियम के अन्तर्गत मुझे निम्नलिखित जानकारी उपलब्ध कराये।

1. 01 जनवरी 2008 से 15 फरवरी 2014 तक उन कर्मचारियों की सूची वरिष्ठता क्रम अनुसार उपलब्ध कराये जिनकी अपनी सेवा काल के दौरान असामयिक मृत्यु हुई।
2. उपरोक्त मृत कर्मचारियों के आश्रितों में से कितने परिजनों को अनुकंपा के आधार पर नियुक्ति कि गई उनकी वरिष्ठता अनुसार सूची। )
3. कितने आश्रितों की नियुक्ति की जानी है उनकी सूची उपलब्ध कराये।
4. अनुकंपा के आधार पर आश्रित परिजनों को नियुक्त करने में यदि मंत्रालय/कार्यालय द्वारा विलंब होता है और इस दौरान यदि वह निर्धारित आयु सीमा से उपर हो जाते है तो उस स्थिति के लिए क्या प्रावधान है।

Coord.

59/3/Coord  
10/5/19

अपेक्षित सूचना शुल्क भारतीय पोस्टल आर्डर सं0 13एफ 893283 (संलग्न) द्वारा अदा कर दिया गया है।



(सुशील कुमार)  
10ए/10862, डब्ल्यू.ई.ए.  
करोल बाग, नई दिल्ली-110005

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SPEED POST

No.A-44011/17/2014-Ad.-II  
Government of India  
Ministry of Corporate Affairs

'A' Wing, 5<sup>th</sup> Floor, Shastri Bhawan,  
New Delhi. Dated: 9.04.2014

To

✓ Sh. Sushil Kumar,  
10-A/10862,  
w.e.a, Karol Bagh,  
New Delhi - 110005

**Sub: Information sought under RTI Act, 2005 - regarding.**

Sir,

Please refer to your application dated 19.2.2014 received by CPIO Ad-II through nodal CPIO on 19.3.2014 on the subject mentioned above and to say that information sought in respect of Sl. No (1) to (4) is not maintained in the manner it has been requested for. In this regard DOPT circular No 1/18/2011-IR dated 16.9.2011 (copy enclosed) may be referred.

2. Appeal, if any, against the above reply may be filed before the First Appellate Authority within 30 days of receipt of this letter. The name and address of the First Appellate Authority is as under:-

Sh. Alok Kumar, Director,  
Ministry of Corporate Affairs, 5<sup>th</sup> floor, Room no. 528  
'A' Wing, Shastri Bhawan,  
New Delhi -110001.

Yours faithfully,

*Rakesh Kumar*

(Rakesh Kumar)

Under Secretary to the Government of India & CPIO  
Ph. No. 2338 3507

Copy for information to:

✓ Monitoring Cell (RTI), MCA

*Recd*  
*Rakesh*  
*11/4/14*