

A E M J Fernando v. People's Bank

RTIC Appeal(In-Person) /292/2018 - 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 17.07.2018

Chairperson: Mahinda Gammampila
Commission Members: Kishali Pinto-Jayawardena
S.G. Punchihewa
Dr Selvy Thiruchandran
Justice Rohini Walgama
Director-General: Piyathissa Ranasinghe
Appellant: A E M J Fernando
Notice Issued to: Designated Officer, People's Bank

Appearance/ Represented by:

Appellant - A E M J Fernando
Public Authority - N G T Kalpani, Assistant Manager, Compliance, People's Bank
D K Liyanage

RTI Request filed on	07.09.2017
IO responded on	06.11.2017
First Appeal to DO filed on	12.12.2017 and 08.01.2018
DO responded on	25.01.2018
Appeal to RTIC filed on	-

Brief Background Facts

The Appellant had requested for the Performance Scores and Interview Scores of all Grade I officers who took part in the interview process on 07.12.2003 to be promoted to the Assistant General Manager Grade of the People's Bank, by an information request dated 07.09.2017

The IO responded by letter dated 06.11.2017 denying the request under section 5(1)(a) of the Act. Dissatisfied with the response, the Appellant appealed to the DO on 12.12.2017 and 08.01.2018. In his response by letter dated 25.01.2018, the DO denied the request informing the Appellant that the requested information had been destroyed due to a lapse of time. Dissatisfied with the response, the Appellant preferred an appeal to the Commission.

Matters Arising During the Hearing

The Appellant submitted that the requested information was denied under section 5(1)(a) of the Right to Information Act No. 12 of 2016 in the first instance and different reasons were stated by the DO in denying the request in the second instance. The Appellant further submitted that the requested information was the subject matter of a Fundamental Rights Case (SCFR 11/2004) and the information could not have been destroyed according to the PA's Circular No. PMO/BO/92.11/009 and if the requested information were to be destroyed, the information needs to be archived and in the possession of the PA as per the regulations of the above mentioned Circular.

In response, the PA submitted that 15 years have lapsed since the interview in question took place and documents have since been discarded. The PA further submitted that it follows the above mentioned Circular with regard to discarding information and if the requested information had been recorded by the PA there is a possibility that the information could be in the possession of the PA.

Order

The PA is directed to ascertain if the requested information is in its possession recorded in any form and to revert by way of written submission as to the PA's ability/inability to provide the requested information.

The Appeal is adjourned.
Next date of hearing: 04.09.2018



RTIC Appeal(In-Person) /292/2018 - 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 04.09.2018

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

Director-General: Piyathissa Ranasinghe

Appellant: A. E. M. J. Fernando
Notice Issued to: Designated Officer, People's Bank

Appearance/ Represented by:

Appellant - A. E. M.J. Fernando
Public Authority - N G T Kalpani, Assistant Manager, Compliance, People's Bank
D.M.P.S Dissanayake, Legal Officer, People's Bank

Matters Arising During the Hearing

Upon being queried as to the status of the information requested, the Legal officer of the PA submitted that 15 years have lapsed since the interview in question took place, that the maximum period the PA retained its documentation/records/information was 12 years and as a result the documents in relation to the information requested were discarded. For that reason, it was the PA's contention that the information requested was not in the possession of the PA under and in terms of the Section 3 of the Right to Information Act No. 12 of 2016.

However, the attention of the PA was drawn to the fact any document/record/information in the possession of the PA could not have been destroyed without adhering to the procedures of the Circular No. PMO/BO/92.11/009 and if the requested information were to be destroyed, the information requested should be recorded and kept in the possession of the PA as per the regulations of the above mentioned Circular. In response, the Legal officer of the PA requested another date enabling the PA to ascertain whether such records had been maintained under and in terms of the above mentioned Circular.

Order

At the Right to Information Commission of Sri Lanka

The PA is directed to ascertain whether the information discarded is in its possession recorded in the form and manner as required under and in terms Circular No. PMO/BO/92.11/009. Further if the requested information has been destroyed the PA is directed to produce documentation to substantiate that such information was destroyed in adherence with the above mentioned Circular.

The Appeal is adjourned.

The next date of the hearing: 23.10.2018
