

**Independent Coast Conservation Union v Coast Conservation and Coastal Resource
Management Department**

RTIC Appeal (In person)/84/2018 (*Order adopted as part of a formal meeting of the Commission on 27.03.2018*)

Order under Section 32 (1) of the Right to Information Act, No 12 of 2016 and Record of Proceedings under Rule 28 of the Right to Information Rules of 2017 (Fees and Appeal Procedure)

Chairperson: Mr. Mahinda Gammampila

Commission Members: Ms. Kishali Pinto-Jayawardena

Mr. S.G. Punchihewa

Justice Rohini Walgama

Present: Director-General Mr. Piyathissa Ranasinghe

Appellant: Independent Coast Conservation Union

Notice issued to: B. K. Prabath Chandrakeerthi Director-General (Acting) Coast Conservation and Coastal Resource Management Department

Appearance/ Represented by:

Appellant Union - J. A. Susil Kumara
Sudath Hemachandra

PA - B. K. Prabath Chandrakeerthi Director-General
Rangana Fernando Director (Acting)
Panchali K.... Legal Officer

RTI Request filed on:	31.08.2017
IO responded on:	02.10.2017
First Appeal to DO filed on:	19.10.2017
DO responded on:	02.11.2017
Appeal to RTIC filed on:	12.12.2017

Brief Factual Background:

The Appellant union by request dated 31.08.2017, requested ‘a copy of the documents containing the observations and recommendations of the Secretary to the Ministry of Defence and Urban Development and the Director General of Coast Conservation and Coastal Resource Management Department which resulted in the salary conversion MN-01-2006A (based on

which the National Salaries and Cadre commission had recommended the decisions concerning the salary provisions of 'Assistant Managers- non technical' Section).

The IO/ PA responding on 02.10.2017 stated that there was no document containing observations and recommendations in the file maintained by the PA regarding the said subject matter. The Appellant union dissatisfied with the response, lodged an appeal with the DO on 19.10.2017 to which the DO responded reiterating the response of the IO. Thereafter the Appellant lodged an appeal with the Commission on 12.12.2017.

Matters Arising During the Course of the Hearing:

As the Appellant was a registered trade union it was required to aver citizenship under and in terms of Section 3 read with Sections 24(1) and 43 of the Act (*TISL v. Prime Minister's Office/Presidential Secretariat* (RTICAppeal/05/2017 & RTICAppeal/06/201, RTIC Minutes of 23.02.2018). While the Appellant had not done so in its original information requests, the Appellant averred citizenship as of record before the Commission which averment was accepted as sufficient for the purpose with the concurrence of the Public Authority.

At the time of the hearing, the Appellant union submitted that the letter No. DMS/1185 dated 23.03.2015, by the Director- General of Department of Management Services, to the Secretary of Mahaweli Development and Environment, suggested the existence of the document requested by the Appellant union, despite the PA's continuous insistence that the letter did not exist in the relevant files of the PA. The PA further submitted that the officers were not placed in the said salary scale.

The PA was queried as to if it had requested the Department of Management Services whether the Department of Management Services had in its possession the requested observations and recommendations, (since letter No. DMS/1185 dated 23.03.2015, indicating the existence of these observations and recommendations in writing stems from the said Department) to which the PA responded in the negative.

Order:

While it is noted that the PA did not forward the information request to the Department of Management Services in the first instance, since the PA itself, denies the existence in its possession, custody or control, documents containing the observations and recommendations (of the Secretary to the Ministry of Defence and Urban Development and the Director General of Coast Conservation and Coastal Resource Management Department which resulted in the salary conversion MN-01-2006A), the PA is directed in any event to inquire from the Department of Management Services and revert to the Commission as to the possession of the said observations and recommendations by the Department of Management Services, in view of the fact that letter No. DMS/1185 dated 23.03.2015, placed before this Commission, indicates the existence of the said observations and recommendations requested by the Appellant union.

The Appeal is adjourned.

Next date of hearing: 15.05.2018.
