

**GOA STATE INFORMATION COMMISSION  
AT PANAJI**

**CORAM:** Shri Afonso Araujo, State Information Commissioner

**Penalty Case No. 9/2010**  
**In**  
**Complaint No. 13/SCIC/2009**

Shri Agnelo Gama,  
H. No. 20/A, Arossim,  
P.O. Cansaulim-Goa

..... Complainant.

V/s.

Shri S. V. Naik,  
The then Public Information Officer & Chief Officer,  
Mormugao Municipal Council,  
Vasco-da-Gama, Goa

..... Opponent/Respondent.

Complainant alongwith Adv. Raikar.  
Opponent in person.

**Dated: 06.07.2010**

**ORDER**

As the Public Information Officer of the Mormugao Municipal Council (hereinafter referred as 'the Council') did not provide the information sought under Right to Information Act, 2005 (for short 'The Act') by way of reconstituting the file of service book and leave account of the Complainant, a show cause notice was issued to the then Public Information Officer for imposition of penalties, recommending disciplinary proceedings and compensation to the Complainant.

2. The Opponent in his reply submitted that whatever information was available was provided to the Complainant and that it was explained to the Complainant the inability of the Office of the Council in providing remaining information and that the Complainant realizing that no more relief was available, approached the Office of the Council by request dated 19.03.2010 requesting for payment of terminal dues, GPF, Insurance, etc. which is being considered by the Council and that the Opponent was relieved of the Office of Chief Officer of the Council on 25.03.2010.

3. In matters of imposing penalties to the Public Information Officer

....2/-

under RTI Act is to be dealt as of that under criminal law. Unless there is an intentional or deliberate denial of information sought, the provisions of imposing penalties and recommending disciplinary proceedings u/s. 20(1) and 20(2) respectively of the RTI Act, are not attracted. Now the question is whether there is material on record to indicate that the then Public Information Officer intentionally or deliberately did not provide information to the Complainant.

4. The information which the Complainant requires, consists of his service book, leave account maintained by the Council. As per the letter of the President of the Council dated 03.11.1979 addressed to the Additional Director of Municipal Administration, Panaji, the service of the Complainant, pertaining to the records from the period 1966 to the date of termination in 1973, was not maintained by the Council, as there was no procedure in the Council of maintaining the service book of its employees and that it was only in the year 1973 that the maintenance of service book was introduced by the Council.

5. The services of the Complainant were terminated by the Council in the year 1973 and the Complainant was reappointed in the year 1978. It appears the service book alongwith other documents concerning the Complainant were sent to the Additional Director by the Council by the same letter dated 03.11.1979. This service book the Opponent could not locate either in the Office of the Council nor in the Office of the Directorate of Municipal Administration. As the service book could not be provided to the Complainant, this Commission by Order dated 29.10.2009 explored the possibility of reconstituting the file and directed Opponent with whatever documents available with the Council and the Complainant, reconstitute the service book of the Complainant.

6. In the notings dated 31.10.2006 of the Accounts Officer of the Council, it is mentioned that the services of the Complainant was terminated in the year 1973, reinstated in the year 1978, remained

absent from duty on medical grounds from April 1982 and again his services were terminated in the year 1984. Subsequently, in the year 1996 the Complainant was appointed on contract basis and the contract was renewed upto 30.08.2000 and on 31.08.2000 the Complainant was appointed on regular basis and retired on 31.10.2001. From the notings it indicates that there was break in service for a period of 18 years and the Complainant was on contract basis for a period of four years.

7. Considering that the Council began to maintain the service books of its employees only from 1973, the fact that after the Council terminated the services of the Complainant in the year 1973, reappointed the Complainant in the year 1978, the fact that service book of reappointment was not found either with the Council or Directorate of Municipal Administration, the fact that due to a long break in service and the Complainant been appointed on contract basis, the Council was unable to reconstitute the service book of the Complainant, it cannot be said that the Opponent intentionally did not provide the information to the Complainant. The Council to consider the request of the Complainant dated 19.03.2010 for payment of terminal dues, GPF, Insurance and render assistance in order to enable the Complainant to obtain his retirement benefits.

With the above observations this case is accordingly disposed off.

Sd/-  
(Afonso Araujo)  
State Information Commissioner