

**NAGALAND INFORMATION COMMISSION**

**Old Secretariat Complex,**

**Post Box No. 148**

**Nagaland, Kohima - 797001.**

**Tel: 0370-2291041, Fax: 0370-2291774, Website: www.nlsic.gov.in**



No. NIC/Complaint-6/2014-15

Dated Kohima, the 21<sup>st</sup> February, 2015.

Complainant(s): Shri. L. Chubaonen,  
District Soil Conservation Officer,  
Mon, Nagaland,  
Mobile No. 9436403388

Respondent(s): Shri. Kelhouseto Nakhro,  
Deputy Secretary & PIO,  
NPSC,  
Nagaland, Kohima

Public Authority: NPSC, Nagaland, Kohima.

Date of hearing: 11.02.2015 at 11:00 AM.

Date of Decision: 21.02.2015.

Present:

1. Shri. Kelhouseto Nakhro, Deputy Secretary & PIO, NPSC, Nagaland, Kohima.
2. The applicant(now complainant), Shri. L. Chubaonen, District Soil Conservation Officer, Mon, Nagaland, Mobile No. 9436403388.
3. Shri. Zasotsolie, Legal Counsel of the applicant, Mobile No. 98561622.
4. Shri. Myansao Lotha, DSCO, Tuensang, Mobile No. 9436010035.
5. Shri. Denis Angami, Deputy Director, Soil & Water Conservation, Nagaland, Kohima, Mobile No. 9436266242.
6. Shri. L. Philip Patton, DSCO, Kiphire, Mobile No.9402832835.

**FACT OF THE CASE**

An applicant, Shri. L. Chubaonen, District Soil Conservation Officer, Mon, Nagaland, Mobile No. 9436403388 had, submitted an RTI application dated 16.04.2014, addressed to the PIO, Nagaland Public Service Commission, Nagaland, Kohima, alongwith a fee of Rs. 10/- (Rupees ten only) paid through Treasury Challan requesting for the following information in the form of documents/floppy disc/any available form:-

1. Grounds for appointing Shri. Lipokmar Yaden to the post of Assistant Soil Survey Officer (ASSO) on 12<sup>th</sup> October, 1987 after the expiry date of the stipulated time of six(6) months given by the NPSC Recruitment Rules.
2. List of Cadre selected in waiting list in the Combined Technical Exam conducted by the NPSC in the year 1986 which were to be recruited to the Department of Soil & Water Conservation.
3. As per the appointment letter No. SC.DTT-64/82/7596-605 dated Kohima the 12<sup>th</sup> October, 1987, Shri. Lipokmar Yaden has been appointed on "purely temporary basis", therefore the date of his service regularization be given.
4. Name of the employee who is responsible for the proper custody of File No. NPSC/C-4/87? If the employee has been expired, name of the person/s who succeeded him?
5. Does the Commission have the authority to misplace files or make it untraceable when the appointed Cadre is still serving as a Gazetted Officer in the Department of Soil & Water Conservation?

On receipt of the above RTI application dated 16.04.2014, Shri. Kelhouseto Nakhro, Deputy Secretary & PIO, NPSC, Nagaland, Kohima had, vide letter No. NPSC/RTI ACT, 2005 dated 13.08.2014 furnished the information to the applicant as follows:-

1. Query No. 1, the File pertaining to the appointment could not be traced and therefore the undersigned is not in a position to furnish the information asked.
2. Query No. 2, as the file could not be traced, the waiting list could not be furnished. However, the name of Shri. Lipokmar Yaden has appeared in the Nomination Register. The copy of the said Nomination Register where Lipokmar Yaden's name appeared is enclosed herewith.
3. Query No. 3, the Commission has nothing to do with the appointment except recommendation of the candidate to the Government. Therefore, the Commission has no information pertaining to the question.
4. Query No. 4, the Commission has no record of the staff detailing with the file as it pertains to the year 1986-87.
5. Query No. 5, the Commission have no authority to misplace files or make it untraceable of any file.

Since the applicant was **not satisfied** with the above reply of the Deputy Secretary & PIO, NPSC, Nagaland, Kohima to his above RTI application dated 16.04.2014, the applicant(now complainant) had submitted a complaint dated 19.09.2014 before this Commission.

And the Commission has decided to hear the complaint, giving opportunity to the parties, on **12<sup>th</sup> December, 2014 (Friday) at 12:30 PM** in the **Hearing Room of the Nagaland Information Commission, Old Secretariat Complex, Kohima.**

However, since the PIO had, vide his letter No. Nil dated 04.12.2014, requested for postponement of the hearing scheduled on **12<sup>th</sup> December, 2014 (Friday) at 12:30 PM** on the ground that he had to address the students in the Introductory Session on **12.12.2014** at 2:00 PM during the 50<sup>th</sup> Year Celebration of the Chakhroma Students' Union at Chumukidema, the Commission had, vide letter of even No. dated 08.12.2014 accepted his request, and informed that the hearing which was earlier scheduled on 12<sup>th</sup> December, 2014 (Friday) at 12:30 PM was **postponed to a later date** and a new date for the hearing shall be intimated later.

The Commission had, vide letter of even No. dated 30.01.2015 notified that the hearing on **12<sup>th</sup> December, 2014 (Friday) at 12:30 PM** which was earlier postponed was now rescheduled **on 11<sup>th</sup> February, 2015 (Wednesday) at 12:30 PM.**

### **OBSERVATIONS AND FINDINGS:**

The Commission observed that though the PIO, NPSC had on 13.08.2014 furnished all the replies, the applicant(now complainant) was **not satisfied** with the reply of the PIO as stated in his complaint dated 19.09.2014 before this Commission. The Commission took up the complaint case query-wise and heard the parties during the hearing.

#### **Query No. 1:**

Shri. Zasitsolie, the legal counsel of the applicant, submitted that the applicant was not satisfied with the reply of the PIO, NPSC dated 13.08.2014 since he did not get the **reasons or the grounds** sought for the appointment of Shri. Lipokmar Yaden to the post of Assistant Soil Survey Officer (ASSO) on 12<sup>th</sup> October, 1987 after the expiry of the stipulated waiting period of six(6) months given in the NPSC Recruitment Rules.

Further, the legal counsel of the applicant submitted that the reply of the PIO, NPSC dated 13.08.2014 that files were untraceable was unacceptable when the incumbent, Shri. Lipokmar Yaden is still in service. And even if the files or records were weeded out, there should be some orders or records regarding weeding of the records.

During the hearing, Shri. Kelhouseto Nakhro, Deputy Secretary & PIO, NPSC, Nagaland, Kohima submitted that on receipt of the RTI application dated 16.04.2014 on **19.04.2014**, he had personally searched for the files and even engaged his peon and other staffs to search thoroughly in the store room. However, inspite of thorough search, the file pertaining to the appointment of Shri. Lipokmar Yaden could not be traced out and therefore not in a position to furnish the information as sought. He intended that only

after a thorough search and locating the files and records, the complete information would be furnished. However, since considerable time had been spent in tracing out the files and records, he could reply to the applicant only on **13-08-2014** after the stipulated time frame of 30 days.

However, the applicant submitted that he was **not satisfied** with the reply and submission of the PIO.

**Query No. 2:**

During the hearing, the PIO submitted that the NPSC maintains two(2) registers – one for Tabulation of scores and the other, a Nomination Register for recommendation of successful candidates to the Government for appointment. And inspite of the tremendous efforts as submitted earlier, since the file relating to Shri. Lipokmar Yaden could not be traced out except the Nomination Register where the names of the four (4) successful candidates recommended for appointment on 15.11.1986 and Shri. Lipokmar Yaden, the wait listed candidate on 01.08.1987 appeared, he had furnished a photocopy of the Nomination Register to the applicant(now complainant). A photocopy of the Nomination Register was also produced before this Commission.

However, the applicant submitted that he was **not satisfied** with the reply and submission of the PIO.

**Query No. 3.**

The PIO, NPSC clarified that the NPSC is only a recommending authority and not an appointing authority. The appointing authority is the Government which appoints the successful candidates recommended by the NPSC. Therefore, the information sought by the applicant could not be given.

The Commission agreed with the reply and the submission of the PIO, NPSC.

The applicant submitted that he was now **satisfied** with the reply and submission of the PIO.

**Query No. 4.**

As submitted earlier by the PIO, NPSC, inspite of thorough search for the files and records including the store room personally and by even engaging his peon and other staffs, the file could not be traced out, and hence the NPSC has no record of the staff dealing with the file as it pertains to the year 1986-87.

However, the applicant submitted that he was **not satisfied** with the reply and submission of the PIO.

**Query No. 5.**

During the hearing, the PIO, NPSC submitted that as replied earlier to the applicant(now complainant), the NPSC have no authority to misplace files or make it untraceable of any file.

The Commission agreed with the reply and the submission of the PIO, NPSC.

The applicant submitted that he was now **satisfied** with the reply and submission of the PIO.

**DECISION:**

On the above observations and findings, the Commission decided that:-

1. Since the PIO, NPSC had submitted that inspite of taking much effort in locating the files personally and even by engaging his peon and other staffs to search thoroughly in the store room, the files and records could not be traced out, and that in the process of locating or searching the files and records, he had spent considerable time in order to furnish the complete information to the applicant, the Commission observed that the

delay in replying to the applicant after the expiry period was not intentional and hence decided not to impose any penalty on the PIO, though the reply was given after the expiry of the 30 days.

2. Since the applicant submitted that he was satisfied with the reply of the PIO on his **query No. 3 and 5**, the Commission dropped these queries.
3. The Commission agreed with the submission of the PIO regarding Query Nos. 1, 2 and 4 that the information could not be furnished since the records could not be traced out. However, regarding **Query Nos. 1, 2 and 4** where the information could not be traced out, the Commission directs that the NPSC shall set up an **Inquiry Committee** to enquire and locate the files and records. And if found, to be furnished to the applicant, with a copy to this Commission. And if not found, to submit an Affidavit declaring that the files could not be traced out.

The report of the Inquiry Committee shall be submitted to this Commission latest by **03.03.2015** and with a copy to the applicant.

This complaint case shall be closed only after compliance to this Commission's Decision is received.

Decision pronounced in presence of all parties present on 11.02.2015.

Copy be given to:-

1. Shri. Kelhouseto Nakhro, Deputy Secretary & PIO, NPSC, Nagaland, Kohima
2. The applicant(now complainant), Shri. L. Chubaonen, District Soil Conservation Officer, Mon, Nagaland, Mobile No. 9436403388.
3. Shri. Zasotsolie, Legal Counsel of the applicant, Mobile No. 98561622.
4. The Computer Programmer, Nagaland Information Commission for uploading on the website and Notice Board.
5. Office Copy.

**Sd/-**  
**BUKCHEM PHOM**  
State Information Commissioner,  
Nagaland.

Authenticated by:-

**(WORHONTHUNG EZUNG)**  
Under Secretary