



**OFFICE OF THE
ASSAM INFORMATION COMMISSION
JONAKEE COMPLEX, PANJABARI, GUWAHATI-781 037**

Case No. : **KP(M).118/2013**
Complainant/ appellant : **Smti Purobi Kotoky**
Respondent : **Director of Health Services, Assam**
Date of hearing : **31-03-2016**
Complaint/ Second : **Shri H.S. Das, IAS (Retd)**
appeal heard by : **Chief Information Commissioner, Assam**

O R D E R

In compliance with the order dated 18-3-2016 the applicant Smti Purabi Kotoky submitted her written statement dated 19th March, 2016 before this Commission, which is perused and entered into the case records. The appellant and the respondent were heard at length on 24-2-2016 and again on 18-3-2016.

(A) FACTS OF THE CASE AS PER RECORDS –

1. The petitioner Smti Purabi Kotoky, wife of Late Madhob Ch. Kotoky of Rajamaidum, New Colony ,Ward No-1, Jorhat-1 filed an RTI petition dated 21-4-2012 before the Director of Health Services, (DHS) Assam. By her RTI petition she wanted to know the position regarding letter No. ST/2002-2003/230-32 dated 28-5-2003 relating to reimbursement. of medical treatment bills of her deceased husband. She also wanted to know :- (a) why the sanction was not made till the date of her RTI application, (b) how many days are needed for sanction, and (c) if not sanctioned, why.

2. From the case records it is seen that the above-mentioned letter was from the Deputy Commissioner, Sivasagar, addressed to the Director of Health Services, Assam, Hengrabari, Guwahati, forwarding the original application dated 26-11-2002 of Smti Purabi Kotoky, for reimbursement of an amount of Rs. 62,605/- incurred for the treatment of her late husband Madhob Ch. Kotoky, who was an employee of Sivasagar Treasury. and who expired on 16-7-2012. The Deputy Commissioner, Sivasagar mentioned that he had enclosed the medical papers including the medical bills with his letter. Not getting any response to her RTI application, the applicant filed First Appeal Petition dated 29-10-2012 before the Director of Health Services, Assam, Hengrabari, Guwahati. Getting no response to the First Appeal Petition also the petitioner filed her second appeal petition dated 27-12-2012 before this Commission, praying for reimbursement of the medical bill of her husband with interest.

3. As already noted in this Commission's earlier orders dated 24-2-2016 and 18-3-2016, the applicant neither received reimbursement of medical bills of her late husband, nor did she get any reply or response to her RTI petition and First Appeal Petition from the Office of the Director of Health Services. In his written submission dated 17-3-2016, the DHS has stated that there is no records of receipt of any application for medical reimbursement or the RTI

application of the petitioner in his official record. He also mentioned that there is no medical bills pending , as revealed from the records. The DHS has further stated that the applicant may submit the bills in his office for taking expeditious measures.

4. The applicant has enclosed with her second appeal petition, photo copies of her RTI application, Postal Order for Rs. 10/-, First Appeal Petition, Deputy Commissioner, Sibsagar's letter dated 28-5-2003 to the DHS forwarding the original application of the petitioner for medical reimbursement with the relevant bills, her original prayer dated 26-11-2002 and receipts issued by Indian Post..

5. Out of the 7 officers who functioned as SPIOs in the office of the DHS since 2012 as reported by the DHS vide enclosures with his letter dated 17-3-2016,, 2(two) of them, namely Dr. N. Lalsingh Addl. DHS (Hills) and Dr. Rajiv Kr. Sarma- Addl. DHS (G) submitted their written submissions dated 17-3-2016 stating that during their tenures as SPIOs, the RTI application as well as the First Appeal Petition mentioned above were not brought to their notice. The other 5 (five) officers did not make any written submission within the stipulated time dated 18-3-2016.

B, FINDINGS AND CONCLUSION –

6. The petitioner has submitted photocopies of several documents, which includes her RTI petition, First Appeal Petition, her original prayer dated 26-11-2002, photo copy of the Postal Order enclosed with the RTI petition and photo copies of the Postal receipts issued by the Indian Post with dates which tally with the dates of her correspondence, especially the official correspondence dated 28-5-2013 from the Deputy Commissioner, Sivasagar to DHS. Although furnishing of photo copies of the postal receipts and other supporting documents by the petitioner may not be conclusive evidence that her prayers and RTI petitions as well as Deputy Commissioner, Sivsagar's letter dated 28-5-2003 actually reached the office of the DHS, Assam, the Officers from the office of DHS who appeared before this Commission also could not adduce any conclusive evidence to the contrary. As already mentioned, the DHS stated in his written submission dated 17-3-2016 that there is no record of receipt of the medical bills or RTI petitions in his office. Non-availability of records does not necessarily lead to the conclusion that the communications from the Deputy Commissioner, Sivsagar and other correspondence of the petitioner never reached the office of the DHS, Assam. From the corroborative documents as available in the case records, the balance of evidence appears to be tilted heavily in favour of the petitioner and it appears that the original prayer dated 26-11-2002 of the petitioner Smti Purabi Kotoky, the original medical bills, and Sivasagar Deputy Commissioner's proposal dated 28-5-2003 were either lost or irretrievably mis-placed , along with the RTI petition and the First Appeal Petition, in the office of the Director of Health Services.

7. This Commission is also of the view that it will be unreasonable to expect the petitioner to obtain copies of the medical bills and other related papers from Apollo Hospital , Chennai after long 13 years to submit them again before the DHS.

8. This Commission is of the view that the applicant, who is the widow of the deceased employee, should not be subjected to any further harassment and delay.

C.

ORDER

9. After due consideration of the above facts and circumstances of the case, this Commission passes the following orders :-

(a) The concerned public authority i.e., the Directorate of Health Services, Govt. of Assam, Hengrabari, Guwahati , shall pay the petitioner, through the Deputy Commissioner, Sivasagar District, the Controlling Authority of the deceased employee, on or before 31st May, 2016, a sum of Rs. 1,00,000/- (Rupees One Lakh) only - Rs. 62,605/- towards reimbursement of the Medical Bill + Rs. 25,395/- as estimated Interest @ 10% simple interest per annum from the date of her RTI application i.e., 21-4-2012 and an additional amount of Rs. 12,000/- as a token compensation for the harassment and mental agony that the applicant had to go through due to the delay in getting any information in response to her RTI application as well as to the First Appeal Petition .

The compensation order is passed in exercise of powers conferred **under Section 19 (8)(b) of the RTI Act, 2005**

(b) In exercise of powers conferred **under Section 19 (8) (a) of the RTI Act, 2005**, the Director of Health Services, Govt. of Assam is directed to cause an inquiry into the missing medical reimbursement bills forwarded by Deputy Commissioner, Sivasagar vide his forwarding letter dated 28-5-2003 and fix responsibility **within 60 days** from the date of receipt of this order and take appropriate action against those found guilty.

(c) In exercise of powers conferred under **Section 19(8)(a) (iv) of the RTI Act, 2005** the Director of Health Services is directed to maintain records of receipt and disposal of all RTI applications including First Appeal Petitions in a systematic manner. The RTI Register ,which was produced before this Commission at the time of hearing on 18-3-2016 appeared to be maintained in a haphazard and shabby manner.

(d) Commissioner and Secretary, Health & Family Welfare Department, Govt. of Assam is directed to cause an inspection after 60 days and within 90 days from the date of receipt of this order to verify and confirm that the DHS , Assam has complied with the above orders. The Commission considers order (c) above necessary in view of the possibility of loss or misplacement of medical reimbursement bills in the office of the DHS, Assam.

With the above order **which is binding under Section 19(7) of the RTI Act, 2005**, the second appeal petition dated 24-2-2016 is disposed of.

Sd/-

(H. S. Das)

**Chief Information Commissioner, Assam
Panjabari, Guwahati**

Authenticated true copy.

Sd/-

Registrar

Assam Information Commission

1. Commissioner & Secretary, Health and Family Welfare Department, Govt. of Assam for information and necessary action.
2. Director of Health Services, Assam, Hengrabari, Guwahati -5 for information and necessary action, as above., and submit Action Taken Report for appraisal of the Commission.
3. SPIO in the office of the Director of Health Services, Assam for information and necessary action.
4. Deputy Commissioner, Sivsagar, for information and necessary action.
5. Smti Purabi Kotoky, Raja Moidum, Kanaklata Devi Baruahni Path, Jorhat, District-Jorhat for information .
6. Director, Information & Public Relations, Dispur, Guwahati-6 for publication.
7. Computer Section for uploading in the Website.
- 8.` Office File.

**Registrar
Assam Information Commission**