

G J C de Silva v. Sri Lanka Army (SLA)

RTIC Appeal(In-Person) /182/2018 - *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)* – heard as part of a formal meeting of the Commission on 14.08.2018

Chairperson: Mahinda Gammampila
Commission Members: Kishali Pinto-Jayawardena
S.G. Punchihewa
Dr Selvy Thiruchandran
Justice Rohini Walgama

Present: Director-General - Piyathissa Ranasinghe

Appellant: Ms G J C de Silva
Notice Issued to: Designated Officer, Sri Lanka Army

Appearance/ Represented by:

Appellant - Ms G J C de Silva
Mr M B D S Jayathilake
Public Authority - Lt Cl Thushara Arampatha
Major W K S Soysa

RTI Request filed on	02.11.2017
IO responded on	05.02.2018
First Appeal to DO filed on	30.11.2017
DO responded on	20.12.2017
Appeal to RTIC filed on	12.02.2018

Brief Background Facts

The Appellant had requested the following items of information, with regard to her Husband M B D S Jayathilake's (RSP ISC 60658) forced retirement from the SLA, by an information request dated 02.11.2017

1. Reasons for annulling the results of the first physical fitness examination (which B D S Jayathilake passed)
2. Copies of the disciplinary reports containing records of bad behaviour of B D S Jayathilake

As no initial response was received from the IO, an Appeal was lodged with the DO on 30.11.2017. The DO, R P R Rajapakse of the Ministry of Defence by letter dated 20.12.2017 acknowledging the receipt of the Appeal. Subsequently, the IO, Brigadier W P U Weerasinghe of the Ministry of Defence responded to the Appellant by letter dated 29.01.2018 attaching a copy of disciplinary reports containing records of bad behaviour and a review report of the same. The IO further stated that the information contained in the review report was submitted to him by a board appointed by the Army Commander of SLA and the SLA informed the IO that no further

prejudice was caused to the retired officer. Dissatisfied with the response, the Appellant preferred an appeal to the Commission on 12.02.2018

Matters Arising During the Hearing

The Appellant submitted that her husband was wrongly accused of bad behaviour and was forced into retirement. The Appellant further submitted it was alleged that her Husband mishandled intelligence information, in 2012. Her Husband had been promoted twice thereafter and given the opportunity to take part in foreign tours following the incident in question. The Appellant further submitted that therefore these disciplinary reports containing records of bad behaviour were new information and the records in question had been inserted into the his personal folder 7 years after the alleged event occurred.

On perusal of the documentation in relation to the appeal, it was observed by the Commission that the RTI Request had been filed against the Ministry of Defence while the Appeal to the Commission was against the Sri Lanka Army. In response, the Appellant submitted that the original request was made to Sri Lanka Army Head Quarters and the denial of information on the basis that it had no IO left her with no choice but to resort to filing a request with the Ministry of Defence.

The PA in response, submitted that the PA wasn't aware of this particular Appeal in question as the initial requests had not been sent to the PA.

Order

As the PA in this instance submits that it has not received the information request in issue a copy of the said request is provided to it.

The PA is directed to submit a response to this request within 15 days, ascertaining the status of the availability of the requested information and the PA's ability to provide the same.

It is further directed that Notices be issued both to the Ministry of Defence and the SLA for the next hearing, as the Appellant had filed the Initial RTI Request with the Ministry of Defence.

The Appeal is adjourned.

Next date of hearing: 02.10.2018
