

CENTRAL INFORMATION COMMISSION

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

File No.CIC/AD/A/2012/003341-SA

(Jyoti Seherawat Vs. Home (General) Dept., GNCTD)

Appellant : Ms.Jyoti Seherawat
Respondent : Home (General) Department
Date of hearing : 7.1.2014
Date of decision : 7.1.2014

Information Commissioner : Prof. M. Sridhar Acharyulu
(Madabhushi Sridhar)

Referred Sections : Sec.4(1)(b)(x), 8(1)(j) and 11(1) of the RTI Act.

Result : Appeal allowed

Headnote

i) Information about the salary of an employee of a public authority is not third party information. Such information has to be voluntarily disclosed u/s 4(1)(b)(x) of the RTI Act.

ii) Every spouse has a right to information about the particulars of salary of other spouse especially for the purpose of maintenance. More so, wife has a right to know the salary particulars of the husband, who is an employee of the public authority.

FACTS

Heard today dated 7.1.14. Appellant not present. The Public Authority is represented by Shri Anil Agrawal, Supdt. Home (General) Department and Shri Sunil Kumar, Law Officer.

2. The Appellant filed an RTI application dt.2.6.12 with the CPIO, Home General Department, GNCTD seeking the following information with regard to her husband Shri Sudhir Singh Seherawat:

Salary slip for the month of May 2012 including all allowances like TA, DA and HRA.

On not receiving any response, the Appellant filed an appeal dt.11.9.12 with the Appellate Authority. The CPIO replied to the RTI application vide letter dated 18.6.12 stating as follows:

It is informed that information can not be supplied as Shri Sudhir Singh, Warder 642 has given in writing to this department that any information regarding him will not be supplied

The CPIO's reply dt.18.6.12 was dispatched to the Appellant on 20.9.12 and received by the Appellant on 23.9.12.

The Appellate Authority disposed of the appeal vide his order dt.26.9.12 upholding the decision of the PIO.

Being aggrieved with the reply, the Applicant filed a second appeal dt.5.10.12 before CIC.

3. During the hearing, the Respondent submitted that information was denied since the third party has objected to its disclosure. He, however, admitted that same does not belong to third party and agreed to disclose the same.

4. The Commission in various cases has directed the Public Authority to disclose the salary particulars of its employees to the information seeker irrespective of whether the information seeker is related to the employee or not. Earlier too, CIC has directed public authorities to disclose salary particulars of husband to the wife. For instance, in Ritu Sharma v NTPC No. 1016/IC/(A)/2007 dated 11th July 2007, Prof MM Ansari held that denial of salary information about husband by public authority invoking Section 8(1)(j) was not enable. Under the RTI Act, the public authorities have the obligation to disclose the monthly emoluments paid to their employees. U/s 4(1)(b)(x) of the Act, “the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations” should be published. A similar order is given by Mrs Sushma Singh (present Chief Information Commissioner) in Smt Rita Aeri v Air India in CIC/SS/A/2010/001145 dated 21.3.2011. In Lakshmi Ramesh Sawekar v Dept of Posts, No.CIC/LS/A/2011/00276, Mr M L Sharma, IC held on 23rd January 2012 that a legally wedded wife is entitled to information about the salary of her husband.

5. The respondent Home Department in this case denied the salary information of the husband, it's employee to his wife. At two stages of RTI, the PIO and Appellate Authority simply considered the salary information as third party; same was also contended by the Law Officer before the Commission.

6. In spite of specific decisions and directions by the CIC, the PIOs and AAs are repeatedly denying the salary particulars to the wife contending that this information belonged to third party, or being a personal information that could be refused under Section 8(1)(j) etc. The PIOs and AAs are disposing of the petitions in a routine manner like general office file, without applying the reasons and their

orders of rejection also disclose no reasons. This also explain the lack of understanding and training on the issues pertaining to access law and various judgments rendered on the subject among the designated officers of Public Authorities.

7. Hence this question needs specific explanation for the better understanding of rights and duties and implementation of RTI with reference to this aspect.

- a) The salary paid to the public servant by the public authority is sourced from the tax paid by the people in general. The scale of salary is also fixed by the Public Authority based on certain reasonable fixation in an open exercise by Pay Revision Commissions which later would be generally approved by the Government, which is the representative of the people. Thus the information belongs to public and they have a right to access to it as per RTI Act. It has to be disclosed under Section 4 voluntarily by the Public Authority and if a member of public seeks it, it cannot be denied.
- b) The information about salary of employee/officer of the same Public Authority cannot be considered as 'third party information'. The employee of the public authority is part of that public authority and hence he is not the third party. Hence there is no need to obtain the consent of the particular employee for disclosure of that information as provided under the RTI Act, unless it falls under any exception. It may be recalled that even in case of third party information, if the Commission considers the public interest demands, such information can be given in spite of refusal by the third party. Public Authorities cannot reject such RTI applications about salary under the pretext of third party information.
- c) Based on above two reasons, every member of general public is entitled to know the salary of the employee of public authority. The wife of that particular employee is also entitled to know it as a member of general public. Hence irrespective of her marital status, she has every right to know the particulars of public servant's salary.
- d) As per the provisions of various personal laws applicable to people of different religions, the husband as an earning member of family has a legal

duty to maintain the wife and children. It is an undisputed fact that the dependents such as wives and children can seek a direction from the Courts of Justice. Even after the divorce, the family law ordains that Husband has a duty to provide for necessary maintenance of the wife and children. Section 125 of Criminal Procedure Code mandated that husband has a general duty to maintain wife and children. The wife's entitlement to know the salary particulars of her husband gets further fortified by all the above legal provisions.

- e) Especially when the wife is seeking the salary particulars of the Husband, from the public authority where he is working as public servant, it is the duty of the public authority to render required assistance by providing necessary information to her to secure justice. Denial of such information to wife is thus, highly unreasonable, not justified and it will also amount to breach of legal obligation.
- f) The maintenance of spouse and children of the family is the legal responsibility of the earning member of the family. Depending upon the situation a husband if dependent or incapable of earning might seek similar information about the salary of the wife, if she is an employee of the public authority.
- g) In most of the cases, the denial of information about salary might amount to denial of justice with mala fide intentions either to harass the spouse or delay the process of justice or to avoid payment of money necessary for maintenance through giving wrong information or denying correct information to the court of law. The public authority or its PIO or AA, cannot, inadvertently be a party to this mala fide denial of justice to the spouse.
- h) In addition to above, under Section 20, Right to Information Act 2005, such a denial of information will be wrongful denial which could incur the penalty.

8. In view of the above, Commission directs the PIO to supply the salary slip as sought by the Appellant within one week of receipt of this order.

(M. Sridhar Acharyulu)
Information Commissioner

Authenticated true copy

(Tarun Kumar)
Additional Registrar

Address of parties

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