

CENTRAL INFORMATION COMMISSION
Appeal No.CIC/WB/A/2007/01243 dated 10.12.2007
Right to Information Act 2005 – Section 19

Appellant - Dr. Asha Singh

Respondent - Central Reserve Police Force (CRPF)

Facts:

By an application of 18.9.07 Dr. Asha Singh of NOIDA, Distt. Gautam Budh Nagar, U.P. applied to the CPIO, CRPF seeking information on 14 points, stemming from the following basis:

“The information relates to my repeated transfer & harassment in male battalion without any another female in unit, without proper privacy for female, against my request and all the guidelines laid down by the CRPF, MHA and also ignoring my grievances faced in the male battalion by the hands of male officer.”

To this she received a response on 27.9.07 from ADIGP and CPIO refusing the information as below:

“As per Section 24 (i) of Right to Information Act, 2005, Central Police Forces as listed in the Second Schedule of the Act, have been given qualified exemption from the Act in so far as the allegations of other than those connected with Human Right Violations and Corruption are concerned. From the facts of the case mentioned in your application cited above, there appears to be no violation of Human Rights as well as facts of the case do not attract ingredients to constitute the allegations of corruption. Hence, the information sought vide your application is not covered under Right to Information Act, 2005.”

Dr. Asha Singh then moved her first appeal before Shri S.R. Ojha, DIG (Admn) and First Appellate Authority, who, however, in his order of 2.11.07 upheld the reply of CPIO. Hence the second appeal before us, which Dr. Asha Singh has moved with the following prayer:

“(a) I would, most humbly, pray to this Hon’ble Commission to direct the CPIO as also the Appellate Authority to provide me the information sought for. The Commission may also be pleased to take notice of this deliberate attempt to deny me the information and to

impose penalties on the concerned officers and to order an independent enquiry by other than CRPF agency e.g. CVC.

(b) Release of salary along with the interest for delay on non payment and recovery from the official responsible for illegal stoppage.'

This appeal has been moved on grounds of alleged Human Rights Violation, as below:

- “(a) Human violation by repeated posting in a non family male battalion as a only lady office without any medical infrastructure laid down by the MCI, MHA's, CRPF guidelines and harassment by the male officers as mentioned in the representation dated 26.7.2007.
- (b) Stoppage of salary during medical illness without assigning any reason for last 3 months.
- (c) Human violation by non provision of privacy to females as emphasized in letter No. LII. 7/ 2005- Adm-II (Wel) dated 3 May 2005 (Annexure).
- (d) Discrimination by not posting as per my specialization while other specialized medical officer is posted as per their specialization.
- (e) Violation of my rights of my children (Daughters) education and denial to stay with me by posting at a non family station.
- (f) Denial of benefits as applicable officers of the unit i.e., salary, conveyance, TA/DA, HRA, transfer allowance etc.’

In a detailed response to the Appeal Notice Shri S.R. Ojha, DIG (Admn), CRPF has submitted as follows:

“At the very outset, the answering respondents submit that the Department of Central Reserve Police Force (in short CRPF) is an exempted organization u/s 24(1) of the RTI Act 2005 and has been included in Scheduled II, at item 10. Hence CRPF is statutorily exempted from disclosing any information other than those pertaining to allegations of corruption and Human Rights Violations. The Central Information Commission, Block No. IV (5th floor) Old

JNU Campus, New Delhi has also upheld the position in its order dated 24.1.2007 in reference to Case No. CIC/AT/A/2006/00559.”

After addressing each averment made in the appeal para-wise, Shri S.R. Ojha has concluded as below:

“The prayer made by the appellant to direct the CPIO as also the Appellate Authority to provide her the information sought for under RTI Act, 2005, is not at all tenable in the premises of Law. The appeal filed by the appellant before the Commission suffers from the legitimate grounds and an effort to misuse and mislead the authority of CIC, and thus, the appeal may be rejected with exemplary costs on the appellant.”

Appellant Dr. Asha Singh has responded with a rejoinder dated 21.4.08 summing up how her human rights have been violated, as below:

- (i) When the then IG, Shri C. Pal Singh, misbehaved with me been an alone lady officer, insulted me in presence of other officers in November, 1992. I had filed a complaint against him before the authorities. Till date, I have not been given any information about the action taken against Shri C. Pal Singh. The respondents have deliberately chosen not to consider that attack on the dignity of a lady by humiliating her in presence of others and total inaction on the part of the authorities is nothing but violation of human rights. If the information is sought about the action taken, it cannot be said that such information can be denied by taken shelter under Section 24 (1) of the RTI Act.
- (ii) Posting a lady officer in an all-male battalion in the field and denying her the facilities for working and also of residence in places like Jammu and Bokaro, are acts of violation of human rights. I was forced to reside with male officer at Bokaro while there was a house lying vacant. The fact was also mentioned in my representation dated 24.7.2007 to DG, CRPF. If I seek information on the action taken against the Commandant of 26th Bn and other male officer for violation of my rights as a human being, the authorities cannot take shelter under Section 24 (i) of the RTI Act to deny the information.
- (iii) Names of CMO are posted against vacancies of FACC and RACC requiring public health specialists for implementation, monitoring and evaluation of AIDS control programs were

sought by me, as irregularities are being committed by not posting specialists who are available and even not having infrastructure as mention in their manual and as per MHA guidelines.

- (iv) I had sought reasons for withholding of salary despite timely submission of medical certificates duly verified by 2 I/c and intimation communicated through 82 Bn being nearest to my residence.
- (v) Denial of the allowances (HRA, TPT, CCA, detachment allowance, advance transfer TA/DA) as applicable to others.”

The appeal was heard on 1.7.2008. The following are present:

APPELLANT

Dr. Asha Singh, CMO, CRPF

RESPONDENTS

Sh. S. R. Ojha, DIGP / F.A.A.
Sh. Dinesh Kumar, ADIGP / CPIO
Sh. Y.N. Rai, D.C. (Legal Branch)
Sh. D.K. Pant, SI (M) / DA Pers. Branch

The issues before us are two:-

Issue No. 1

Whether gender discrimination would amount to Human Rights Violation.

Issue No. 2

Whether in case it does so amount, the information sought by appellant Dr. Asha Singh in the present case amounts to information on allegations of Human Rights Violation?

There was a consensus in the hearing that gender discrimination would amount to Human Rights Violation. However, Shri S. R. Ojha DIGP submitted that in this case the issue is only one of transfer against which Dr. Asha Singh has represented and is, therefore, a purely administrative matter, with no ramification of gender discrimination and consequently violation of human rights. Upon this he was asked by Information Commissioner Prof. M. M. Ansari

whether there was any structure for obtaining redress by Dr. Asha Singh on the basis of her complaint of discrimination. Shri Dinesh Kumar, ADIGP and CPIO submitted that in fact she had met DG Shri D.N. Singh under Grievance Redressal; an enquiry had been conducted by Shri Alok Raj Sharma and report submitted in this regard in 2008.

Information Commissioner Dr. O.P. Kejariwal invited the attention of respondents to the application in which there are allegations of gender discrimination. He, therefore, asked how the information sought could, therefore, be denied. To this respondents argued that the contention that she was a victim of gender discrimination was being presented as an excuse for a matter which is purely administrative.

DECISION NOTICE

Having heard the arguments and examine the records, we find as follows:

Issue No. 1

On December 10, 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights. Under **Article 2** of the Universal Declaration of Human Rights men & women are to be treated as equal. This Article reads: *“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex,¹ language, religion, political or other opinion, national or social origin, property, birth or other status”*. Article 23 moreover declares as follows:

¹ Underlined by us

Article 23.

(1) Everyone has the right to work, to free choice of employment, to **just and favourable conditions of work**² and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection

This issue, therefore, falls squarely within the definition of Human Rights. This is at any rate undisputed by all parties.

Issue No. 2

It is also clear from the request for information of 18.9.07 that the information sought is on the basis of allegation of Human Rights Violations. The wording of proviso of sec. 24(1) is clear:

“Provided that the information pertaining to the **allegations of corruption and human rights violations shall not be excluded** under this sub-section:

Provided further that in the case of information sought for is in respect of **allegations of violation of human rights**,³ the information shall only be provided after the approval of the Central Information Commission, and notwithstanding anything contained in section 7; such information shall be provided within forty-five days from the date of the receipt of request.”

As per this law information pertaining to “allegations” of human rights violation will warrant the providing of information after the approval of Central Information Commission. In this case the following question numbers out of 14 placed before CPIO by appellant Dr. Asha Singh in her original application are

² Emphasis ours

³ Emphasis on both paras ours

clearly allegations of gender discrimination resulting in unjust and unfavourable conditions of work, and, therefore, alleging human rights violation:

- “1. Details/ comments on my representation dated 24.7.2007 submitted in DG, CRPF's office & also e-mailed on 27.7.2007 regarding the daring facts brought to my notice by the ADG/CRPF relating to my repeated transfers and suffering to set an example to other members of the force who approach the Hon'ble Court for redressal of their grievances for fundamental rights & even denying me for proper placement at near place to Delhi so that I cannot continue my family life peacefully and take care of my daughter who need both parental support. In my case I was denied basic fundamental rights due to unknown reasons. All the court cases had been in my favour even penalty was imposed on department for non compliance of order of Hon'ble Court.
2. The time taken in the disposal of representation by the CRPF and also getting permission letter for seeking permission to meet the Director General for redressal of grievances which are of urgent nature.
3. Detail of action taken on the Commandant of 26 battalion who misbehaved with me by asking me to go out from his office at Jammu as well as Bokaro, when I had asked for a separate/ suitable accommodation being only lady officer in the battalion. As I was forced to reside with male officer in the same house while there was other house lying vacant and other male officer much junior was allotted of higher grade by the state. The same was mentioned in my representation dated 24.7.2007 addressed to DG/ CRPF.
4. Details of action taken on the male officers who were interfering and challenging my professional knowledge by the way of asking/ referring the patients/ jawans & sick register to take treatment from doctors of civil hospitals on the grounds that I was not touching/ asking them & to take off their cloths while giving them treatment as per instruction of Commandant.
9. Reasons for my repeated postings in a male battalion without my request with no other female personnel posted & without proper infrastructure as emphasized in the letter no. L. II.7/ 2005-Admn-II (Wel) dated 3rd May 2005 and also compelling to visit companies located at distance of 100-200

kms with no health infrastructure and to travel and stay with male jawans without any toilet facilities for ladies during journey & also to attend late night parties in officer mess where drinks are served.

10. Reasons for my against transfer from Bokaro to Jammu against my request in a male battalion and non family station with no other female personnel posted within a period of 3-4 months without transfer benefits and also not specifying the exact location as the unit is located at Rajouri & Jammu.
12. Vacancy position/ the locations and services being provided in the various 50, 100 & 200 bedded hospitals as pr the MHA notification no. 27012/33/2003-PF.III dated 10th October 2005 and also DG/CRPF order no. O-IV-20/2004-ORG dated 9.5.2006.
14. Urgency/ details of posting only female doctor without any other female para medical or general duty personnel without any infrastructure in the male battalion, away from their family in a non family station and without provision of security/ privacy in compliance with the DG/CRPF order no. L.II.7//2005-Admn-II (Wel) dated 3rd March 2005.”

In light of the above, **answers to the above 8 questions will be provided by Shri Dinesh Kumar, ADIG / CPIO to appellant Dr. Asha Singh within 15 working days of the date of issue of this Decision Notice, as per records held.**

We find, however, that because this issue of opening or otherwise of an organization excluded u/s 24(1) to the operation of Right to Information Act is new and the definition of what will fall under Human Rights Violation still debated, we find no reason for holding CPIO in violation on the time limit mandated u/s 7(1). We also find that the DG Shri S.I.S. Ahmed of CRPF in his circular Order No. 01/2007 dated 4.4.07 has clearly assigned duties in servicing the RTI Act to different levels of Officers in the CRPF. This is to be commended.

The appeal is allowed, but for the reason given above there will be no penalty and no costs.

Reserved in the hearing, this decision is announced on this the third day of July, 2008.

Notice of this decision be given free of cost to the parties.

(O.P.Kejariwal)
Information Commissioner
03.7.2008

(Prof. M. M. Ansari)
Information Commissioner
03.7.2008

(Wajahat Habibullah)
Chief Information Commissioner
03.7.2008

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges, prescribed under the Act, to the CPIO of this Commission.

(Pankaj Shreyaskar)
Joint Registrar
03.7.2008