

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No. **CIC/OTCLC/A/2022/666726**

Shri AMIT KAKKAR

... अपीलकर्ता / Appellant

VERSUS/बनाम

PIO,
Office of The Chief Labour Commissioner
(Central)

...प्रतिवादीगण / Respondent

Date of Hearing : 26.02.2024

Date of Decision : 26.02.2024

Chief Information Commissioner : Shri Heeralal Samariya

Relevant facts emerging from appeal:

RTI application filed on : 13.11.2022

PIO replied on : 16.11.2022

First Appeal filed on : 16.11.2022

First Appellate Order on : 30.11.2022

2ndAppeal/complaint received on : Nil

Information sought and background of the case:

The Appellant filed an RTI application dated 13.11.2022 seeking information on following points:-

"MEMBER ID : GJAHD0053987000XXXXX

ESTABLISHMENT NAME: DURAVIT INDIA PVT. LTD

DATE OF JOINING: 16.12.2016

DATE OF EXIT : 14.09.2021

UAN: 100981XXXXX

Name: Amit Kakkar

Above mentioned details are related to me.

My Ex-establishment, Duravit India Pvt Ltd didnt pay me the Gratuity amount last year and they refused saying that they will not pay if you will not complete 5 years of service.

But As per judgment of Honble Madras HC in Salem textile case (2011) in which it was ordered that an employee would be eligible for gratuity even if he has completed 4 years 240 days.

1. Am i eligible for the Gratuity Amount?

2. How can i Claim the same from Duravit India Pvt Ltd.

3. Let me know the procedure with the Contact details of the concerned person.

4. Details of the Gratuity paid by Duravit India Pvt Ltd in last 5 years to his employees & details of the concerned employees with their serving period term.”

The CPIO/ Office of The Chief Labour Commissioner (Central) vide letter dated 16.11.2022 replied as under:-

“Please refer to Provision of Payment of Gratuity Act, 1972 which is available in Public Domain <https://clc.gov.in/clc/acts-rules/payment-gratuity-act>.”

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 16.11.2022. The FAA vide order dated 30.11.2022 stated as under:-

“It is observed that the information provided by CPIO/LEO(C)-LS-I & III Section, O/O CLC (C), New Delhi that point no.1 to 4 to refer to provisions of Payment of Gratuity 1972. Which is available in public domain@link: <https://clc.gov.in/clc/acts-rules/payment-gratuity-act>. Thus, the reply given by CPIO/LEO(C)-LS.I & III Section, O/o, CLC(C), appears to be inadequate. The CPIO/LEO(C)-LS.I & III Section, O/o, CLC(C) is directed that an appropriate reply may be sent restricting to the relevant provision pertaining to the information sought under the act if any within 10(Ten) days of the receipt of order under the RTI Act, 2005.”

In compliance of order of FAA order 30.11.2022, the CPIO has furnished reply vide letter dated 09.12.2022 as under:

Point No. 7- Please refer to Section 2A,3,4 of Payment of Gratuity Act, 1972 which is available in public domain <https://clc.gov.in/clc/>.

Aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

Written submission dated 20.02.2024 has been received from the CPIO/ Office of the Chief Labour Commissioner (Central) and same has been taken on record for perusal. The relevant extract whereof as under :

1. That an RTI application was received on 13.11.2022 from Shri Amit Kakkar vide RTI Registration No.OTCLC/R/E 122100620
2. That the information available with this office was provided to the applicant Shri Amit Kakkar on 76.11.2022 by the then CPIO LS.I & III.
3. That the applicant aggrieved with the information provided filed an appeal before First Appellant Authority (FAA) on 16.7t.2022, which was disposed off on 09.12.2022 by the then CPIO LS.I & III. The copy is enclosed as Annexure I.

4. That under the Payment of Gratuity Act, 1972, Section 24 provides for continuous service and section 3 provides for provisions of Controlling Authority. Section 4 provides for payment of gratuity.

5. That since the details of the establishment was not known to CPIO from the RTI application, the details of concerned authority was not provided by the then CPIO, LS.1 & III.

6. That clarification, views etc. does not come within the purview of information as per section 2(f) of the RTI Act, 2005.

7. That under the organization of Chief Labour Commissioner (C), Assistant Labour Commissioners (C) are the Controlling Authority and Dy. Chief Labour Commissioners (C) are the Appellate Authority under the Payment of Gratuity Act, 1977.

8. That since the applicant is resident of Delhi as per the RTI application, he may be advised to approach office of Assistant Labour Commissioner (C), Shramev Jayate Bhawan, Sector - 10, Dwarka, New Delhi for further clarification in the matter

Facts emerging in Course of Hearing:

Appellant: Present in person.

Respondent: Mr. Sunil Kumar Sagar, CPIO/SO

The Appellant stated that the relevant information has not been furnished to him till date. He stated that the payment of his gratuity has been denied by Duravit India Pvt Ltd on the pretext that he has not completed 5 years of service. He stated that he had sought information whether he is eligible for the payment of gratuity or not and relevant provisions in this regard.

The Respondent stated that the relevant information from their official record has been duly furnished to the Appellant. He stated that the information sought in the instant RTI Application do not conform to Section 2(f) of RTI Act as the Appellant has sought clarifications/inferences from the CPIO.

Decision:

At the outset, Commission directs the concerned PIO to furnish a copy of their latest written submission along with annexures if any, to the Appellant, free of cost via speed-post and via e-mail, within 07 days from the date of receipt of this order and accordingly, compliance report be sent to the Commission.

Keeping in view the facts of the case and the submissions made during hearing, the Commission is of the view that an appropriate response as per the provisions of the RTI Act, 2005 has been provided by the Respondent since only such information that is held and available with a public authority can be provided to the information seekers and giving reasons/ opinions/

interpretations, etc are beyond the scope of duty of the CPIO. Hence, no further intervention of the Commission is required in the instant matter.

Appeal is disposed of accordingly.

Heeralal Samariya (हीरालाल सामरिया)
Chief Information Commissioner (मुख्य सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

S. K. Chitkara (एस. के. चिटकारा)
Dy. Registrar (उप-पंजीयक)
011-26186535

