

To  
The Central Public Information Officer (CPIO),  
Howrah CGST&CX Commissionerate,  
15/1, Strand Road,  
Kolkata -700 001.

Sir,

Subject: Seeking information under Section 6(1) of the RTI ACT, 2005.

Being a citizen of India, I submit this application under Section 6(1) of RTI Act, 2005, alongwith requisite fees of Rs.10/- (Rupees ten only) in cash, requesting for supply of information within normal period of 7 days under Section 7 of the said Act.

**Information Sought For**

Vacancy position worked out by the then Kolkata-II Commissionerate (presently Howrah Commissionerate) as contained in pending W.P.C.T. 81 of 2014 before Hon'ble Calcutta High Court, at page 137 & 138 as annexed documents of the petition, clearly shows that against total vacancies of Direct Recruitment (DR) for the year 2005-06 in the grade of Inspector were 112 against which new recruits joined altogether 163. Again, in 2006-07, DR appointees were 56 against negative balance of DR quota of 26. It goes to show that altogether 82 candidates have been appointed beyond vacancy as direct recruits, adjustment of which against future vacancies is impermissible in terms of settled principles of law, warranting removal/dismissal/termination from service of such illegally recruited DR appointees, since illegal recruitment beyond sanctioned vacancies does not confer right to post to give them protection under Article 311(2) of the Constitution of India. In this context, I request you to furnish the following information:-

1. Name, present designation and present place of posting of those illegally recruited 82 DR appointees be furnished.
2. Name and designation (at the material point of time as well as presently) of the competent authorities responsible for such illegal recruitment alongwith present place of posting be furnished.

Yours faithfully,

Encl: Rs.10/- (in cash)  
No.68G 535777.

*Date:- 22-01-2019*

*Narottam Pandey*  
(NAROTTAM PANDEY) *22-01-2019*  
K/J-14, Jagatpur,  
(Aswininagar)  
P.O.- Gouranganagar  
Kolkata-700 162





**RTI MATTER**

भारत सरकार GOVERNMENT OF INDIA

OFFICE OF THE COMMISSIONER OF CENTRAL TAX, HOWRAH GST COMMISSIONERATE

एम.एस. बिल्डिंग, 15/1, स्ट्रैंड रोड, कोलकाता- 700001

M.S. BUILDING, 1<sup>st</sup> floor, 15/1, STRAND ROAD, KOLKATA- 700001

दूरभाष सं/PHONE NO. 033-2262-8490, फैक्स/ FAX 033-2262-8490, Email: [rtigsthwh@gmail.com](mailto:rtigsthwh@gmail.com)

C. No. IV (16)108/RTI/CGST/HWH/NP/2018-19/17487A Date: 20.02.2019

To  
Shri Narottam Pandey,  
K/J-14, Jagatpur, (Aswininagar) ,  
PO-Gouranganagar,  
Kolkata-700162.

Sir,

**Sub: - RTI application under RTI Act, 2005 filed by Shri Narottam Pandey – Request for furnishing of information - reg.**

\*\*\*\*\*

Please refer to your RTI application dated 22.01.2019 filed directly which has been duly registered vide Registration No. IV(16)108/RTI/CGST/HWH/NP/2018-19 seeking certain information.

The desired information as sought for by you, as received from Section concerned i.e. the Personnel & Vigilance Branch of Howrah CGST & CX Commissionerate, are mentioned below.

**REPLY 1:** As per information available in the E.T. Section there is no document available which states that the appointment made was illegal.

**REPLY 2:** Same as reply to Point No. 1.

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 Chetan Lama**, Additional Commissioner & 1<sup>st</sup> Appellate Authority under RTI Act, 2005, Central Tax, Howrah GST Commissionerate, M.S. Building (6th Floor), 15/1 Strand Road, Kolkata - 700 001.

Yours sincerely,



(RAM KUMAR BHADURY)

CPIO & ASSISTANT COMMISSIONER

सीपीआईओ और सहायक कमिश्नर,

CENTRAL TAX केंद्रीय कर

HOWRAH GST COMMISSIONERATE

हावड़ा जीएसटी कमिश्नरेट

PROFORMA OF FIRST APPEAL UNDER SECTION 19(1) OF THE RIGHT TO  
INFORMATION ACT, 2005

To  
Shri Chetan Lama  
Additional Commissioner,  
Central Tax, Howrah CGST&CX Commissionerate,  
M.S. Building (6<sup>th</sup> Floor),  
15/1, Strand Road,  
Kolkata-700 001.



1. Name of the Applicant : NAROTTAM PANDEY
2. Address of the Applicant : (NAROTTAM PANDEY)  
K/J-14, Jagatpur, (Aswininagar)  
P.O.- Gouranganagar, Kolkata-700 162.
3. Particulars of the Central/Public Information Officer
  - (a) Name : Ram Kumar Bhadury,  
CPIO & Assistant Commissioner
  - (b) Address : Central Tax, Howrah CGST&CX  
Commissionerate,  
M.S. Building (3<sup>rd</sup> Floor), 15/1, Strand Road,  
Kolkata-700 001.
4. Date of submission of application for seeking information : 22.01.2019
5. Date on which 30/35/40 days from submission of application are over : Not applicable since application is disposed of.
6. Reasons for appeal:
  - (a) No response received within the specified period: : Responded to.
  - (b) Aggrieved by the response received within the specified period : Aggrieved by non-disclosure of information sought for.
  - (c) Grounds of appeal : As per attached sheet.
7. Last date for filing the appeal : Reply received on 22.02.2019. Last date for filing application is 24.03.2019.
8. Particulars of Information
  - (a) Information requested : Details of DR through SSC
  - (b) Subject : Details of DR through SSC
  - (c) Period : 2005-06 and 2006-2007
9. Fee for appeal has been deposited : Not applicable.

Place :  
Date :

*Aswini Nagar*  
*05-03-2019*

*Narottam Pandey*  
(NAROTTAM PANDEY)  
K/J-14, Jagatpur,  
(Aswininagar)  
P.O.- Gouranganagar  
Kolkata-700 162

## GROUND OF APPEAL

- A. Information sought for in respect of both the points 9 (Point No.1 & Point No. 2) had not been supplied by the CPIO.
- B. CPIO cannot shift the burden of statutory obligations under Section 7 of the RTI Act on ET Section.
- C. In my RTI application, detailed background of the information sought for against two points has been furnished to facilitate the CPIO for supplying desired information, specifying the documents(s) therein, i.e., page 137 & 138 of W.P.C.T. 81 of 2014, which is still sub-judice appearing currently in the monthly list, as reproduced below:

**D. Page : 137 : For the period 2005-06**

1. No. of vacancy arising during the period	:	53**
2. <u>By Direct Recruitment</u>		
(i) No. of vacancies to be filled		
(a) Vacancies of the year	:	35
(b) Vacancies brought forward	:	77
(c) Total	:	112
(ii) No. of vacancies actually filled (New Recruits joined)	:	163
(iii) No. of vacancies carried forward	:	(-)51
3. <u>By Promotion</u>		
(i) No. of vacancies to be filled		
(a) Vacancies of the year	:	18
(b) Vacancies of the previous year	:	22
(c) Total	:	40
(ii) No. of vacancies actually filled	:	00
(iii) No. of vacancies carried forward	:	40
** By promotion to the grade of Superintendent	:	41
By Retirement	:	11
By death	:	1
Total	:	53

**Page : 137 : For the period 2006-07**

1. No. of vacancy arising during the period	:	38
2. <u>By Direct Recruitment</u>		
(i) No. of vacancies to be filled		
(a) Vacancies of the year	:	25
(b) Vacancies brought forward	:	(-)51
(c) Total	:	(-)26
(ii) No. of vacancies actually filled (New Recruits joined)	:	56
(iii) No. of vacancies carried forward	:	(-)82
3. <u>By Promotion</u>		
(i) No. of vacancies to be filled		
(a) Vacancies of the year	:	13
(b) Vacancies of the previous year	:	40
(c) Total	:	53

(ii)	No. of vacancies actually filled	:	03
(iii)	No. of vacancies carried forward	:	50
***	By promotion to the grade of Superintendent	:	27
	By Retirement	:	06
	By death	:	05
	Total	:	38

The appellant states that the figure, (-)82 appearing against "No. of vacancies carried forward", against DR quota, adjusted against future vacancies of subsequent years, as to his understanding and knowledge is illegal recruitment, which cannot allow the ET Section and/or CPIO to withhold information as sought for. In fact, ET Section and/or CPIO ought to have got hold of the concerned file containing W.P.C.T. 81 of 2014 (available at Law Branch) and examined the documents at Page 137 and 138 to furnish the details of DR recruitees and Recruitee Competent Authorities, which would be available in ET Section, for onward supply of information under Section 7 of the RTI Act, 2005. Since information sought for is very specific and its source has been identified in the RTI application, CPIO, instead of stating, "As per information available in the ET Section there is no document available the appointment made was illegal" could have supplied the information connected with (-)82 DR cases, which, in all fairness, amounts to misleading information within the meaning of Section 20 of the RTI Act, 2005.

The appellant craves have to produce copies of the documents (page 137 & 138) of W.P.C.T. 81 of 2014 if asked for.


**PRAYER**

- (a) To pass an information as prayed for against Point No. 1&2 of the RTI application attached to this appeal.

**and/or**

- (b) To give direction to the CPIO to pass information as per (a) above.

Yours faithfully,

  
(NAROTTAM PANDEY) 05-03-2019  
K/J-14, Jagatpur,  
(Aswininagar)  
P.O.- Gouranganagar  
Kolkata-700 162



RTI MATTER

भारत सरकार GOVERNMENT OF INDIA

OFFICE OF THE COMMISSIONER OF CENTRAL TAX, HOWRAH GST COMMISSIONERATE

एम.एस. बिल्डिंग, 15/1, स्ट्रैंड रोड, कोलकाता- 700001

M.S. BUILDING, 1<sup>st</sup> floor, 15/1, STRAND ROAD, KOLKATA- 700001

दूरभाष सं/PHONE NO. 033-2262-8490

**ORDER-IN-APPEAL NO. 15/RTI/2018-19**

**Dated 29/03/2019**

**PASSED BY** Shri. Chetan Lama

Additional Commissioner, 1<sup>st</sup> Appellate Authority,  
Central Tax, CGST & Central Excise,  
Howrah Commissionerate, Custom House  
M.S. Building (6th Floor),  
15/1 Strand Road, Kolkata-700 001.

**Brief fact of the case**

**Subject:** Appeal filed under Section 19(1) of the RTI Act, 2005 by Shri Narottam Pandey, K/J-14, Jagatpur, Aswininagar, P.O.-Gouranganagar, Kolkata-700 162, against the reply/information furnished by the CPIO, Central Tax, Howrah CGST Commissionerate under C.No.IV(16)108/RTI/CGST/HWH/NP/2018-19/17487A dated 20.02.2019 to the RTI application dated 22.01.2019.

- I. The appellant filed application dated 22.01.2019 seeking following information from the CPIO & Assistant Commissioner, Howrah CGST Comm'te. The information/query, reply and grounds of appeal are depicted herein below:

**Information sought for :**

Vacancy position worked out by the then Kolkata-II Commissionerate (presently Howrah Commissionerate) as contained in pending W.P.C.T. 81 of 2014 before Hon'ble Calcutta High Court, at page 137 & 138 as annexed documents of the petition, clearly shows that against total vacancies of Direct Recruitment (DR) for the year 2005-06 in the grade of Inspector were 112 against which new recruits joined altogether 163. Again, in 2006-07, DR appointees were 56 against negative balance of DR quota of 26. It goes to show that altogether 82 candidates have been appointed beyond vacancy as direct recruits, adjustment of which against future vacancies is impermissible in terms of settled principles of law, warranting removal/dismissal/termination from service of such illegally recruited DR appointees, since illegal recruitment beyond sanctioned vacancies does not confer right to post to give them protection under Article 311(2) of the Constitution of India. In this context, I request you to furnish the following information:-

1. Name, present designation and present place of posting of those illegally recruited 82 DR appointees be furnished.
2. Name and designation (at the material point of time as well as presently) of the competent authorities responsible for such illegal recruitment alongwith present place of posting be furnished.

**Reply of the CPIO:**

**REPLY 1:** As per information available in the E.T. Section there is no document available which states that the appointment made was illegal.

**REPLY 2:** Same as reply to Point No. 1.

**Grounds of Appeal:**

- (i) The appellant contended that the information sought for in respect of both the points 9 (Point No. 1 & Point No. 2) had not been supplied by the CPIO.
- (ii) It has further been contested that the CPIO cannot shift burden of statutory obligations under Section 7 of RTI Act, 2005 to ET Section. He has also submitted that in his RTI application, detailed background of the information sought for against two points has been furnished to facilitate the CPIO for supplying desired information, specifying the document(s) therein, i.e., page 137 & 138 of W.P.C.T. 81 of 2014, which is still sub-judice appearing currently in the monthly list, as reproduced below:

**Page : 137: For the period 2005-06**

1. No. of vacancy arising during the period	: 53**
2. <u>By Direct Recruitment</u>	
(i) No. of vacancies to be filled	
(a) Vacancies of the year	: 35
(b) Vacancies brought forward	: 77
(c) Total	: 112
(ii) No. of vacancies actually filled	
(New Recruits joined )	: 163
(iii) No. of vacancies carried forward	: ( - ) 51
3. <u>By Promotion</u>	
(i) No. of vacancies to be filled	
(a) Vacancies of the year	: 18
(b) Vacancies of the previous year	: 22
(c) Total	: 40
(ii) No. of vacancies actually filled	: 00
(iii) No. of vacancies carried forward	: 40
** By promotion to the grade of Superintendent	: 41
By Retirement	: 11
By Death	: 1
TOTAL	: 53

**Page : 137: For the period 2006-07**

1. No. of vacancy arising during the period	: 38
2. <u>By Direct Recruitment:</u>	
(i) No. of vacancies to be filled	
(a) Vacancies of the year	: 25

(b) Vacancies brought forward	: (-) 51
(c) Total	: (-) 26
(ii) No. of vacancies actually filled (New Recruits joined):	56
(iii) No. of vacancies carried forward	: (-) 82
<b>3. By Promotion</b>	
(i) No. of vacancies to be filled	
4. Vacancies of the year	: 13
(d) Vacancies of the previous year	: 40
(e) Total	: 53
(ii) No. of vacancies actually filled	: 03
(iii) No. of vacancies carried forward	: 50
***By promotion to the grade of Superintendent	: 27
By Retirement	: 06
By Death	: 05
TOTAL	: 38

The appellant states that the figure, (-)82 appearing against "No. of vacancies carried forward", against DR quota, adjusted against future vacancies of subsequent years, as to his understanding and knowledge is illegal recruitment, which cannot allow the ET Section and/or CPIO to withhold information as sought for. In fact, ET Section and/or CPIO ought to have got hold of the concerned file containing W.P.C.T. 81 of 2014 (available at Law Branch) and examined the documents at Page 137 and 138 to furnish the details of DR recruits and Recruit Competent Authorities, which would be available in ET Section, for onward supply of information under Section 7 of the RTI Act, 2005. Since information sought for is very specific and its source has been identified in the RTI application, CPIO, instead of stating, "As per information available in the ET Section there is no document available the appointment made was illegal" could have supplied the information connected with (-) 82 DR cases, which, in all fairness, amounts to misleading information within the meaning of Section 20 of the RTI Act, 2005.

The appellant craves have to produce copies of the documents (page 137 & 138) of W.P.C.T. 81 of 2014 if asked for.

The appellant has prayed for

(1) Passing information against Point No. 1 & 2 of the RTI application attached to this appeal.

And / or

(2) Giving direction to the CPIO to pass information as per (a) above.

**II.** Aggrieved with the reply dated 20.02.2019 the appellant has preferred the instant appeal.

**III.** An opportunity for Personal Hearing was granted to the appellant on 22.03.2019 at 11.45 AM. Accordingly, the appellant appeared on the said date before the First Appellate Authority for Personal Hearing. During the personal hearing, the appellant submitted his written submission reiterating what has been sought for in his application.



#### **IV. Discussion & findings.**

(a) I have gone through the case records, the appeal dated 05/03/2019 vis-à-vis the reply dated 20.02.2019 furnished by the CPIO & Assistant Commissioner, Central Tax, Howrah CGST Commissionerate pertaining to the RTI application dated 22.01.2019 filed by the instant appellant.

(b) In the instant case, I find that the crux of the instant appeal, to all intents and purposes, rotates around the difference in number of Direct Recruit vacancies in the grade of Inspectors resulting in recruitment of 82 direct recruits candidates beyond vacancies by way of adjustment against future vacancies as cited/contended by the appellant in the present appeal.

(c) As a matter of fact, a careful insight into the text and the information sought clearly manifests that the information sought for by the appellant is incongruent and not commensurate as well with its text. To my considered view, the relevance between the text and the substance of information is missing.

In course of taking up this appeal, I persuasively as well as cogently observe that the genesis of the desired information pertains to the W.P.C.T 81 of 2014 which is, sub-judice, before the Hon'ble High Court, Calcutta and the appellant is in no way related to the same.

However, on examination of the CPIO' reply dated 20.02.2019, I find that the CPIO has denied information in the instant case by informing the applicant/appellant that no document is available in the Section concerned so as to hold the appointment as illegal.

Therefore, in the absence of any document which states that the appointment made was illegal, the CPIO was/is not in a position to provide the information as desired by the appellant in his instant appeal. Thus, the question of providing any information in this regard does not arise.

Now, in the prevailing state, I also intend to take up the issue from the perspective of the provisions of Section 8(1)(j) of the Right to Information Act 2005 and going by the nature of the information so sought for, I find that the same has no discernible element of larger public interest, in other words which fall under the expression of personal information, the disclosure of which has no relationship with public activity or public interest. Besides, no larger public interest justifies/calls for dissemination of the information so sought for by the appellant. Moreover, a harmonized reading of the verdict in the case of UOI Vs Hardev Singh read with UPSC -vs- R.K.Jain dated 13.07.2012 makes it evident, inter-alia, that the prime condition for disclosure of personal information is that the sought for information has to satisfy/justify conditions as laid down under the provisions of Section 8(1)(j) of the RTI Act 2005 i.e having larger public interest in dissemination of the information and not personal information.

In the prevailing circumstances, I find that the entire information so sought for by the appellant were/are qualified as personal information within the - meaning of the provisions of

Section 8 (1) (j) and hence is exempted from dissemination, ipso-fact, I do not find any ground to interfere with the stand taken by the CPIO in the instant case.


In the light of the above discussion and findings, I proceed to pass the following orders.

**V. ORDER**

(2) I uphold the stand taken by the CPIO in the instant case and reject the appeal.

The appellant is, however, at liberty to prefer a 'Second Appeal' before the Central Information Commission, Room No.326, 2<sup>nd</sup> Floor, August Kranti Bhavan, Bhikaji Cama Place, New Delhi-110066 within 90-days from the date of receipt of this order.

The appeal is disposed of accordingly.

  
29/03/2019

(Chetan Lama)

1<sup>st</sup> Appellate Authority

&

**Addl. Commissioner of Central Tax  
Howrah CGST Commissionerate**


F. No. IV (16)15/RTI/Appeal/CGST/HWH/NP/2018-19/

Dated: 29 /03/2019

Copy for information to:

13707-0813

- (1) Shri Narottam Pandey, K/J-14, Jagatpur, Aswininagar, P.O.-Gouranganagar, Kolkata-700 162.
- (2) The CPIO & Assistant Commissioner, CGST & C.Ex., Howrah CGST & C.Ex. Commissionerate, Kolkata.

  
29/03/2019

(Chetan Lama),

1<sup>st</sup> Appellate Authority,

&

**Addl. Commissioner of Central Tax  
Howrah CGST Commissionerate**

o/c