

IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI  
ORIGINAL JURISDICTION  
WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2025

IN THE MATTER OF:

GROUP CAPTAIN (RETD.) KUNAL SETHI ... PETITIONER  
VERSUS  
CENTRAL PUBLIC INFORMATION OFFICER O/o CABINET  
SECRETARIAT ... RESPONDENT

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NOTE:

1. All parties have been served through email, and there is no bounce back.
2. All pleadings/applications/annexures are in OCR format.

THROUGH

New Delhi

26/05/2025



JAHNAVI SINDHU (D/3742/2015) AND KRISHNESH BAPAT (D/4839/2019)

**ADVOCATES FOR THE PETITIONER**

**S-523A, SECOND FLOOR, GREATER KAILASH - 2**

**NEW DELHI – 110048**

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IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI  
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VERSUS

CENTRAL PUBLIC INFORMATION OFFICER O/o CABINET  
SECRETARIAT ... RESPONDENTS

URGENT APPLICATION

To

The Registrar General

Hon'ble High Court of Delhi

Sir,

Kindly treat the accompanying Writ Petition along with the accompanying applications as urgent on account of the urgent prayers sought therein. It is therefore requested that the same may be treated as urgent in accordance with the Delhi High Court Rules.

THROUGH

JAHNAVI SINDHU (D/3742/2015) AND KRISHNESH BAPAT (D/4839/2019)

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VERSUS

CENTRAL PUBLIC INFORMATION OFFICER O/o CABINET  
SECRETARIAT & ORS. ... RESPONDENTS

**CERTIFICATE**

This is to certify that complete Tribunal record has been filed in present writ petition, no additional documents has been filed in present writ petition.

  
**JAHNAVI SINDHU (D/3742/2015) AND KRISHNESH BAPAT (D/4839/2019)**  
ADVOCATES FOR THE PETITIONER  
S-523A, SECOND FLOOR, GREATER KAILASH - 2  
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CENTRAL PUBLIC INFORMATION OFFICER O/o CABINET  
SECRETARIAT ... RESPONDENTS

**NOTICE OF MOTION**

Dear Sir/Ma'am,

Please take note that the accompanying Writ Petition along with accompanying applications are likely to be listed before the Hon'ble Court on ~~26th~~<sup>30th</sup> May, 2025 or any date thereafter. We request you to kindly acknowledge the receipt thereof.

**THROUGH**

New Delhi

26/05/2025



JAHNAVI SINDHU (D/3742/2015) AND KRISHNESH BAPAT (D/4839/2019)

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4  
YT 0001484350

GOVERNMENT OF NCT OF DELHI  
e-Court Fee

DATE & TIME :

27-MAY-2025 10:10:23

NAME OF THE ACC/ REGISTERED USER :

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LOCATION :

DELHI HIGH COURT

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e-COURT FEE AMOUNT :

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CENTRAL PUBLIC INFORMATION OFFICER O/o CABINET  
 SECRETARIAT ... RESPONDENT

MEMO OF PARTIES

GROUP CAPTAIN (RETD.) KUNAL SETHI

S/O LATE SHREE HR SETHI

56, Chota Singh Marg,

Asian Games Village,

New Delhi – 110049

... PETITIONER

VERSUS

1. CENTRAL PUBLIC INFORMATION OFFICER

Cabinet Secretariat, E.III Section,

Room No 1001, B-1 Wing,

10th Floor, Pt. Deendayal Antyodaya Bhawan,

CGO Complex, Lodhi Road, New Delhi - 119003

... RESPONDENT

THROUGH

New Delhi

26/05/2025

JAHNAVI SINDHU (D/3742/2015) AND KRISHNESH BAPAT (D/4839/2019)

ADVOCATES FOR THE PETITIONER

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WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2025

IN THE MATTER OF:

GROUP CAPTAIN (RETD.) KUNAL SETHI ... PETITIONER

VERSUS

CENTRAL PUBLIC INFORMATION OFFICER O/o CABINET

SECRETARIAT ... RESPONDENT

**SYNOPSIS**

The Petitioner is approaching this Hon'ble Court against the decision dated 13.05.2025 of the Learned Central Information Commission ("CIC"). In this decision, the Ld. CIC has upheld the dismissal of the Petitioner's Right to Information ("RTI") application seeking Cabinet Secretariat (SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023, which relates to the Petitioner's discharge from service.

The Petitioner is a Retired Group Captain of the Indian Air Force, having served the country proudly and with selfless dedication for 24 years. During his service, he held many important appointments including Flt Cdr, ARC, OIC TAOTDC (Transport Aircraft Tactics Development Centre), Flt Cdr 12 Sqn, and Director Ops (Inductions Transport) at Air Head Quarters. The Petitioner was conferred a commendation by the Chief of Air Staff in 2008 for his contribution.

After he retired from the Armed Forces, the Petitioner was appointed to the post of Chief Pilot, Aviation Research Centre, DG(S), Cabinet Secretariat, Government of India by order dated 06.05.2019. The Petitioner had effectively completed double the probation period by July 2023 when he was issued a discharge order by the Aviation Research Centre [Reference No.

ARC/Pers.III/706/2021(Pt)-3931 dated 27.09.2023] ("Discharge Order"). By this order, the Petitioner was informed that he was discharged from service with immediate effect in terms of Para 22 of the DoP&T OM No. 28020/3/2018-Estt. (C) dated 11.03.2019 (Master Circular on Probation) and purportedly in pursuance of Cabinet Secretariat (SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023 ("CS Order").

The Petitioner has challenged his discharge for service in separate proceedings before this Hon'ble Court. By order dated 06.09.24, this Hon'ble Court was pleased to direct the respondents therein not to recover the bond and accommodation amounts from the Petitioner during the pendency of the proceedings.

Before the Petitioner challenged the discharge, he filed an RTI Application to obtain a copy of the Cabinet Secretariat's CS Order, referred to in the Discharge Order issued by the Aviation Research Centre. However, the CPIO, Cabinet Secretariat, refused to furnish this information, relying on Section 24 of the Right to Information Act. The Ld. CIC has dismissed the Petitioner's appeal. It is submitted that the Impugned Decision is contrary to the provisions of the Constitution as well as the statutory mandate of the Right to Information Act, 2005:

*First*, the Respondent has failed to appreciate that the order sought by the Petitioner is an order of the Central Secretariat. The Central Secretariat is not an "*intelligence and security organisation*" specified in the Second Schedule of the Right to Information Act and is thus not exempt from the provisions of the Act as per Section 24 of the Act.

*Second*, the provisions of section 24 of the Act, in so far as they serve as an exception to the disclosure of information through the Right to Information Act, must be construed strictly. Section 24(1) exempts only those organisations explicitly named in the Second Schedule or information provided by such organisations to the Central Government, subject to the proviso that information

“pertaining to allegations of corruption or human-rights violations” shall not be excluded. The Respondent has denied the Petitioner’s RTI Application on the ground that it “pertains to” an exempted organisation, i.e. Aviation Research Centre, and thus significantly expanded the scope of the exemption provided under section 24.

*Third*, the Central Secretariat (a non-exempt body) cannot claim exemption on behalf of the Aviation Research Centre for information held by or under the control of the Central Secretariat. Moreover, the Aviation Research Centre has already provided the Discharge Order issued by it. The actions of the Central Secretariat, which seek to overstretch the ambit of section 24 of the RTI Act, defeat the salutary purpose of the Right to Information Act of ensuring transparency and accountability in governance.

*Fourth*, the Petitioner has an inherent right to know the reasons for his discharge, the disclosure of which will have no security or intelligence implications. The Hon’ble Supreme Court has consistently held that State authorities cannot invoke or assert national security to withhold information or restrict judicial scrutiny without explaining how national security will be specifically jeopardised through such disclosure. (*Manohar Lal Sharma (Pegasus Spyware) v. Union of India*, (2023) 11 SCC 401; *Madhyamam Broadcasting Ltd. v. Union of India*, (2023) 13 SCC 401)

*Fifth*, in any case, the information sought by the Petitioner falls under the proviso to Section 24 of the Right to Information Act, as it is information relating to allegations of corruption and human rights violations. This Hon’ble Court has held that the proviso especially ‘human rights’ has to be interpreted expansively and progressively, and violations of the same would include unfair dismissal, which harms the Petitioner’s dignity and professional standing.

It is submitted that this Hon’ble Court has always endeavoured to interpret the Act in favour of disclosure of information and transparency in governance. In

the present case, the Petitioner is seeking information personal to the Petitioner, which is not exempted under any provision of the Act and has no demonstrable security implications. It is also pertinent to note that the Ld. Central Information Commission took more than a year to list the Petitioner's appeal and has simply accepted the contentions of the Respondent, resulting in a grave miscarriage of justice.

In the circumstances explained above, the Petitioner is constrained to file the present writ petition before this Hon'ble Court.

#### LIST OF DATES

|            |  |
|------------|--|
| 11/06/1988 | The Indian Air Force commissioned the Petitioner as a Pilot Officer.   |
| 31/07/2012 | The Air Force accepted the Petitioner's request for premature retirement at the rank of Group Captain.   |
| 06/05/2019 | The Cabinet Secretariat issued Appointment Offer bearing OM No. 4/18/2014-DO-II (B)-298 dated 06.05.2019 containing an offer of appointment to the Petitioner to the post of Chief Pilot, Aviation Research Centre ("ARC"), DG(S), Cabinet Secretariat, Government of India. |
| 07/05/2019 | The Petitioner reported for duty and assumed charge as Chief Pilot, ARC on Re-employment basis in Level 13-A of the Pay Matrix with basic pay of Rs. 1,61,300/- with other allowances as admissible.   |
| 02/05/2023 | The Petitioner sent a letter dated 02/05/2023 requesting that he be confirmed with effect from 06/05/2021 on account of completion of his probation period of two years, as stated in the terms of his appointment.  |

|            |  |
|------------|--|
| 06/05/2023 | The Petitioner completed four years of service, thereby finishing the maximum prescribed probation.  |
| 01/07/2023 | <p>The Petitioner was deemed to have been confirmed in accordance with Para 27 of the DoP&amp;T OM No. 28020/3/2018-Estt. (C) dated 11.03.2019 categorically states that "<i>The officer will be deemed to have successfully completed the probation period if no order confirming, discharging or reverting the officer is issued within eight weeks after expiry of double the normal period of prescribed probation.</i>"</p> <p>However, the Petitioner did not receive any acknowledgement or communication with respect to his confirmation to the position of Chief Pilot, ARC.</p> |
| 27/09/2023 | <p>The Petitioner was shocked to receive the Office Order bearing No. 245/2023 and Reference No. ARC/Pers.III/706/2021(Pt)-3931 dated 27.09.2023 ("Discharge Order") whereby the Petitioner was informed that he was discharged from service with immediate effect in terms of Para 22 of the DoP&amp;T OM No. 28020/3/2018-Estt. (C) dated 11.03.2019 and purportedly in pursuance of Cabinet Secretariat (SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023 ("CS Order").</p> <p>A copy of the CS Order was not supplied to the Petitioner.</p>  |
| 17/10/2023 | The Petitioner filed Right To Information ("RTI") Application No. CABST/R/E/23/00792 seeking a copy of the CS Order  |

|            |  |
|------------|--|
| 23/10/2023 | The Cabinet Secretariat forwarded the Petitioner's RTI to ARC for comments.  |
| 27/10/2023 | ARC advised the CPIO to deny the request by invoking the intelligence-agency exemption under Section 24(1).  |
| 30/10/2023 | The CPIO formally refused to furnish the order, citing Section 24(1).  |
| 11/11/2023 | The Petitioner filed a First Appeal under Section 19(1) challenging the CPIO's refusal.  |
| 08/12/2023 | The First Appellate Authority dismissed the Petitioner's appeal without a hearing and upheld the Section 24 bar.   |
| 21/11/2023 | The Petitioner filed Original Application No. 3711/2023 before the Hon'ble Central Administrative Tribunal, Principal Bench at New Delhi <i>inter alia</i> , seeking a declaration that the Discharge Order was illegal. |
| 07/03/2024 | The Petitioner lodged a Second Appeal to the Central Information Commission, registered as CIC/CABST/A/2024/612583.  |
| 08/08/2024 | The CAT dismissed OA 3711/2023.  |
| 28/08/2024 | The Petitioner filed Writ Petition (Civil) No. 12504/2024 in the Delhi High Court impugning the CAT Judgement in OA 3711/2023.   |
| 06/09/2024 | This Hon'ble Court was pleased to issue notice in WP(C) 12504/2024 and directed the respondents therein not to recover the bond and accommodation amounts from the Petitioner during the pendency of those proceedings.  |
| 27/03/2025 | The CIC issued a Notice of Hearing scheduling the RTI  |

|            |   |
|------------|---|
|            | appeal for 13/05/2025.  |
| 13/05/2025 | The CIC heard the parties and delivered the Impugned Decision dismissing the Petitioner's RTI appeal. |
| 26/05/2025 | Hence, the present petition   |

**THROUGH**

**New Delhi**

**26/05/2025**



**JAHNAVI SINDHU (D/3742/2015) AND KRISHNESH BAPAT (D/4839/2019)**

**ADVOCATES FOR THE PETITIONER**

**S-523A, SECOND FLOOR, GREATER KAILASH - 2**

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GROUP CAPTAIN (RETD.) KUNAL SETHI ... PETITIONER

VERSUS

CENTRAL PUBLIC INFORMATION OFFICER O/o CABINET

SECRETARIAT ... RESPONDENT

**WRIT PETITION UNDER ARTICLES 226 AND 227 OF THE  
CONSTITUTION OF INDIA AGAINST THE DECISION OF THE  
CENTRAL INFORMATION COMMISSION DATED 13.05.2025 IN  
SECOND APPEAL NUMBERED CIC/CABST/A/2024/612583.**

The Petitioner above named,

**MOST RESPECTFULLY SHOWETH:**

1. The Petitioner has preferred the present Writ Petition under Articles 226 and 227 of the Constitution of India against the decision dated 13.05.2025 (hereinafter referred to as the “**Impugned Decision**”) passed by the Hon’ble Central Information Commission at New Delhi (hereinafter the “**CIC**”), in the Second Appeal numbered CIC/CABST/A/2024/612583 and dated 21.03.2024.

A copy of the Impugned Decision dated 13.05.2025 is annexed herewith as

**ANNEXURE P-1**

2. By way of the Impugned Decision, the Ld. CIC has dismissed the Petitioner’s Second Appeal for a copy of the Cabinet Secretariat (SR) Order

No. 15/6/2022-E-II-716 dated 27.09.2023 ("CS Order"). The said CS Order was referred to in the Aviation and Research Centre's Order dated 27.09.2023, which discharged the Petitioner from his employment as Chief Pilot, Aviation Research Centre ("ARC"), DG(S), Cabinet Secretariat, Government of India. The Impugned Decision, without providing any reasons, has incorrectly rubber-stamped Respondent/Ld. Central Public Information Officer's ("CPIO") assertion that the information sought by the Petitioner, i.e. CS Order, "*pertains to an Intelligence and Security Organisation*" mentioned in the Second Schedule of the Right to Information Act, 2005 ("RTI Act"), and therefore barred from disclosure under Section 24(1) of the Act. The Impugned Decision has not considered the Appellant's that - a) The CS Order has been issued by the Cabinet Secretariat, which is not exempted under Section 24(1); only the ARC wing of the Cabinet Secretariat is exempted; b) the bar under Section 24(1) does not apply as the Petitioner was seeking information regarding his discharge, which does not have bearing on operational or intelligence related activities of any exempted agency; c) alternatively, if the bar under Section 24(1) does apply, the Petitioner is entitled to the CS Order in terms of the proviso to Section 24(1).

Aviation and Research Centre's Order dated 27.09.2023 ("Discharge Order"), which discharged the Petitioner from his employment as Chief Pilot, Aviation Research Centre ("ARC"), DG(S), Cabinet Secretariat, Government of India and which referred to Cabinet Secretariat (SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023 is annexed herewith as **ANNEXURE P-2**.

## PARTIES

3. The Petitioner is Group Captain Kunal Sethi (Retd), is a former officer of the Indian Air Force (hereinafter referred to as the "IAF"), having served the country proudly and with selfless dedication for 24 years. The Petitioner had more than 5000 hours of flying experience and during his service, held many important appointments including Flt Cdr, ARC (On deputation from June 1999 to June 2003), OIC TAOTDC (Transport Aircraft Tactics Development Centre), Flt Cdr 12 Sqn, and Director Ops (Inductions Transport) at Air Head Quarters. During his time at the TAOTDC, the Petitioner developed tactics for the transport fleet of the IAF and started the Transport Combat Leader ("TCL") course, which has become the standard course for transport pilots to get check pilot status on a transport aircraft. The Petitioner was conferred a commendation by the Chief of Air Staff in 2008 for his contribution. The Petitioner opted for premature retirement w.e.f 31.07.2012 to provide care and assistance to his mother who suffers from Alzheimer's condition. At the time of his retirement, the Petitioner held the rank of Group Captain (Select Grade) and was a qualified Right Hand Seat Check Pilot (RHSCP) on AN-32 aircraft and was an alumnus of the Defence Services Staff College (DSSC), Wellington. The Petitioner was also a Crew Resource Management (CRM) instructor and a TCL. The Petitioner held the highest possible category of A"MG" awarded by the IAF's Aircrew Examining Body (AEB) on An-32 aircraft.
4. The Petitioner joined the ARC on 07.05.2019 as Chief Pilot. The Petitioner continued to serve in the post of Chief Pilot from 07.05.2019, initially on a probation of two years. The initial probation ended on 06.05.2021, but the Cabinet Secretariat did not pass any order confirming or discharging the Petitioner's appointment. His services continued to be availed of, and another period of two years elapsed on 06.05.2023. The Petitioner had therefore completed double the probation on 06.05.2023. A further period

of eight weeks concluded on 01.07.2023, and in terms of Clause 27 of the said Probation Rules, was deemed to have completed the probation. The services of the Petitioner continued to be availed of by the ARC till 27.09.2023.

5. On 27.09.2023, the Petitioner was handed the said Discharge Order whereby he was informed that he had been discharged from his post with immediate effect in terms of Clause 22 of the Probation Rules. As mentioned above, the said order referred to the CS Order, a copy of which is being sought through the present proceedings. The Petitioner has challenged the legality of the Discharge Order in separate proceedings pending before a Division Bench of this Hon'ble Court titled *Group Captain Kunal Sethi (Retd.) v. Union of India*, WP(C) 12504/2024, where notice has been issued to the respondent therein. Even in those proceedings, the Petitioner has *inter alia* sought a copy of the CS Order. However, the cause of action in the present proceedings is different insofar as the Petitioner is seeking a copy of the said power in exercise of his constitutional and now statutory right to information. In contrast, in WP(C) 12504/2024, the Petitioner has sought a copy of the CS Order among other reliefs to enable this Hon'ble Court to adjudicate the legality of the Discharge Order.

A copy of the Petition in *Group Captain Kunal Sethi (Retd.) v. Union of India*, WP(C) 12504/2024 is annexed herewith as **ANNEXURE P-3**

A copy of this Hon'ble Court's orders in WP(C) 12504/2024 is annexed herewith as **ANNEXURE P-4 (Colly)**.

6. The Respondent is Ld. CPIO at the Cabinet Secretariat. In accordance with Section 6(1) of the RTI Act, the Petitioner had addressed the RTI Application to the Respondent who based on inputs from ARC, denied the Petitioner's request because the CS Order purportedly, "pertains to an

*Intelligence and Security Organisation*" mentioned in the Second Schedule of the RTI Act and therefore barred from disclosure under Section 24(1) of the Act.

7. The Central Information Commission has passed Impugned Decision on 13.05.2025 by simply putting a rubber-stamp on the Respondent's contentions and without considering the Petitioner's contentions in Second Appeal dated 21.03.2024 and Written Submissions dated 06.05.2025.

## FACTS

8. The Petitioner was commissioned as a Pilot Officer in the Indian Air Force ("IAF") on 11.06.1988 and thereafter served the nation with distinction for nearly twenty-four years, accumulating more than 5,000 accident-free flying hours and earning a Chief of Air Staff Commendation in 2008. Upon completing the qualifying period for pension, the IAF accepted the Petitioner's request for premature retirement with effect from 31 July 2012 at the substantive rank of Group Captain.
9. Recognising his specialised skills, the Cabinet Secretariat, Government of India, issued Offer of Appointment OM No. 4/18/2014-DO-II(B)-298 dated 06/05/2019 appointing the Petitioner as Chief Pilot, Aviation Research Centre (ARC), DG(S) on re-employment basis in Level 13-A of the Pay Matrix (basic pay ₹ 1,61,300/-) together with allowances. The Petitioner duly communicated his acceptance of the offer of appointment and joined the position of Chief Pilot, Directorate General of Security, Cabinet Secretariat, w.e.f 07.05.2023

A copy of the Offer of Appointment dated 06/05/2019 is annexed herewith as ANNEXURE P-5.

10. After his appointment was deemed to have been confirmed, the Petitioner was shocked to receive the Discharge Order whereby the Petitioner was informed that he was discharged from service with immediate effect in terms of Para 22 of the DoP&T OM No. 28020/3/2018-Estt. (C) dated 11.03.2019 and purportedly in pursuance of CS Order, a copy of which was not provided to the Petitioner, and which the Petitioner is seeking through the present proceedings.

11. On 17.10.2023, the Petitioner filed RTI Application No. CABST/R/E/23/00792 ("RTI Application") seeking an authenticated copy of the CS Order. In the RTI Application, specifically mentioned that he had been discharged through the Discharge Order, which referred to the CS Order.

A copy of the RTI Application has been annexed herewith as **ANNEXURE P-6**

12. The received the application dated 17.10.2023 on 20.10.2023. Yet, on 23.10.2023, the Respondent forwarded the RTI Application to ARC, seeking their reply to the RTI Application, and to intimate whether any apparent human right violations/corruption issues are involved. The Respondent's decision to seek inputs from another organisation was beyond the RTI Act. As the Cabinet Secretariat had issued the CS Order, the Respondent had the sole authority to accept or reject Petitioner's application as per Section 7 of the RTI Act. If the Respondent believed that the ARC held the information sought by the Petitioner, it should have transferred the RTI Application as per Section 6(3) of the RTI Act.

13. On 27.10.2023, ARC responded to the Respondent's request and stated that ARC is exempted under Section 24 of the RTI Act, and that the RTI Application does not fall under the purview of corruption and/or human

rights violation. The fact that the Respondent had sought inputs from ARC, which had responded to the request, was only disclosed to the Petitioner through the written submissions the Respondent filed before the Central Information Commission. The submissions did not contain copies of Respondent's letter dated 23.10.2023 or ARC's response dated 27.10.2023. The Petitioner craves the leave of this Hon'ble Court to obtain these documents from the Respondent during the present proceedings.

A copy of The Respondent's written submissions filed before the Central Information Commission is annexed herewith as **ANNEXURE P-7**.

14. On 30.10.2023, the Respondent rejected the Petitioner's RTI Application on the ground that the CS Order, "*pertains to an Intelligence and Security Organisation*" mentioned in Sl. No. 2 of the Second Schedule of the RTI Act (i.e. ARC), and is therefore barred from disclosure under Section 24(1) of the Act. The Respondent erred in arriving at this conclusion, as the Cabinet Secretariat (SR) issued the CS Order and not the ARC.

A copy of the Respondent's reply to Petitioner's RTI Application is annexed herewith as **ANNEXURE P-8**.

15. On 10.11.2023, the Petitioner filed a First Appeal under Section 19 of the RTI Act against the Respondent's reply dated 30.10.2023. The Petitioner pointed out in the First Appeal that the CS Order has been issued by the Cabinet Secretariat (SR), which is not exempted under Section 24(1) of the Act.

A copy of Petitioner's First Appeal is annexed herewith as **ANNEXURE P-9**

16. On 08.12.2023, the First Appellate Authority rejected the Petitioner's First Appeal by simply reiterating the Respondent's reply dated 30.10.2023 and

without applying their mind. Notably, the Respondent in their written submissions before the Central Information Commission state that the Petitioner's First Appeal was also forwarded to the ARC on 21.11.2023, which in response dated 01.12.2023 reiterated its stance that it is exempted under Section 24(1) of the Act. The Respondent, in its written submissions, has also stated that the First Appellate Authority relied on ARC's response dated 01.12.2023 to dismiss the Petitioner's appeal. A copy of ARC's response dated 01.12.2023 has never been provided to the Petitioner, and yet it has been relied upon to deny his constitutional and statutory rights.

A copy of the First Appellate Authority's decision dated 08.12.2023 is annexed herewith as **ANNEXURE P-10**

17. In the meantime, the Petitioner on 21.11.2023 in OA 3711/2023 had approached the Hon'ble Central Administrative Tribunal challenging the legality of the Discharge Order.

18. Thereafter, on 07.03.2024, the Petitioner appealed the First Appellate Authority's decision dated 08.12.2023 before the Ld. Central Information Commission, highlighting that the Cabinet Secretariat (SR) is not an exempted organisation under Section 24(1) of the Act.

A copy of Petitioner's Second Appeal dated 07.03.2024 is annexed herewith as **ANNEXURE P-11**

19. The Petitioner's Second Appeal was not listed for hearing by The Central Information Commission for more than a year. In this period, the Hon'ble Central Administrative Tribunal dismissed the Petitioner's OA 3711/2023 by judgment dated 08.08.2024. Thereafter, on 28.08.2024, the Petitioner challenged the judgment dated 08.08.2024 before this Hon'ble Court in *Group Captain Kunal Sethi (Retd.) v. Union of India*, WP(C) 12504/2024.

A copy of the petition and the orders passed in WP(C) 12504/2024 have already been annexed as **ANNEXURE P-3** and **ANNEXURE P-4**

A copy of the Hon'ble Central Administrative Tribunal's judgment dated 08.08.2024 is annexed herewith as **ANNEXURE P-12**

20. Finally, on 27.03.2025, the Central Information Commission issued a hearing notice to the Petitioner and the Respondent and listed the Second Appeal for hearing on 13.05.2025. In compliance with the directions in the directions issued in the hearing notice, the Petitioner filed his written submissions dated 06.05.2025. In the meantime, the Petitioner was served with the Respondent's written submissions on 30.04.2025. The Respondent's written submissions have already been annexed as **ANNEXURE P-7**.

The Petitioner's written submissions before Central Information Commission, filed in advance of the hearing dated 13.05.2025, are annexed herewith as **ANNEXURE P-13**.

21. On 18.05.2025, the Central Information Commission uploaded the Impugned Decision on its website. By way of the Impugned Decision, the Central Information Commission has dismissed the Petitioner's Second Appeal. The Impugned Decision, without providing any reasons, has incorrectly rubber-stamped the Respondent assertion that the information sought by the Petitioner, i.e. CS Order, "*pertains to an Intelligence and Security Organisation*" mentioned in the Second Schedule of the Right to Information Act, 2005 ("RTI Act"), and therefore barred from disclosure under Section 24(1) of the Act. The Impugned Decision has not considered the Appellant's contentions that - a) The CS Order has been issued by the Cabinet Secretariat, which is not exempted under Section 24(1); only the ARC wing of the Cabinet Secretariat is exempted; b) the bar under Section

24(1) does not apply as the Petitioner was seeking information regarding his discharge, which does not have bearing on operational or intelligence related activities of any exempted agency; c) alternatively, if the bar under Section 24(1) does apply, the Petitioner is entitled to the CS Order in terms of the *proviso* to Section 24(1).

22. Hence, the present Petition is being preferred against the Impugned Decision, which is erroneous and misconceived on both facts and law, for the reasons given hereunder:

## GROUNDS

- A. BECAUSE the Impugned Order is wrong, misconceived, erroneous and contrary to express provisions of law, and is thus liable to be set aside.
- B. BECAUSE Section 24(1) exempts only those organisations explicitly named in the Second Schedule or information provided by such organisations to the Central Government, subject to the proviso that information "*pertaining to allegations of corruption or human-rights violations*" shall not be excluded. The Respondent has denied the Petitioner's RTI Application on the ground that it "*pertains to*" an exempted organisation, i.e. ARC. Thus, The Respondent has applied a standard not found under Section 24(1) of the Act, and as a result, significantly expanded the scope of the provision.
- C. BECAUSE the Impugned Decision failed to appreciate that the information sought by the Petitioner is the Cabinet Secretariat (SR) order no. 15/6/2022-E-II-716 dated 27.09.2023 (CS Order), which is a discharge order issued by the Cabinet Secretariat and not by ARC.

- D. BECAUSE the Central Secretariat is not an “*intelligence and security organisation*” specified in the Second Schedule of the Right to Information Act and is thus not exempt from the provisions of the Act as per Section 24 of the Act. Item 2 in the Second Schedule to Right to Information Act only exempts the “Research and Analysis Wing including its technical wing namely, the Aviation Research Centre of the Cabinet Secretariat”
- E. BECAUSE the Central Secretariat cannot claim exemption on behalf of the Aviation Research Centre for information held by or under the control of the Central Secretariat. (CBSE v. Aditya Bandopadhyay, (2011) 8 SCC 497, Para 24).
- F. BECAUSE the ARC has provided the Petitioner with the Discharge Order, but the Cabinet Secretariat is now claiming exemption under Section 24(1) of the Act.
- G. BECAUSE the conduct of the Respondent in forwarding the RTI request to the ARC and taking decisions based on its inputs, even though the Petitioner sought the CS Order issued by Respondent, was an attempt to subvert its obligations under the Right to Information Act.
- H. BECAUSE the Impugned Decision and the interpretation of the Respondent stretch the application of Section 24 beyond intelligence and security organisations and seek to defeat the salutary purpose of the RTI Act.
- I. BECAUSE Section 24(1) exempts only such information which is directly related to the ‘intelligence and security’ of that organisation and not otherwise, as has been held in several judgments of High Courts across the country.
- J. BECAUSE the reasons for the Petitioner’s discharge from service have no relation to any security or intelligence issues.

- K. BECAUSE the information sought by the Petitioner is personal to the Petitioner and cannot be denied to the Petitioner based on blanket assertions of national security and intelligence.
- L. BECAUSE the Petitioner has an inherent right to know the reasons for his discharge, and any restrictions on the right to know can only be imposed under Article 19(2) of the Constitution and the contours of the RTI Act.
- M. BECAUSE the denial of this information, namely the reason for his discharge, will also have a detrimental impact on the petitioner's right to livelihood, as he will be unable to explain to future employers the reason for his discharge.
- N. BECAUSE the denial of the information sought, namely the reason for his discharge, will impair the petitioner's right to livelihood, as it will serve as an unexplained blemish on the Petitioner's service record.
- O. BECAUSE the onus is on the Respondent to establish why the discharge order, which is personal to the Petitioner, cannot be given to the Petitioner.
- P. BECAUSE the Respondent cannot invoke or assert security and intelligence as the reason to not supply the Petitioner's discharge order without explaining how the disclosure of the Petitioner's discharge order to the Petitioner will impact national security or intelligence functions of the country. National security cannot *ipso facto* restrict the Petitioner's right to information under Article 19 without adequate justification by the Respondent. (*Manohar Lal Sharma (Pegasus Spyware) v. Union of India*, (2023) 11 SCC 401, Para 53-54; *Madhyamam Broadcasting Ltd. v. Union of India*, (2023) 13 SCC 401)
- Q. BECAUSE the Respondent's conduct is contrary to its past practice, where the Respondent has admitted that information relating to appointments and

dismissals was not information related to an exempted organisation and has provided such information. (*Subhash Chandra Agrawal v. CPIO, CIC/SM/C/2011/001564 dated 29.02.2012*).

A copy of the Central Information Commission's decision in *Subhash Chandra Agrawal* is annexed herewith as **ANNEXURE P-14.**

- R. BECAUSE, in any case, the information sought by the Petitioner falls under the *proviso* to Section 24 of the Right to Information Act, as it is information relating to allegations of corruption and human rights violations.
- S. BECAUSE the words '*allegations of corruption*' and '*human rights violations*' have to be interpreted in light of the purpose of the Act to ensure transparency and accountability in the functioning of government organisations, as well as the countervailing interest of not jeopardising security and intelligence operations of the country through information disclosure. Thus, the words corruption and human rights violations must be given a broad meaning insofar as they relate to personnel and service issues in exempt organisations and cause no harm to the 'core' activity of the intelligence and security organisation.
- T. BECAUSE, allegations relating to unfair dismissal from service as well as dismissal contrary to rules are a facet of 'corruption.' Corruption has been defined to include "impairment of integrity, virtue or moral principle, depravity; inducement to wrong by bribery or other unlawful or improper means; a departure from honesty, integrity or fair dealing."
- U. BECAUSE, this Hon'ble Court has held that the term 'human rights violation' in the proviso to s. 24 cannot be given a narrow or pedantic meaning but must be progressive and transformative. The Petitioner has

been unfairly deprived of his livelihood, and the conduct of the Respondent has harmed the Petitioner's dignity and professional standing.

V. BECAUSE the Petitioner had specifically pleaded before the Respondent and the Central Information Commission how the information sought by the Petitioner is covered by the *proviso* to Section 24.

W. BECAUSE the CS Order cannot be considered exempt information under any of the categories provided under Section 8 of the RTI Act, as it pertains to the Petitioner's discharge from ARC.

X. BECAUSE in any case, the Respondent can redact any portions of the CS order which have national security implications, if at all.

Y. BECAUSE the Respondent must not withhold information in its custody to impede the Petitioner's right to enforce his fundamental rights (*Ram Jethmalani & Ors. v Union of India, (2011) 8 SCC I*).

Z. BECAUSE the impugned order is a completely unreasoned order where the Ld. Central Information Commission merely reproduced the contention of the parties and did not analyse the competing contentions of the parties.

AA. The Petitioner craves leave to raise additional grounds during the hearing.

23. Aggrieved, and for the reasons stated above, the Petitioner has no option but to file the instant Writ Petition under Articles 226 and 227 of the Constitution of India.

24. The Petitioner is a resident of 56, Chota Singh Marg, Asian Games Village, New Delhi, and the Respondent No. 1 is located at North Block, New Delhi, falling within the jurisdiction of this Hon'ble Court. The Impugned Decision has been passed by The Central Information Commission at New Delhi, falling within the jurisdiction of this Hon'ble Court. It is, therefore,

humblly submitted that this Hon'ble Court has the jurisdiction to adjudicate the present matter.

25. The Petitioner has duly disclosed that there is another proceeding pending before a Division Bench of this Hon'ble Court where the Petitioner is seeking a similar relief, i.e. a copy of the CS Order. However, those proceedings emanate from the Central Administrative Tribunal's judgment dated 08.08.2024, upholding the Discharge Order. A copy of the CS Order has been sought in those proceedings only as an ancillary relief to assist this Hon'ble Court in determining the legality of the Discharge Order. By way of the present Petition, the Petitioner is seeking enforcement of his constitutional and statutory right to information. Thus, the cause of action in the present proceedings is entirely distinct from that in *Group Captain Kunal Sethi (Retd.) v. Union of India*, WP(C) 12504/2024.
26. The Petitioner submits that the present Writ Petition is bona fide and in the interest of justice.

### PRAYERS

*IN LIGHT OF THE ABOVE MENTIONED, THE PETITIONER ABOVE NAMED MOST HUMBLY PRAYS THAT THIS HON'BLE COURT MAY BE PLEASED TO:*

- A. Issue any appropriate writ, order or direction quashing the Impugned Order dated 13.05.2025 passed by the Hon'ble Central Information Commission at New Delhi in Second Appeal numbered CIC/CABST/A/2024/612583 under the Right to Information Act, 2005;
- B. Issue any appropriate writ, order or direction, directing the Central Public Information Officer (Respondent) to duly disclose the information sought by

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the Petitioner in RTI Application No. CABST/R/E/23/00792 dated  
17.10.20231

C. Pass any other order(s)/direction (s) that this Hon'ble Court may deem fit in  
the facts and circumstances.

*FOR WHICH ACT OF KINDNESS THE PETITIONER AS INDUTY BOUND,  
SHALL EVER PRAY.*

**THROUGH**

**New Delhi**

**26/05/2025**



**JAHNAVI SINDHU (D/3742/2015) AND KRISHNESH BAPAT (D/4839/2019)**

**ADVOCATES FOR THE PETITIONER**

**S-523A, SECOND FLOOR, GREATER KAILASH - 2**

**New Delhi – 110048**

**+91 9811617823 | krishnesh@kblawoffice.in**

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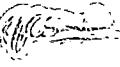
IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI  
ORIGINAL JURISDICTION  
WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2025

IN THE MATTER OF:

GROUP CAPTAIN (RETD.) KUNAL SETHI ... PETITIONER

VERSUS

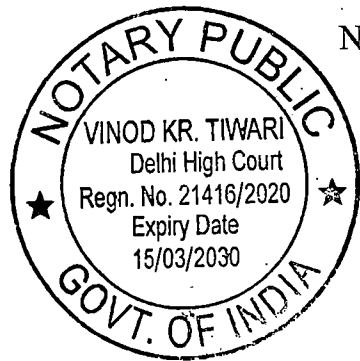
CENTRAL PUBLIC INFORMATION OFFICER O/o CABINET

SECRETARIAT  ... RESPONDENT

AFFIDAVIT

I, Kunal Sethi, son of Late Shri Hakim Rajinder Sethi, aged about 59 years, and presently residing at 56, Chota Singh Marg, Asian Games Village, New Delhi do hereby solemnly affirm and state as under:

1. That I am the Petitioner in the above captioned matter, and that I am well conversant with the facts of the case. I am therefore competent to swear the present Affidavit.
2. That I am conversant with the facts and circumstances of the case and have also examined the relevant documents and records in relation thereto.
3. That I have perused and understood the contents of the accompanying Petition, and the contents thereof are true and correct to my knowledge. Nothing material has been concealed therefrom.



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4. The accompanying Petition has been drafted on my instruction and the legal submissions made therein are as per the legal advice received by me.

*Vinod Tiwari*  
DEPONENT

### VERIFICATION

**26 MAY 2025**

Verified at \_\_\_\_\_ on 26<sup>th</sup> May, 2025 that the contents of the aforesaid affidavit are true and correct to my knowledge, and that no part of it is false and nothing material has been concealed therefrom.

*Vinod Tiwari*  
DEPONENT

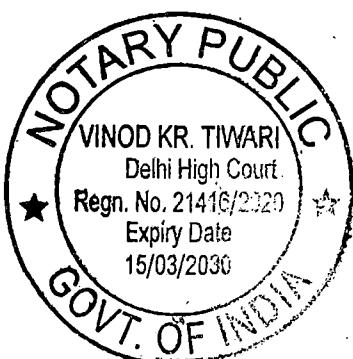
*B22*  
Identify the DepONENT who has signed/put  
thumb impression in my presence

CERTIFIED THAT THE CONTENTS EXPLAINED TO THE  
DEPONENT EXECUTANT WHO IS SEEMED PERFECTLY TO  
UNDERSTAND AFFIRMED & DEPOSED BEFORE ME AT NEW DELHI

*J. Sardana*  
IDENTIFY THE EXECUTANT/DEPONENT WHO HAS  
SIGNED IN MY PRESENCE  
VINOD KUMAR TIWARI, Advocate, Reg. No. 21416/2020  
NOTARY PUBLIC (NEW DELHI)

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**26 MAY 2025**



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/CABST/A/2024/612583.**

Group Captain Kunal Sethi.

... अपीलकर्ता/Appellant

VERSUS/बनाम

PIO,  
 Cabinet Secretariat.

...प्रतिवादीगण /Respondent

Date of Hearing : 13.05.2025  
 Date of Decision : 13.05.2025

**Chief Information Commissioner** : **Shri Heeralal Samariya**

**Relevant facts emerging from appeal:**

|  |   |            |
|--|---|------------|
| RTI application filed on                     | : | 17.10.2023 |
| PIO replied on                               | : | 20.10.2023 |
| First Appeal filed on                        | : | 11.11.2023 |
| First Appellate Order on                     | : | 08.12.2023 |
| 2 <sup>nd</sup> Appeal/complaint received on | : | 21.03.2024 |

**Information sought and background of the case:**

The Appellant filed an RTI application dated 17.10.2023 seeking information on following points:-

*"I was discharged from ARC Vide letter number ARC/Pers.III/706/2021(Pt)-3931 dated 27.09.2023. The discharge was done under Cabinet Secretariat(SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023. I request that I may be provided a copy of Cabinet Secretariat(SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023."*

The CPIO vide letter dated 20.10.2023 replied as under:-

*"This is with reference to your application bearing registration No.CABST/R/E/23/00792 dated 17.10.2023 which has been transferred to this Secretariat by Cabinet Secretariat, Rashtrapati Bhawan vide their O.M. No.CABST/R/E/23/00792-RTI dated 17.10.2023 and received on 20.10.2023 under RTI Act, 2005. This is to inform that the information sought by you pertains to Intelligence and Security Organization figuring at Sl.No.2 of the Second Schedule of the RTI Act. which is exempted from the purview of the RTI Act, 2005 vide statutory bar of sub-section(1) of section 24 of the RTI Act subject to the conditions stipulated therein.  
 2. In view of the above, this Secretariat is not under any obligation to disclose the information."*

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 11.11.2023. The FAA, Deputy Secretary vide order dated 08.12.2023 stated as under :-

*"This is with reference to your first appeal bearing registration No.CABST/A/E/23/00114 dated 11.11.2023 which has been transferred to this Secretariat by Cabinet Secretariat, Rashtrapati Bhawan vide their Office Memorandum No.CABST/A/E/23/00114-RTI dated 14.11.2023 and received on 17.11.2023 under RTI Act, 2005.*

*2. I have checked the records. CPIO has rightly observed vide her letter No. 18/52/2023/RTI/E.III(iv)-1086 dated 30.10.2023 that the information sought by you pertains to the intelligence and Security Organization figuring at Sl.No.2 in the Second Schedule of the Act, therefore, statutory bar of Section 24(1) of the RTI Act, 2005 would be fully applicable. Moreover, the information sought for does not relate to any human rights violation or corruption."*

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

#### **Facts emerging in Course of Hearing:**

**Appellant:** Present

**Respondent:** Tanmya Athwal, US, SK Nayak, Vijay, Anmol Tyagi, L. Haolip

#### **Written submissions of the Appellant:**

1. In this regard, it is firstly submitted that the Cabinet Secretariat (SR) is not scheduled, its records therefore remain governed by the RTI Act. Once the Cabinet Secretariat (a non-exempt body) issued the order, it "holds the information in its own right" (CBSE v. Aditya Bandopadhyay, (2011) 8 SCC 497, 28).
2. The CPIO of the Cabinet Secretariat (SR) ought to be put to strict proof of its claim that the information pertains to Intelligence and Security Organization. Mere assertions are not sufficient to deny my constitutional and statutory rights. This is especially the case because the information sought pertain to me, service rendered by me and my rights, and do not relate in any manner to any operational or intelligence related activities of any agency.
3. The CPIO and the FAA's stance is contrary to past practice. In Subhash Chandra Agrawal v. CPIO, CIC/SM/C/2011/001564 dated 29.02.2012, the RTI Applicant had sought information regarding appointment of a particular person as Secretary of RAW. The CPIO, Cabinet Secretariat initially denied information on the ground that the information related to an organization exempted under Section 24. However, before the Hon'ble Central Information Commission, the CPIO placed the order of the FAA which stated that the desired information did not relate to the exempted organization but "to the manner in which the appointment was made to that organization by the competent authority and therefore, it could not be said that the information was about exempted organization". Therefore, the FAA in that case accepted that desired information did not relate to the exempted organization but to the Cabinet Secretariat. Similarly, in the present case, the document

sought relates to a discharge order of the Cabinet Secretariat and not to the ARC. The CPIO and FAA cannot adopt a contrary stance.

4. In this regard it is submitted that Section 24(1) exempts only such information which is directly related to the 'intelligence and security' of that organisation and not otherwise as has been held by the Hon'ble Punjab and Haryana High Court in First Appellate Authority, Additional DGP, CID of Haryana v Chief Information Commissioner, Haryana, CWP No. 12904/2009.
5. Further, without prejudice to the above, the even the proviso to Section 24(1) is applicable to my case. The proviso to Section 24(1) which states that the provision does not apply to any information pertaining to allegations of corruption and human rights violations. This is not only evident from a literal interpretation of the provision but has also been recognised by the Hon'ble Supreme Court in Yashwant Sinha vs CBI, (2019) 6 SCC 1 where the Court held that 'the proviso declares that even though the information available with intelligence and security organisations are generally outside the purview of the open disclosure regime contemplated under the Act if the information pertains to allegations of corruption or human rights violations such information is very much available to be sought for under the Act.' The Hon'ble Manipur High Court in Shri Phairembam Sudesh Singh vs State of Manipur & Others, AIR 2016 Mani 19 has held that the expression "information pertaining to allegations of corruption and human rights violence" is not defined in the Act but it has a wide connotation in view of the objective sought to be achieved in the Act.
6. The information sought by me pertains to a routine discharge memorandum which affected my right to livelihood – a human right under Articles 14, 19 and 21 of the Constitution. Hence, even if Section 24(1) were applicable, the proviso commands disclosure. Importantly, neither the CPIO nor the FAA have never asserted that releasing a routine discharge memorandum would threaten national security. The Supreme Court in Anuradha Bhasin v. Union of India, (2020) 3 SCC 637, underscored that State secrecy cannot mask orders affecting fundamental rights.
7. In this regard it is submitted that Section 24(1) exempts only such information which is directly related to the 'intelligence and security' of that organisation and not otherwise as has been held by the Hon'ble Punjab and Haryana High Court in First Appellate Authority, Additional DGP, CID of Haryana v Chief Information Commissioner, Haryana, CWP No. 12904/2009. The relevant paragraph from CWP No. 12904/2009 (*supra*) has been reproduced below: It is not a matter of dispute that the notification dated 29.12.2005 issued under Section 24(4) of the Act which envisaged that nothing contained in this Act shall apply to such intelligence and security organisations being organisations established by the State Government may, from time to time, by notification in the Official Gazette, specify. 9. Proviso to this section further escalates that

the information pertaining to allegations of corruption and human rights violation shall not be excluded under the sub-section 10. A combined reading of these provisions would reveal, only that information is exempted, which is directly effecting and co-related to the 'intelligence' and 'security' of that organisation of the State and not otherwise.

#### **Written Submissions of the CPIO:**

1. ARC vide their UO dated 27.10.2023 had inter alia submitted that ARC being an intelligence organization is exempted from the purview of the RTI Act under Section 24 of the Act except for complaints related to corruption and human rights violation. Further, as the information sought by the applicant does not fall under the purview of corruption and/or human rights violation, ARC advised that the information sought by the applicant may not be provided.
2. Accordingly, CPIO vide letter dated 30.10.2023 informed the applicant that the information sought by him pertains to Intelligence and Security Organization figuring at SI.No.2 of the Second Schedule of the RTI Act, which is exempted from the purview of the RTI Act, 2005 vide statutory bar of sub-section (1) of section 24 of the RTI Act subject to the conditions stipulated therein.
3. It is submitted that ARC, a technical wing of R&AW being an Intelligence and Security Organization catering to the security of the nation is listed at SI.No.2 of the Second Schedule of RTI Act, 2005 under sub-section (1) of section 24 of the RTI Act. Both the CPIO and FAA of Cabinet Secretariat (SR) have acted within the provision of the RTI Act, 2005 by denying the information as the matter under reference does not involve corruption and human rights violation.
4. In view of the above, *prima facie*, no case of corruption or human rights violation is made out against the ARC in the instant case; both the CPIO and the FAA have acted within the provisions of sub-section (1) of section 24 of the RTI Act 2005, read with the Second Schedule to the said Act, to deny information to the applicant / appellant.

#### **Decision:**

Upon the perusal of the case records & submissions, the Commission observes that an appropriate reply has been provided by the CPIO. No further action lies.

**The Appeal stands disposed off**

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

Authenticated true copy  
 (अभिप्राप्ति सत्यापित प्रति)

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



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**Recomendation(s) to PA under section 25(5) of the RTI Act, 2005:-**

Nil

Amm-P-2

ARC/Pers.III/706/2021(Pt) - 3931  
 Aviation Research Centre  
 Directorate General of Security  
 (Cabinet Secretariat)  
 Block-V, R.K. Puram,  
 New Delhi, 110066

Dated, 27.09.2023

OFFICE ORDER NO. 2415/12023

In pursuance of Cabinet Secretariat(SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023, approval of the Government is hereby conveyed for discharging from service in r/o Gp Capt Kunal Sethi (Retd), Chief Pilot, ARC in terms of Para 22 of DoP&T OM No. 28020/3/2018-Estt (C) dated 11.03.2019 with immediate effect.

*Disch 27/9/23*  
 ( Nisha Vinod )  
 Director (Pers)

Gp Capt Kunal Sethi (Retd),  
 Chief Pilot, ARC

The CTCs of handing over charge of the post of Chief Pilot and Format-I may be submitted. (blank proformas enclosed)

*Annexure P/3*

IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI

WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2024

IN THE MATTER OF:

KUNAL SETHI

... PETITIONER

VERSUS

UNION OF INDIA AND ORS

... RESPONDENTS

WRIT PETITION UNDER ARTICLES 226 AND 227 OF THE  
CONSTITUTION OF INDIA AGAINST THE FINAL ORDER AND  
JUDGMENT DATED 08.08.2024 PASSED BY THE HON'BLE  
CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH  
AT NEW DELHI IN O.A NO. 3711/2023

The Petitioner above named,

MOST RESPECTFULLY SHOWETH:

1. The Petitioner has preferred the present Writ Petition under Articles 226 and 227 of the Constitution of India against the final order and judgment dated 08.08.2024 (hereinafter referred to as the "Impugned Order") passed by the Hon'ble Central Administrative Tribunal

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Principal Bench at New Delhi (hereinafter the "Hon'ble Tribunal"),  
in the Original Application No. 3711/2023.

Certified Copy of the Impugned Order passed by the Hon'ble Central  
Administrative Tribunal Principal Bench at New Delhi in the  
Original Application No. 3711/2023 is annexed herewith and marked  
as **Annexure P-1**.

True Copy of the pleadings in Original Application No. 3711/2023 is  
annexed herewith and marked as **Annexure P-2 Colly**.

2. By way of the Impugned Order, the Hon'ble Tribunal was pleased to dismiss the said Original Application No. 3711/2023 filed by the Petitioner herein challenging the Office Order bearing No. 245/2023 and Reference No. ARC/Pers.III/706/2021(Pt)-3931 dated 27.09.2023 (hereinafter referred to as "**Discharge Order**") whereby the Petitioner was informed that he was discharged from service with immediate effect in terms of Para 22 of the DoP&T OM No. 28020/3/2018-Estt. (C) dated 11.03.2019 (hereinafter the "**Probation Rules**") and purportedly in pursuance of Cabinet Secretariat (SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023. It is further stated that the said Discharge Order has admittedly been passed in terms of Para 22 of the

said Probation Rules, and was in gross and complete violation of the Petitioner's rights under Articles 14, 19, and 21 of the Constitution of India.

True Copy of the Office Order bearing No. 245/2023 and Reference No. ARC/Pers.III/706/2021(Pt)-3931 dated 27.09.2023 is annexed herewith and marked as **Annexure P-3.**

True Copy of the Probation Rules being DoP&T OM No. 28020/3/2018-Estt. (C) dated 11.03.2019 is annexed herewith and marked as **Annexure P-4.**

3: It is submitted that Para 27 of the same Probation Rules dated 11.03.2019 categorically states that "*The officer will be deemed to have successfully completed the probation period if no order confirming, discharging or reverting the officer is issued within eight weeks after expiry of double the normal period of prescribed probation.*" The Petitioner, having completed the period of four years on 06.05.2023 and the eight weeks subsequent thereto on 01.07.2023, had been deemed to be confirmed with effect from 01.07.2023. Therefore, the Discharge Order could not have been passed on any date after 01.07.2024 as the rules applicable to probationers contained in Probation Rules had ceased to be applicable to the Petitioner

subsequent to his confirmation. The Discharge Order, therefore, was *non-est* and void, having been passed without a basis in law.

4. It is submitted that the said Discharge Order was passed in complete ignorance of the law, and in rejection of the representations dated 01.05.2023 and 30.05.2023 sent by the Petitioner requesting for, inter alia, confirmation to the post of Chief Pilot, ARC. It is further pertinent to mention that no reasons were assigned in support of the decision to discharge the Petitioner, nor was a copy of the said Cabinet Secretariat (SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023 was provided to the Petitioner.
5. It is humbly submitted that the impugned order dated 08.08.2024 is erroneous and deserves to be set aside for having been passed in complete ignorance of the law and for grounds mentioned herein below.

#### PARTIES

6. The Petitioner is Group Captain Kunal Sethi (Retd), is a former officer of the Indian Air Force (hereinafter referred to as the "IAF"), having served the country proudly and with selfless dedication for 24 years.

The Petitioner had more than 5000 hours of flying experience and during the course of his service, held many important appointments including Flt Cdr, ARC (On deputation from June 1999 to June 2003), OIC TAOTDC (Transport Aircraft Tactics Development Centre), Flt Cdr 12 Sqn, and Director Ops (Inductions Transport) at Air Head Quarters. During his time at the TAOTDC, the Petitioner developed tactics for the transport fleet of the IAF and started the Transport Combat Leader ("TCL") course which has become the standard course for transport pilots to get check pilot status on a transport aircraft. The Petitioner was conferred a commendation by the Chief of Air Staff in 2008 for his contribution. The Petitioner opted for premature retirement w.e.f 31.07.2012 to provide care and assistance to his mother who suffers from Alzheimer's condition. At the time of his retirement, the Petitioner held the rank of Group Captain (Select Grade) and was a qualified Right Hand Seat Check Pilot (RHSCP) on AN-32 aircrafts and was an alumnus of the Defence Services Staff College (DSSC) Wellington. The Petitioner was also a Crew Resource Management (CRM) instructor and a TCL. The Petitioner held the highest possible category of A"MG" awarded by the IAF's Aircrew Examining Body (AEB) on An-32 aircraft.

7. The Petitioner joined the Aviation Research Centre on 07.05.2019 as Chief Pilot and appeared for an exam with AEB on 19.06.2019 and was again awarded the highest possible category of A "MG" by them. The Petitioner continued to serve in the post of Chief Pilot from 07.05.2019, initially on a period of probation of two years. The period of initial probation came to an end on 06.05.2021, but no order either confirming the Petitioner or discharging him was passed by the Respondent. However, his services were continued to be availed of, and another period of two years elapsed on 06.05.2023. It is submitted that no order either confirming the Petitioner or discharging him was passed by the Respondent. The Petitioner had therefore, completed double the period of his probation on 06.05.2023. A further period of eight weeks concluded on 01.07.2023, and in terms of Clause 27 of the said Probation Rules, was deemed to have successfully completed the period of probation. The services of the Petitioner was continued to be availed of by the Respondent till 27.09.2023. On 27.09.2023, the Petitioner was handed the said Discharge Order whereby he was informed that he had been discharged from his post with immediate effect in terms of Clause 22 of the Probation Rules.

8. The Respondent is the Union of India, through its Secretary at the Department of Personnel and Training, Ministry of Personnel, Grievances and Pensions, Government of India having its address at North Block, New Delhi – 110001.

### FACTS

9. The Petitioner was offered the position of Chief Pilot, Aviation Research Centre, Government of India vide Appointment Offer bearing OM No. 4/18/2014-DO-II (B)-298 dated 06.05.2019 (hereinafter referred to as the “Appointment Offer dated 06.05.2019”) issued by the Cabinet Secretariat, Government of India. It is relevant to state here that Clause 2(iii) of the said Appointment Offer dated 06.05.2019 stated that the Petitioner would be on probation for a period of two (2) years, and that the appointment would be governed under the Central Civil Services Rules and orders of the Government of India from time to time. The Petitioner duly communicated his acceptance to the offer of appointment and joined the position of Chief Pilot Directorate General of Security, Cabinet Secretariat, w.e.f 07.05.2019 on re-employment basis in the Level 13-A of the Pay Matrix, and the same was confirmed vide Office Order

No. 105/2019 bearing No. ARC/Pers.III/221/2019/2352 dated 27.05.2019.

True Copy of the Appointment Offer dated 06.05.2019 is annexed herewith and marked as Annexure P-5.

True Copy of the Office Order No. 105/2019 bearing No. ARC/Pers.III/221/2019/2352 dated 27.05.2019 is annexed herewith and marked as Annexure P-6.

10. The Petitioner had been duly functioning with sincerity and dedication and has consistently been assessed to be at least 'Very Good' in each successive Annual Performance Assessment Reports. Therefore, it is incontrovertible that the Petitioner has been performing his duties to the satisfaction of the Respondents. In the Annual Performance Assessment Report for the year 2019-20, the Petitioner was assessed to be "Very Good". In the Annual Performance Assessment Report for the year 2020-21, the Petitioner was assessed to be "Very Good". In the Annual Performance Assessment Report for the year 2021-22, the Petitioner was assessed to be "Very Good".

11. The Petitioner was directed by the Competent Authority to be detailed to undergo the "Initial Simulator Training" from 06.01.2020 to

04.02.2020 at CAE, Burgess Hill, United Kingdom. It is relevant to state here that the Petitioner had neither opted for detailing on the said Initial Simulator Training nor had his consent been sought for the same. The Petitioner, therefore, was subjected to undergo the said Initial Simulator Training as part of his duties and responsibilities in the post of Chief Pilot, ARC, and he was not afforded the opportunity to either consent or decline to the same. The Petitioner was therefore detailed to undergo the said training vide Sanction Order bearing 07/1/2019/EA.III.VOL.II- 2 dated 01.01.2020 issued by the Director (SR), Cabinet Secretariat, Government of India.

12. The Petitioner was conscious of the fact that the deputation for the Initial Simulator Training at CAE, Burgess Hill, United Kingdom would require the Petitioner to fly the Global 5000 aircraft, of which the Petitioner had no prior flying experience, and that this fact was informed the Petitioner to the JD (Air) at the time. However, despite having been assured that the Petitioner would have sufficient opportunity to attend structured classes to attain exposure, prior to his departure to the United Kingdom, the Petitioner was made to attend to a hectic flying schedule during the month of December. As such, the Petitioner was provided no opportunity to attain the requisite exposure

to glass cockpit and jet engine (as on the Global 5000 aircraft) and was made to attend Initial Simulator Training at CAE, Burgess Hill, United Kingdom by the Respondents, fully in the knowledge that the Petitioner had little to no exposure to the Global 5000 Aircraft.

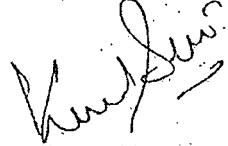
13. On the eve of his departure to the United Kingdom for the afore stated Initial Simulator Training, on 02.01.2020, the Petitioner was made to sign an incomplete Bond (hereinafter referred to as the "Bond dated 02.01.2020") or an unspecified amount for proceeding abroad to CAE, Burgess Hill, United Kingdom for the Initial Simulator Training the Bond dated 02.01.2020 did not specify the amount for which the Petitioner (referred to as "Obliger" therein). It is submitted that the Petitioner was instructed to append his signature in hurried haste on the said Bond dated 02.01.2020, as a necessary formality of his detailing to CAE, Burgess Hill, United Kingdom for the Initial Simulator Training. It is pertinent to state that the said Bond dated 02.01.2020 was notarised and executed, even with the amount unspecified, to be purportedly filled in the future. The Petitioner had no option but to sign the said Bond dated 02.01.2020. It is pertinent to note that the Petitioner was never provided a copy of the executed

version of the Bond dated 02.01.2020 despite making several requests to the Respondents for the same.

True Copy of the Bond dated 02.01.2020 is annexed herewith and marked as Annexure P-7.

14. During the afore stated Initial Simulator Training was made to undergo training on Global 5000 aircraft. While the Petitioner performed well on the ground training and FTD, but his performance in the simulator phase of the training was lower than expected. It is submitted that this was on account of lack of prior flying or training experience in glass cockpits and jet engine. Notwithstanding the same, the Petitioner successfully completed the entirety of the Initial Simulator Training at CAE, Burgess Hill, United Kingdom, and was handed a congratulatory note on his successful "completion" of the Initial Simulator Training. The Petitioner proceeded to re-join his post at New Delhi on 05.02.2020. The Petitioner, thereafter, was issued a Memorandum bearing No. 1/ARC/JS (Pers)/2020-300 dated 11.05.2020 (hereinafter referred to as the "Memo dated 11.05.2020") stating therein that the Petitioner had "failed to complete the said training successfully". It was further stated that the Petitioner had failed to "suo motu" report the outcome of the "any mission (including

4. The accompanying Petition has been drafted on my instruction and the legal submissions made therein are as per the legal advice received by me.



DEPONENT

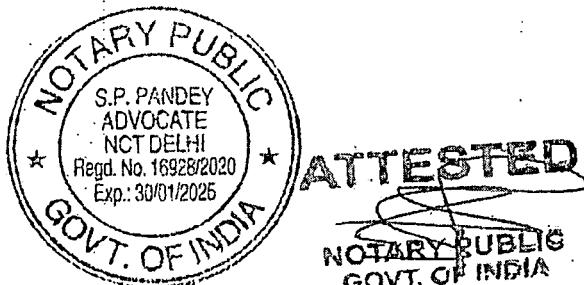
*I identify the deponent who has  
Signed put T.L. In my presence*

**VERIFICATION:**

Verified at \_\_\_\_\_ on 03 SEP 2024, 2024 that the contents of the aforesaid affidavit are true and correct to my knowledge, and that no part of it is false and nothing material has been concealed therefrom



DEPONENT



03 SEP 2024

a training programme)" and that the Petitioner should have informed about the difficulties faced in the training simulation, so that "timely decision could have been taken on how best to address the situation and minimise the damage and loss to the Government". The said Memo dated 11.05.2020 further called upon the Petitioner to "explain and clarify (his) position within a week's time" from the receipt of the memo. It is submitted that the said Memo dated 11.05.2020 not only incorrectly recorded that the Petitioner had failed to successfully complete the Initial Simulator Training at CAE, Burgess Hill, United Kingdom, it further called upon the Petitioner for an explanation and response to the alleged conclusions of the training programme within an unreasonably short period of one week. It is submitted that the Petitioner was not even given a copy of the purported conclusion/outcome report of the training programme, for which he was asked to provide an explanation vide the said Memo dated 11.05.2020. It is submitted that the said Memo dated 11.05.2020 suffers from substantive lacunae in its compliance with the principles of natural justice, and as such arbitrary.

True Copy of the Congratulatory Note on successful completion is annexed herewith and marked as **Annexure P-8**.

True Copy of the Memo dated 11.05.2020 is annexed herewith and marked as **Annexure P-9.**

15. The Petitioner replied to the said Memo dated 11.05.2020 vide Reply Letter dated 20.05.2020 stating therein that the allegations contained in the Memorandum dated 11.05.2020 were wrong and unfounded. It was further categorically stated by the Petitioner that the deputation for the Initial Simulator Training at CAE, Burgess Hill, United Kingdom would require him to fly the Global 5000 aircraft, of which the Petitioner had no prior flying experience, and that this fact was informed by the Petitioner to the JD (Air) at the time. However, despite having been assured that the Petitioner would have sufficient opportunity to attend structured classes to attain exposure, prior to their departure to the United Kingdom, the Petitioner was made to attend to a hectic flying schedule during the month of December, 2019. As such, the Petitioner was provided no opportunity to attain the requisite exposure to glass cockpit and jet engine (as on the Global 5000 aircraft) and was made to attend Initial Simulator Training at CAE, Burgess Hill, United Kingdom by the Respondents fully in the knowledge that the Petitioner had little to no exposure to the Global 5000 Aircraft. In the said Reply Letter dated 20.05.2020, the Petitioner

categorically also refuted the allegation that the Petitioner had failed to provide timely updates about the progress in the training programme. It is submitted that the Petitioner received no communication in pursuance of the Memo dated 11.05.2020 and the Reply Letter dated 20.05.2020. It is, therefore, apparent that since no further corresponding arising from the Memorandum bearing No. 1/ARC/JS (Pers)/2020-300 dated 11.05.2020 has taken place, the explanation provided by the Petitioner vide his Reply Letter dated 20.05.2020 stood accepted.

True Copy of the Reply Letter dated 20.05.2020 is annexed herewith and marked as Annexure P-10.

16. The Petitioner was therefore shocked to receive OM bearing No. ARD/Pers.III/706/2021/1675 dated 18.04.2022 issued by the Deputy Secretary (Pers.B), ARC directing the Petitioner to repay the bond amount of Rs. 48,46,976/- incurred by the Government towards the Initial Simulator Training at CAE, Burgess Hill, United Kingdom on account of alleged poor performance of the Petitioner, and due to the Petitioner alleged failure to "successfully complete the aforesaid Initial Simulator Training". It is relevant to point out that the said OM dated 18.04.2022 incorrectly records that the Petitioner was unable to

successfully complete the Initial Simulator Training. Furthermore, a perusal of the Bond dated 02.01.2020 would show that successful completion of the Initial Simulator Training was not a condition for invocation of the bond, in any case. It may also be noted that the said OM dated 18.04.2022 has been issued after a considerable delay of more than two years after the completion of the Initial Simulator Training at CAE, Burgess Hill, UK, and therefore, is nothing but an attempt to victimise the Petitioner. It is, therefore, clear that the said OM dated 18.04.2022 was issued mechanically and without any application of mind, and is therefore, arbitrary and liable to be set aside.

True Copy of the OM bearing No. ARD/Pers.III/706/2021/1675 dated 18.04.2022 is annexed herewith and marked as Annexure P-11.

17.Upon receipt of the said OM bearing No. ARD/Pers.III/706/2021/1675 dated 18.04.2022 issued by the Deputy Secretary (Pers.B), ARC directing the Petitioner to repay the bond amount of Rs. 48,46,976/-, the Petitioner sent Letter dated 13.05.2022 requesting for a copy of the said Bond dated 02.01.2020 to be provided to him. The Petitioner further sent reminders in terms thereof on 17.06.2022 and on 16.09.2022. However, much to the Petitioner's

dismay, neither any response was given to the Petitioner, nor were any steps taken to provide the copy of the said Bond dated 02.01.2020. It is submitted that till date the Petitioner has not been provided a copy of the Bond dated 02.01.2020.

True Copy of the Letters dated 13.05.2022, 17.06.2022, and 16.09.2022 is annexed herewith and marked as Annexure P-12 Colly.

18. The Petitioner was provided a copy of the Annual Performance Assessment Report for the year 2021-22 after a period of undue delay on 09.01.2023. The Petitioner, being aggrieved by several glaring infirmities therein, represented against the said APAR vide Representation dated 12.01.2023. The Petitioner has not received any response thereto. The Petitioner was provided a copy of the Special Annual Performance Assessment Report for the year 2020-21 after a period of undue delay on 31.01.2023. The Petitioner, being aggrieved by several glaring infirmities therein, represented against the said APAR vide Representation dated 06.02.2023. The Petitioner did not receive any response thereto.

True Copy of the Representation dated 12.01.2023 is annexed herewith and marked as Annexure P-13.

True Copy of the Representation dated 06.02.2023 is annexed herewith and marked as Annexure P-14.

19. The Petitioner has been consistently, and without fail, been in compliance with the terms of his appointment as contained in the Appointment Offer dated 06.05.2019, as well as all applicable service rules contained in the Central Civil Service Rules and the orders of the Government of India. It is submitted that the period of probation of the Petitioner, as set out in Clause 2(iii) of the Appointment Offer dated 06.05.2019 concluded on 06.05.2021. The Petitioner received no communication in regard to his confirmation to the post of Chief Pilot, ARC, DG(S), Cabinet Secretariat, Government of India. However, the Petitioner was continued to be assigned flying responsibilities in the usual course, and he continued to perform his duties diligently and to the satisfaction of the Respondents. Since a period, which was double the entire duration of the stated probation period was coming to a close (on 06.05.2023), the Petitioner sent Letter dated 02.05.2023 to the Commander, ARC Airwing Palam, New Delhi requesting that he be confirmed to the post of Chief Pilot, ARC, DG(S), Cabinet Secretariat, Government of India, with effect

from May, 2021. The Petitioner again received no response to the said request contained in the Letter dated 02.05.2023.

True Copy of the Letter dated 02.05.2023 is annexed herewith and marked as **Annexure P-15**.

20. The Petitioner, having failed to receive any response to all of his communications stated hereinabove, was left with no option but to prefer a comprehensive Letter for Redressal of Grievances dated 30.05.2023 ("Representation dated 30.05.2023") to the Cabinet Secretary, Government of India stating, inter alia, the following :

- a. That the Petitioner should be confirmed with effect from May, 2021 since the period of probation of two years, as set out in Clause 2(iii) of the Appointment Offer dated 06.05.2019, had been completed in May, 2021 itself. It was further stated that a period which was double period of probation i.e., four years, had been served by the Petitioner, and that therefore, in terms of Clause 27 of the OM bearing No. 28020/3/2018- Estt.(C) dated 11.03.2019 (hereinafter referred to as the "Master Circular on Probation/Confirmation in Central Services"), the decision to confirm the Petitioner should have been taken. However, the Petitioner had yet to be confirmed.

- b. That the recovery of Rs. 48,46,976/- (Rupees Forty-Eight Lacs Forty-Six Thousand Nine Hundred and Seventy-Six Only) against him was illegal and in contravention of principles of natural justice. It was further stated that the Petitioner had not been provided with a copy of the Bond dated 02.01.2020 despite having sent Letters dated 13.05.2022, 17.06.2022, and 16.09.2022 requesting the same.
- c. That the Annual Performance Assessment Report (hereinafter referred to as "APAR") for the year 2020-21 which had been duly raised by the Petitioner on the retirement of his Initiating Officer ("IO"), Chief Navigator S Bandopadhyay, and the same after being duly filed by the IO on 30.06.2022 and sent to JD (Air) AVM C K Kumar. However, the Petitioner was never given a copy of the APAR of the Petitioner with the findings of the IO Chief Navigator S Bandopadhyay. It was stated that the Petitioner had sent an Application dated 12.01.2023 asking for a copy of the said APAR. However, the same was not provided to the Petitioner. It was further stated that subsequently, on 13.07.2021, the Petitioner had been asked by the JD (Air) AVM C K Kumar to raise a "special APAR" for the period 2020-21. A copy of the final special APAR for 2020-21 was handed over.

the Petitioner on 31.01.2023 where the Petitioner has been assessed as "Very good". It is pertinent to mention that the said APAR suffers from several glaring lacunae. The special APAR for 2020-21 has no findings of the IO, and the entire section where the Initiating Officer has to provide his/her assessment of the assessee, is left blank. Furthermore, the said special APAR records that the Reviewing Officer ("RO") AVM C K Kumar has assessed the Petitioner to be "Very Good" and signed the same on 05.07.2021. The Accepting Authority ("AA") Shri M N Sridhar Rao, Special Secretary, Aviation Research Centre, DG (S), Cabinet Secretariat, Government of India accepted the findings of the RO, and the same is signed by him on 10.07.2021. It is crucial to note that the stamp of the RO, AVM C K Kumar records his designation as Joint Secretary, Cabinet Secretariat, Government of India, New Delhi. Pertinently, AVM C K Kumar was appointed as Joint Secretary only on 19.01.2022. It is, therefore, clear that both the RO and the AA have back dated the said special APAR on account of rules relating to forfeiture of the right to write remarks as contained in the DoPT OM No. 21011/02/2009-Estt(A) dated 16.05.2009 which states that the RO would be

deemed to have forfeited his right to enter any remarks in the APAR beyond 31st of July of the year in which the financial year ended. Similarly, the AA is also deemed to have forfeited his right to enter any remarks in the APAR beyond 31st of August of the year in which the financial year ended.

True Copy of the DoPT OM No. 21011/02/2009-Estt(A) dated 16.05.2009 is annexed herewith and marked as **Annexure P-16.**

d. That the APAR for the year 2021-22, the Petitioner was assessed as "Outstanding" by the IO Chief Pilot Priya Nalgundwar, Commander (Airwing), Palam and submitted the same on 22.06.2022. The RO AVM C K Kumar reduced the assessment to "Very Good" and the same was accepted by the AA by Shri M N Sridhar Rao, Special Secretary, Aviation Research Centre, DG (S), Cabinet Secretariat, Government of India. It is pertinent to note that the RO AVM C K Kumar signed the APAR with his remarks on 17.11.2022, whereas the AA Shri M N Sridhar Rao signed the APAR of the Petitioner on 30.11.2022. Therefore, both the RO and the AA had yet again forfeited their right to

enter remarks in the APAR of the Petitioner for the year 2021-22 in accordance with mandate of DoPT OM No. 21011/02/2009-Esst(A) dated 16.05.2009.

True Copy of the Representation dated 30.05.2023 is annexed herewith and marked as Annexure P-17.

21. The Petitioner failed to receive any response to the Representation dated 30.05.2023, and therefore sent Letter dated 28.07.2023 requesting the Respondents to grant an interview with the Cabinet Secretary, Government of India in terms of the provision contained in OM No. 25/34/68-Esst(A) dated 20.12.1968. Yet again, the Petitioner did not receive any response to his request.

True Copy of the Letter dated 28.07.2023 is annexed herewith and marked as Annexure P-18.

22. The Petitioner was shocked to receive Office Order bearing No. 245/2023 and Reference No. ARC/Pers.III/706/2021(Pt)-3931 dated 27.09.2023 ("Discharge Order dated 27.09.2023") whereby the Petitioner was informed that he was discharged from service with

immediate effect in terms of Para 22 of the DoP&T OM No. 28020/3/2018-Estt. (C) dated 11.03.2019 and purportedly in pursuance of Cabinet Secretariat (SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023, copy of which was not provided to the Petitioner. It is submitted that the said Discharge Order is ex-facie arbitrary, illegal, and in complete and utter violation of the principles of natural justice.

23. The Petitioner submits that no reasons were assigned in support of the decision to discharge the Petitioner, nor was a copy of the said Cabinet Secretariat (SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023 was provided to the Petitioner.
24. The Petitioner further submits that the said Discharge Order has admittedly been passed in terms of in terms of Para 22 of the DoP&T OM No. 28020/3/2018-Estt. (C) dated 11.03.2019. It is submitted that Para 27 of the same DoP&T OM No. 28020/3/2018-Estt. (C) dated 11.03.2019 categorically states that "*The officer will be deemed to have successfully completed the probation period if no order confirming, discharging or reverting the officer is issued within eight weeks after expiry of double the normal period of prescribed probation.*" As such, in accordance with the mandate in Clause 27 of the OM bearing No. 28020/3/2018-Estt.(C) dated 11.03.2019, the

Petitioner was "deemed to have successfully completed the probation period" on 01.07.2023 and therefore, the rules/guidelines under OM bearing No. 28020/3/2018-Estt.(C) dated 11.03.2019 also concurrently ceased to be applicable Discharge Order in terms of Clause 22 of the said OM bearing No. 28020/3/2018-Estt.(C) dated 11.03.2019 is wrong and illegal. It is submitted that the said Discharge Order was passed in complete ignorance of the law, and in rejection of the representations dated 01.05.2023 and 30.05.2023 sent by the Petitioner requesting for, *inter alia*, confirmation to the post of Chief Pilot, ARC.

25. It is submitted that in addition to the primary contention that the entirety of OM bearing No. 28020/3/2018-Estt.(C) dated 11.03.2019 is applicable only to probationers, and therefore, inapplicable to the Petitioner after 01.07.2023, the Petitioner submits that the Clause 22 of OM bearing No. 28020/3/2018-Estt.(C) dated 11.03.2019 states as follows:

*"If it appears to the Appointing Authority, at any time, during or at the end of the period of probation that a Government servant has not made sufficient use of his opportunities or is not making satisfactory*

*"progress, the Appointing Authority may revert him to the post held substantively by him immediately preceding his appointment, provided he holds a lien thereon or in other cases may discharge or terminate him from service"*

A bare perusal of the above would show that discharge in terms of Clause 22 can only be done in cases where the Appointing Authority is of the opinion that the individual on probation has not used his opportunities or is failing to make satisfactory progress. It is submitted that the Petitioner has not been served any communication expressing any dissatisfaction of the Appointing Authority with his performance and fulfilment of duties and responsibilities. It is further submitted that the Discharge Order dated 27.09.2023 has been issued, purportedly in terms of Clause 22, in spite of the fact that the Petitioner has been consistently assessed to be at least "Very Good" in each of the Annual Performance Assessment Reports received by him and has further maintained the flying qualifications necessary for the performance of his duties and in accordance with the terms of his appointment.

True Copy of the Aircrew Qualification Card bearing No. 6050 of the Petitioner is annexed herewith and marked as Annexure P-19.

True Copy of the Letter bearing Reference No. ARC/Adm-I/PF/2019/1960 dated 19.10.2023 is annexed herewith and marked as Annexure P-20.

26. Aggrieved by the above, the Petitioner, through counsel, sent Legal Representation dated 26.10.2023, with the following requests:

*"a. Immediately and unconditionally withdraw the Office Order bearing No. 245/2023 and Reference No. ARC/Pers.III/706/2021(Pt)-3931 dated 27.09.2023, and consequent thereto, restore to the Applicant the status quo ante;*

*b. Immediately and unconditionally withdraw OM bearing No. ARD/Pers.III/706/2021/1675 dated 18.04.2022;*

*c. Provide written acknowledgement to Our Client that the Bond dated 02.01.2020 is contrary to law and public policy, and therefore, imposes no binding obligation on Applicant;*

*d. Pay to the Applicant arrears in Salary and other allowances, as admissible, from the date of the discharge order i.e., 27.09.2023 till date;"*

True Copy of the Legal Representation dated 26.10.2023 is annexed herewith and marked as Annexure P-21.

27. The Petitioner nor his counsel received any response to the above stated Legal Representation dated 26.10.2023. The Respondents have consistently failed to respond to any and all requests for redressal of grievances, copies of documents, *inter alia*. The lackadaisical attitude and irresponsible actions of the Respondents have led to victimisation of the Petitioner herein and caused grave prejudice.

28. The Petitioner submits that having been left with no option, he was constrained file Original Application No. 3711 of 2023 before the Hon'ble Central Administrative Tribunal praying for the following reliefs:

- "
- A. Pass an order declaring the Impugned Order i.e., Office Order bearing No. 245/2023 and Reference No.ARC/Pers.III/706/2021 (Pt)-3931 dated 27.09.2023 as illegal, misconceived, erroneous, in gross misinterpretation of the applicable rules, and arbitrary, and consequently set aside the Impugned Order;
  - B. Pass an order directing the Respondent No.2 to provide a copy of the Cabinet Secretariat (SR) Order No.15/6/2022-E-II-716 dated 27.09.2023;
  - C. Pass an order directing the Respondent authority to reinstate the Applicant without any break in service, and with full pay

*and allowances including arrears of the intervening period of  
wrongful discharge;*

- D. Pass an order directing the Respondent authority to consider  
the Applicant as being deemed confirmed to the post of Chief  
Pilot with effect from 01.07.2023.*
- E. Pass an order setting aside any orders and negating the effect  
thereof of any order which is passed consequential to the  
Impugned Order*
- F. Pass any other order(s)/direction (s) that this Hon'ble Tribunal  
may deem fit in the facts and circumstances"*

29. The Hon'ble Tribunal, vide the impugned order dated 08.08.2024 was pleased to dismiss the Original Application No. 3711 of 2023. It is humbly submitted that the impugned order is erroneous, misconceived on both facts and law, for the reasons given hereunder:

#### **GROUND**S

- A. BECAUSE the Impugned Order is wrong, misconceived, erroneous and contrary to express provisions of law, and is thus liable to be said aside.
- B. BECAUSE the Impugned Order passed by the Hon'ble Tribunal fails to appreciate that Clause 27 of the Probation Rules would be squarely applicable in the case of the Petitioner, and he would be

deemed to be confirmed as on 01.07.2023, and as such could not have been discharged. Clause 27 of the Probation Rules reads follows:

*"27. The date from which confirmation should be given effect is the date following the date of satisfactory completion of the prescribed period of probation or the extended period of probation, as the case may be. The decision to confirm the probationer or to extend the period of probation as the case may be, should be communicated to the probationer normally within 6 to 8 weeks. Probation should not be extended for more than a year and, in no circumstance, an employee should be kept on probation for more than double the normal prescribed period of probation. The officer will be deemed to have successfully completed the probation period if no order confirming, discharging or reverting the officer is issued within eight weeks after expiry of double the normal period of prescribed probation." (emphasis supplied)*

It is submitted that the Petitioner completed two years of probation on 06.05.2021. Even though no communication regarding extension of probation, as required under the said Clause 27 of the

Master Circular on Probation/Confirmation in Central Services, was given to the Petitioner; he continued to serve in the said post of Chief Pilot, ARC. The period of service of the Petitioner, comprising double the period of original probation came to an end on 06.05.2023. The Petitioner wrote Letter dated 02.05.2023 requesting that he be confirmed to the post of Chief Pilot, ARC with effect from the end of his probation period i.e., 06.05.2021.

The Petitioner further pointed out that no reasons had been provided to him for his non-confirmation. Furthermore, the period of eight weeks, over and above the period of double of the original probation period, also came to an end on 01.07.2023. As such, in accordance with the mandate in Clause 27 of the OM bearing No. 28020/3/2018-Estt.(C) dated 11.03.2019, the Petitioner was "deemed to have successfully completed the probation period".

C. BECUASE the Petitioner ceased to be on probation with effect from 01.07.2023. and therefore, the rules/guidelines under OM bearing No. 28020/3/2018-Estt.(C) dated 11.03.2019 also concurrently ceased to be applicable to the Petitioner. Therefore, discharge of the Petitioner in terms of Clause 22 of the said OM bearing No. 28020/3/2018-Estt.(C) dated 11.03.2019 is wrong and

illegal. The OM bearing No. 28020/3/2018-Estt.(C) dated 11.03.2019 being inapplicable to the Petitioner consequent to his deemed confirmation on 01.07.2023, Discharge Order dated, added 27.09.2023, admittedly passed in terms of Clause 22 thereof could not have been passed qua the Petitioner. The Discharge Order is, therefore, ex-facie without any basis in law. The Discharge causes grave prejudice to the Petitioner and the impugned order has erred in failing to set aside the said Discharge Order.

D. BECAUSE the Impugned Order fails to appreciate that the Respondent authority was wrong to have discharged the Petitioner as though the Petitioner was a Probation, when in fact, through the operation of Clause 27 of the Probation Rules, the Petitioner had been deemed to be confirmed with effect from 01.07.2024. Consequently, the Respondent could not have passed the Discharge Order without compliance with all due processes of law and principles of natural justice, and having failed to do so, the Discharge Order dated 27.09.2023 was liable to be set aside.

E. BECAUSE the Impugned Order has failed to appreciate that it is settled law that where the governing rules categorically set forth a

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given situation where an employee would be deemed to be confirmed, it becomes incumbent upon the appointing authority to necessarily pass orders of confirmation upon fulfilments of the conditions which lead rise to such deemed confirmation.

F. BECAUSE the Impugned Order fails to appreciate that the period of eight weeks over and above the period of double the original period of probation is conferred upon the competent authority to enable it to take a decision to either confirm or discharge the probationer concerned. The competent authority, therefore, has to exercise its discretion within the period of such additional eight weeks over and above the period of double the original period of probation, and not beyond that. It is submitted that once the said period of additional eight weeks subsides, Clause 27 of the Probation Rules become applicable, and the concerned probation is deemed to be confirmed i.e., the competent authority becomes unable to exercise its discretion to reject the confirmation of such employee.

G. BECAUSE the Hon'ble Punjab and Haryana High Court, in the case of *Ramesh Chand Meena V Dr B R Ambedkar National*

Institute of Technology through its Registrar, reported at 2022

SCC Online P&H 954 has been pleased to hold as follows:

"7. Therefore, there cannot be any dispute relating to legal proposition that the statutory period prescribed for the post of petitioner is one year. However, the same can be extended for another period, not exceeding one year. Hence, the maximum period of probation, to which the respondents could have put the petitioner, is two years. The petitioner has, undoubtedly, undergone the maximum statutory period as prescribed under the Statutes. Despite that, although, the petitioner might have got reasonable expectation of getting confirmation, however, he did not have any right, per se, to get confirmed automatically, as such. If the respondent-Institute had anything against the work and conduct of the petitioner, they could have pass an order declining the confirmation, as well. Such an order, obviously, could have been passed even after the maximum period of probation undergone by the petitioner. However, the matter does not rest here. The Government of India, in its attempt to obviate the arbitrariness on the part of the appointing authority, have issued a master circular qua all the employees working in or under the control of the Government of India wherein the appointing authority has been given a limited time window for passing an order to deny the confirmation to an employee after expiry of the maximum period of probation. The said provision is reproduced hereinbelow:

"27. The date from which confirmation should be given effect is the date following the date of satisfactory completion of the prescribed period of probation or the extended period of probation, as the case may be. The decision to confirm the probationer or to extend the period of probation as the case may be should be communicated to the probationer normally within 6 to 8 weeks. Probation should not be extended for more than a year and, in no circumstance, an employee should be kept on probation for more than double the normal prescribed period of probation. The officer will be deemed to have successfully completed the probation period if no order confirming, discharging or reverting the officer is issued within eight weeks after expiry of double the normal period of prescribed probation."

8. A bare perusal of the above Clause makes it clear that the appointing authority has been given 8 weeks' time to act upon the aspect of the confirmation of the employee after completion of initial or extended maximum period of probation. This limitation is intended to make the authorities to act promptly and to restrain the authority to sit on the file for an indefinite period. Therefore, this clause contains both the stipulations, whereas this clause gives power to the appointing authority to take a time of 6 to 8 weeks even after the expiry of the maximum period of probation or extended maximum period of probation, however, this also declares that if no order confirming,

discharging or reverting the officer, is issued within the 8 weeks after expiry of the double of the normal period prescribed for probation, then such officer shall be deemed to have completed the period of probation. Hence, it is obvious that after a period of 8 weeks, the authority have been denuded of any power to reject confirmation of the officer or to deny the same. Rather, the employee has been conferred the benefit of earning a deemed confirmation on the post, irrespective of the satisfaction or dissatisfaction of the authority concerned. What the authorities are required to do after this maximum period of 8 weeks; is only to issue a formal order of confirmation pursuant to the mandate of the statutory instructions conferring ipso facto benefit upon the employee. Needless to say that it is well settled law that once the Rules/Statutory instructions prescribed a particular method of acting for an authority, then that authority has to act in the manner prescribed only. Acting in any other manner would be negation of fundamental right guaranteed by Article 14 of the Constitution of India.

9. Although, the counsel for the respondents have submitted that the letter of appointment did not talk about either the maximum period of probation or for automatic confirmation, therefore, the period of probation of the petitioner could have been extended to any time period, however, this argument is totally non-sustainable and is against the provisions of the statutory rule, as well as, the statutory instructions issued by the Government of India. First of all, the terms contained in the appointment letter did not specifically deny the factum of

deemed confirmation nor retain any specific authority with the appointing authority to extend the probation period to any indefinite period. Secondly, even if any such term is included in the appointment letter de hors the provisions contained in the statutory rules, such stipulation, even if any contained in appointment letter, has to be treated as nugatory and non-existent in view of the provisions contained in the Statutes and the statutory instructions. Once a particular condition of service of an employee is governed by statutory Rules, to that extent the discretion of the appointing authority to include anything contrary in the terms of appointment stands excluded. In case of conflict between the terms of appointment and the statutory provisions, it is the statutory provisions which shall prevail. However, if there is no direct conflict between the two and the terms included in the appointment letter are silent on any aspect, that aspect, obviously, has to be governed by the statutory provisions. Hence, the argument of the counsel for the respondents on this aspect is liable to be noted only to be rejected.

10. Although the counsel for the respondents have relied upon the judgment of the Hon'ble Supreme Court rendered in Head Master, Lawrence School Lovedale (*supra*) to submit that words 'if confirmed', as used in Statute 24 excludes the automatic confirmation, however, even this argument is not sustainable. Firstly, the language used in the Statute does not deal with the issue of automatic confirmation or declining of the confirmation as such. Hence, the words 'if confirmed' does not

have anything to do with the process of confirmation. These words have been used in the statute for a different purpose. The words 'if confirmed' as used in the Statute 24, obviously means and have been used with reference to continuation of an employee in service upto the date of his superannuation, in ordinary course, if not removed earlier from his post in accordance with the Rules. Although, the counsel has read paragraph Nos. 20 & 23 of the judgment to stress that the words 'if confirmed' would have reference to the discretion of the appointing authority to confirm or not to confirm, however, giving this meaning to the phrase 'if confirmed', as used in the present statute would be doing violence to the very language of the Statute. The words 'if confirmed' are two words of English language, one is 'if', which obviously is referring to a contingency; and the second is 'confirmed', which is a past participle of verb 'confirm', representing an already accomplished fact. Therefore, the words 'if confirmed' have to be read as referring to the contingency of fact of confirmation having happened, which is to be used for the purpose which follows these words; as used in the Statute. Hence, the words 'if confirmed' as used in the statute pre-suppose the factum of an employee having been confirmed and then continuing in service as per the law unless terminated otherwise, in accordance with law. Therefore, the words 'if confirmed' do not have any relation with the power of the appointing authority not to confirm even if the maximum period of probation is completed by an employee. On the contrary, as mentioned above, the aspect of deeming confirmation of an employee, is separately dealt with,

in the instructions issued by the competent authority. Those instructions have not even been referred to in the judgment of Hon'ble the Supreme Court rendered in the case of Head Master, Lawrence School Lovedale (*supra*). Hence, the said judgment is totally distinguishable; with reference to the facts and the law, as involved in the present case. In the present case, the positive assertion of the petitioner, which has not even been denied by the respondents, is that there are the statutory instructions which are being followed in the institute and which confer deeming confirmation upon the petitioner if the appointing authority has been loath enough not to act within a specified time to exercise its power. Beyond that time, the appointing authority, being persona designata, under the statutory provisions, did not have any power to issue any order denying confirmation to the petitioner. Undisputedly, the confirmation has not been denied to the petitioner within the maximum period of 8 weeks from the date of completion of the double of the normal probation period prescribed for the post. Any action taken thereafter by the appointing authority is beyond the scope of its statutory powers and hence is liable to be set aside.

11. In view of the above, it is obvious that the petitioner has earned the confirmation after expiry of period of 8 weeks, as mentioned above."

H. BECAUSE the Hon'ble High Court of Orissa at Cuttack, in the case of *Debendranath Behera V The Government of India* and Others, reported at 2023 SCC Online Ori 1856 has been pleased to hold as follows:

"8. In course of arguments, Mr. S.K. Das referred to an office memorandum dated 11.03.2019 issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training, Government of India, which purports to be a master circular of probation/confirmation in central services. Statute-23(3) of the First Statutes of NIT provides that for the purposes of appointment, the Rules Applicable to the Central Government employees shall apply. Coming to the office memorandum dated 11.03.2019, Paragraph-27 under the heading 'confirmation' thereof reads as follows;

"27. The date from which confirmation should be given effect is the date following the date of satisfactory completion of the prescribed period of probation or the extended period of probation, as the case may be. The decision to confirm the probationer or to extend the period of probation as the case may be should be communicated to the probationer normally within 6 to 8

weeks. Probation should not be extended for more than a year and, in no circumstance, an employee should be kept on probation for more than double the normal prescribed period of probation. The officer will be deemed to have successfully completed the probation period if no order confirming, discharging or reverting the officer is issued within eight weeks after expiry of double the normal period of prescribed probation."

9. Thus, ordinarily probation should not be extended for more than a year and in any case, not more than double the normal period of probation. In the instant case, the period of probation being one year, the petitioner's service should have been either confirmed or not confirmed w.e.f. 08.01.2013 or 08.01.2014 at best. Admittedly, no order relating to confirmation or discharge of the petitioner was issued by the authorities within eight weeks after 08.01.2014. In fact no such order was issued even till the date of his disengagement. Thus, there is no alternative than to apply the deeming provision as per paragraph-27 of the Office Memorandum referred to hereinabove. In other words, the petitioner is deemed to have been confirmed in his service w.e.f. 8/9.01.2014."

I. BECAUSE the Impugned Order has erroneously concluded that though the Petitioner has completed the double the period of his original probation and thereafter, another eight weeks, Clause 27 would not be applicable in light of Clause 2(iii) of his Appointment Letter dated 06.05.2019 which states that clearance of probation and confirmation of the candidate would be subject to the outcome of the detailed security check / C & A verification. It is submitted that the said conclusion of the Hon'ble Tribunal is wholly misconceived and erroneous, for the following reasons:

- a. The security check / C & A verification of the Petitioner was carried out way back in 2019 itself, and the same had been duly approved. There was no requirement of the security check/ C & A verification of the Petitioner to be carried out afresh.
- b. The Respondent has, not once in its counter affidavit, taken the stand that the Petitioner did not have the requisite security check clearance / C & A verification as on date of his deemed confirmation i.e. on 01.07.2023. It is submitted that the Hon'ble Tribunal mis-appreciated the term contained in Clause 2(iii) of the Letter of Appointment.

- c. The Petitioner had, as on date of the deemed confirmation i.e., on 01.07.2023, all the requisite security check clearance / C & A verification, and was therefore, being made provide service to the Respondent in normal course of his duties. In fact, the Petitioner had been discharging his duties till the date of his illegal discharge from service on 27.09.2023. Therefore, it cannot be said that as on 01.07.2023, the Petitioner lacked the necessary security check clearance / C & A verification. The Petitioner could not have been made to carry out his duties for even a single day had he not been in possession of the necessary security clearance/ C & A verification.
- d. The security check / C & A verification is not required to be carried out afresh at the time of confirmation. It is submitted that other similarly situated persons who were appointed pursuant to the very same advertisement have been duly confirmed without the security check / C & A verification having been carried out afresh.
- e. The Letter of Appointment does not contain any embargo in explicit or implied terms that deemed confirmation would never arise in the case of the Petitioner.

J. BECAUSE the Impugned Order fails to appreciate that the Respondent cannot be permitted to carve out exceptions to the rule contained in Clause 27 as per its own whims and caprice. Clause 27 does not contain an exception to the deemed confirmation policy for cases where any "department action" is initiated against the concerned probationer. It is, therefore, impermissible for the Respondents to conjure exceptions to the rule or add additional qualifiers to Clause 27, only with sole motive of ex-post facto justifying the discharge order. It is settled law that any decision made by an administrative authority must contain the reasons thereof in itself and cannot be permitted to assign reasons for such decision, ex-post-facto. In any case, it is submitted that no such "Department action" was communicated to the Petitioner at any point of time.

K. BECAUSE the Impugned Order categorically records that admitted case of the Respondent that the Discharge Order was passed on the recommendation of the Screening Committee, which in turn was based on the summary of recommendations of the Inquiry Committee in allegations of "shortcomings/misconduct"

upon the Petitioner. It is submitted that the admitted case of the Respondent is that the Petitioner was discharged from service pursuant to inquiry into allegations of misconduct, and therefore, the Respondent authority was bound to have followed the procedure laid down in Article 311(2) of the Constitution of India. The Respondents had never instituted a formal departmental inquiry, and the Petitioner was never communicated the exactitude of charges against him, nor was given an opportunity to defend him. The entire inquiry committee, whose recommendations are yet not provided to the Petitioner, was conducted in an arbitrary manner, and was totally bereft for compliance with the principles of natural justice.

L. BECAUSE the Impugned Order fails to appreciate that discharge of a probationer consequent to an inquiry into allegations of "shortcomings/misconduct", as has been categorically admitted by the Respondent in its counter affidavit filed before the Hon'ble Tribunal, would mean that the discharge was not a discharge simpliciter but instead was a punitive discharge. It is submitted that it is trite law that where the discharge of a probation is sought to

be punitive in nature, it must be done upon complete compliance with the mandate of Article 311(2) of the Constitution.

M. BECAUSE the Hon'ble Supreme Court of India has, in the case of *Chandra Prakash Shahi v The State of Uttar Pradesh*, reported at (2000) 5 SCC 152 has been pleased to hold as follows:

*"12. Now, it is well-settled that the temporary Government servants or probationers are as much entitled to the protection of Article 311(2) of the Constitution as the permanent employees despite the fact that temporary government servants have no right to hold the post and their services are liable to be terminated at any time by giving them a month's notice without assigning any reason either in terms of the contract of service or under the relevant statutory rules regulating the terms and conditions of such service. The courts can, therefore, lift the veil of an innocuously worded order to look at the real face of the order and to find out whether it is as innocent as worded. (See: Parshotam Lal Dhingra vs. Union of India, AIR 1958 SC 36 = 1958 SCR 828). It was explained in this decision that inefficiency, negligence or misconduct may have been the factors for inducing the Government to terminate the services*

*of a temporary employee under the terms of the contract or under the statutory Service Rules regulating the terms and conditions of service which, to put it differently, may have been the motive for terminating the services but the motive by itself does not make the order punitive, unless the order was "founded" on those factors or other disqualifications."*

N. BECAUSE the Impugned Order fails to appreciate that that the Respondent categorically admitted in the Counter Affidavit filed by it before the Hon'ble Tribunal that the Petitioner had been rated as "Very Good" in all of the Annual Performance Assessment Reports for the years 2019-20, 2020-21, and 2021-22. It is submitted that the Petitioner had, therefore, consistently been performing his duties to the satisfaction of his superiors, and in the absence of any communication indicating otherwise, it is undeniably clear that the Petitioner was making sufficient use of the opportunity of his probation and that the services provided by him were not found to be wanting. The Impugned Order, therefore, fails to appreciate the inherent contradiction in the stand of the Respondent that while the Petitioner was being consistently assessed as "Very Good" in his APARs, he was thereafter found to

be unsuitable by the Screening Committee, which consequently recommended the discharge of the Petitioner. It is an admitted case of the Respondent that the Screening Committee relied upon the APARs of the Petitioner even though two of the said APARs had been represented against, and such representations had not been decided. Furthermore, the Respondent has taken the stand that the Screening Committee, after relying upon the said APARs, recommended the discharge of the Petitioner, and since the Petitioner had been discharged, it was not necessary to decide the representations. It is, therefore, clear that the finding of unsuitability of the Screening Committee was on the basis of the recommendation of the inquiry committee, which enquired into allegations of "shortcoming/misconduct" in an arbitrary manner, without adherence to the principles of natural justice and to the mandate of Article 311(2) of the Constitution.

O. BECAUSE the Impugned Order fails to appreciate that the said Inquiry Committee and its supposed recommendation was per se illegal and arbitrary and flew in the face of all notions of administrative fair play and justice. It is humbly submitted that the

Inquiry Committee and its supposed recommendations are bad and void, unsustainable in law, for the following reasons:

- a. The Petitioner was never informed of the constitution of any inquiry committee against him, nor under which provision of law it was constituted, nor with respect to the scope of its inquiry.
- b. The Petitioner was never served with any memo of charge against him, nor was he informed of the allegations against him.
- c. The Petitioner was never afforded an opportunity to examine the allegations against him nor an opportunity to present his defence before any such inquiry committee.
- d. A perusal of the Para 2 of the Preliminary Objections of the Reply dated 17.01.2024 filed by the Respondent before the Hon'ble Tribunal would show that the quoted recommendation of the said Inquiry Committee reads as follows: "*However, after further discussions and deliberation, the Committee is now of the view that given the approach of the two pilots to the training programme, their retention as AN 32 Pilots may not create a conducive atmosphere and hamper the functional coherence and esprit de corps of the team.*"

*de corp of the Air Wing and it is recommended that services of the two Pilots may be terminated.*" A bare perusal of the said quoted remark would clearly show that the Committee had presumably arrived at a different conclusion earlier, and thereafter, proceeded to reconsider the same after carrying out "further discussions and deliberations", to arrive at a contrary recommendation at a subsequent point of time. It is, at the very least, clear that the Committee had presumably not recommended the termination of the Petitioner and had a different finding prior thereto. It is never revealed by the Respondent as to what would have necessitated the reconsideration of its earlier recommendation requiring "further discussion and deliberation" and as to when such reconsideration took place. The Respondents, in their characteristic cryptic manner, failed to provide the Hon'ble Tribunal several essential details such as the date of the constitution of the inquiry committee, date of the recommendation made by the committee, date of reconsideration and further discussion and deliberations, and date of the subsequent recommendation.

e. It is also pertinent to note that the entire Reply dated 17.01.2024 contains not a whisper of reasoning as to why the Inquiry Committee, upon its subsequent reconsideration, came to the conclusion that the continuation of the Petitioner "may not create a conducive atmosphere and may hamper the functional coherence and esprit de corps of the Air Wing".

P. BECAUSE the Impugned Order fails to appreciate that the recommendations of the Screening Committee were wrong, and contrary to law for the following reasons:

- a. The Petitioner was, yet again, not informed that a Screening Committee had been constituted to review his performance during the period of probation so as to arrive at a determination regarding the confirmation of the Petitioner to the said post of Chief Pilot, ARC.
- b. The Petitioner was, yet again, not given an opportunity to appear before the Screening Committee, to present his case, thereby violating the natural right of the Petitioner to receive a fair hearing.

- c. The Respondents have failed to provide any pertinent detail with respect to the Screening Committee or its recommendations such as the date of the constitution of the committee, the date of its recommendations, and the material available before it, *inter alia*.
- d. Any decision of the Screening Committee to the detriment of the Petitioner's right to livelihood cannot be sustained if such decision is taken in gross and apparent violation of principles of *audi alteram partem*.
- e. Para 19 of the Memorandum dated 11.03.2019 categorically states that the decision to confirm or discharge a probationer should be taken within six to eight weeks of the end of their period of probation. It is submitted that the period of original probation of the Petitioner had come to an end after two years of his date of joining i.e., on 06.05.2021. However, no steps were taken by the Respondents to take a decision with respect to the confirmation of the Petitioner. It is further submitted that the Respondents instead, continue to assign regular flying assignments to the Petitioner, which he successfully carried out without any complainants from the Respondents at any point of time.

Q. BECAUSE the Impugned Order has not taken into consideration the rejoinder filed by the Petitioner before the Hon'ble Tribunal and has merely taken the stand of the Respondent at prima facie, without dealing with the objections raised thereto.

R. BECAUSE the Impugned Order fails to appreciate that the Reply dated 20.05.2020 of the Petitioner to the Memo dated 11.05.2020 had been duly perused by the Respondent authority, and thereafter no action had been taken for a period of four years, nor was any communication made to the Petitioner in connection with the allegations contained therein at any time. It is submitted that the impugned order is passed on the erroneous assumption that the Reply dated 20.05.2020 of the Petitioner had been rejected by the Respondent Authority, even though there is no finding to that effect anywhere, nor does the Counter Affidavit filed by the Respondent Authority before the Hon'ble Tribunal make a statement to such effect.

S. BECAUSE the Impugned Order fails to appreciate that the Discharge Order dated 27.09.2023 whereby the Petitioner was discharged from service with immediate effect is without any

reason. It is submitted that the Discharge Order fails to provide any reason/justification or reveal circumstances that would have necessitated the discharge of the Petitioner from service. The Discharge Order mechanically and with evident non-application of mind, wryly states that the discharge of the Petitioner is in terms of Para 22 of the said OM bearing No. 28020/3/2018-Estt.(C) dated 11.03.2019. It is submitted that it is trite law that any decision made by an administrative authority must contain the reasons thereof in itself and cannot be permitted to assign reasons for such decision, ex-post-facto. In the celebrated decision of *Commissioner of Police, Bombay v Gordhanadas Bhanij*, reported at AIR 1952 SC 16, Hon'ble Supreme Court of India, speaking through Justice Vivian Bose, had been pleased to hold asunder:

*"9. An attempt was made by referring to the Commissioner's affidavit to show that this was really an order of cancellation made by him and that the order was his order and not that of Government. We are clear that public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are*

meant to have public effect and are intended to affect the acting and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.

10. Turning now to the language used, we are clear that by no stretch of imagination can this be construed to be an order which in effect says :--

"I, so and so, by virtue of the authority vested in me, do hereby order and direct this and that."

11. If the Commissioner of Police had the power to cancel the license already granted and was the proper authority to make the order, it was incumbent on him to say so in express and direct terms. Public authorities cannot play fast and loose with the powers vested in them, and persons to whose detriment orders are made are entitled to know with exactness and precision what they are expected to do or forbear from doing and exactly what authority is making the order."

T. BECAUSE the Hon'ble Supreme Court of India has, in the case of *Mohinder Singh Gill v Chief Election Commissioner* reported at

(1978) 1 SCC 405 , speaking through Justice V R Krishna Iyer,  
was pleased to observe as under:

"8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose J. in Gordhandas Bhanji

(1) "Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in Ms mind, or what he intended to, do. Public orders made by public authorities are meant to have public effect and are intended to effect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."

Orders are not like old wine becoming better as they grow older"

U. BECAUSE the Hon'ble Supreme Court of India has, in the case of *State of Punjab v Bandeep Singh* reported at (2016) 1 SCC 724, speaking through Justice Vikramjit Sen, was pleased to observe as under:

*"4. There can be no gainsaying that every decision of an administrative or executive nature must be a composite and self sustaining one, in that it should contain all the reasons which prevailed on the official taking the decision to arrive at his conclusion. It is beyond cavil that any Authority cannot be permitted to travel beyond the stand adopted and expressed by it in the impugned action."*

V. BECAUSE the Discharge Order is passed mechanically and without due application of mind. Without prejudice to the above contention that the entirety of OM bearing No. 28020/3/2018-Estt.(C) dated 11.03.2019 is applicable only to probationers, and therefore, inapplicable to the Petitioner who was deemed confirmed with effect from 01.07.2023, it is submitted that the Discharge Order categorically records that it is passed in terms of

Clause 22 of the OM bearing No. 28020/3/2018-Estt.(C) dated 11.03.2019, which reads as under:

*"22. If it appears to the Appointing Authority, at any time, during or at the end of the period of probation that a Government servant has not made sufficient use of his opportunities or is not making satisfactory progress, the Appointing Authority may revert him to the post held substantively by him immediately preceding his appointment, provided he holds a lien thereon or in other cases may discharge or terminate him from service"*

It is submitted that a bare perusal of the above would show that discharge in terms of Clause 22 can only be done in cases where the Appointing Authority is of the opinion that the individual on probation has not used his opportunities or is failing to make satisfactory progress. It is submitted that the Petitioner had never been served with any communication expressing any dissatisfaction of the Appointing Authority with his performance and fulfilment of duties and responsibilities. It is submitted that the Discharge Order has been issued, purportedly in terms of Clause 22, in spite of the fact that the Petitioner has been consistently

assessed to be at least "Very Good" in each of the Annual Performance Assessment Reports received by him and has further maintained the flying qualifications necessary for the performance of his duties and in accordance with the terms of his appointment.

W. BECAUSE the Petitioner had never been served notice for any formal inquiry being conducted against him, nor had ever been asked to show cause any act/omission done by him during the performance of his duties as Chief Pilot, ARC. It is submitted that was not even informed of any pending decision of discharge, nor was ever given a single opportunity to present his case before any authority whatsoever. It is submitted that the Discharge Order having been passed without any basis in any finding of guilt, insufficiency of skill, or otherwise, is therefore, manifestly arbitrary and violative of the principles of natural justice, and stigmatic.

X. BECAUSE the Hon'ble Supreme Court has, in the case of *Pradip Kumar v Union of India and Others*, reported at (2012) 13 SCC 182, has been pleased to hold as follows:

"14. Nonetheless the order of discharge cannot be upheld, as it is stigmatic and punitive in nature. It is a matter of record that during three years of service no order was issued extending the period of probation of the respondent. He completed the mandatory period of probation on 21st November, 2007, therefore, it was expected of the department to take a decision about the performance of the respondent within a reasonable period from the expiry of one year. It is also a matter of record that the respondent continued in service without receiving any formal or informal notice about the defects in his work or any deficiency in his performance. This Court, in the case of Sumati P. Shere Dr. Vs. Union of India & Ors., emphasised the importance of timely communication of defects and deficiencies in performance to a probationer, so that he could make the necessary efforts to improve his work. Non-communication of his deficiencies in work would render any movement order of such an employee on the ground of unsuitability, arbitrary."

Y. BECAUSE the Discharge Order is *prima facie* illegal, contrary to law, arbitrary on account of it being passed in complete defiance of the principles of natural justice causing grave prejudice to the Petitioner and subjecting him to financial hardship. It is submitted

that the Petitioner has, consequent to his discharge vide the Discharge Order, stopped receiving his remuneration/salary as well as allowances. The Petitioner, currently residing in an appointment accommodation at the above given address, is required to vacate the premises within the stipulated time, causing undue hardship and harassment to the Petitioner and the members of his family.

30. Aggrieved, and for the reasons stated above, the Petitioner has no option but to file the instant Writ Petition under Articles 226 and 227 of the Constitution of India.

31. It is submitted that the following Orders/Letters were passed consequent to the illegal discharge of the Petitioner vide the Discharge Order dated 27.09.2023, and the Petitioner seeks to place them on record before this Hon'ble Court:

| Sl. | Order Reference and Date   | Remarks  |
|-----|--|--|
| 1   | Order bearing Ref No. ARC / Pers. III/ 706/ 2021 (Pt.) 5091 dated 14.12.2023 | Order directing the recovery of Bond Amount of Rs. 48, 46, 976/- consequent to his discharge from his post vide the Discharge Order dated 27.09.2023 |

|   |  |   |
|---|--|---|
| 2 | Letter dated 10.11.2023 issued by the Directorate of Estates | Letter issued by the Directorate of Estates to the Cabinet Secretariat informing that the Government Accommodations of the Petitioner had been cancelled with effect from 27.03.2024 since the Petitioner had opted for voluntary retirement.   |
| 3 | Letter dated 22.12.2023 issued by the Directorate of Estates | Letter dated 22.12.2023 issued by the Directorate of Estates stating that the earlier cancellation Letter was erroneous as it recorded that the Petitioner had opted for voluntary retirement, and the same was therefore, withdrawn.<br><br>A fresh cancellation of allotment dated 22.12.2023 was issued which stated that the accommodation of the Petitioner had been cancelled with retrospective effect from 27.10.2023 and had again erroneously recorded that the Petitioner had been "dismissed" from service. |

True Copy of the Order bearing Ref No. ARC / Pers. III/ 706/ 2021

(Pt.) 5091 dated 14.12.2023 is annexed herewith and marked as

**Annexure P-22.**

True Copy of the Letter dated 10.11.2023 issued by the Directorate of Estates is annexed herewith and marked as **Annexure P-23.**

True Copy of the Letter dated 22.12.2023 issued by the Directorate of Estate is annexed herewith and marked as Annexure P-24.

32. It is submitted that the above Letters and orders were received by the Petitioner after the Petitioner had already filed the Original Application No. 3711 of 2023 before the Hon'ble Tribunal. Therefore, the Petitioner had been unable to annex the said documents with the said OA No. 3711 of 2023. It is submitted that the said documents act to the prejudice of the Petitioner, and the Petitioner has filed an Application praying for stay of the above said Letters and Orders. It is therefore, necessary that the same may please be permitted to be placed on record.

33. The Petitioner is a resident of 56, Chota Singh Marg, Asian Games Village, New Delhi, and the Respondent is located at North Block, New Delhi, falling within the jurisdiction of this Hon'ble Court. The Petitioner's primary place of posting during the course of his service was at New Delhi, falling within the jurisdiction of this Hon'ble Court. The Discharge Order dated 27.09.2023 was issued at New Delhi, falling within the jurisdiction of this Hon'ble Court. Furthermore, the

Impugned Order has been passed by the Hon'ble Central Administrative Tribunal, at its Principal Bench at New Delhi, falling within the jurisdiction of this Hon'ble Court. It is therefore, humbly submitted that this Hon'ble Court has the jurisdiction to adjudicate the present matter.

34. The Petitioner submits that the present Writ Petition is bona fide, and in the interest of justice.

**PRAYERS**

*IN LIGHT OF THE ABOVE MENTIONED, THE PETITIONER ABOVE NAMED MOST HUMBLY PRAYS THAT THIS HON'BLE COURT MAY BE PLEASED TO:*

A. Issue an appropriate writ/ order/ direction to set aside the Impugned Order dated 08.08.2024 passed by the Hon'ble Central Administrative Tribunal, Principal Bench at New Delhi in Original Application No. 3711 of 2023;

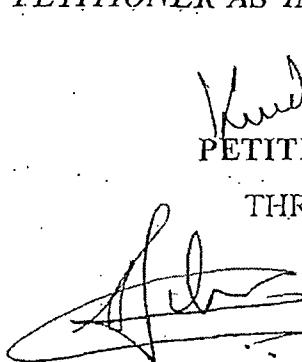
- B. Issue an appropriate writ/ order/ direction to declare the Discharge Order i.e., Office Order bearing No.245/2023 and Reference No.ARC/Pers.III/706/2021 (Pt)-3931 dated 27.09.2023 as illegal, misconceived, erroneous, in gross misinterpretation of the applicable rules, and arbitrary, and consequently set aside the Discharge Order dated 27.09.2023;
- C. Issue an appropriate writ/ order/ direction to declare the Respondent to provide a copy of the Cabinet Secretariat (SR) Order No.15/6/2022-E-II-716 dated 27.09.2023;
- D. Issue an appropriate writ/ order/ direction to declare the Respondent authority to reinstate the Petitioner without any break in service, and with full pay and allowances including arrears of the intervening period of wrongful discharge;
- E. Issue an appropriate writ/ order/ direction to declare the Respondent authority to consider the Petitioner as being deemed confirmed to the post of Chief Pilot with effect from 01.07.2023.

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F. Issue an appropriate writ/ order/ direction to set aside any orders and negating the effect of any order which is passed consequential to the Discharge Order dated 27.09.2023;

G. Pass any other order(s)/direction (s) that this Hon'ble Tribunal may deem fit in the facts and circumstances.

*FOR WHICH ACT OF KINDNESS, THE PETITIONER AS INDUTY  
BOUND, SHALL EVER PRAY.*

  
PETITIONER

THROUGH

New Delhi

02.09.2024

SHUBHANKAR CHOUDHARY (BR-818/2020)

ADVOCADE FOR THE PETITIONER

C-56, First Floor, Mayfair Gardens

New Delhi – 110016

+91 8800429179 | [office.chambersofsc@gmail.com](mailto:office.chambersofsc@gmail.com)

IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI  
CM APPLICATION NO. \_\_\_\_\_ OF 2024 IN  
WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2024

IN THE MATTER OF:

KUNAL SETHI

... PETITIONER

VERSUS

UNION OF INDIA AND OTHERS

... RESPONDENTS

APPLICATION ON BEHALF OF THE PETITIONER PRAYING FOR  
INTERIM RELIEF BY WAY OF GRANT OF STAY OF THE  
IMPUGNED ORDER DATED 08.08.2024 PASSED BY THE HON'BLE  
CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH  
AT NEW DELHI AND STAY OF THE DISCHARGE ORDER DATED  
27.09.2023 AND ALL CONSEQUENTIAL ORDERS THERETO

1. The Petitioner has filed the above captioned Writ Petition under Articles 226 and 227 of the Constitution of India against the final order and judgment dated 08.08.2024 (hereinafter referred to as the "Impugned Order") passed by the Hon'ble Central Administrative Tribunal Principal Bench at New Delhi (hereinafter the "Hon'ble Tribunal"), in the Original Application No. 3711/2023.

2. By way of the Impugned Order, the Hon'ble Tribunal was pleased to dismiss the said Original Application No. 3711/2023 filed by the Petitioner herein challenging the Office Order bearing No. 245/2023 and Reference No. ARC/Pers.III/706/2021(Pt)-3931 dated 27.09.2023 (hereinafter referred to as "**Discharge Order**") whereby the Petitioner was informed that he was discharged from service with immediate effect in terms of Para 22 of the DoP&T OM No. 28020/3/2018-Estt. (C) dated 11.03.2019 (hereinafter the "**Probation Rules**") and purportedly in pursuance of Cabinet Secretariat (SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023. It is submitted that the said Discharge Order has admittedly been passed in terms of Para 22 of the said Probation Rules and was in gross and complete violation of the Petitioner's rights under Articles 14, 19, and 21 of the Constitution of India.

3. The present Application has been filed by the Petitioner praying for interim relief by way of grant of stay on the operation of the Impugned Order dated passed by the Hon'ble Central Administrative Tribunal Principal Bench at New Delhi (hereinafter the "**Hon'ble Tribunal**"), in the Original Application No. 3711/2023. It is also prayed that the operation of the Discharge Order dated 27.09.2023, being *prima facie*

illegal, contrary to law, without any basis in law, may also be stayed.

It is also humbly prayed that the operation of all orders (detailed hereinbelow) passed consequent to the passing of the Discharge Order dated 27.09.2023, being gravely prejudicial to the Petitioner, may please be stayed pending adjudication of the above captioned writ petition.

4. It is submitted that the following Orders/Letters were passed consequent to the illegal discharge of the Petitioner vide the Discharge Order dated 27.09.2023:

| Sl. | Order Reference and Date   | Remarks   |
|-----|--|---|
| 1   | Order bearing Ref No. ARC / Pers. III/ 706/ 2021 (Pt.) 5091 dated 14.12.2023 | Order directing the recovery of Bond Amount of Rs. 48, 46, 976/- consequent to his discharge from his post vide the Discharge Order dated 27.09.2023  |
| 2   | Letter dated 10.11.2023 issued by the Directorate of Estates                 | Letter issued by the Directorate of Estates to the Cabinet Secretariat informing that the Government Accommodations of the Petitioner had been cancelled with effect from 27.03.2024 since the Petitioner had opted for voluntary retirement. |

|   |  |  |
|---|--|--|
| 3 | Letter dated 22.12.2023 issued by the Directorate of Estates | <p>Letter dated 22.12.2023 issued by the Directorate of Estates stating that the earlier cancellation Letter was erroneous as it recorded that the Petitioner had opted for voluntary retirement, and the same was therefore, withdrawn.</p> <p>A fresh cancellation of allotment dated 22.12.2023 was issued which stated that the accommodation of the Petitioner had been cancelled with retrospective effect from 27.10.2023 and had again erroneously recorded that the Petitioner had been "dismissed" from service.</p> |
|---|--|--|

5. It is submitted that Para 27 of the same Probation Rules dated 11.03.2019 categorically states that "*The officer will be deemed to have successfully completed the probation period if no order confirming, discharging or reverting the officer is issued within eight weeks after expiry of double the normal period of prescribed probation.*" The Petitioner, having completed the period of four years on 06.05.2023 and the eight weeks subsequent thereto on 01.07.2023, had been deemed to be confirmed with effect from 01.07.2023. Therefore, the Discharge Order could not have been passed on any date after 01.07.2024 as the rules applicable to probationers contained

in Probation Rules had ceased to be applicable to the Petitioner subsequent to his confirmation. The Discharge Order, therefore, was *non-est* and void, having been passed without a basis in law.

6. It is submitted that the said Discharge Order was passed in complete ignorance of the law, and in rejection of the representations dated 01.05.2023 and 30.05.2023 sent by the Petitioner requesting for, inter alia, confirmation to the post of Chief Pilot, ARC. It is further pertinent to mention that no reasons were assigned in support of the decision to discharge the Petitioner, nor was a copy of the said Cabinet Secretariat (SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023 was provided to the Petitioner.

7. It is submitted that the Impugned Order dated 08.08.2024 is erroneous and contrary to law, for the following reasons:

- a. The impugned order, after having arrived at a categorical finding that the Petitioner fulfilled the requisite period of service of 2 years + 2 years + 8 weeks on 01.07.2023 as required under Clause 27 of the Probation Rules, thereafter, erroneously concludes that Clause 27 of the Probation Rules would not be applicable.

- b. The impugned order fails to appreciate that the Respondents have passed the impugned order under Clause 22 which contemplates the discharge of the Petitioner if he is unable to make good use of his opportunity during the period of probation even though it is the admitted stand of the Respondent that the Petitioner has been assessed to be "Very Good" in all his Annual Performance Assessment Reports ("APAR").
- c. The impugned order fails to appreciate that the admitted stand of the Respondent is that the decision to recommend the discharge of the Petitioner was taken by the Screening Committee which relied upon the "summary of recommendations" of the inquiry committee which in turn, had been constituted to enquire into allegations of "shortcomings/misconduct" of the Petitioner. It is, therefore, clear that the discharge of the Petitioner was punitive in nature, and that the decision to discharge him was founded on the outcome of the inquiry committee which looked into specific allegations of "misconduct/shortcoming".
- d. It is relevant to point out that the Petitioner was never communicated that an inquiry committee had been constituted, no formal or informal communication of charges was presented.

to him, and the inquiry committee never gave an opportunity to the Petitioner to present his case. The entire proceedings of the Inquiry Committee and the Screening Committee was wholly arbitrary and in non-compliance of the principles of natural justice, and in sheer and complete violation of Article 311 (2) of the Constitution of India. It is submitted that it is trite law that compliance with the mandate of Article 311 (2) of the Constitution is mandatory even in the case of a probationer.

- e. The Impugned Order has not taken into consideration the rejoinder filed by the Petitioner before the Hon'ble Tribunal and has merely taken the stand of the Respondent at prima facie, without dealing with the objections raised thereto
- f. The Impugned Order fails to appreciate that the Discharge Order dated 27.09.2023 whereby the Petitioner was discharged from service with immediate effect is without any reason. It is submitted that the Discharge Order fails to provide any reason/justification or reveal circumstances that would have necessitated the discharge of the Petitioner from service. The Discharge Order mechanically and with evident non-application of mind, wryly states that the discharge of the Petitioner is in terms of Para 22 of the said OM bearing No.

28020/3/2018-Estt.(C) dated 11.03.2019. It is submitted that it is trite law that any decision made by an administrative authority must contain the reasons thereof in itself and cannot be permitted to assign reasons for such decision, ex-post-facto.

8. It is submitted that the above reasons would clearly demonstrate that the Petitioner has a good *prima facie* case, and therefore, the present Application deserves to be allowed.
9. It is submitted that Petitioner is at the risk of being gravely prejudiced if the present Application is not allowed. It is submitted that not only will the Petitioner be forced to vacate his government allotted accommodation as a result of the illegal discharge order dated 27.09.2023, but also be subject to the continuing accrual of penal rent in accordance with the Letter dated 22.12.2023 issued by the Directorate of Estate whereby the government accommodation of the Petitioner was cancelled retrospectively with effect of 27.10.2023. Furthermore, the Petitioner is also being made liable to pay the bond amount of a sum of Rs. 48, 46, 976/- consequent to his discharge from his post vide the Discharge Order dated 27.09.2023, which amount is also subject to accruing interest. It is submitted that on the other hand,

the Respondent will not be prejudiced in any manner if the present Application is allowed. It is thus submitted that the balance of convenience is clearly in favour of the Petitioner, and the present Application deserves to be allowed.

10. The Petitioner submits that the present Application is bona fide, and in the interest of justice.

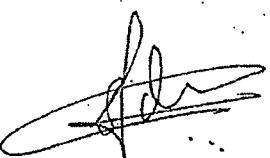
PRAYERS

*IN LIGHT OF THE ABOVE MENTIONED, THE PETITIONER ABOVE NAMED MOST HUMBLY PRAYS THAT THIS HON'BLE COURT MAY BE PLEASED TO:*

- A. Stay the operation of the Impugned Order dated 08.08.2024 passed by the Hon'ble Central Administrative Tribunal, Principal Bench at New Delhi in Original Application No. 3711 of 2023 pending adjudication of the above captioned Petition;
- B. Stay the operation of the Discharge Order i.e., Office Order bearing No.245/2023 and Reference No.ARC/ Pers.III/706/2021 (Pt)-3931 dated 27.09.2023, pending adjudication of the above captioned Petition;

- C. Stay the operation of the Order bearing Ref No: ARC / Pers. III/ 706/ 2021 (Pt.) 5091 dated 14.12.2023, pending adjudication of the above captioned Petition;
- D. Stay the operation of the Letter dated 22.12.2023 issued by the Directorate of Estate whereby the government accommodation of the Petitioner was cancelled retrospectively with effect of 27.10.2023 pending adjudication of the above captioned Petition;
- E. Pass any other order(s)/direction (s) that this Hon'ble Tribunal may deem fit in the facts and circumstances.

*FOR WHICH ACT OF KINDNESS, THE PETITIONER AS INDUTY  
BOUND, SHALL EVER PRAY.*

  
PETITIONER

THROUGH

New Delhi

02.09.2024

SHUBHANKAR CHOUDHARY (BR-818/2020)

ADVOCATE FOR THE PETITIONER

C-56, First Floor, Mayfair Gardens

New Delhi – 110016

+91 8800429179 | office.chambersofsc@gmail.com

ANNEXURE P-4



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- \* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ W.P.(C) 12504/2024, CM APPL. 51950/2024 & CM APPL. 51951/2024

KUNAL SETHI

.....Petitioner

Through: Mr. Shubhankar Choudhary,  
Advocate

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr. Kushagra Knasal, Senior Panel  
Counsel with Mr. Amit Acharya,  
Government Pleader, Mr. Madan  
Kumar, SFO Legal

**CORAM:**

**HON'BLE MR. JUSTICE SURESH KUMAR KAIT  
HON'BLE MR. JUSTICE GIRISH KATHPALIA**

**O R D E R**  
**06.09.2024**

**CM APPL. 51949/2024**

1. Allowed, subject to all just exceptions.
2. Accordingly, aforesaid applications stand disposed of.

**W.P.(C) 12504/2024 & CM APPL. 51948/2024**

3. Noticed issued.
4. Mr. Kushagra Knasal, learned senior panel counsel, accepts notice on behalf of respondents.
5. Parties are directed to file their written submissions within four weeks from today along with relevant documents/judgments on which they wish to



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rely, with relevant portion duly highlighted for the convenience of this Court.

6. Till further orders, the accommodation and the bond amount shall remain stayed on the undertaking given by the learned counsel for petitioner upon instruction of the petitioner, who is present in the court today that if they fail in the present petition, the respondents shall be at liberty to recover the amount with interest and penalty as per law.

7. Re-notify on 08.01.2025.

**SURESH KUMAR KAIT, J**

**GIRISH KATHPALIA, J**

**SEPTEMBER 6, 2024/as**

*This is a digitally signed order.*

*The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.  
The Order is downloaded from the DHC Server on 26/05/2025 at 15:49:26*

B1 Wing, 10<sup>th</sup> Floor,  
Pt. Deendayal Antyodaya Bhawan  
C.G.O. Complex  
Lodhi Road  
New Delhi-110003

Dated, the 6 MAY 2019

### OFFICE MEMORANDUM

Consequent upon his selection to the post of Chief Pilot in ARC the Competent Authority hereby offers appointment to **Gp Capt (Retd) Kunal Sethi** to the post of Chief Pilot in Aviation Research Centre, Directorate General of Security, Cabinet Secretariat on **Re-employment basis in Level-13A of the Pay Matrix (Pre-revised: PB-4 with grade pay Rs. 8,900/- as per 6th CPC)**. The initial pay of the appointee will be fixed according to the rules in vogue regarding pay fixation of Re-employed officers. The appointee will also be entitled to draw allowances at the rates admissible under the rules and orders governing the grant of such allowances in force from time to time and subject to the conditions laid down therein.

#### 2. The terms of appointment are as under:-

- i) The appointment is temporary. His permanent appointment to the post will depend on various factors governing permanent appointment to such posts in force at the time,
- ii) The appointment may be terminated at any time by a month's notice by either side viz. the appointee or the appointing authority. The appointing authority, however, reserves the right of terminating the services of the appointee forthwith or before expiry of the stipulated period of notice by making payment to him of a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof;
- iii) He will be on probation for a period of two years from the date of appointment. The clearance of probation and confirmation of the above named appointee/ candidate would be subject to the outcome of the detailed security check/ C&A verification;
- iv) The appointment carries with it the liability to serve in any part of India;

- v) While serving in this Organization, he will be allowed to apply for any post outside the Organization only in accordance with the departmental policy on forwarding such applications
- vi) He will be governed by the New Defined Contribution Pension Scheme (National Pension Scheme) notified by the Government of India vide Ministry of Finance, Department of Economic Affairs OM No. 5/7/2003-ECB & PR dated 22.12.2003 and amendments thereto from time to time;
- vii) He may be required to undertake training on aircraft/ helicopter as decided by the Competent Authority for which he will have to sign a Bond to serve the department for a specific period as decided by the Competent Authority or to return the expenditure incurred by the Government on the training
- viii) The other conditions of service will be governed by relevant Central Civil Services Rules and orders of the Government of India in force from time to time.

3. The appointment will be further subject to the following:-

- i) Submitting a declaration in the enclosed form that he/she has not got more than one spouse living;
- ii) Taking an oath of allegiance to the Constitution of India in the enclosed form;
- iii) Production of the original Degree/Diploma certificates of educational and other technical qualifications (with one attested copy of each);
- iv) Discharge certificate from previous employer, if any.

4. His continued employment in ARC is further subject to review of his performance during the initial period of two years and fulfillment of the conditions as applicable.

- (i) The officer will have to take and keep current Insurance Policy from the LIC/PLI or ULIP of UTI to cover all risks including flying risk for the period he is employed as Aircrew and he will have to pay the premium as prescribed by the Government from time to time.
- (ii) The grant of flying allowance will be subject to certificate to be issued by AFCME or any other medical authority as specified in Aircrew Medical Policy of ARC that the officer is medically fit for flying duties.
- (iii) The officer is required to undergo annual medical examination/periodical medical check-up by respective medical authority as specified in Aircrew Medical Policy of ARC approved by Cabinet Secretariat. If the officer is

declared permanently medically unfit for flying duties during periodical medical check-up at any stage, his re-employment will be terminated.

(iv) This re-employment is subject to the officer keeping current and valid AEB categorization for the IAF type aircraft he has/had been flying and diligently appearing before the board whenever required.

5. If any declaration given or information furnished by the appointee proves to be false or if the appointee is found to have wilfully suppressed any material information, he will be liable for removal from service and such other action, as the Government may deem necessary.

6. If **Gp Capt (Retd) Kunal Sethi** accepts the offer of appointment on terms and conditions explained in the preceding paragraphs, he should intimate the acceptance of this offer by Registered Post within 15 days of the receipt of this offer, otherwise it will be presumed that he is not interested. In case he accepts this offer he should report for duty to **the Deputy Director (Pers.), ARC HQ, Cabinet Secretariat Building, Opposite Pt. Deen Dayal Antyodaya Bhawan, CGO Complex, Near Jawaharlal Nehru Stadium, New Delhi-110003** within 30 days of the receipt of this offer.

7 No-travelling allowance will be allowed for joining the appointment.

Encl.:- As Above

Sd/-

(JITENDRA KUMAR JOSHI)  
DIRECTOR TO THE GOVT. OF INDIA

To

Gp Capt (Retd) Kunal Sethi  
1902, Heritage One,  
Sector-62, Gurugram,  
Haryana-122011



//TRUE COPY//

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## Online RTI Request Form Details

### RTI Request Details :-

|                                 |                     |
|---------------------------------|---------------------|
| RTI Request Registration number | CABST/R/E/23/00792  |
| Public Authority                | Cabinet Secretariat |

### Personal Details of RTI Applicant:-

|                    |   |
|--------------------|---|
| Name               | Kunal Sethi   |
| Gender             | Male  |
| Address            | 56, Chota Singh Block , Asian Games Village , Delhi |
| Country            | India   |
| State              | Delhi   |
| Status             | Urban   |
| Educational Status | Literate  |
|                    | Above Graduate                                      |
| Phone Number       | +91-07827332829                                     |
| Mobile Number      | +91-7827332829                                      |
| Email-ID           | sethi_kunal[at]hotmail[dot]com                      |

### Request Details :-

|                                       |        |
|---------------------------------------|--------|
| Citizenship                           | Indian |
| Is the Requester Below Poverty Line ? | No     |

(Description of Information sought (upto 500 characters)

|   |                                  |
|---|----------------------------------|
| Description of Information Sought   |                                  |
| I was discharged from ARC Vide letter number ARC/Pers.III/706/2021(Pt)-3931 dated 27.09.2023. The discharge was done under Cabinet Secretariat(SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023. I request that I may be provided a copy of Cabinet Secretariat(SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023. |                                  |
| Concerned CPIO  | Shri Naresh Kumar                |
| Supporting document <i>(only pdf upto 1 MB)</i>   | Supporting document not provided |

Print

Close

Am m-P-7

(2)

WRITTEN SUBMISSION BY CPIO, CABINET SECRETARIAT (SR) BEFORE THE  
HON'BLE CHIEF INFORMATION COMMISSIONER

IN THE MATTER OF THE APPEAL / COMPLAINT UNDER THE RTI ACT, 2005,  
LISTED FOR HEARING BEFORE THE HON'BLE CHIEF INFORMATION  
COMMISSIONER MR. HEERALAL SAMARIYA, ON 13.05.2025 AT 01:10 PM

| Appellant(s) / Complainant(s)   |                       | Respondent(s)  |                      |
|---|-----------------------|--|----------------------|
| GROUP CAPTAIN KUNAL SETHI (RETD.), 56, CHOTA SINGH BLOCK, ASIAN GAMES VILLAGE, NEW DELHI - 110049 |                       | CPIO, CABINET SECRETARIAT (SR)<br>ROOM NO.1001, B1 WING, 10 <sup>TH</sup> FLOOR,<br>PT. DEENDAYAL ANTYODAYA BHAWAN,<br>CGO COMPLEX, LODHI ROAD,<br>NEW DELHI -110003 |                      |
| Date of RTI   | Date of reply of CPIO | Date of 1 <sup>st</sup> Appeal   | Date of Order of FAA |
| 17.10.2023  | 30.10.2023            | 11.11.2023   | 08.12.2023           |

It is most respectfully submitted that:

1. The Appellant, through his application dated 17.10.2023 (copy enclosed) under the RTI Act, had sought a copy of Cabinet Secretariat (SR)'s order No.15/6/2022-E.II-716 dated 27.09.2023.
2. The above referred RTI application dated 17.10.2023 (copy enclosed) was received from Cabinet Secretariat, Rashtrapati Bhawan vide their OM dated 17.10.2023 (copy enclosed), on 20.10.2023. A copy of the RTI application was forwarded to Aviation Research Centre (ARC), a technical wing of Research and Analysis Wing (R&AW) vide Cabinet Secretariat (SR) ID Note dated 23.10.2023 (copy enclosed) with the request to submit their specific para-wise reply along with all relevant documents and also to intimate with justification if any apparent human rights violation and / or corruption are involved in the matter.
3. In this regard, ARC vide their UO dated 27.10.2023 (copy enclosed) had *inter alia* submitted that ARC being an intelligence organization is exempted from the purview of the RTI Act under Section 24 of the Act except for complaints related to corruption and human rights violation. Further, as the information sought by the applicant does not fall under the purview of corruption and / or human rights violation, ARC advised that the information sought by the applicant may not be provided.
4. Accordingly, CPIO vide letter dated 30.10.2023 (copy enclosed) informed the applicant that the information sought by him pertains to Intelligence and Security Organization figuring at SI.No.2 of the Second Schedule of the RTI Act, which is exempted from the purview of the RTI Act, 2005 vide statutory bar of sub-section (1) of section 24 of the RTI Act subject to the conditions stipulated therein.

Contd..P-2

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5. Being aggrieved by the reply of the CPIO, the applicant, Group Captain Kunal Sethi (Retd.) preferred his First Appeal dated 11.11.2023 (copy enclosed) which was received in Cabinet Secretariat (SR), on 17.11.2023 vide Cabinet Secretariat, Rashtrapati Bhawan OM dated 14.11.2023 (copy enclosed). The First Appeal was forwarded to ARC vide Cabinet Secretariat(SR) ID Note dated 21.11.2023 (copy enclosed) with the request to submit their specific para-wise reply along with all relevant documents and also to intimate with justification whether any apparent human rights violation and/ or corruption are involved in the matter. In this regard, ARC vide their ID Note dated 01.12.2023 (copy enclosed) had *inter alia* reiterated the exemption clause as stated in the reply of original RTI application.

6. The FAA after going through the RTI application and First Appeal filed by the applicant and based on the reply received from ARC, disposed of the appeal, vide his letter dated 08.12.2023 (copy enclosed), by supporting the claims of the CPIO and informed the applicant about the statutory bar of section 24(1) of RTI Act, 2005 and that it would be fully applicable to Intelligence and Security Organization figuring at SI.No.2 in the Second Schedule of the Act. Moreover, it was also informed that the information sought for does not relate to any human rights violation and / or corruption.

7. Aggrieved further, the appellant, Group Captain Kunal Sethi (Retd.) in his Second Appeal dated 07.03.2024 (copy enclosed) addressed to Hon'ble Chief Information Commissioner, has requested that he may be provided a copy of the discharge order issued by Cabinet Secretariat (SR) vide No.15/6/2022-E.II-716 dated 27.09.2023.

8. In reply, it is submitted that ARC, a technical wing of R&AW being an Intelligence and Security Organization catering to the security of the nation is listed at SI.No.2 of the Second Schedule of RTI Act, 2005 under sub-section (1) of section 24 of the RTI Act. Both the CPIO and FAA of Cabinet Secretariat (SR) have acted within the provision of the RTI Act, 2005 by denying the information as the matter under reference does not involve corruption and human rights violation.

9. In view of the above, *prima facie*, no case of corruption or human rights violation is made out against the ARC in the instant case; both the CPIO and the FAA have acted within the provisions of sub-section (1) of section 24 of the RTI Act 2005, read with the Second Schedule to the said Act, to deny information to the applicant / appellant.

- Encl: As above.

  
 ( Tanuja Anthwal ) 30.4  
 Under Secretary, S. O. B.I.O.

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Ann-P-8

RTI MATTER/ REGISTERED POST

GOVERNMENT OF INDIA  
CABINET SECRETARIAT (SR)  
(E-III SECTION )

Room No. 1001, B-1 Wing 10<sup>th</sup> Floor  
Pt. Deendayal Antyodaya Bhawan  
CGO Complex, Lodhi Road  
New Delhi- 110 003

No. 18/52/2023/RTI/E.III (iv)/1086

Dated: 20 Oct 2023

To

Shri Kunal Sethi  
R/o. 56, Chota Singh, Block, Asian Games Village  
Delhi- 110 049 (Mob.No. 7827332829).

Subject: Application seeking information under Right to Information Act, 2005.

Sir,

This is with reference to your application bearing registration NO. CABST/R/E/23/00792 dated 17.10.2023 which has been transferred to this Secretariat by Cabinet Secretariat, Rashtrapati Bhawan vide their O.M. No. CABST/R/E/23/00792- RTI dated 17.10.2023 and received on 20.10.2023 under RTI Act, 2005. This is to inform that the information sought by you pertains to Intelligence and Security Organization figuring at Sl.No. 2 of the Second Schedule of the Act, 2005 vide statutory bar of sub- which is exempted from the purview of the RTI Act 2005 vide statutory bar of sub- Section (1) of Section 24 of the RTI Act subject to the condition stipulated therein.

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2. In view of the above, this Secretariat is not under any obligation to disclose the information.

3. If aggrieved by the reply of the undersigned, you may prefer an appeal to Ms. Rashmi Bhanot, Director & First Appellate Authority of this Secretariat within a period of thirty days from the date of receipt of this reply.

Yours faithfully

Sd/-

Tanuja Anthwal

Under Secretary & CPIO

Tel. No. 011- 24363102



*Amr-P-9*

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BEFORE THE LD. FIRST APPELLATE AUTHORITY, MS. RASHMI BHANOT

*CABINET SECRETARIAT, GOVERNMENT OF INDIA*

**IN THE MATTER OF:**

GROUP CAPTAIN KUNAL SETHI  
56, CHOTA SINGH MARG  
ASIAN GAMES VILLAGE  
NEW DELHI – 110049  
MOB: 7827332829

... APPLICANT/APPELLANT

**APPEAL UNDER SECTION 19 OF THE RIGHT TO INFORMATION ACT, 2005**

The Applicant/Appellant above mentioned:

**MOST RESPECTFULLY SHOWETH:**

1. The Applicant/Appellant, Group Captain Kunal Sethi (Retd.) has preferred the instant Appeal under Section 19(1) of the Right to Information Act, 2005 (hereinafter referred to as the “RTI Act, 2005) praying the Ld. Appellate Authority to provide the information requested by the Applicant/Appellant vide RTI Application bearing No. CABST/R/E/23/000792 dated 17.10.2023 (hereinafter referred to as the “RTI Application dated 17.10.2023”). It is submitted that the RTI Application dated 17.10.2023 has been rejected by concerned Public Information Office vide Letter bearing no. 18/52/2023/RTE/E.III(iv)-1086 dated 20.10.2023 (hereinafter referred to as the “impugned order”) by placing reliance on the provision of Section 24(1) of the RTI Act of 2005. Aggrieved, the present Applicant/Appellant has preferred the present Appeal.

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True Copy of the RTI Application bearing No. CABST/R/E/23/000792 dated 17.10.2023 is annexed herewith and marked as **Annexure A-1**.

True Copy of the impugned order i.e., Letter bearing no. 18/52/2023/RTE/E.III(iv)-1086 dated 20.10.2023 is annexed herewith and marked as **Annexure A-2**.

2. With brevity, the RTI Application dated 17.03.2023 had been filed seeking a copy of the Cabinet Secretariat (SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023 (“information sought”). It is submitted that information sought presumably relates to the Applicant/Appellant herein, and it is purportedly in pursuance of the information sought that the Appellant/Applicant has been discharged from service. It is, therefore, a natural and statutory right, for the present Applicant/Appellant to be given a copy of the information sought.
3. It is submitted that the impugned order dated 20.10.2023 denies the request of the Applicant/Appellant herein on the ground that the information sought by the Applicant/Appellant pertains to an Intelligence and Security Organisation placed at Sl. 2 of Schedule II of the RTI Act, 2005, and therefore, exempted from disclosure under Section 24(1) of the RTI Act, 2005.
4. It is submitted that the concerned impugned order dated 20.10.2023 is wrong and suffers from a misappreciation of facts and a fallacious understanding of the provision of law.
  - a. It is submitted that while the exemption contained in Section 24(1) of the RTI Act, 2005 covers the Intelligence and Security Organisation enumerated at Sl. 2 of the Schedule II of the RTI Act, 2005, the information sought yide RTI Application dated 17.10.2023 i.e., the Cabinet Secretariat (SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023, is not issued by the said exempted organisation. It may be noted that the information sought has been issued by the Cabinet Secretariat (SR), which does not find mention under Second

Schedule of the RTI Act, 2005, and therefore, cannot be considered as exempted from public disclosure under Section 24(1). It is further relevant to note that the no material, on the basis of which the information sought i.e., the Cabinet Secretariat (SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023 is purportedly passed, is sought for by the Applicant/Appellant herein. As such, the information sought is squarely covered under the RTI Act of 2005 and consequently subject to public disclosure. The impugned order is erroneous in its failure to note that the information sought is an order passed by the Cabinet Secretariat and not the Intelligence and Security Organisation enumerated at Sl. 2 of the Second Schedule of the RTI Act, 2005.

- b. It is further submitted that the exemption contained in Section 24(1) qua an exempted organisation under the Second Schedule to the RTI Act, 2005 relates only to “technical/technological/operation matters and not in respect of establishment related matters”. Reliance is placed on the decision passed by the Central Information Commission in Decision No. CIC/LS/A/2012/001290 dated 28.08.2012. The said principle was adopted and reiterated in yet another decision of the Central Information Commissioner in Decision No. CIC/VS/A/2015/000585/SB dated 02.06.2016. It is submitted that since the information sought by the Applicant/Appellant herein does not, in any manner whatsoever, relates to the “technical/technological/operation matters” of the exempted institution enumerated at Sl. 2 of the Second Schedule of the RTI Act, 2005. Therefore, the same is liable to disclosed to the Applicant/Appellant herein.

True Copy of the Decision No. CIC/VS/A/2015/000585/SB dated 02.06.2016 passed by the Ld. Central Information Commission is annexed herewith and marked as **Annexure A-3**.

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c. It is further submitted that the information sought, i.e., the Cabinet Secretariat (SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023, presumably relates to the decision to discharge the Applicant/Appellant herein from his position as Chief Pilot. The discharge order dated 27.09.2023 does not contain any reasons for such discharge, and merely states that the same had been passed "in pursuance of " the information sought i.e., the Cabinet Secretariat (SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023. It is submitted that it is settled law that no person in the service of the government can be subjected to a penalty without being provided a copy of the reasons for such decision. It is submitted that the Applicant/Appellant herein has right to obtain a copy of the decision in pursuance of which he was discharged from service, and failure to provide the same would constitute a sheer violation of the principles of natural justice.

True Copy of the Discharge Order dated 27.09.2023 is annexed herewith and marked as **Annexure A-4**.

d. It is further submitted that the proviso to Section 8(1)(j) is categorical in its mandate that any information which cannot be denied to the Parliament of India or to any Legislature of the State (as applicable) cannot be denied to any person. It is submitted that orders of the Cabinet Secretariat cannot be denied to the Parliament, and therefore, liable to be disclosed to an applicant under the provisions of the RTI Act, 2005.

e. It is submitted that the impugned order dated 20.10.2023 is erroneous in failing to recognise the right of the Applicant/Appellant herein to gain access to information which adversely affects the service of such person, to the extent of imposing a penalty of discharge. The said information sought i.e., the Cabinet Secretariat (SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023, is therefore, liable to be provided to the Applicant/Appellant herein.

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- f. It is submitted that the RTI Act, 2005 is a benevolent legislation, and therefore, its provisions are liable to be understood and implemented widely. It is submitted that the denial of information to an Applicant under the act, on flimsy grounds based on a misappreciation of facts and law as in the present case, serves to defeat the purpose of the RTI Act, 2005.
5. It is submitted that the Applicant/Appellant would be subjected to great injustice if the present Appeal is not allowed. The present Appeal deserves to be allowed in view of the natural and statutory right the present Applicant/Appellant to obtain the information sought i.e., the Cabinet Secretariat (SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023 pursuant to which he was discharged from service.
6. The Applicant/Appellant requests the Ld. Appellate Authority to grant an opportunity to be heard in person.
7. The present Appeal has been filed bona fide and in the interest of justice.
8. The Applicant/Appellant stated that he has not filed any other appeal under the provisions of the RTI Act, 2005 against the impugned order date 20.10.2023.

#### **PRAYER**

**IN LIGHT OF THE ABOVE MENTIONED, THE APPLICANT/APPELLANT MOST HUMBLY PRAYS THAT:**

1. The impugned order i.e., Letter bearing no. 18/52/2023/RTE/E.III(iv)-1086 dated 20.10.2023 be set aside;
2. The information sought i.e., Cabinet Secretariat (SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023 be provided to the Applicant/Appellant herein by the concerned CPIO expeditiously and in a time bound manner;

3. Pass any order(s)/direction(s) as may be deemed necessary in the facts and circumstances.

**FOR WHICH ACT OF KINDNESS, THE APPLICANT/APPELLANT SHALL EVER PRAY.**

10.11.2023

New Delhi



APPLICANT  
GROUP CAPTAIN (RETD.) KUNAL SETHI  
56, CHOTA SINGH MARG,  
ASIAN GAMES VILLAGE  
NEW DELHI - 110049

**Annexure A-1**

OO

(3)

**Online RTI Request Form Details****RTI Request Details :-**

|  |                     |
|--|---------------------|
| <b>RTI Request Registration number</b> | CABST/R/E/23/00792  |
| <b>Public Authority</b>                | Cabinet Secretariat |
|  |                     |

**Personal Details of RTI Applicant:-**

|                           |   |
|---------------------------|---|
| <b>Name</b>               | Kunal Sethi   |
| <b>Gender</b>             | Male  |
| <b>Address</b>            | 56, Chota Singh Block , Asian Games Village , Delhi |
| <b>Country</b>            | India   |
| <b>State</b>              | Delhi   |
| <b>Status</b>             | Urban   |
| <b>Educational Status</b> | Literate  |
|                           | Above Graduate                                      |
| <b>Phone Number</b>       | +91-07827332829                                     |
| <b>Mobile Number</b>      | +91-7827332829                                      |
| <b>Email-ID</b>           | sethi_kunal[at]hotmail[dot]com                      |

**Request Details :-**

|  |        |
|--|--------|
| <b>Citizenship</b>                           | Indian |
| <b>Is the Requester Below Poverty Line ?</b> | No     |

(Description of Information sought (upto 500 characters))

| <b>Description of Information Sought</b>  |                                  |
|---|----------------------------------|
| I was discharged from ARC Vide letter number ARC/Pers.III/706/2021(Pt)-3931 dated 27.09.2023. The discharge was done under Cabinet Secretariat(SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023. I request that I may be provided a copy of Cabinet Secretariat(SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023. |                                  |
| <b>Concerned CPIO</b>   | Shri Naresh Kumar                |
| <b>Supporting document (only pdf upto 1 MB)</b>   | Supporting document not provided |

[Print](#)[Close](#)

## Annexure A-2

RTI MATTER / BY REGISTERED POST

GOVERNMENT OF INDIA  
CABINET SECRETARIAT (SR)  
(E.III SECTION)

Room No.1001, B-1 Wing, 10<sup>th</sup> Floor,  
Pt. Deendayal Antyodaya Bhawan  
CGO Complex, Lodhi Road,  
New Delhi - 110008;

No.18/52/2023/RTI/E.III(iv)- 10826

To

✓ Shri Kunal Sethi,  
R/o 56, Chota Singh Block, Asian Games Village,  
Delhi - 110049 (Mob.No.7827332829),

Dated: 10 OCT 2023

Subject: - Application seeking Information under Right to Information Act, 2005.

Sir,

This is with reference to your application bearing registration No.CABST/R/E/23/00792 dated 17.10.2023 which has been transferred to this Secretariat by Cabinet Secretariat, Rashtrapati Bhawan vide their O.M. No.CABST/R/E/23/00792-RTI dated 17.10.2023 and received on 20.10.2023 under RTI Act, 2005. This is to inform that the information sought by you pertains to Intelligence and Security Organization figuring at Sl.No.2 of the Second Schedule of the RTI Act, which is exempted from the purview of the RTI Act, 2005 vide statutory bar of sub-section(1) of section 24 of the RTI Act subject to the conditions stipulated therein.

2. In view of the above, this Secretariat is not under any obligation to disclose the information.
3. If aggrieved by the reply of the undersigned, you may prefer an appeal to Ms. Rashmi Bhanot, Director & First Appellate Authority of this Secretariat within a period of thirty days from the date of receipt of this reply.

Yours faithfully,



(Tania Arora)  
Under Secretary & CPIO  
Tele No. 011-24363102

**CENTRAL INFORMATION COMMISSION**

2<sup>nd</sup> Floor, August Kranti Bhawan,  
Bhikaji Cama Place, New Delhi-110066

**Decision No. CIC/VS/A/2015/000585/SB**

**Dated 02.06.2016**

**Appellant** : Shri Lal Bahadur Ram,  
S/o Gulab Ram, VPO Nagwan,  
Distt. Buxar, Bihar-802 133.

**Respondent** : Central Public Information Officer,  
D.G. Assam Rifles, Shillong-793 010.

**Date of Hearing** : 02.06.2016

**Relevant dates emerging from the appeal:**

RTI application filed on : 02.07.2014

CPIO's reply : 22.07.2014

First Appeal filed on : 09.10.2014

FAA's order : 03.11.2014

Second Appeal filed on : 26.02.2015

**ORDER**

- Shri Lal Bahadur Ram filed an application dated 02.07.2014 under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), D.G. Assam Rifles seeking information on five points regarding the number of posts vacant in 2011 relating to Barbers/Cobblers/Washer men/Painters/Cooks and Sweepers in Assam Rifles.

2. The appellant filed a second appeal before the Commission on 26.02.2015 on the grounds that no information has been provided to him by the CPIO as well as the First Appellate Authority (FAA).

**Hearing:**

3. Both the parties were absent during the hearing.

**Decision:**

4. The Commission observes that the appellant is seeking information from the Assam Rifles which has been exempted from the provisions of the RTI Act as per Section 24(1) of the RTI Act except in cases of corruption and human rights violations. The Commission also notes that the information sought by the appellant does not pertain to any operational, technological or technical issues of the Assam Rifles and relates to the number of vacancies for the posts of Barber, cobbler, washermen, painter, cook and sweeper in the year 2011. In this context, the Commission observes that the CIC vide order No. CIC/LS/A/2012/001290 dated 28.08.2012 held that "*Suffice to say that it has been the consistent view of this Commission that exemption is available to the exempted organization only in respect of technical/technological/operation matters and not in respect of establishment related matters*".

In view of above, the Commission directs the respondent to provide information as sought by the appellant within a period of two weeks from the date of receipt of a copy of this decision.

5. The appeal is disposed of. Copy of decision be given free of cost to the parties.

(Sudhir Bhargava)

135<sup>11</sup>

Information Commissioner

Authenticated true copy

(V.K. Sharma)

Designated Officer

ARC/Pers.III/706/2021(Pt)-2931  
Aviation Research Centre  
Directorate General of Security  
(Cabinet Secretariat)  
Block-V, R.K. Puram,  
New Delhi, 110066

Dated, 27.09.2023

OFFICE ORDER NO. 245 /2023

In pursuance of Cabinet Secretariat(SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023, approval of the Government is hereby conveyed for discharging from service in r/o Gp Capt Kunal Sethi (Retd), Chief Pilot, ARC in terms of Para 22 of DoP&T OM No. 28020/3/2018-Estt.(C) dated 11.03.2019 with immediate effect.

*Nisha* 27/9/23  
( Nisha Vinod )  
Director (Pers)

3p Capt Kunal Sethi (Retd),  
Chief Pilot, ARC.

The CTCs of handing over charge of the post of Chief Pilot and Format-I may be submitted. (blank proformas enclosed)

Amm-P-10

RTI MATTER/ REGISTERED POST

No. 19/8/2023/RTI/E-III-1241  
GOVERNMENT OF INDIA  
CABINET SECRETARIAT (SR)  
(E-III SECTION )

137

Room No. 1001, B-1 Wing 10<sup>th</sup> Floor  
Pt. Deendayal Antyodaya Bhawan  
CGO Complex, Lodhi Road  
New Delhi- 110 003

No. 18/52/2023/RTI/E.III (iv)/1086

Dated: 8<sup>th</sup> Dec 2023

To

Shri Kunal Sethi  
R/o. 56, Chota Singh, Block, Asian Games Village  
Delhi- 110 049.

**Subject: First Appeal dated 11.11.2023 filed by Sh. Kunal Sethi, Delhi Under RTI Act, 2005.**

Sir,

This is with reference to your application bearing registration NO. CABST/A/E/23/00114 dated 11.11.2023 which has been transferred to this Secretariat by Cabinet Secretariat, Rashtrapati Bhawan vide their Office Memorandum No. CABST/R/E/23/00114-RTI dated 14.11.2023 and received on 17.11.2023 under RTI Act, 2005.

2. I have checked the records, CPIO has rightly observed vide her letter No. 18/52/2023/RTI/E.III (iv)-1086 dated 30.10.2023 that the information sought by you pertains to the intelligence and Security Organization figuring at Sl.No. 2 in the Second Schedule of the Act, therefore, statutory bar of Section 24(1) of the RTI Act, 2005 would be fully applicable. Moreover the information sought for does not relate to any human rights violation or corruption.

3. With these observations, this appeal petition is disposed of.
4. If aggrieved by the reply of the undersigned, you may prefer a Second Appeal to Central Information Commission within a period of ninety days from the date of receipt of this reply.

Yours faithfully

Sd/- 7.12.2023

Prabhat Shrivastava

Deputy secretary & Link First Appellate Authority

Tele. NO. 011- 24363812

## Second Appeal/Complaint- Facilitation Memo

Amm-P-11

  
**Central Information Commission**  
 CIC Bhawan, Baba Gangnath Marg, Munirka,  
 New Delhi - 110 067

Diary No: 610203 / 2024

Date: 08-03-2024

**To:**

**Group Captain Kunal Sethi**  
 56, Asian Games Village  
 South Delhi  
 Delhi - 110049

**Subject:- Return of Second Appeal/Complaint for the removal of deficiencies.**  
 Madam/Sir,

Reference your Second Appeal/Complaint dated 07-03-2024 received on 07-03-2024 vide above Diary Number

On scrutiny of the Second Appeal/Complaint, it is seen that the same has the following deficiencies, which are required to be removed.

**Other Mandatory documents required for proper presentation of your case ,if available**

- Copy of the order received from the First Appellate Authority is not legible

All the documents shall be duly authenticated and verified by the Appellant / Complainant.

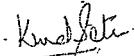
Your above mentioned Second Appeal/Complaint is therefore returned, for removing the deficiencies. You are requested to send Second Appeal/Complaint complete in all respects.

While sending the Second Appeal/Complaint a copy of this letter should also be enclosed.

Enclosure as above

  
 Deputy Registrar(CR-I)

AUTHENTICATED



**The Right to Information Act, 2005 Appeal before Central Information Commission  
Information Commission**

Appeal No. ----- Dated ----- [For office use only]

As I am aggrieved by the decision of the Central Public Information Officer and the First Appellate Authority, I hereby file this appeal for your kind decision.

**LIST OF ANNEXURES**

- A. CABST/R/E/23/00792
- B. CABST/A/E/23/00114
- C. 18/52/2023/RTI/E.III(iv)-1086 dated 30 Oct 2023
- D. 19/8/2023/RTI/E.III-1241 dated 08 Dec 2023
- E. Joining order No.4/18/2014/DO II(B) dated 06 May 2019.
- F. Copy of discharge order No. 105/2019 No. ARC/Pers.III/221/2019/2352 dated 27.05.2023.
- G. Master Circular on Probation/Confirmation in Central Services.
- H. Decision No. CIC/VS/A/2015/000585/SB dated 02.06.2016.
- I. Manipur High Court W.P. (C) No. 642 of 2015 dated 02.02.2016.
- J. CIC/ICAOI/A/2018/629505/00854

**1. Details of appellant:**

- 1.1 Full Name: **Group Captain Kunal Sethi (Retd)**
- 1.2. Full Address: **56 Chota Singh Block, Asian Games Village, New Delhi 110049**
- 1.3 Phone/Cell No.: **7827332829**
- 1.4 Email ID: **sethi\_kunal@hotmail.com**

**2. Details of Central Public Information Officer (CPIO):**

- 2.1 Name/Designation: **Tanuja Athwal, Undersecretary to the Government of India**
- 2.2 Full Address: **Room No1001, B-1 Wing, 10th Floor, Pt. Deendayal Antyodya Bhawan, Cgo Complex, Lodhi Road, New Delhi 110004.**

2.3 Name of Public Authority: **Cabinet Secretariat**

**3. Details of First Appellate Authority [FAA]:**

3.1 Name/Designation of the FAA: **Pabhat Srivastava, Deputy secretary**

3.2 Full Address of FAA: **Room No1001, B-1 Wing, 10th Floor, Pt. Deendayal Antyodaya Bhawan, Cgo Complex, Lodhi Road, New Delhi 110004.**

**4. Dates of RTI application/first appeal:**

4.1 To CPIO: **CABST/R/E/23/00792** & mailed on: **17 Oct 2023 (Annexure A)**

4.2 To FAA: **CABST/A/E/23/00114** & mailed on: **11 Nov 2023 (Annexure B)**

**5. Particulars of Decisions:**

5.1 Reference No & Date of CPIO Decision: **18/52/2023/RTI/E.III(iv)-1086 dated 30 Oct 2023 (Annexure C)**

5.2 Reference No & Date of FAA's Decision: **19/8/2023/RTI/E.III-1241 dated 08 Dec 2023 (Annexure D)**

5.3 Date of personal hearing by FAA: **Not Granted**

**6. Dates of receipt of replies by appellant from:**

6.1 CPIO/: **01 Nov 2023**

6.2 FAA: **09 Dec 2023**

**7. Details of information sought: –**

Copy of discharge order issued by Cabinet Secretariat (SR) no.15/6/2022-E-II-716 dated 27.09.2023.

**8. Brief facts of the case:**

I joined ARC on 07 May 2019. Joining order attached as **Annexure E**.

I was discharged from service on 27 September 2023 vide ARC Office Order No. 105/2019 bearing No. ARC/Pers.III/221/2019/2352 dated 27.05.2023. Copy of discharge order attached as **Annexure F**.

The discharge was carried out under para 22 of No.28020/3/20 18-Estt.(C) dated 11 March 2019 which is the Master Circular on Probation/Confirmation in Central Services. Copy attached as **Annexure G**.

Para 27 of the Master Circular on Probation/Confirmation in Central Services states that, "The officer will be deemed to have successfully completed the probation period if no order confirming, discharging or reverting the officer is issued within eight weeks after expiry of double the normal period of prescribed probation". **My probation period was two years and I completed four years and eight weeks of service on 01 July 2023. Thus the contents of the Master Circular on Probation/Confirmation in Central Services was not applicable and the discharge was prima facie corrupt and illegal.**

#### **9. Reasons/grounds for this appeal:**

My appeal is built on the following grounds:

**A.** My application No. CABST/R/E/23/00792 dated 17.10.2023 was rejected vide No 18/52/2023/RTI/E.III(iv)-1086 dated 28 Oct 2023 and the reply was received by me on 01 Nov 2023. The reason given was the information pertains to Intelligence and Security Organization figuring at SL.No 2 of the Second Schedule of the RTI Act which is exempted from the purview of the RTI Act, 2005 vide statutory bar of section(1) of section 24 of the RTI Act subject to the conditions stipulated therein.

Section(1) of section 24 of the RTI Act states

(1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government.

**It is pertinent to note that Cabinet Secretariat (SR) is not an Intelligence and Security Organization figuring at SL.No 2 of the second schedule of the RTI Act.**

**B.** **The order that is requested for is issued by Cabinet Secretariat (SR) which is not an exempted organisation under the RTI act and is not information supplied by ARC an organisation figuring at SL.No 2 of the Second Schedule of the RTI Act.**

**C.** Even if the order was issued on the basis of information supplied by ARC, an organisation figuring at SL.No 2 of the Second Schedule of the RTI Act, the order issued by Cabinet Secretariat (SR) is not protected by Section(1) of section 24 of the RTI Act. Once the Cabinet Secretariat (SR) issued the order it became information accessible to the appellant.

In this regard I would like to point out that I was selected to join ARC based on an interview conducted by ARC. ARC then passed on the results of the interview to the Cabinet Secretariat. This was information furnished to the Government by ARC. Based on this the Cabinet Secretariat issued out a joining letter dated 06 May 2019 attached as **Annexure A**. This was given to me and was the basis of which I joined ARC.

**Therefore it is not understood why a Joining Letter issued by the Cabinet Secretariat was provided to me but a copy of my discharge letter issued by the Cabinet Secretariat (SR) has been denied to me by the CPIO and FAA.**

**D.** If the contention of the CPIO and the FAA that information pertaining to an Intelligence and Security Organization Figuring at SL.No 2 of the Second Schedule of the RTI Act cannot be supplied is accepted it would mean that **even the second schedule of the RTI act could not have been published by any department of the Govt of India since it pertains to Intelligence and Security Organizations figuring at SL.No 2 of the Second Schedule of the RTI Act.**

**E.** Even Intelligence and Security Organizations figuring at SL.No 2 of the Second Schedule of the RTI Act are subject to **decision No. CIC/VS/A/2015/000585/SB dated 02.06.2016** wherein the information commissioner has held that, "**Suffice to say that it has been the consistent view of this Commission that exemption is available to the exempted organization only in respect of technical/technological/operation matters and not in respect of establishment related matters.**" Copy attached as Annexure H.

Further the **Manipur High Court in W.P. (C) No. 642 of 2015 dated 02.02.2016 (Attached as Annexure I)** while ruling on section 24 and the exemptions granted therein has held: "To comprehend the intent of the Legislature while enacting the RTI Act specially as regards the said expression, the provisions of the Act, as a whole, are to be read keeping in mind the purpose for which the RTI Act is enacted and it may further be noted that the exemptions cannot be construed so as to defeat the very objective sought to be achieved in the RTI Act, 2005. Therefore, it has been rightly held by this court in the said case of **Md. Abid Hussain Vs. State of Manipur, W.P. (C) No. 880 of 2014** that any information which does not touch upon any of the sensitive and confidential activities undertaken by the Police Department, Government of Manipur cannot be withheld at all. In other words, access to such information cannot be denied to the citizens." (emphasis supplied)

Since the discharge order issued by Cabinet Secretariat (SR) no.15/6/2022-E-II-716 dated 27.09.2023 is not a technical/technological/operation matter and does not touch upon any of the sensitive and confidential activities the information should have been supplied to me. In fact the CIC judgement clearly says that exemption is not available in respect of establishment related matters which this order deals with.

**G.** Further as per proviso to Section 8(1) of the RTI Act, 2005, the information which can not be denied to the Parliament or the State Legislatures shall not be denied to any person. **The information sought by me in the subject application is the one which cannot be denied to the Parliament or the State Legislatures and hence it cannot be denied or refused to me.**

**H.** The FAA has summarily dismissed the appeal without giving an opportunity to be heard in person or giving cogent reasons as to why the points quoted by me in my appeal were dismissed. Vide **CIC/CAOI/A/2018/629505/00854 (attached as Annexure J)** it has been made clear that a hearing when asked for by the appellant should be granted by the FAA.

"Here, it is needless to say that rendering an opportunity of hearing to the parties is a fundamental principle of jurisprudence. It is conducive to fairness and transparency and is in accordance with the principles of natural justice. An opportunity of hearing to the parties also brings greater clarity to the adjudicating authorities. This Commission always gives an opportunity of hearing to the parties but this does not appear to be usually done by the

FAAs, as probably there are practical difficulties therein, partly arising out of the number of appeals involved and partly due to the limited time frame in which the matters are required to be decided. However, **in cases where an appellant specially asks for such a hearing before the FAA, such an opportunity should be granted.** The essence of the RTI Act is to provide complete, correct and timely information to the appellant."

In the same judgement it has been held that the FAA should provide a speaking order which the FAA has failed to do.

"Deciding appeals under the RTI Act is a quasi judicial function. It is, therefore, necessary that the appellate authority should see that the justice is not only done but it should also appear to have been done. **In order to do so, the order passed by the appellate authority should be a speaking order giving justification for the decision arrived at.**"

**10. Any other information in support of appeal:**

**11. Prayer/relief sought for:**

I may be provided a copy of the discharge order issued by Cabinet Secretariat (SR) no.15/6/2022-E-II-716 dated 27.09.2023.

**12. Grounds for prayer/relief sought for:**

I was incorrectly denied the information by the CPIO and FAA of Cabinet Secretariat.

**13. Personal Presence at hearing:**

YES

**14. Declaration:**

I hereby state that the information and particulars given above are true to the best of my knowledge and belief. I also declare that this matter is not previously filed with this commission nor is pending with any Court or tribunal or authority.

Place: NEW DELHI  
 Date: 07/03/2024

Signature of appellant



AUTHENTICATED



# Annexure

## A

### Online RTI Request Form Details

OO

#### RTI Request Details :-

|                                 |                     |
|---------------------------------|---------------------|
| RTI Request Registration number | CABST/R/E/23/00792  |
| Public Authority                | Cabinet Secretariat |

#### Personal Details of RTI Applicant:-

|                    |   |
|--------------------|---|
| Name               | Kunal Sethi   |
| Gender             | Male  |
| Address            | 56, Chota Singh Block , Asian Games Village , Delhi |
| Country            | India   |
| State              | Delhi   |
| Status             | Urban   |
| Educational Status | Literate  |
|                    | Above Graduate                                      |
| Phone Number       | +91-07827332829                                     |
| Mobile Number      | +91-7827332829                                      |
| Email-ID           | sethi_kunal[at]hotmail[dot]com                      |

#### Request Details :-

|                                       |        |
|---------------------------------------|--------|
| Citizenship                           | Indian |
| Is the Requester Below Poverty Line ? | No     |

(Description of Information sought (upto 500 characters)

| Description of Information Sought   |                                  |
|---|----------------------------------|
| I was discharged from ARC Vide letter number ARC/Pers.III/706/2021(Pt)-3931 dated 27.09.2023. The discharge was done under Cabinet Secretariat(SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023. I request that I may be provided a copy of Cabinet Secretariat(SR) Order No. 15/6/2022-E-II-716 dated 27.09.2023. |                                  |
| Concerned CPIO  | Shri Naresh Kumar                |
| Supporting document <i>(only pdf upto 1 MB)</i>   | Supporting document not provided |

Print

Close

AUTHENTICATED

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## Annexure

### B



सत्यमेव जयते

Select Language:

○ ○  
 A+ A A-

Public Authorities

Available

**RTI Online**

Version 2.0

An Initiative of Department of Personnel &amp; Training, Government of India

[Home](#) [Submit Request](#) [Submit First Appeal](#) [View Status](#) [View History](#) [Login](#) [User Manual](#) [Contact Us](#) [FAQ](#)

### Final Status of CABST/A/E/23/00114

|                           |  |
|---------------------------|--|
| Applicant Name            | Kunal Sethi  |
| Date of receipt           | 11/11/2023   |
| Request Filed With        | Cabinet Secretariat  |
| Text of Application       | Attached please find the first appeal preferred by me in PDF form. |
| Request document (if any) |  |
| Status                    | APPEAL DISPOSED OF as on 12/12/2023                                |
| Date of Action            | 12/12/2023   |
| Remarks                   | Reply :- attached.   |
| Reply Document            |  |
| Print                     |  |

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**Central Administrative Tribunal  
Principal Bench, New Delhi**

O.A. No.3711/2023

Order reserved on 05.08.2024

Order pronounced on 08.08.2024

**Hon'ble Mr. Justice Ranjit More, Chairman  
Hon'ble Mr. Sanjeeva Kumar, Member (A)**

Group Captain (Retd.) Kunal Sethi  
56, Chota Singh Marg  
Asian Games Village, New Delhi – 110 016

...Applicant

(Mr. Shubhankar Choudhary, Advocate)

Versus

1. Union of India through its Secretary,  
Department of Personnel & Training  
Ministry of Personnel, Public Grievance & Pension  
North Block, New Delhi 110 001
2. Cabinet Secretariat  
Through its Secretary  
Rashtrapati Bhawan, New Delhi – 110 004
3. Director (Personnel)  
Aviation Research Centre  
Directorate General of Security  
Cabinet Secretariat  
Block V, R K Puram, New Delhi – 110 066
4. Special Secretary  
Aviation Research Centre  
Directorate General of Security  
Cabinet Secretariat  
Block V, R K Puram, New Delhi – 110 066

...Respondents

(Mr. Hanu Bhaskar, Advocate)



## ORDER

**Mr. Justice Ranjit More:**

The applicant, Group Captain, is a former officer of Indian Air Force. He opted for pre-mature retirement on 31.07.2012. The applicant thereafter received appointment offer bearing O.M. No.4/18/2014-DO-II (B)-298 dated 06.05.2019 from the Cabinet Secretariat to the post of Chief Pilot in Aviation Research Centre (ARC), Government of India. On 07.05.2019, the applicant joined the said post on re-employment basis in Level 13-A of the pay matrix with basic pay of Rs.1,61,300/- with other admissible allowances. In December 2019, the applicant was directed by the competent authority to be detailed to undergo the Initial Simulator Training (IST) from 8<sup>th</sup> January to 3<sup>rd</sup> February 2020 at CAE, London, UK. Thereafter, the sanction order dated 01.01.2020 was issued by the Director (SR), Cabinet Secretariat for the applicant to undergo IST for the said period on 01.01.2020.

2. It is the case of the applicant that he underwent the said training and was handed a congratulatory note on



successfully completing the training. Despite this, the applicant received a show cause notice / memorandum dated 11.05.2020, stating therein that he failed to complete the IST successfully. By the said show cause notice, the applicant was called upon to explain and clarify his position within a week's time. The applicant sent a detailed reply to the said show cause notice on 20.05.2020. The respondents, despite the said reply, issued impugned order dated 27.09.2023, whereby he was discharged from service with immediate effect in terms of paragraph 22 of the O.M. dated 11.03.2019 issued by the Department of Personnel & Training (DoPT). The applicant thereafter on 26.10.2023 sent a legal representation to the respondents. Since no reply is received by him, the applicant has approached this Tribunal by way of present O.A., seeking the following reliefs:-

*"A. Pass an order declaring the Impugned Order i.e., Office Order bearing No.245/2023 and Reference No.ARC/Pers.III/706/2021 (Pt)-3931 dated 27.09.2023 as illegal, misconceived, erroneous, in gross misinterpretation of the applicable rules, and arbitrary, and consequently set aside the Impugned Order;*

*B. Pass an order directing the Respondent No.2 to provide a copy of the Cabinet Secretariat (SR) Order No.15/6/2022-E-II-716 dated 27.09.2023;*

*C. Pass an order directing the Respondent authority to reinstate the Applicant without any break in service, and*



*with full pay and allowances including arrears of the intervening period of wrongful discharge;*

*D. Pass an order directing the Respondent authority to consider the Applicant as being deemed confirmed to the post of Chief Pilot with effect from 01.07.2023."*

3. Mr. Shubhankar Choudhary, learned counsel for the applicant, challenging the impugned order, submitted that the applicant successfully completed the IST. In support of this, he relied upon the congratulatory message at page 53 of the O.A. Mr. Choudhary submitted that the impugned order is based on clause 22 of the Master Circular dated 11.03.2019 issued by the DoPT on 'probation/confirmation in Central Services'. He also relied upon clause 27 of the said Master Circular and submitted that the applicant, having completed 4 years and 8 weeks, he could not have been discharged from service assuming that he is under probation.

Mr. Choudhary submitted that the applicant by virtue of the abovementioned clause 27 of the Master Circular is deemed to have been confirmed in the post of Chief Pilot, ARC and, therefore, he could not have been removed from service without following due process of law, namely, appropriate departmental proceedings. He lastly submitted that the impugned order is contrary to law and, therefore,



liable to be set aside; and the applicant is required to be reinstated in the post of Chief Pilot, ARC. In support of this, the applicant has also relied upon clause 2 (viii) of appointment offer dated 06.05.2019.

4. Mr. Hanu Bhaskar, learned counsel for the respondents vehemently opposed the O.A. On behalf of the respondents, counter affidavit has also been filed. It is submitted by Mr. Bhaskar that the services of the applicant have been discharged during the period of his probation, as the applicant was not a confirmed employee of the respondent-organization. He submitted that the concept of deemed confirmation is not applicable in this matter.

Mr. Bhaskar submitted that the applicant was required to undergo IST for which he was sent abroad on Government expenditure and a huge amount of Rs.48,46,976/- was incurred on this training. However, he failed to successfully complete the training. Thereafter, an explanation of the applicant was called for vide memorandum dated 11.05.2020, intimating him about his shortcoming / misconduct during the said training and giving him an opportunity to put-forth



his explanation. The applicant gave his explanation in May 2020. Thereafter, an Inquiry Committee was constituted, which, in its summary of recommendations, has conveyed the following remarks:

*“..However, after further discussions and deliberation, the Committee is now of the view that given the approach of the two Pilots to the training programme, their retention as AN 32 Pilots may not create a conducive atmosphere and may hamper the functional coherence and esprit de corps of the Air Wing and it is recommended that the services of the two Pilots may be terminated.”*

The Screening Committee meant for considering the case of probation clearance in respect of the applicant, on receipt of the above summary of recommendations, after duly considering the mandatory Half Yearly Progression Reports and Annual Performance Appraisal Reports (APARs), found the applicant 'unfit' for probation clearance and recommended his discharge from service. The recommendations of the Screening Committee were forwarded to the Administrative Department of the respondents, i.e., Cabinet Secretariat (SR) for approval of the appointing authority. The Department conveyed approval of the Government for applicant's discharge from service in terms of clause 22 of Master Circular dated 11.03.2019.

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Accordingly, the applicant was discharged from service vide the impugned order. Mr. Bhaskar specifically submitted that clause 27 of the Master Circular dated 11.03.2019, which is heavily relied upon by the applicant, is not applicable in the case of the applicant.

5. We have gone through the O.A. along with Annexures thereto, affidavit in reply filed by the respondents as well as rejoinder filed by the applicant. We have also given our anxious consideration to the submissions advanced by the learned counsel for the respective parties and we find no merit in the O.A.

6. The questions, which fell for consideration of this Tribunal, are:

(i) Whether the applicant has completed the IST during the period 8<sup>th</sup> January to 3<sup>rd</sup> February 2020 at CAE, London, UK.

(ii) Whether the applicant is deemed to have been confirmed in service in the post of Chief Pilot, ARC

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after completion of a period of 4 years and 8 weeks by virtue of clause 27 of the Master Circular dated 11.03.2019; and

- (iii) If clause 27 of the Master Circular has application in the present case, whether the respondents are justified in discharging the applicant from service without following the established procedure of law.

7. The appointment offer was issued to the applicant vide O.M. dated 06.05.2019. Clause 2 of thereof deals with the terms of appointment. Sub clauses (i), (ii), (iii), (vii) & (viii) of clause 2 are relevant for our purpose. They read thus:

"(i) The appointment is temporary. His permanent appointment to the post will depend on various factors governing permanent appointment to such posts in force at the time,

(ii) The appointment may be terminated at any time by a month's notice by either side viz. the appointee or the appointing authority. The appointing authority, however, reserves the right of terminating the services of the appointee forthwith or before expiry of the stipulated period of notice by making payment to him of a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof,

(iii) He will be on probation for a period of two years from the date of appointment. The clearance of probation and confirmation of the above named appointee /



*candidate would be subject to the outcome of the detailed security check / C&A verification;*

xx                    xx                    xx                    xx

vii) *He may be required to undertake training on aircraft/helicopter as decided by the Competent Authority for which he will have to sign a Bond to serve the department for a specific period as decided by the Competent Authority or to return the expenditure incurred by the Government on the training;*

viii) *The other conditions of service will be governed by relevant Central Civil Services Rules and orders of the Government of India in force from time to time.”*

8. Reading of above in terms of appointment of the applicant, thus, makes it clear that his appointment was temporary in nature and his permanent appointment to the said post would depend upon various factors. The appointment was liable to be terminated at any time by a month's notice by either side, i.e., the appointee or the appointing authority. The applicant was on probation initially for a period of 2 years from the date of appointment and the clearance of probation and confirmation of the candidate was subject to the outcome of the detailed security check / C&A verification. The applicant was also duty bound to undertake training on aircraft / helicopter, as may be decided by the competent authority. The other conditions of service were to



be governed by relevant Central Civil Services Rules and orders of the Government of India in force from time to time.

9. Before going into the merits of the matter, we must consider the rival claims of both the parties regarding the IST undergone by the applicant. The said training was to be held from 8<sup>th</sup> January to 3<sup>rd</sup> February 2020 at CAE, London, UK. It is the specific case of the respondents that the applicant did not complete the said training successfully and, therefore, a show cause notice was issued to him on 11.05.2020. The applicant replied the same on 20.05.2020. Paragraph 10 thereof reads as follows:-

*"10. I would like to bring to your notice that while sending me for this training the organization would have been aware of my background and lack of exposure of flying jet engine aircraft fitted with modern glass cockpits, DGCA CAR dated 22 Mar 2012 specifically mandates Jet induction training for pilots with backgrounds like mine. The effect of the lack of this training is borne out by the comments endorsed on my training reports of 01 and 02 February which state:*

*"Huge transition in flying culture these guys are trying to make..*

*"Lack of background/familiarity with glass cockpit FMS/Automation Modes FDA. What is it doing now?"*



10. If the show cause notice and the reply thereto given by the applicant are considered in proper perspective, it would be clear that the applicant has failed to complete the said IST. He, in this regard, relied upon the congratulatory message, a photocopy of which is annexed as Annexure-5 (page 53). It reads as under:-

*"Congratulations on completing your Type Rating!*

*We look forward to welcoming you back to CAE Burgess Hill very soon."*

11. It is seen that the congratulatory message contains no stamp and date of the person issuing it. This message only congratulates the applicant on completing the 'type rating' and not 'IST'. The congratulatory message, on which the applicant relies, cannot be said to be the certificate of completion of IST by the applicant. In light of the respondents' specific contention that the applicant failed to complete IST, nothing has been brought on record by the applicant, except the said congratulatory message, which cannot be considered as a completion certificate.

12. Clauses 22 & 27 of the Master Circular dated 11.03.2019 read as under:-



"22. If it appears to the Appointing Authority, at any time, during or at the end of the period of probation that a Government servant has not made sufficient use of his opportunities or is not making satisfactory progress, the Appointing Authority may revert him to the post held substantively by him immediately preceding his appointment, provided he holds a lien thereon or in other cases may discharge or terminate him from service.

xx xx xx xx xx

27. The date from which confirmation should be given effect is the date following the date of satisfactory completion of the prescribed period of probation or the extended period of probation, as the case may be. The decision to confirm the probationer or to extend the period of probation as the case may be should be communicated to the probationer normally within 6 to 8 weeks. Probation should not be extended for more than a year and, in no circumstance, an employee should be kept on probation for more than double the normal prescribed period of probation. The officer will be deemed to have successfully completed the probation period if no order confirming, discharging or reverting the officer is issued within eight weeks after expiry of double the normal period of prescribed probation."

Clause 2 (viii) of the appointment offer empowers the respondents to issue the impugned order under clause 22 of the Master Circular.

13. This takes us to consider the main contest between the parties, namely, 'deemed confirmation'. We have already reproduced clause 27 of the Master Circular dated 11.03.2019. A perusal thereof makes it clear that the employee should not be kept on probation for more than double the normal



prescribed period of probation and the officer will be deemed to have successfully completed the probation period if no order confirming, discharging or reverting the officer is issued within eight weeks after expiry of double the normal period of prescribed probation.

14. In terms of this clause, the applicant completed probation period of 4 years and 8 weeks on 01.07.2023. The applicant, however, served Indian Air Force and after premature retirement in the year 2012, was given appointment offer on reemployment basis. The employment of the applicant was subject to several terms and conditions; the relevant ones have already been reproduced hereinabove. In terms of clause 2 (viii) of appointment offer, the applicant was required to undertake training on aircraft/helicopter as decided by the competent authority. In terms of clause 2 (iii), the applicant's probation was for a period of two years from the date of appointment. However, the clearance of probation and confirmation was subject to the outcome of the detailed security check/C&A verification. In light of clause 2 (iii) of the appointment offer, in our considered opinion, clause 27 of the Master Circular dated 11.03.2019 cannot be made applicable

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in the facts and circumstances of the case. In other words, the applicant's clearance of probation and confirmation was subject to detailed security check / C&A verification. Therefore, in light of clause 2 (iii) of appointment offer, the applicant cannot get the right to be confirmed automatically after completion of probation period of 4 years and 8 weeks.

15. On finding that the applicant did not complete IST, as stated above, a show cause notice was given to him, to which he gave his reply. The reply of the applicant was considered by the Inquiry Committee and summary of recommendations was submitted to the Screening Committee, which, in turn, considered the recommendations along with mandatory Half Yearly Progression Reports and APARs of the applicant, and found him 'unfit' for probation clearance and recommended his discharge from service. The recommendations of the Screening Committee were approved by the appointing authority and thereafter the impugned order, discharging the applicant from service, was passed.



16. In totality of the facts and circumstances, we do not find any fault with the impugned order. The O.A. is devoid of merit and is accordingly dismissed with no order as to costs.

( Sanjeeva Kumar )  
Member (A)

( Justice Ranjit More )  
Chairman

/sunil/

Annex P-13

To

The Hon'ble Chief Information Commissioner  
 Central Information Commission  
 New Delhi

**File No.: CIC/CABST/A/2024/612583**

**Date of Hearing: 13 May 2025 | Time: 01 : 10 p.m. | Venue: Room 402, CIC, New Delhi**

**Subject: Written Submission in CIC/CABST/A/2024/612583**

Respected Sir,

### **I. BACKGROUND**

1. I am filing the present written submissions in advance of hearing scheduled on 13<sup>th</sup> May 2025.
2. These proceedings pertain to my RTI application dated 17.10.2023, through which I had requested a copy of the discharge order issued by the Cabinet Secretariat (SR) under reference No.15/6/2022-E.I-716 dated 27.09.2023. A copy of my RTI Application is annexed herewith as **ANNEXURE A-1**.
3. The discharge order issued by the Cabinet Secretariat (SR) is referred to in Aviation Research Centre's Office Order No. 275/2023 dated 27.09.2023, which is annexed herewith **ANNEXURE A-2**
4. Importantly both the discharge order issued by the Cabinet Secretariat (SR) and the Office Order No. 275/2023 pertain to me, service rendered by me and my rights.
5. In response, the CPIO has denied my request, stating that the information pertains to an intelligence organization—namely, the Aviation Research Centre (ARC)—and is therefore exempt under Section 24(1) of the RTI Act. The decision of the CPIO was upheld by the First Appellate Authority without providing me a hearing. Notably, neither the CPIO nor the FAA relied on any other grounds to deny my RTI Application. A copy of the reply of the CPIO and the decision of the First Appellate Authority is annexed herewith **ANNEXURE A-3 (Colly)**.
6. I am filing the present written submissions in addition to my Second Appeal dated 07.03.2024 and both may be read together.

### **II. ISSUES FOR CONSIDERATION**

- A. Whether Section 24(1) of the RTI Act permits Cabinet Secretariat (SR) – a public authority which is not under the Second Schedule - to claim a blanket exemption reserved for security and intelligence agencies?
- B. Whether, assuming Cabinet Secretariat (SR) are exempted – does the exemption extend to information pertaining to purely service related matters which do not have bearing on operational or intelligence related activities of any agency?

### **III. SUBMISSIONS**

### Section 24(1) Does Not Bar Disclosure

7. Section 24(1) exempts only those organizations explicitly named in the Second Schedule, subject to the proviso that information “pertaining to allegations of corruption or human-rights violations” shall not be excluded.
8. For ready reference, Section 24(1) of the RTI Act has been reproduced below:

*Section 24(1): Nothing contained in this Act shall apply to such intelligence and security organisations, being organisations established by the Central Government or any information furnished by such organisations to that Government:*

*Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:*

*Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the Central Information Commission and, notwithstanding anything contained in Section 7, such information shall be provided within forty-five days from the date of the receipt of the request.*

9. The CPIO’s reply of 30.10.2023 invoked Section 24(1) because the information supposedly ‘pertains to Intelligence and Security Organization’.
10. In this regard, it is *firstly* submitted that the Cabinet Secretariat (SR) is not scheduled; its records therefore remain governed by the RTI Act. Once the Cabinet Secretariat (a non-exempt body) issued the order, it “holds the information in its own right” (CBSE v. Aditya Bandopadhyay, (2011) 8 SCC 497, ¶28).
11. *Secondly*, the CPIO of the Cabinet Secretariat (SR) ought to be put to strict proof of its claim that the information pertains to Intelligence and Security Organization. Mere assertions are not sufficient to deny my constitutional and statutory rights. This is especially the case because the information sought pertain to me, service rendered by me and my rights, and do not relate in any manner to any operational or intelligence related activities of any agency.
12. *Thirdly*, the CPIO and the FAA’s stance is contrary to past practice. In *Subhash Chandra Agrawal v. CPIO, CIC/SM/C/2011/001564*-dated 29.02.2012, the RTI Applicant had sought information regarding appointment of a particular person as Secretary of RAW. The CPIO, Cabinet Secretariat initially denied information on the ground that the information related to an organization exempted under Section 24. However, before the Hon’ble Central Information Commission, the CPIO placed the order of the FAA which stated that the desired information did not relate to the exempted organization but “*to the manner in which the appointment was made to that organization by the competent authority and therefore, it could not be said that the information was about exempted organization*”. Therefore, the FAA in that case accepted that desired information did not relate to the exempted organization but to the Cabinet Secretariat. Similarly, in the present case, the document sought relates to a discharge order of the Cabinet Secretariat and not to the ARC. The CPIO and FAA cannot adopt a contrary stance.

In any event information sought by me ought to be disclosed despite Section 24 of the RTI

13. In any event and without prejudice to the preceding grounds, even if it is found that the CPIO could have claimed an exemption, even then the scope of the exemption does not extend to the information sought by me.
14. In this regard it is submitted that Section 24(1) exempts only such information which is directly related to the '*intelligence and security*' of that organisation and not otherwise as has been held by the Hon'ble Punjab and Haryana High Court in *First Appellate Authority, Additional DGP, CID of Haryana v Chief Information Commissioner, Haryana*, CWP No. 12904/2009. The relevant paragraph from CWP No. 12904/2009 (*supra*) has been reproduced below:
8. *It is not a matter of dispute that the notification dated 29.12.2005 issued under Section 24(4) of the Act which envisaged that nothing contained in this Act shall apply to such intelligence and security organisations being organisations established by the State Government may, from time to time, by notification in the Official Gazette, specify.*
9. *Proviso to this section further escalates that the information pertaining to allegations of corruption and human rights violation shall not be excluded under the sub-section.*
10. *A combined reading of these provisions would reveal, only that information is exempted, which is directly effecting and co-related to the 'intelligence' and 'securtiy' of that organisation of the State and not otherwise.* [Emphasis added]
15. Notably, the decision in CWP No. 12904/2009 (*supra*) was upheld by Division Bench of the Punjab and Haryana High Court in LPA 744/2011 and the Special Leave Petition against the said decision was dismissed by the Hon'ble Supreme Court.
16. As stated above, the information sought pertain to me, service rendered by me and my rights, and do not in any manner relate to any operational or intelligence related activities of any agency.
17. Further, without prejudice to the above, the even the *proviso* to Section 24(1) is applicable to my case. The *proviso* to Section 24(1) which states that the provision does not apply to any information pertaining to allegations of corruption and human rights violations. This is not only evident from a literal interpretation of the provision but has also been recognised by the Hon'ble Supreme Court in *Yashwant Sinha vs CBI*, (2019) 6 SCC 1 where the Court held that '*the proviso declares that even though the information available with intelligence and security organisations are generally outside the purview of the open disclosure regime contemplated under the Act if the information pertains to allegations of corruption or human rights violations such information is very much available to be sought for under the Act.*' The Hon'ble Manipur High Court in *Shri Phairembam Sudesh Singh vs State of Manipur & Others*, AIR 2016-Mani 19 has held that the expression "*information pertaining to allegations of corruption and human rights violence*" is not defined in the Act but it has a wide connotation in view of the objective sought to be achieved in the Act.
18. The information sought by me pertains to a routine discharge memorandum which affected my right to livelihood – a human right under Articles 14, 19 and 21 of the Constitution. Hence, even if Section 24(1) were applicable, the *proviso* commands disclosure. Importantly, neither the CPIO nor the FAA have never asserted that releasing a routine discharge memorandum would threaten national security. The Supreme Court in *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637, underscored that State secrecy cannot mask orders affecting fundamental rights.

**IV. Relief & Costs**

19. The Appellant has pursued statutory remedies for 18 months. Under Section 19(8)(b) compensation is warranted; under Section 20(1) penalty is merited for without-reasonable-cause refusal.

**V. PRAYER**

In view of the foregoing, it is respectfully prayed that the Hon'ble Commission may:

1. Direct the Respondent to furnish an authenticated copy of Cabinet Secretariat (SR) Order No. 15/6/2022-E-II-716 dated 27-09-2023 within seven days.
2. Impose penalty upon the CPIO under Section 20(1) RTI Act and/or issue appropriate advisory.
3. Award compensation to the Appellant under Section 19(8)(b) for costs and mental agony.
4. Pass any other or further orders deemed fit in the interest of justice.

Filed on 06 May 2025

Sincerely,

Group Captain Kunal Sethi (Retd.)

56, Chota Singh Block,

Asian Games Village,

New Delhi – 110049

Date: [Insert Date]

## ANNEXURE P-14

Central Information Commission, New Delhi

File No.CIC/SM/C/2011/001564

Right to Information Act-2005-Under Section (19)

**Date of hearing** : **29 February 2012**

**Date of decision** : **29 February 2012**

**Name of the Appellant** : Sh. Subhash Chandra Agrawal,  
1775, Kucha Lattushah, Dariba Chandni  
Chowk, Delhi - 110006

**Name of the Public Authority** : Central Public Information Officer,  
Prime Minister's Office,  
South Block, New Delhi - 110 101 Central  
Public Information Officer, MERGEFIELD  
"Name\_of\_Department" Cabinet  
Secretariat, Rashtrapati Bhawan, New  
Delhi

The Appellant was present in person.

On behalf of the Respondent, the following were present:-

- (i) Ms. Sanjukta Ray, DS & CPIO, PMO
- (ii) Shri Sanjeev Gupta, SO & CPIO
- (iii) Shri Subhendu Hota, SO & CPIO
- (iv) Shri SGP Verghese, US & CPIO, Cab. Sectt.
- (v) Shri S.K. VaValiathan, US & CPIO, Cab. Sectt.
- (vi) Shri S.P. Roy, US & CPIO, Cab. Sectt.

**Chief Information Commissioner** : **Shri Satyananda Mishra**

2. All the parties were present during the hearing and made their submissions.

3. The Appellant had sought a number of information regarding the appointment of a particular individual as Secretary of RAW. The CPIO had not provided the information presumably on the ground that the information related to an organisation included in the Second Schedule to the Right to Information (RTI) Act. Against this decision of the CPIO, the Appellant had preferred an appeal before the Appellate Authority. Since the Appellate Authority had not passed any order within the prescribed time limit, the Appellant had directly approached the CIC.

4. Today, during the hearing, the Respondent representing the Cabinet Secretariat submitted that, in the meanwhile, the Appellate Authority had passed an order and had remanded the matter to the CPIO for taking further action. A copy of the order passed by the Appellate Authority was shown to us in which that authority has held that the desired information did not relate to the exempted organisation but to the manner in which the appointment was made to that organisation by the competent authority and, therefore, it could not be said that the information was about the exempted organisation. Thus, the Appellate Authority has clearly accepted that the desired information does not relate to the exempted organisation but to the Cabinet Secretariat. With this clarification by the Appellate Authority, we hope the CPIO shall take appropriate decision at the earliest and communicate to the Appellant.

5. In view of this, there is nothing more to be done in the case. It is disposed of accordingly.

6. Copies of this order be given free of cost to the parties.

(Satyananda Mishra)  
Chief Information Commissioner

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges prescribed under the Act to the CPIO of this Commission.

(Vijay Bhalla)  
Deputy Registrar

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IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI  
C.M.NO. OF 2025  
IN  
WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2025

**IN THE MATTER OF:**

GROUP CAPTAIN (RETD.) KUNAL SETHI ... PETITIONER

VERSUS

CENTRAL PUBLIC INFORMATION OFFICER O/o CABINET  
SECRETARIAT & ORS. ... RESPONDENT<sup>13</sup>

**APPLICATION UNDER SECTION 151 OF THE CODE OF CIVIL  
PROCEDURE, 1908 SEEKING EXEMPTION FROM FILING  
CERTIFIED COPIES OF ORIGINAL ANNEXURES P-1 TO P-14.**

**MOST RESPECTFULLY SHOWETH:**

1. The Petitioner has preferred the present Writ Petition under Articles 226 and 227 of the Constitution of India against the decision dated 13.05.2025 passed by the Hon'ble Central Information Commission at New Delhi in the Second Appeal numbered CIC/CABST/A/2024/612583 and dated 21.03.2024.
2. The Petitioner/Applicant craves leave of this Hon'ble Court to refer to and rely upon the facts and circumstances set out in the accompanying writ petition, contents whereof are not reproduced herein for the sake of brevity
3. By way of the present Application, the Petitioner/Applicant seeks the indulgence of this Hon'ble Court to allow the Petitioner/Applicant to file

photocopies of the annexures/documents and exempt the Petitioner/Applicant from filing certified copies / true copies of the original documents/annexures P-1 to P-14.

4. That all the annexures/documents filed along with the writ petition are important /germane for the proper adjudication of the instant issue and in the event where exemption as sought for is not granted to the Petitioner/Applicant, the Petitioner will suffer irreparable loss and injury
5. That the present Application is made bona fide and in the interest of justice.

### **PRAYER**

In view of the facts and circumstances stated hereinabove, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to

A). exempt the Petitioner/Applicant from filing certified copies / true copies of the original documents/annexures P-1 to P-14.

B) Pass any other order or directions which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

*FOR WHICH ACT OF KINDNESS THE PETITIONER AS INDUTY BOUND,  
SHALL EVER PRAY.*

  
**JAHNAVI SINDHU (D/3742/2015) AND KRISHNESH BAPAT (D/4839/2019)**  
**ADVOCATES FOR THE PETITIONER**  
**S-523A, SECOND FLOOR, GREATER KAILASH - 2**  
**New Delhi – 110048**  
**+91 9811617823 | krishnesh@kblawoffice.in**

IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI  
 ORIGINAL JURISDICTION  
 CM APPLICATION NO. \_\_\_\_\_ OF 2025 IN  
 WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2025

**IN THE MATTER OF:**

GROUP CAPTAIN (RETD.) KUNAL SETHI ... PETITIONER

VERSUS

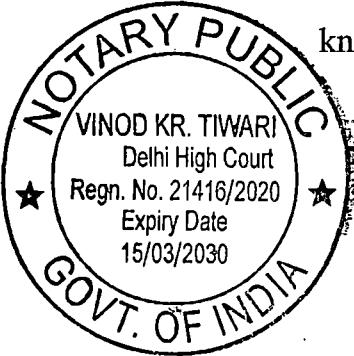
CENTRAL PUBLIC INFORMATION OFFICER O/o CABINET

SECRETARIAT ... RESPONDENT

**AFFIDAVIT**

I, Kunal Sethi, son of Late Shri Hakim Rajinder Sethi, aged about 59 years, and presently residing at 56, Chota Singh Marg, Asian Games Village, New Delhi do hereby solemnly affirm and state as under:

1. That I am the Petitioner in the above captioned matter, and that I am well conversant with the facts of the case. I am therefore competent to swear the present Affidavit.
2. That I am conversant with the facts and circumstances of the case and have also examined the relevant documents and records in relation thereto.
3. That I have perused and understood the contents of the accompanying Application, and the contents thereof are true and correct to my knowledge. Nothing material has been concealed therefrom.



A handwritten signature in black ink, appearing to read "Kunal Sethi".

4. The accompanying Application has been drafted on my instruction and the legal submissions made therein are as per the legal advice received by me.

  
DEONENT

VERIFICATION

26 MAY 2025

Verified at \_\_\_\_\_ on 26<sup>th</sup> May, 2025 that the contents of the aforesaid affidavit are true and correct to my knowledge, and that no part of it is false and nothing material has been concealed therefrom.

  
DEONENT

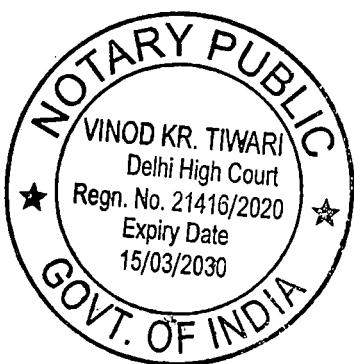
165  
I identify the Deponent who has signed/put  
thumb impression in my presence

CERTIFIED THAT THE CONTENTS EXPLAINED TO THE  
DEONENT EXECUTANT WHO IS SEEMED PERFECTLY TO  
UNDERSTAND AFFIRMED & DEPOSED BEFORE ME AT NEW DELHI

J. Sandhu  
.....  
IDENTIFY THE EXECUTANT/DEONENT WHO HAS  
SIGNED IN MY PRESENCE  
VINOD KUMAR TIWARI, Advocate, Reg. No. 21416/2020  
NOTARY PUBLIC (NEW DELHI)

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26 MAY 2025



IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI

ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2025

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IN THE MATTER OF:

GROUP CAPTAIN (RETD.) KUNAL SETHI

... PETITIONER

VERSUS

CENTRAL PUBLIC INFORMATION OFFICER O/o CABINET SECRETARIAT

... RESPONDENTS

KNOW ALL to whom these presents shall come that I, Mr Kunal Sethi, aged about 59 years and presently residing at 56, Chota Singh Marg, Asian Games Village, New Delhi, am the Petitioner in the above captioned petition and that I do hereby appoint:

JAHNAVI SINDHU (D/3742/2015) AND KRISHNESH BAPAT (D/4839/2019)

ADVOCATE

S-523A, SECOND FLOOR, GREATER KAILASH - 2, NEW DELHI - 110048

(herein after called by advocate/s) to be my/our Advocate in the above-noted case and hereby authorise him:-

To act, appear and plead in the above-noted case in this court or in any other Court in which the same may be tried or heard and also in the appellate court including High Court subject to payment of fees separately for each court by me/us.

To sign file, verify and present pleadings, appeals cross-objections or petitions for executions review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages subjects to payment of fees for each stage.

To file and take back documents, to admit and /or deny the documents of opposite party.

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings.

The deposit, draw and receive money, cheques, case and grant receipts hereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.

To appoint and instruct any other Legal Practitioner authorising him to exercise the power and authority hereby conferred upon the Advocate whenever he may think fit to do so and to sign the power of attorney on our behalf.

And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purpose.

And I/We undersigned that I/We or my/our duly authorized agent would appear in court on all hearings and will inform the Advocate for appearance when the case is called.

And I/We undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the court shall be of the Advocate which he shall receive and retain for himself.

And I/We undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/We hereby agree that once the fee is paid, I/We will not be entitled for the refund of the same in any case whatsoever and if the case prolongs for more than 3 years the original fee shall be paid again by me/us.

**IN WITNESS WHERE OF** I/We do hereunto set my/our hand to these presents the contents of which have been understood by me/us on this 26<sup>th</sup> day of May, 2025

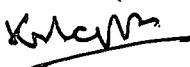
**ADVOCATES**

JAHNAVI SINDHU (D/3742/2015) 

Client

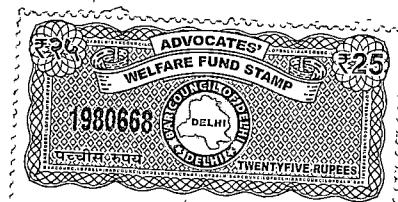


AND KRISHNESH BAPAT (D/4839/2019)











ANIL KUMAR <anilco040@gmail.com>

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## group captain

1 message

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**ANIL KUMAR** <anilco040@gmail.com>  
To: uoidhc@gmail.com, fdesk-cic@gov.in

28 May 2025 at 10:28

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 GROUP CAPTAIN VS CENTRAL PUBLIC.pdf  
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