

# CENTRAL INFORMATION COMMISSION

(Room No.315, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 066)

Phone: 011- 26181927 | Fax: 011- 26185088

**Prof. M. Sridhar Acharyulu (Madabhushi Sridhar)**

Central Information Commissioner

**CIC/BS/A/2016/001238**

**Amrika Bai v. PIO, EPFO, Raipur**

RTI	:	24.06.2015
FAO	:	16.10.2015
Second Appeal	:	27.04.2016
Hearing	:	27.03.2017
Appellant	:	Absent
Public authority	:	Mr. R.R.Verma, CPIO
Decided on	:	30.03.2017

## **FINAL ORDER**

### **FACTS:**

1. The appellant by a letter on 27.10.2014 sought details of payment of pension amount from 16.11.1996 to 31.03.2015 from the Punjab National Bank. On 16.05.2015, the Manager of Punjab National Bank, Dalli Rajhara branch explained reasons for non-payment of pension amount for that period and also stated an amount of Rs. 1986/- (along with interest of 13.5%) is being paid every month w.e.f 01.12.2005. Claiming she is entitled to something more, the appellant sought clarification and action taken report on her letter.

2. The CPIO replied that the total relief amount for the period between 01.04.2000 to 01.07.2015 was Rs. 12,810, which was paid to the appellant in the month of June, 2015. Accordingly, the pension payment detail was given by the CPIO. The appellant filed First Appeal alleging incomplete information was provided. She contended in first appeal, that the payment of arrears for the period from 16.11.1996 to 30.11.2005 amounts to Rs. 26,810/- and from 01.12.2005 to 30.06.2015,  $70 \times 115 = 8050/-$ , which was not paid. The FAA ordered the CPIO to provide the relevant information to the appellant within 10 days. As the order of FAA was not complied with, the appellant approached the Commission.

## **Decision:**

2. The appellant is in fact, questioning non-payment of arrears of pension in a time-bound manner. The arrears involved is only an increase of 4% on the basic pension of Rs.1986, which comes to Rs.80/- approximately. Though it is a very small amount it matters most for an old age appellant, who lost her husband and depends upon sons or daughters.

Section 7(1) of the RTI Act reads as under:

"7. Disposal of request.—(1) Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9: Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request."

## **RIGHT TO LIFE BY PENSION:**

3. Right to life is guaranteed under Article 21 of the Constitution. It says: No person shall be deprived of his life or personal liberty except according to procedure established by law. It's like a mantra for a person that prevents illegal deprivation of life or liberty. State devised several welfare measures like 'pension' to retired employees. This is a positive measure of State to implement Article 21 of Constitution of India. Pension for old aged, disabled etc is an extension of this right. The maintenance amount fixed by courts for dependents and spouses is a similar legal measure to help living.

4. The Criminal Procedure Code, 1973 provided under Section 125 an essential economic support to dependents in the society who lack means of survival. Apart from neglected wives and divorcees this section helps in alleviating the maintenance problems of the parents. It is a guardian to the wives, children and parents and will enforce the social duty of preventing the vagrancy and destitution, which in most serious cases lead to crimes. Though

there are separate personal laws governing marriage and maintenance, section 125 offers a secular solution to the maintenance starved dependents.

### **SPEEDY DELIVERY OF 'LIFE' INFORMATION:**

5. The RTI Act provides for speedy delivery of information sought if the matter deals with life or liberty. Some authorities argued that unless an imminent danger is there to life or liberty, this clause cannot be invoked and only when disclosure of information would have effect of saving the applicant from that danger, such information should be given in 48 hours. It is an extraneous extension of imagination without any basis. The expression used in the Act is simply "where the information sought for concerns the life or liberty of a person", which should mean it is enough if it concerns the life or liberty. That need not be in imminent danger. This was neither stated nor required by the RTI Act. If a prisoner wants to know the date of release or having an apprehension about delaying the release and if there is any problem in calculating the remission or period of sentence etc, this information request is "the information concerning the life or liberty". 'Pensioners' are another class of persons who require information about pension, delayed or not paid, or not fixed etc. if the file for pension fixation is facing red tape, the retired employee does not get any pay as he was getting when in service, might not have means to survive, might not be supported by son or daughter, might be failing to help his wife, or he might be at the mercy of his son or daughter or others for small requirements too. Then his request for information has enough concern for life or liberty to demand urgent disclosure. Similarly the maintenance related information of dependent person/wife, son or a senior citizen or a neglected parent, dweller in an old-age home, inmate of orphan house, juvenile home etc, need to be considered as this kind of information which need to be disclosed within 48 hours. The RTI Act just provides for disclosure of information which might be used for protection of life and liberty, or might be used against possible danger to life or liberty. If that element of concern is prima facie, visible, the PIO has to provide information within 48 hours. There is no need to look for 'imminent danger' to life.

6. Keeping in view the living needs of old aged pensioner, the Commission considers that any information relating to fixation, non-payment and delay regarding fixation of pension, besides non-payment of interest on arrears as life and liberty related information under the Right to Information Act, 2005.

7. In this case, we should understand that senior citizen Smt. Amrika Bai may require every rupee of her entitlement and the State must be responsible to pay the due of every rupee without any delay. If an old aged person prefers an RTI application regarding the pension matters mentioned herein, the public authority should understand that it might have a hidden-untold misery. It is the statutory duty of public authority/PIO to respond to such RTI requests within 48 hours as mandated by Section 7(1) of the Right to Information Act, 2005.

8. Taking into account the pathetic conditions prevailing in the contemporaneous society with deteriorating human relations between parents and children, even a single pie of pension amount will provide a valuable support to the pensioner in situation like that of this appellant. Assuming that the sons/daughters are supporting the mother, she might still be in need of that small money. An increase of Rs.80/- per month as that might reduce her dependency, or increase her autonomy/self-respect to that extent. It might be useful for purchasing a piece of bread, tooth-brush or a comb. The Public Authority/CPIO is expected to understand this human element and develop a mindset to clear such grievances/claims within 48 hours. Someone in public authority has to take personal care to see that the payment of arrears reaches such helpless pensioners as soon as possible. They should understand that they too walk into such situation sooner or later. The duty of public authority in a welfare state is that the grievance relating to non-payment of pension need to be redressed at the earliest. As per the RTI Act, the question relating to pension-grievance has to be necessarily responded within 48 hours.

9. The moment RTI application on pension issue is received, there should be a mechanism at the entry stage to discover and identify if it reflects a pension related grievance/issue and then should act immediately. It should be brought to the notice of the responsible officer by the CPIO on the same day and find whether his/her pension was fixed or not, reasons for not fixing or not paying

and then if found to be a genuine case, the grievance shall be addressed and result shall be communicated within 48 hours, followed by redressal within 30 days.

9. If for any reason this did not happen, they have a duty to communicate at least those reasons within 48 hours along with the address of the FAA as soon as possible, to the appellant to file first appeal. The appellant in such cases can file first appeal immediately, which shall also be taken up for hearing.

10. Not only the CPIO, even the other authorities under RTI Act like the First appeal/second appellate authorities also should dispose such appeals involving pension issues, within 48 hours. The First appellate authority, being a senior officer of public authority, has a higher moral, legal and human obligation to take up the case of pensions and pension-arrears on priority and at least send a hearing notice within 48 hours. This should not take more than the minimum time required for communicating the appellant. If the phone/mobile or whatsapp, or email id is available, they shall use them to contact the applicant/appellant and to communicate the hearing notice/response. The fact should not be ignored is that the mobile phone is provided to the public servant, and his bills are paid from tax-payers money.

11. It is also the duty of the FAA to identify if the issue in first appeal relates to pension and to initiate hearing process within 48 hours. The FAA being the senior officer of the Public Authority has to summon the CPIO or any other concerned officer to redress the grievance as soon as possible on an urgent basis, if the grievance can be redressed, the same has to be intimated to the appellant and hearing shall be fixed within 48 hours with due intimation to the appellant. The same thing shall apply to CIC/SIC also. It is their duty to identify if the second appeal pertains to issue of pension/arrears and, if so, initiate hearing process within 48 hours, contacting the appellant and the CPIO on phone or by e-mail and post it for hearing taking minimum time needed to communicate the hearing notice. The Commission feels sorry about its administration for keeping this second appeal pending for such a long time, which should have been posted within 48 hours of its receipt for hearing.

12. The Commission would like to reiterate that all the cases relating to delay in fixation/payment of pension and also arrears shall be dealt with urgently considering them as request for information concerning the life or liberty under section 7 (1) of RTI Act. Any grievance regarding these issues also should be treated as 'right to life' under Article 21 of the Indian Constitution and the public authorities shall do all the needful to address the issue within 48 hours.

13. In this case, the Commission is surprised that the CPIO could not give the date on which the arrears were settled and the time within which such amount was paid to the appellant. Another surprising factor is that the public authority generally waiting for next month's salary-day for paying those arrears. Once the arrears are fixed and decided to be paid, that amount has to be immediately credited to the account of pensioners instead of waiting for some more days.

14. The Commission holds that the instant RTI request of the appellant is concerned with 'life and liberty' and going by reason, common sense, Constitution, RTI Act and legal duty, the respondent authority should have responded within 48 hours. There are three aspects; delay in response, delay in fixation and delay in payment. All these are matters concerning 'life or liberty' which need to be disclosed within 48 hours.

15. As the issue of payment of arrears to the appellant has been reported to have been settled, the Commission disposes of this appeal with the above recommendations for the consideration and quick action of the public authority. This second appeal is hereby disposed of.

16. The Commission also requires as per Section 19(8)(a)(i, iii & iv) of RTI Act, the public authority to consider pension related information as life and liberty concerned information to provide quick access to information, publish necessary guidelines to deliver the pension related information and circulate amongst all CPIOs, and train them to provide such information concerning pension within 48 hours and the FAAs to initiate hearing proceedings within 48 hours.

16. The Commission recommends the public authorities to initiate measures to address the grievances relating to pension within 48 hours and inform about redressal within one month from the date of receipt of the grievance.

SD/-

(M. Sridhar Acharyulu)  
Central Information Commissioner

Authenticated true copy

(Dinesh Kumar)  
Deputy Registrar

Addresses of the parties:

1. The CPIO under RTI,  
EPFO, Regional Office,  
Chhattisgarh, Block-D, Scheme  
No. 32, Indira Gandhi Vyavsaik  
Parisar, Pandri, Raipur,  
Chhattisgarh.
2. Mrs. Amrika Bai,  
PP No. 64719, C/o Sheetla  
Associate, Amapara Balod,  
Chhattisgarh.