

Delhi High Court

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Allahabad Bank vs Nitesh Kumar Tripathi on 9 July, 2013

* IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of Decision: 09.07.2013 + W.P.(C) 906/2012 and CM No.2025/2012

ALLAHABAD BANK Petitioner Through:Mr.Rajesh Kumar, Advocate

versus

NITESH KUMAR TRIPATHI Respondent Through: None

AND

+ W.P.(C) 1191/2012 and CM No.2578/2012

ALLAHABAD BANK Petitioner Through:Mr.Rajesh Kumar, Advocate

versus

GYANENDER KUMAR SHUKLA Respondent Through: None

CORAM:

HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (ORAL)

In WP(C) No.906/2012, the respondent before this Court filed an application seeking certain information, including details of the assets declared by all officers above Scale-III of the petitioner bank. The said application was responded by the CPIO of the petitioner bank on 12th August, 2011. However, even before receipt of WP(C) 906/12 and 1191/12 Page 1 of 7 the reply from the CPIO, the respondent had already preferred an appeal before the first Appellate Authority. Vide order dated 26 th August, 2011, the First Appellate Authority noticing that the appeal had been preferred even before disposal of the application by CPIO, directed that a copy of the reply of the CPIO be sent to the appellant before him. In compliance of the said order, the petitioner bank provided a copy of its earlier decision to the respondent vide its letter dated 5th September, 2011. The respondent before this Court preferred a Second Appeal before the Central Information Commission and also made a complaint to it under Section 18 of the RTI Act. Vide impugned order dated 1st February, 2012, the Commission, inter alia, directed as under:-

"..... Therefore we can state that disclosure of

information such as assets of a Public servant, which is routinely collected by the Public authority and routinely provided by the Public servants, - cannot be construed as an invasion on the privacy of an individual. There will only be a few exceptions to this rule which might relate to information which is obtained by a Public authority while using extraordinary powers such as in the case of a raid or phone-tapping. Any other exceptions would

have to be specifically justified. Besides the Supreme Court has clearly ruled that even people who aspire to be public servants by getting elected have to declare their property details. If people who aspire to be public

servants must declare their property details it is only WP(C) 906/12 and 1191/12 Page 2 of 7 logical that the details of assets of those who are public servants must be considered to be disclosable. Hence the exemption under Section 8(i)(j) cannot be applied in the instant case."

Being aggrieved from the order passed by the Commission, the petitioner is before this Court by way of this petition.

2. In WP(C) No.1191/2012, the respondent before this Court preferred an appeal under Section 19 of the RTI Act before the First Appellate Authority alleging therein that no information had been supplied to him pursuant to his application dated 18/19 May, 2011, though the statutory period of 30 days had already expired. The First Appellate Authority, vide its letter dated 19th August, 2011 informed the respondent that no such application had actually been received by their PIO. Thereupon, the respondent made a complaint dated 18th August, 2011 to the Central Information Commission alleging therein that no information had been provided to him pursuant to his application dated 18th May, 2011 addressed to the CPIO of the petitioner bank. A copy of the said complaint was forwarded to the petitioner by the Under Secretary of the Commission for giving its explanation in the matter. On receipt of the copy of the complaint of the respondent, the CPIO of the petitioner responded by its communication dated 1st October, 2011. However, the information with respect to assets and liabilities of the officers in Gramin Bank, Triveni, Gramin Bank, Head Office Orrai and WP(C) 906/12 and 1191/12 Page 3 of 7 Allahabad UP Gramin Bank, Head Office Banda was not supplied to the respondent. The said complaint was disposed of by the Commission, vide its order dated 10th February, 2012. During the course of hearing of the complaint, the Commission noted the contention of the petitioner that it had supplied the required information except the information with respect to the assets and liabilities of the employees and details of the TA Bills. The Commission, vide impugned order dated 10th February, 2012 directed the PIO of the petitioner bank to provide information as about assets to the complainant.

3. Thus, the only question involved in these petitions is whether the information with respect to the assets and liabilities which an employee furnishes to his employer can be directed to be disclosed under RTI Act. Section 8(1) (j) of the Act reads as under:-

" (j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information: Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person." WP(C) 906/12 and 1191/12 Page 4 of 7 It would, thus, be seen that an information which has no relationship to any public activity or interest of the employee concerned or which would cause some unwarranted invasion of the privacy of the individual cannot be directed to be disclosed unless the CPIO/PIO or the Appellate Authority is satisfied that larger public interest justifies the disclosure of such information.

4. The question whether information with respect to the assets and liabilities of an employee exempted under Section 8(1)(j) of the Act or not came up for consideration before the Apex Court in Girish Ramchandra Deshpande Vs. Cen. Information Commr. and Ors. (2013) 1 SCC 212. In the case before the Supreme Court, the Commission had denied details of the assets and liabilities, movable and immovable property of an employee on the ground that the information sought qualified to be a personal information, as defined in Clause (j) of Section 8 (1) of the Act. Aggrieved by the order passed by the Commission, the appellant before the Supreme Court, preferred a writ petition which came to be dismissed by the Single Judge. An appeal preferred by him was also dismissed by a Division Bench of the High Court. Being aggrieved from the order passed by the Division Bench, he approached the Apex Court by way of Special Leave. Dismissing the Special Leave Petition, the Apex Court, inter alia, held as under:- "...14.The details disclosed by a person in his income tax returns are "personal information" which stand exempted from WP(C) 906/12 and 1191/12 Page 5 of 7 disclosure under Clause (j) of Section 8(1) of the RTI Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the Appellate Authority

is satisfied that the larger public interest justifies the disclosure of such information."

5. It would, thus, be seen that the information with respect to the assets and liabilities of an employee, which he discloses to his employer in compliance of the Service Rules applicable to him qualifies as personal information within the meaning of Section 8(1)(j) of the Act and such information cannot be directed to be disclosed unless the CPIO/PIO/Appellate Authority is satisfied that larger public interest justifies disclosure of such information. It goes without saying that such satisfaction needs to be recorded in writing before an order directing disclosure of the information can be passed. A perusal of the impugned orders would show that in neither of these cases, the Commission was satisfied that larger public interest justified disclosure of the information sought by the applicant/respondent. Without being satisfied that larger public interest justified disclosure of the information sought in this regard, the Commission could not have passed an order directing disclosure of information of this nature. The orders passed by Central Information Commission are, therefore, liable to be set aside on this ground alone. The impugned orders are accordingly set aside.

The writ petition stands disposed of. There shall be no orders as to costs. WP(C) 906/12 and 1191/12 Page 6 of 7

6. The petitioner had deposited Rs.5000/- each which could be incurred by the respondent. Since the respondent has not put in appearance despite service, there will be no justification for paying the said amount to him. It is, therefore, directed that the aforesaid amount shall be deposited by the Registry with Delhi High Court Legal Services Committee.

V.K. JAIN, J

JULY 09 , 2013

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WP(C) 906/12 and 1191/12 Page 7 of 7