



IN THE MATTER OF AN APPEAL TO THE FIRST-TIER TRIBUNAL

Appeal No: EA/2012/0164

BETWEEN:

ANDI ALI

Appellant

and

THE INFORMATION COMMISSIONER

Respondent

DECISION UNDER RULE 8

1. The Appellant on 16 November 2011 asked the Civil Service Commission for details of complaints made to it, he sought “complaints made by civil servants (or former civil servants) that her Majesty's Revenue and Customs misused public funds to charge them with holding "extreme political views" for heckling the British National party (BNP) at a lawful demonstration outside of work are currently being investigated by the Civil Service Commission.” This was an extremely focused request based on his personal experience-he had made such a complaint to the Civil Service Commission.
2. Initially the Commission neither confirmed nor denied that it held information within the scope of the request. The Appellant sought the assistance of the Respondent and as a result the Civil Service Commission changed its position and on 31 May 2012 it wrote to the Appellant stating:-

“... I can advise you that there were no complaints of the nature described (or related to such incident) being investigated at the time of the request.

Therefore, in response to each part of your request, the position is that no information is held. At the time of your request, the Commission was still attempting to determine whether there was a genuine concern under the Civil Service Code included in the wide ranging series of allegations that had been made by one individual (namely you). This was not an investigation of any claim made. It was an attempt to determine whether or not there was anything

that the Commission should investigate. We had not then (or indeed since) received any complaints of that nature from any other persons, and so no information was (or is) held”.

3. The Information Commissioner concluded his work and on 25 July 2012 issued a decision notice which is the subject of this appeal (FS50429363) finding a breach by the Civil Service Commission of its duty to inform the Appellant within 20 days of the request that it did not hold the information requested, he accepted that such information was not held by the Civil Service Commission.
4. The Appellant has challenged this finding. The basis of his appeal being that he has submitted a complaint of this nature. He asserts that the response that he has received is "a clever play on words". This is an understandable response but it is a misinterpretation. After a public body has received such a complaint as this it has to decide what to do with it; this is however a very different process from conducting an investigation, it is a stage when it will consider such questions as whether it has the responsibility or power to conduct such an investigation and whether it should conduct such an investigation. This is very different from gathering the detailed evidence about an incident and its implications which an investigation into the Appellants complaint would entail.
5. The difficulty for the Appellant is this. It is agreed that he complained to the Civil Service Commission about Her Majesty's Customs and Revenue along the lines indicated. However the Commission has stated that at the time of the request it was not investigating his complaint and it hadn't received any other such complaints. Accordingly since the wording of his request for information was about complaints which "are currently being investigated" and there was no current investigation into his complaint the Commissioner concluded that there was no information held by the Civil Service Commission which match the information request.
6. The Appellant has produced no arguments in law or evidence to support the assertion that the Information Commissioner has erred in his decision notice. While the Appellant may strongly feel that there ought to be such an investigation that is not a matter for this Tribunal. There is simply no evidence that there is such an investigation into his complaint or into any other such complaints.

7. In the absence of any such evidence or any arguments as to law I am satisfied that this appeal has no reasonable prospect of success and accordingly I strike it out under rule 8(3)(c).

Signed:

Judge C Hughes

Dated: 9 October 2012