



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

Case No. : KP(M).75/2018
Complainant/ appellant : Shri Dr. Manjula Das
Respondent : SPIO of Health & Family Welfare Department, Govt. of Assam
Date of hearing : 18.02.2019
Complaint/ Second : Shri H.S. Das, IAS (Retd)
Appeal heard by : Chief Information Commissioner, Assam

O R D E R
18.02.2019

1. The petitioner Dr. Manjula Das and the public authority, i.e. Health & Family Welfare Department represented by its Deputy Secretary and SPIO Shri A.S.A. Barbhuyan – both are present.
2. The petitioner filed a petition dated 15.9.2018 complaining against non-compliance of this Commission's order dated 3.5.2018 by the concerned officials of Health & Family Welfare Department. She has mentioned in her complaint petition that one Dr. Jogeswar Barman, who was transferred from Health & Family Welfare (A) Department to Health & Family Welfare (B) Department is claiming seniority over her, thereby jeopardizing her future promotion and career prospects. She also submitted orally that Dr. Barman belongs to Health & Family Welfare (A) Department and he went to Prosecute PG (MDS) studies in his private capacity after taking study leave. He was not deputed by the State Government for PG studies. On his return from PG Studies he joined in Health and Family Welfare (A) Department, in his parent post. Thereafter vide Government Notification No. HLB.449/2005/20 dated 22nd February, 2006 Dr. Barman was temporarily attached at Regional Dental College (RDC), Guwahati until further orders with the condition that during the period of his duties in the RDC, Guwahati, he would be drawing his grade pay and allowances from the office of the Joint Director of Health Services, Barpeta Civil Hospital. This seems to clearly indicate that Dr. Barman's substantive post was in Health and Family Welfare (A) Department and not in RDC, Guwahati under the Health and Family Welfare (B) Department. Subsequently, Vide Government Notification No. HLB.439/2005/35 dated 7th August, 2017 Dr. J. Barman, Dental Surgeon, Barpeta Civil Hospital under the Health & Family Welfare (A) Department was transferred and posted as a Demonstrator of Prosthodontics at RDC, Guwahati under Health & Family Welfare (B) Department with the condition that his inter- se seniority in the new post will be fixed from the prospective date i.e. from the date of taking over the charge. By an affidavit dated 9.7.2007 Dr. J. Barman already accepted the condition that his inter-se seniority in the RDC, Guwahati will be from the prospective date i.e. from the date of his joining there.

3. Subsequently, Dr. Barman claimed his seniority over Dr. Manjula Das, which was resolved by the State Government vide Notification No. HLB.121/2014/Pt/263 dated 16th August, 2016 by declaring that Dr. Manjula Das is senior to Dr. J. Barman in the gradation list of the faculties of RDC, Guwahati.

4. The petitioner submitted that even after the Government Notification dated 16th August, 2016 Dr. J. Barman is harassing her over the seniority issue by fling court cases to block promotions due to her. She is, therefore, in need of the informations, which was ordered to be provided to her by this Commission in its order dated 3.5.2018 so that she can defend her legitimate professional rights against the allegedly false claims of Dr. J. Barman.

5. She submitted orally that against pint no. 13 of her RTI petition dated 12.7.2016, she has received the sought for informations. But she is yet to receive any information against point no. 6, 7, 8 and 17 of her RTI petition.

6. The Deputy Secretary and SPIO of Health & Family Welfare Department furnished copies of his letters dated 19th May and 24th July, 2018 addressed to Superintendent of Health & Family Welfare (A) Department for furnishing the required informations. Subsequently, the SPIO informed the petitioner Dr. Manjula Das vide letter dated 29th September, 2018 that the relevant records were reported to be not available in the department. He enclosed a copy of undertaking dated 29.8.18 signed by two Superintendents of Health & Family Welfare Department stating that the records in respect of Dr. J. Barman, the then Dental Surgeon, is not available in the department.

7. However, the petitioner Dr. Manjula Das produced before this Commission a copy of letter dated 21.3.2017 addressed to her by the Principal and Dean of Dr. A.B. Shetty Memorial Institute of Dental Science, Mengalore stating that they do not have any seat under the quota of Government of Assam and no student was admitted under such quota in 2002 or any other years. Dr. Manjula Das is, therefore, contending that Dr. J. Barman is misrepresenting facts before the Government and the informations sought for by her and as ordered by this Commission are necessary to expose the false claims of Dr. J. Barman.

8. In view of the above, and documents already collected by the petitioner Dr. M. Das, this Commission is of the view that a thorough inquiry is necessary to ascertain the facts about the missing records, which have not been furnished to the petitioner although they are admissible under the RTI Act and were ordered to be provided to her vide this Commission's order dated 3.5.2018.

9. Therefore, in exercise of powers conferred u/s 19(8)(a) of the RTI Act, 2005, the Principal Secretary of Health & Family Welfare Department is directed to cause an inquiry not below the level of Secretary of the Department as regards the missing records so as to ascertain the facts. Both the parties, i.e. Dr. Jogeswar Barman and the petitioner Dr. Manjula Das should be heard by the inquiry officer and peruse the records available with them in support of their respective claims, in addition to other relevant official records, especially the service book and personal file of Dr. Jogeswar Barman. The inquiry be completed within a period of 90 days from the date of receipt of this order

and outcome thereof be intimated to this Commission, besides furnishing of the sought for informations to the petitioner, if the same are retrieved in the mean time. The Principal Secretary of Health & Family Welfare Department is also directed to take appropriate departmental action against those who are found responsible for the missing records.

Fix 1,30 PM on 20th May, 2019 for review of action taken.

Sd/-

(H. S. Das)

Chief Information Commissioner, Assam
Panjabari, Guwahati

Authenticated true copy.

Sd/-

Registrar i/c
Assam Information Commission

Memo No. SIC/ KP(M).75/2018/

Dated. 18.02.2019

Copy to: 1. The Principal Secretary to the Govt. of Assam, Health & Family Welfare Department, Dispur, Guwahati-6 for information and necessary action.
2. The SPIO of Health & Family Welfare Department, Govt. of Assam, Dispur, Guwahati-6 for information and necessary action.
3. Dr. Manjula Das, Notun Sarania, Achala Bhuyan Road, PO- Silpukhuri, Guwahati-3 for information.
4. Computer Section for uploading in the Website.
5. Office File.
6. Order Book

Registrar i/c

Assam Information Commission