

No. 2022/HQ/Admin/RTI-743

New Delhi: 01.07.2022

Sh. Upendra Kumar Vimal
Dy. PM/Traffic,
DFCCIL/Noida Unit

Subject: Providing information w.r.t. Original RTI Application received under the RTI Act 2005.

Reference: RTI application dated 01.06.2022 received in this office on 03.06.2022.


Information, as obtained from the concerned record holding office, is provided herewith as under;

S. No	Point No.	Information sought	Information provided
1.	1	Refer to the original RTI application dt. 01.06.2022	The requisite note sheets are attached.

First Appeal if any may be made to the First Appellate Authority within 30 days of receipt of reply. The name, designation & address of the First Appellate Authority is as under;

Mr. Gaurav Sharma
GM/Administration DFCCIL,
5th Floor, Supreme Court Metro Station Building,
Pragati Maidan, New Delhi-110001

DA: 10 sheets


(S.K. Panda)
JGM/Admn.(CPIO)
Mob.-9717636811
E-mail: skpanda@dfcc.co.in

Note # 53

Sub:- Legal Notice for decision on Residency period of Shri Upendra Kumar Vimal, in the grade of Deputy Project Manager/Traffic/Noida
Ref.:- Legal Notice addressed to MD/DFCCIL

Shri A. P. Nagrath, Advocate, Delhi High Court vide S. No. 212 has sent a Legal Notice addressed to Managing Director/DFCCIL regarding residency period of Shri Upendra Kumar Vimal, in the grade of Dy. PM/Traffic/Noida.

He further added that this Legal Notice arising out of Office Order No. 27/2021 dated 15.01.2021 (S. No. 197) issued in continuation of Office Order No. 551/2020 Dated 04.09.2020 (S. No. 195) where by Shri Vimal has been re-designated as Dy. Project Manager/OP&BD/Noida from 20.09.2017 the date on which he was granted NBR by his parent Railway NRC. However, the benefit of counting residency period made effective only from 28.08.2018, the date of his absorption in DFCCIL as the employee joined as APM and subsequently re-designated as Dy. Project Manager.

1. Factual Position

While working as Station Master on N. C. Rly (Group 'C' Post in GP Rs. 4600/-) Shri Vimal was selected for deputation to DFCCIL as Asstt. Project Manager/Traffic (E3 level) and he joined DFCCIL on 05.05.2017 (S. No. 159). Prior to joining in DFCCIL, Shri Vimal appeared in the Group 'B' selection held by N C Railway. On being successful in the same, he was promoted to Group 'B' in GP Rs.. 4800/- as AOM/ATM and posted at Kanpur vide N C Railway order dated 20.09.2017 (S. No. 158). However, Shri Vimal decided to continue in DFCCIL (S. No. 160) and, as per prevailing instructions, applied for technical resignation from Railway service in order to seek permanent absorption in DFCCIL. His technical resignation was accepted by N. C. Railway w.e.f. 27.08.2018 (S. No. 156) and he was permanently absorbed in DFCCIL w.e.f. 28.08.2018 as Assistant Project Manager in E-3 level vide Office Order No. 367/2018 Dated 01.10.2018 (S. No. 157).

Thereafter, Shri Vimal represented for grant of re-designation as Dy. Project Manager in E-4 level (S. No. 160). The same was considered and after going through the necessary formalities, he was re-designated as Dy. Project Manager (E-4 level) w.e.f. 28.08.2018 i.e. the date of his permanent absorption in DFCCIL. Office Order No. 551/2020 in this regard was issued on 04.09.2020 (S. No. 195). Shri Vimal was also representing to N C Railway for granting NBR in Group 'B' and the issue was pursued with the Railway by DFCCIL through protracted correspondence as so many letters dated

03/11/2017 (S. No. 162), 04/12/2017 (S. No. 164), 11/12/2017 (S. No. 166), 14/12/2017 (S. No. 167), 02/02/2018 (S. No. 171), 08/02/2018 (S. No. 172), 17/04/2018 (S. No. 183), 20.06.2018 (S. No. 188) & 10.08.2018 (S. No. 190) were sent to Railways for issue of NBR . Ultimately, vide letter dated 27.09.2019, N C Railway granted NBR to Shri Vimal in Group 'B' (Rs. 9300-34800 + GP 4800 CDA level-8 under 7th CPC) w.e.f. 20.09.2017, i.e. the date of issue of his promotion order in Group 'B' as AOM (S. No. 191)

Based on grant of NBR in Group 'B' w.e.f. 20.09.2017, Shri Vimal represented that his re-designation as Dy. Project Manager also be effective from 20.09.2017 and not from 28.08.2018 (the date of his permanent absorption in DFCCIL) (S. No. 192). The matter was considered and it was decided (Note #) to grant him the benefit of re-designation of Dy. Project Manager w.e.f. 20.09.2017 (date of grant of NBR in Group 'B') and to grant him the benefit of residency as Dy. Project Manager w.e.f. 28.08.2018 i.e. the date of his permanent absorption in DFCCIL vide Office Order No. 27/2021 Dated 15.01.2021 (S. No. 197) in terms of instructions contained in Circular No. 33/2019 dated 15.11.2019 (S. No. 211). Not satisfied with this, Shri Vimal is now representing for grant of residency w.e.f. 20.09.2017, i.e. the date of granting of NBR in Group 'B' and the date of grant of re-designation as Dy. Project Manager.

2. In this connection it is submitted that the main issue under consideration is the date of grant of residency as Dy Project Manager for the purpose of counting residency period for next promotion to Shri Vimal. As per para 4 (a) of Chapter-III (Permanent/Immediate Absorption Policy) of Human Resource Manual of DFCCIL (S. No. 202), **"In terms of the DoPT and DPE's instructions, in the case of deputation followed by absorption, the absorption in DFCCIL shall be effective from the date following the date of acceptance of resignation by the parent organization"**. The position has been further clarified vide Circular no. 33/2019 dated 15.11.2019 (S. No. 211) in which it was clearly mentioned that these clarification will be applicable from the date of issue of original Circular No. 04/2017 i.e. 18.04.2017 (S. No. 209).
3. In the present case, Shri Vimal's resignation was accepted by N. C. Railway w.e.f. 27.08.2018 and he was permanently absorbed in DFCCIL as Dy Project Manager w.e.f. 28.08.2018 (S. No. 157). Para 4(b) (Permanent/Immediate Absorption Policy) (S. No. 202) further states that **"an absorbee shall sever all connection with his parent organization and will be governed by the rules/policies/instructions, etc. of DFCCIL in all respects"**. Therefore, 28.08.2018 becomes the crucial date for counting residency as Dy Project Manager in the case of Shri Vimal.

4. According to Shri Vimal, since he has been granted re-designation as Dy. Project Manager w.e.f. 20.09.2017, he should be granted residency as Dy. Project Manager w.e.f. 20.09.2017. However, re-designation and residency are two different things. He was granted re-designation as Dy. Project Manager w.e.f. 20.09.2017 because that was the date from which he was granted NBR in Group 'B' by N C Railway. However, he was actually interviewed on 07.06.2018 for permanent absorption in DFCCIL and qualified in this interview for the post of APM/OPBD. This was subject to the condition that he will resign from his parent organization. The date of acceptance of resignation of Shri Vimal is 27.08.2018 (S. No. 156) and date of permanent absorption is 28.08.2018. Further as per approval of the Competent Authority (Note # 16) his interview for the post of Dy. Project Manager (E-4 level) was held on 18.08.2020 and he was empanelled as Dy. Project Manager (S. No. 193) instead of APM being promoted in Group 'B' in his parent organization. The office order for re-designation as Dy. Project Manager was issued vide S. no. 195) Thus, Shri Vimal became a regular employee of DFCCIL from 28.08.2018 and in terms of Para 4(b) (S.No. 202), came to be governed by the rules/policies/instructions of DFCCIL w.e.f. 28.08.2018. While grant of re-designation as Dy Project Manager w.e.f. 20.09.2017 is notional and on the basis of NBR by N C Railway, counting of residency in DFCCIL has to be on the basis of the actual date of absorption in DFCCIL i.e. 28.08.2018. Moreover, it was on the basis of this date that he was considered and re-designated as Dy. Project Manager vide order dated 19.08.2020.
5. On the basis of facts and the rule position explained above, Shri U K Vimal has correctly been granted residency as Dy Project Manager w.e.f. 28.08.2018 and he has no claims for grant of residency as Dy Project Manager w.e.f. 20.09.2017.

Accordingly the case is put up for kind perusal and orders please if, reply may be given on the above facts. Draft reply is placed at S. No. 218 for kind perusal and approval please.

Submitted please.

GM/HR-II

GM/HR

11/11/2021 02:15 pm

**PRADEEP KUMAR
AM/HR/CO**

Note # 54

May like to see AM/HR above note in reference to legal notice received from Shri A.P. Nagrath, Advocate regarding residency to Shri U.K. Vimal, Dy.PM/OP&BD/ Noida. In view of the facts explained above and as per instructions issued vide Circular No.33/2019 dated 15.11.2019 employees taking permanent absorption on the post they joined DFCCIL will get the residency. However, in case employees absorbed in higher post, will not entitled the residency. In the legal Notice, the advocate has challenged the policy of residency, may please see and we may reply accordingly.

GM/HR

Director/Infra

11/11/2021 02:59 pm

**SUNDER SINGH
GM/HR-II/CO**

Note # 55

Submitted for approval please.

Dir/Infra

11/11/2021 06:22 pm

**ANIL KUMAR CHHAPOLIA
GM/HR/CO**

Note # 56

Being a policy related issue, pl offer your comments and discuss the matter along with GM/HR.

14/11/2021 02:17 pm

हरी मोहन गुप्ता | **HARI MOHAN GUPTA**
निदेशक/इन्फ्रा | **DIRECTOR/INFRA**

Note # 57

15/11/2021 11:36 am

**RAJEEV KUMAR GOYAL
GGM/HR-II/CO**

Note # 58

Issue discussed by undersigned and GGM/HR with DIR/INFRA on date.

File is again submitted for approval please before sending the reply against legal notice.

DIR/INFRA

17/11/2021 01:24 pm

ANIL KUMAR CHHAPOLIA
GM/HR/CO

Note # 59

Approved

18/11/2021 07:39 pm

हरी मोहन गुप्ता | HARI MOHAN GUPTA
निदेशक/इन्फ्रा | DIRECTOR/INFRA

Note # 60

For necessary action please.

22/11/2021 10:10 am

ANIL KUMAR CHHAPOLIA
GM/HR/CO

Note # 61

For na.

22/11/2021 11:19 am

SUNDER SINGH
GM/HR-II/CO

Note # 62

Sub.: Shri UK Vimal, Dy. PM/Traffic/NOIDA --- request dated 06.12.2021 for grant of residency w.e.f. 20.09.2017 (S. No. 247) & Grievance dt. 20.12.2021 (S. No. 273) .

...

The matter pertains to the repeated requests being made by Shri Upendra Kumar Vimal, Dy. PM/Traffic/NOIDA, for counting of residency in the Grade of Dy. PM w.e.f. 20.09.2017, instead of 28.08.2018. In support of his claims, Shri Vimal had even sent a Legal Notice (S. No 212) addressed to MD from Shri AP Nagrath, Advocate.

2. The matter was examined at length in the light of the existing rules and policies and it was seen that the claims of Shri Vimal are not tenable. A detailed and exhaustive reply dtd. 23.11.2021 (S. No. 221) was sent to Shri AP Nagrath, Advocate, in response to his Legal Notice

with the approval of MD, the Competent Authority. A copy each of this reply was also endorsed to CGM/NOIDA and Shri Vimal.

3. On receipt of the above mentioned reply dtd. 23.11.2021, Shri Vimal has again sent a representation dtd. 06.12.2021 (S. No. 247) addressed to GGM/HR and the same has been forwarded to Corporate Office by Dy. CPM/NOIDA "for favourable consideration." A perusal of this representation will show that Shri Vimal only repeated his earlier claims and no new point has been raised which needs review or reconsideration of the decision already taken and communicated to him.

4. If agreed, we may send a reply reiterating our earlier stand in the matter. Accordingly, a draft letter is also placed at S. no. 336 for consideration please.

Submitted please.

GM/HR-II

GM/HR

GGM/HR

27/12/2021 03:04 pm

**PRADEEP KUMAR
AM/HR/CO**

Note # 63

We may send the reply. May please see.

GM/HR

27/12/2021 05:41 pm

**SUNDER SINGH
GM/HR-II/CO**

Note # 64

Agreed.

27/12/2021 06:12 pm

**ANIL KUMAR CHHAPOLIA
GM/HR/CO**

Note # 65

For na please.

27/12/2021 07:08 pm

**SUNDER SINGH
GM/HR-II/CO**

Note # 66

Sub.: Shri UK Vimal, Dy. PM/Traffic/NOIDA ---
request for grant of residency
w.e.f. 20.09.2017 (S. ~~No~~ 338).

...

The matter pertains to the repeated requests being made by Shri Upendra Kumar Vimal, Dy. PM/Traffic/NOIDA, for counting of residency in the Grade of Dy. PM w.e.f. 20.09.2017, instead of 28.08.2018. He had sent a Legal Notice (S. No. 212) through Shri AP Nagrath, Advocate, and the same was replied to (S. No. . In response thereto, he had himself sent a representation (S. No. 247 & 273) which was also replied to (S. No. 337) . Now he has sent another representation dtd. 14.02.2022 (S. No. 339) which has been forwarded to Corporate Office by Dy. PM/Elec./HR/Noida (S. No. 338).

2. In his latest representation, Shri Vimal reiterated the points already mentioned in the Legal Notice and his own representation. However, he has now mentioned the name of Shri Rajendra Singh of Civil Deptt. and has stated that Shri Rajendra Singh was given the benefits which he (Shri Vimal) is asking for. The position has been checked up from the records. It is seen that Shri Rajendra Singh, while working as JE (Works), N. Rly., came on deputation to DFCCIL as Sr. Exec./Engg./Noida on 01.04.2014 (S. No. 445). On 27.05.2015, N. Rly. Issued an order (S. No. 446) stating that on qualifying the departmental exam, Shri Rajendra Singh is deemed to have been promoted from JE to SSE w.e.f. 01.11.2013, the date of such promotion of his juniors. Based on this, he was redesignated as APM/Civil w.e.f. 01.04.2014 (S. No. 448 & 449). Shri Singh tendered technical resignation from Railway service on 10.02.2017 and was permanently absorbed in DFCCIL as APM/Civil w.e.f. 11.02.2017 (S. No. 451). He was promoted as Dy. PM/Civil w.e.f. 01.08.2018.

2. According to Shri Vimal, Shri Rajendra Singh was granted the benefit without any NBR certificate being issued by N. Rly.. However, as already stated above, Shri

Singh was deemed to have been promoted as SSE w.e.f 01.11.2013 under cadre restructuring by N. Rly. (S. No. 446) and hence was redesignated as APM/Civil w.e.f. 01.04.2014. Therefore, there was no need for any NBR certificate from N. Rly.. Another point raised by Shri Vimal is that Shri Singh had been given two promotions within a period of 4 years and 4 months. It will be seen that Shri Singh joined DFCCIL as Sr. Exec on 01.04.2014, was redesignated as APM w.e.f. 01.04.2014 and was promoted as Dy. PM w.e.f. 01.08.2018. Therefore, it is not clear as to how Shri Vimal is claiming that Shri Singh had got two promotions within a period of 4 years and 4 months.

3. Coming back to the case of Shri Vimal, it is seen that he is claiming the benefit of residency in DFCCIL w.e.f. 20.09.2017 whereas he was permanently absorbed in DFCCIL w.e.f. 28.08.2018. This claim of Shri Vimal is not tenable and the reasons have also been explained to him in detail. We may perhaps reiterate the position already communicated and then treat the matter as closed.

4. Submitted please

GM/HR-II

GM/HR

GGM/HR

Director/Infra

29/04/2022 01:04 pm

**PRADEEP KUMAR
AM/HR/CO**

Note # 67

Reply was earlier given vide this office letter dated 5.1.2022. In view of the above note, we may reply accordingly.

GM/HR

29/04/2022 01:23 pm

**SUNDER SINGH
GM/HR-II/CO**

Note # 68

Agreed.

29/04/2022 04:04 pm

ANIL KUMAR CHHAPOLIA
GM/HR/CO

Note # 69

For na please.

29/04/2022 04:07 pm

SUNDER SINGH
GM/HR-II/CO

Note # 70

Sub.: Shri UK Vimal, Dy. PM/Traffic/NOIDA --- request for grant of residency w.e.f. 20.09.2017 (S. No. 338).

Shri U K Vimal, Dy. PM/Traffic/Noida vide his representation dated 14.02.2022 placed at S. No. 338 has requested for grant of residency w.e.f. 20.09.2017 instead of 28.08.2018 for the reasons mentioned in his representation (S. No. 338).

The case was put up vide Note66 for kind perusal and further directions. Further he has again submitted his appeal dated 25.04.2022 which has been forwarded to this office by Dy. PM/HR/Noida for further action vide S. No. 452. His appeal is placed at S. No. 453 for kind perusal please.

Accordingly, in view of the noting and orders vide Note 66 to Note 68, draft reply is prepared and put up at S. No. 457 for kind perusal and approval please. If agreed, it is requested to please sign the same so that reply may be sent to Shri Vimal.

Submitted please.

GM/HR-II

GM/HR

23/05/2022 01:33 pm

PRADEEP KUMAR
AM/HR/CO

Note # 71

Shri Rajendra Singh joined DFCCIL as Sr. Executive/Civil/Noida on 1.4.2014. Shri Rajendra Singh was promoted as SSE in GP 4600 under Cadre Restructuring wef 1.11.2013 i.e. before joining to DFCCIL. He was redesignated as APM w.e.f. 1.4.2014 from the date of joining in DFCCIL. As such, this is not similar case as raised by Shri Vimal in his representation. May please see the reply as at SN-457-458.

GM/HR

23/05/2022 03:12 pm

**SUNDER SINGH
GM/HR-II/CO**

Note # 72

Agreed.

24/05/2022 09:59 am

**ANIL KUMAR CHHAPOLIA
GM/HR/CO**

Note # 73

For na please.

24/05/2022 10:01 am

**SUNDER SINGH
GM/HR-II/CO**

Email

Reminder of RTI-743

Tue, Jun 28, 2022 12:00 PM

1 attachment

From : SusantaKumar Panda <skpanda@dfcc.co.in>
Subject : Reminder of RTI-743
To : Kamna Thakur <kthakur@dfcc.co.in>

Madam,

The above RTI application was sent to your office on 06.06.2022 and reminder dated 23.06.2022. Reply is still waited. The 30 days period is over/nearing to **expire on 02.07.2022**. It is requested to reply immediately. **URGENT**

सादर,
एस.के.पांडा
संयुक्त महाप्रबंधक /प्रशा. (ज. सू. अ.)
डीएफसीसीआईएल

Regards,
S.K. Panda
JGM / Admin/CPIO
DFCCIL

— RTI-743.pdf
276 KB

Email

Reminder of RTI-743

From : SusantaKumar Panda <skpanda@dfcc.co.in>
Subject : Reminder of RTI-743
To : Kamna Thakur <kthakur@dfcc.co.in>

Thu, Jun 23, 2022 03:13 PM
1 attachment

Madam,

The above RTI application was sent to your office on 06.06.2022. Reply is still waited. The 30 days period is over/nearing to **expire on 02.07.2022**. It is requested to reply immediately.

URGENT

सादर,
एस.के.पांडा
संयुक्त महाप्रबंधक /प्रशा. (ज. सू. अ.)
डीएफसीसीआईएल

Regards,
S.K. Panda
JGM / Admin/CPIO
DFCCIL

— RTI-743.pdf
276 KB