

Date: 23/10/2019.

From : Nirmalya Prasad Roy,
Flat No.F-3,River Palace,
280,K.B.C.Road,Hakhola,
Chandannagar- 712136.
Dist: Hooghly.

To
The C.I.C. & Asstt. Commissioner,
CGST & C.Ex., Howrah Comm'te, M.S. Building,
15/1, Strand Road, Kolkata-700001.

Sub: - Request for information under Right To Information Act, 2005.

Sir,

I would request you kindly to furnish the following information under Right to Information Act, 2005 pointwise in respect of Pension case of Sri Nirmalya Prasad Roy, Inspector, retired on superannuation on 31.10.2016 (AN) from Hqrs. Office of C.Ex., Kol-IV (now CGST & C.Ex., Howrah.) Comm'te. The information sought for should not be evasive and wrong and should promote transparency based on all the information available and as should be available with your Office.

1. Please furnish information in brief about violation of the applicable rules, procedures, time lines, guidelines etc. by the Head of Office of Dankuni Division of the then Kolkata-IV Comm'te since beginning of 1st stage of Pension Processing till forwarding of the same to Hqrs. office of the then Kolkata-IV Comm'te on 04.07.2016 and action, if any, taken by Hqrs. office against Dankuni Divisional Office in this regard for delay, if any, etc.
2. Please furnish information in brief about violation of the applicable Rules, procedures, time lines, guidelines etc. by the Head of Office of the then Kolkata-IV Comm'te (now Howrah Comm'te) since receipt of the pension papers in Hqrs. office on 04.07.2016 till issue of Pension Payment Order by PAO, C.Ex., Kol-IV on 31.01.2017. and action, if any, taken by Hqrs. office against the concerned officials for violation of Govt. policies/rules in pension matters causing undue harassment and hardship to the retiree in spite of the fact that there was no disciplinary case against the retiree in his total service life and no rent payable by him since no govt. accommodation allotted to him in his total service life.
3. Please inform about the existence of any provision authorising PAO to instruct Head of Office after the date of retirement on superannuation to make retrospective downward changes in pay, rectification in Service Book and recovery of huge amount from pensionary benefits/gratuity owing to alleged grant of wrong MACP 1st & 2nd upgradations, which was duly recommended in the DSC of competent Cadre Controlling Authority (Kol-II Comm'te) long back and in the knowledge of PAO & Kol-IV Comm'te, since all salary bills including huge arrears were passed by them without any objection..
4. Please inform about the existence of any provision in the rules making the Head of Office bound to act solely as per instructions of PAO even after retirement on superannuation of the retiree.
5. Please inform about any discretionary power and authority under the rules enjoyed by PAO and Head of Office in dealing with pension cases. If so please mention those.
6. Please inform as to whether the Head of Office issued any letter to PAO for delay in issuance of the Pension payment orders by him, if so please mention letter no. and date.
7. Please inform if the objection raised by PAO, C.Ex., Kol-IV vide his letter dt. 08.11.2016 regarding 1st and 2nd MACP was cross-checked by Head of Office before issue of Pay fixation/revision orders dt. 08.12.2016.
8. Please inform if DOPT, New Delhi instructions regarding strict guidelines and procedures before effecting downward revision of pay and excess recovery by issue of Show Cause Notice and reply thereto, if any, from the employee concerned, was followed/observed in this case.
9. Please inform if the consent of the then Cadre Controlling Authority (Kol-II Comm'te) was taken before cancellation/modification of the MACPs vide Kol-IV Comm'te Pay fixation order dt. 08.12.2016. If so, letter nos. and date may be furnished
10. Please inform if there is any provisions under the applicable/governing CCS (Pension) Rules, 1972 which authorizes the Head of Office to effect recovery of Govt. dues after retirement on

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superannuation from gratuity on account of alleged excess payment of salary and allowances even if instructed by PAO. In this connection it is stated for your kind information that Rule 62 of 'Audit Objection and recoveries' of Receipts and Payments Rules, 1983 as cited by Howrah Comm'te vide their letter dt. 17.05.2019 to me to justify recovery from gratuity is not at all correct since those rules do not apply in the case of already retired employees but relate to serving "government servants" only. In fact, there can be no rule for recovery after retirement on superannuation as is clear from applicable CCS(Pension) Rules and relevant OMs of DOPPW, New Delhi.

11. Please inform if the copies of the pay refixation order dt. 08.12.2016, and copy of order dt. 20.12.2016 for recovery were at all sent to the residential address of retiree after issuance, for his information. If so, the postal details may please be furnished.
12. Please inform if the consent of the then Cadre Controlling Authority (Kol-II) was taken before cancellation/modification of the MACPs vide Kol-IV Comm'te Pay fixation order dt. 08.12.2016 and issue of recovery order dt. 20.12.2016 for alleged excess payment w.e.f. 01.09.2008. If so, the letter nos. and dates may be furnished.
13. It is a fact that LPC issued after retirement is considered as a very important document and different pensionary benefits must tally with last pay/emoluments etc. as shown in the LPC. But, in this case the only LPC dt. 02.11.2016 issued after retirement show, last pay as Rs. 82,400/- which was actually received by me on 31.10.2016 but all my pensionary benefits calculated and paid on Rs. 80,200/- irregularly. Moreover, the LPC dt. 02.11.2016 was forwarded to my residential address vide Kol-IV Comm'te forwarding letter dt. 09.02.2017 i.e. after about 100 days of issue along with all other pensionary order issued on 31.01.2017. In this connection, please inform action taken by the Authority for clear negligence and wrong action by the concerned officials/officers for deliberate violation of rules, norms etc. causing not only annoyance of the retiree but also causing undue embarrassment for the Head of Office too, as he has been made accountable in pensionary regards.
16. Please inform the outcome of "Pension Adalat, 2019" held on 23.08.2019 at Utpad Shulk Bhawan, Kolkata-700107 in my respect as available with our office.
17. Please inform the contents of instructions, if any, received from CBIC, New Delhi in connection with my pension case.
18. Please inform whether the Head of Office is not convinced about applicability of the strict and clear orders/judgements of Honourable Supreme court of India in the Case of State of Punjab & Ors. vs. Rafiq Masih (White Washer) in my case since vide your office letter dt. 17.05.2019 I have been asked to wait till disposal of the Writ Petition No. 3 of 2019 before Hon'ble High Court of Calcutta which was filed by the Deptt. against the judgement of Hon'ble CAT, Calcutta Bench in the case of OA No. 651 of 2015 Ranjit Kumar Biswas and others regarding excess recovery and resoration of MACP, based on the judgement of Honourable Supreme Court of India in the case of High Court of Punjab & Haryana vs. Jagdev Singh. In this connection it is stated that none of the cases mentioned hereinabove has any similarity with my case in any respect. Moreover, in my case I was neither placed on notice in the pay fixation orders of 1st and 2nd MACP regarding refund of excess amount if found later nor did I submit any undertaking/Declaration about refund of excess amount on account of those 1st and 2nd MACP upgradation and consequent payment as already revealed, which were the main considerations in the order/ judgement of Hon'ble Supreme Court of India in the case of of High Court of Punjab & Haryana vs. Jagdev Singh. Please furnish the information as per records available.

I am enclosing herewith crossed IPO for Rs. 10/- bearing No. 23F 180141 dt. 01.08.2019 payable to ACAO, CGS & C.Ex, Howrah Comm'te as prescribed fee for RTI queries. No other fee is payable since I did not request for supply of copies of any document/information. I am a citizen of India and the above information is required in public interest. Information called for strictly as per Provisions of RTI Act in force.

Ebclo. :- As above (1 No.)

Date: 23/10/2019.

Yours faithfully,

Nirmalya Prasad Roy 23/10/2019
(NIRMALYA PRASAD ROY)

(NIRMALYA PRASAD ROY)



INFORMATION
COMMISSION

RTI MATTER

भारत सरकार GOVERNMENT OF INDIA
OFFICE OF THE COMMISSIONER OF CENTRAL TAX,
HOWRAH GST & CX COMMISSIONERATE,
एम.एस. बिल्डिंग, 15/1, स्ट्रैंड रोड, कोलकाता- 700001
M.S. BUILDING, 2nd floor, 15/1, STRAND ROAD, KOLKATA- 700001
दूरभाष सं/PHONE NO. 033-2262-8490, फ़ैक्स FAX 033-2262-8490

C. No. IV (16)70/RTI/CGST/HWH/NPR/2019-20

Date: 25.10.2019

To
Shri Nirmalya Prasad Roy,
Flat No.F-3, River Palace,
280, K.B.C.Road, Hatkhola,
Chandannagar,
Hooghly-712 136.

Sir,

Sub: RTI application filed by Shri Nirmalya Prasad Roy-reg.

This has a reference to your RTI application dated 23/10/2019.

A plain reading of the impugned RTI application, it is seen that the information sought for by you are same or slightly modified pertains to the same issue on which you have filed series of RTIs and subsequently appeals, which were duly replied/ disposed of within the stipulated deadlines by the CPIOs & First Appellate Authorities (FAA) respectively.

In this context, attention is invited to the fact that a harmonized reading of several judgements of the Hon'ble CICs, as illustrated herein below, clearly manifests that repeated filing of RTIs on the same issue consequently resulting in misuse is neither to be entertained nor allowed.

CIC/DS/A/2013/001487 SA dated 8th December 2014 in the case of Mr.Pradeep Bajaj –vs- Sub Registrar IX GNCTD, New Delhi – The Hon'ble CIC has, inter-alia, discussed citing the verdict on the same issue pertaining to another CIC Bench's judgement vide order NO.CIC/AD/A/2013/001326 SA delivered on 25/06/2014 in the case of R.C. Jain –vs- DTC with respect to RTI applications which are **repetitive and harassing** in nature. In the said verdict, it has been observed that if the PIOs, First Appellate Authorities and the Commissions entertain the repeated applications, there will be no end to the information litigation and the Public Authorities would be continuously taxed for no fault of them. Further, the Hon'ble Commission thus holds that though RTI Act did not specifically provides as a ground of refusing information, it is implied from the objective and various provisions of RTI Act that any citizen has right to information only once and not repeatedly, waste of public time and obstructing RTI.

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The Commission has also held that once an RTI application is answered, the applicant shall refrain themselves from filing another RTI application against the Public Authority as once information is received and held by them or posted in Public domain, because such information is deemed to have ceased to 'held' by the Public Authority.

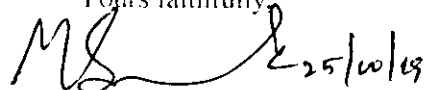
The Hon'ble Commission has concluded that no information seeker including the appellant in this case shall be allowed to repeat the RTI application and seek same information in slightly modified form of question.

CIC/SA/A/2015/001849 dated 25-02-2016: The Hon'ble CIC in course of deciding an appeal, has observed that the appellant has sufficiently used the RTI Act for his self interest, without any public interest.....therefore, the Commission admonishes the appellant for this misuse of the RTI Act just for the sake of vengeance forcing them to devote all their valuable time, energy etc. The Commission, therefore, rejects this appeal, with admonition. Finally, disposes of all his appeals on this matter, directs the appellant that he shall not repeat such RTI requests and directs the respondent authority not to cause wastage of public resources in responding to a repeated, frivolous and harassing RTI appellant.

In the light of the above judgements passed by the Hon'ble CICs, the CPIO is not in a position to furnish any information as sought for by you.

If you are aggrieved or dissatisfied with the reply, you are at liberty to prefer First Appeal within the stipulated time i.e. 30 (thirty) days from the date of receipt of this reply before Shri Pradeep Kumar Bohra,, Additional Commissioner & 1st Appellate Authority under RTI Act, 2005, Central Tax, Howrah GST Commissionerate, M.S. Building (6th Floor), 15/1 Strand Road, Kolkata - 700 001.

Yours faithfully,



(SARAVANAKUMAR MANOHARAN)
CPIO & ASSISTANT COMMISSIONER

सीपीआईओ और सहायक कमिशनर,

CENTRAL TAX केंद्रीय कर

HOWRAH GST COMMISSIONERATE

हावड़ा जीएसटी कमिशनरेट

o/c