

RTI APPEAL DETAILS (आरटीआई अपील विवरण)

Appeal Registration Number (अपील पंजीकरण संख्या) :	IFCIL/A/E/22/00001	RTI Appeal Received Date (आरटीआई अपील प्राप्त की तिथि) :	17/01/2022
RTI Request Registration No. (आरटीआई अनुरोध पंजीकरण संख्या):	IFCIL/R/E/21/00041	RTI Request Registration Date (आरटीआई अनुरोध पंजीकरण की तारीख) :	19/12/2021
Name (नाम) :			Gender (लिंग) : Female
Address (पता) :			
Pin code (पिन कोड) :	110003		
State (राज्य) :	Delhi	Country (देश) :	India
Phone Number (फोन नंबर) :			Mobile Number (मोबाईल नंबर) :
Email-ID (ईमेल-आईडी) :			
Status (स्थिति) :	Urban	Educational Status (शैक्षणिक स्थिति) :	
Citizenship Status (नागरिकता) :	Indian	Is Appellant Bellow Poverty Line ? (क्या अपील करनेवाला गरीबी रेखा से नीचे का है?) :	No
CPIO Approached (संपर्क सीपीआईओ) :	38570	Date of Receipt of CPIO's Order/Decision(सीपीआईओ के आदेश / निर्णय के रसीद की तारीख) :	Details not provided
CPIO's Order/Decision No.(सीपीआईओ का आदेश / निर्णय संख्या) :	Details not provided		
Ground for Appeal(अपील का आधार) :	Provided Incomplete,Misleading or False Information		
Text of RTI First Appeal (आरटीआई प्रथम अपील का पाठ) :	<p>Response by CPIO, IFCI vide his letter no. IFCI/RTI/988/2022 dt. 04/01/2022 in response to my online RTI application No. IFCIL/R/E/21/00041 dated 19/12/2021 is highly unsatisfactory which tantamount to denial of requisite information to me. First Appeal is submitted against denial of information for consideration and issuing directions to CPIO for providing me the complete, correct and precise information.</p> <p>The frivolous ground taken by the CPIO to decline point wise specific information that CPIO is not supposed to do research work is contrary to the principles mentioned in the judgment delivered by Justice Prathiba M Singh of Delhi High Court on 22-1-2021 in the case of</p>		

Rakesh Kumar Gupta vs Central Information Commission in WP Civil 900 of 2021. Despite being a law professional, he ignored the principles propounded by the honorable HC and instead followed the formula of one size fits all. HC has held in the said judgment that CPIO cannot function merely as post office but instead he is responsible to ensure that information sought under RTI is provided. HC further held that duty of compliance lies with CPIO and he cannot be casual in his approach. The honorable HC also held that the organization, as a whole, also has to cooperate in the functioning of the CPIOs. CPIO is the Nodal and Compliance Officer appointed by a Public Authority in compliance with the provisions of the RTI Act. The Act has also enjoined up him the responsibility of rendering reasonable assistance to the persons seeking information. This has also been brought out in the said judgment of Delhi HC. The honorable HC has also held that CPIO has to apply his mind, analyze the material and then direct disclosure or give reasons for non disclosure. The PIO cannot rely upon subordinate officers. I have not asked for his opinion but he is mandated by the Act to assist the RTI applicant for procuring information from the concerned department of IFCI and provide to the applicant. None of the queries raised by me are hypothetical, as alleged by him. Point wise grounds for appeal and relevant extracts from HC judgment are given in the Annexure which forms part of this Appeal.

ANNEXURE FORMING PART OF THE FIRST APPEAL BY _____ AGAINST DENIAL OF INFORMATION BY CPIO, IFCI – RTI APPLICATION NO. IFCIL/R/E/21/00041 dated 19/12/2021 AND RESPONSE BY CPIO, IFCI VIDE IFCI/RTI/988/2022 dt. 04/01/2022.

1. If IFCI, a Public Authority, has incurred some expenses, including payment of the family pension to the spouses of its deceased employees, it is under statutory obligation to share information about the method/basis of calculations and also disclose the authority, rule and regulations under which the payments are being made and the RTI applicants have right to know how the amounts are being authorized, calculated and paid.

2. Point-wise query, CPIO's response and grounds for appeal are given below:-

(i) I have asked for the definition of **pay** provided in the IFCI Pension Regulations, 1993 for fixation of family pension to the spouses of the deceased employees/pensioners. Instead of a single sentence reply, the CPIO has provided a plethora of whole of Pension Regulations running in about one hundred pages that too on Email. For a housewife who is not conversant with officials rules can hardly comprehend huge pile of papers that too on Email.

Kindly direct the CPIO to provide *specific and precise definition of pay defined* in the IFCI Pension Regulations based on which family pension is fixed.

(ii) Secondly I have asked for **CERTIFIED copy** of the relevant Regulation of the IFCI Pension Regulations, 1993 under which the pay of Rs.12400/- as per the pay scale period of 1.11.1992 to 31.10.1997 was taken into account for fixation family pension for me. Certified copy can only be on the hard copy but the same has been denied without any reason or logic.

Kindly direct the CPIO to *provide a certified hard copy* of the relevant Regulation under which my family pension has been fixed based on pay of Rs.12400/-p.m.

(iii) My third query was for *a certified copy* of the relevant Regulation of the IFCI Pension Regulations, 1993 which authorizes IFCI to fix family pension with reference to pay which fell/existed in the pay scales effective from 01.11.1992 to 31.10.1997 in respect of the spouses/dependents of those employees/pensioners who retired or died on or after 01.11.1997. Since family pension must have been fixed under certain Regulation of the IFCI Pension Regulations, I have a right to ask for a certify copy of the same Regulation and the Public Authority i.e. IFCI Ltd., its CPIO and other concerned officials, departments are mandatorily under obligation to provide me the certified copy of the same Regulations.

Therefore kindly direct the CPIO to provide me with a *Certified copy (hard copy)* of the relevant Regulation of IFCI Pension Regulations under which family pension has been fixed for me.

(iv) Against item No. 12.4 of para 2 of the Noting dated 07/07/2021, copy of which was provided to me by IFCI vide its letter IFCIL/R/E/21/00030 dated 7th October, 2021, mentions that "DR as applicable to pensioners 1992-1997". In my last query I had asked for *a certified copy* of the relevant Regulation of the IFCI Pension Regulations, 1993 in terms of which Dearness Relief as applicable to the pensioners of 1.11.1992 to 31.10.1997 pay scale period has been sanctioned to me though my husband retired on 31.10.2002.

The CPIO may kindly be directed to provide the *certified hard copy* of the relevant Regulation. He may kindly be advised to *provide certified hard copies of the extracts of the*

relevant Regulations from IFCI Pension Regulations, 1993 as provided in Section 10 of the RTI Act.

- (v) Your kind attention is also invited to Section 2 (f) and 2 (j)(iii) which defines "Information" and "right to information" respectively. "Information" includes records, documents etc. and "right to information" means right to information which is held or under the control of public authority, including providing of the certified copies of the documents.
- (vi) The principles propounded in the Judgment in the case of Rakesh Kumar Gupta & Ors vs Central Information Commission WP(C) 900/2021 delivered on 22-1-2021 in para (15) of the judgment are reproduced below:-

"15. On the basis of the above judgments, the following principles can be clearly gleaned:

- i) CPIO/PIOs cannot withhold information without reasonable cause;
 - ii) APIO/CPIO cannot be held responsible if they have genuinely rejected the information sought on valid grounds permissible under the Act. Mere difference of opinion on the part of CIC cannot lead to an imposition of penalty under Section 20 of the RTI Act;
 - iii) Government Departments ought not to be permitted to evade disclosure of information. Diligence has to be exercised by the said departments, by conducting a thorough search and enquiry, before concluding that the information is not available or traceable;
 - iv) Every effort should be made to locate information, and the fear of disciplinary action should work as a deterrent against suppression of information for vested interests;
 - v) PIO/CPIO cannot function merely as "Post Office" but instead are responsible to ensure that information sought under the RTI Act is provided;
 - vi) A PIO/CPIO has to apply their mind, analyze the material and then direct disclosure or give reasons for non-disclosure. The PIO cannot rely upon subordinate officers;
 - vii) Duty of compliance lies upon PIO/CPIO has to be with objectivity and seriousness, the PIO/CPIO cannot be casual in their approach;
 - viii) Information cannot be refused without reasonable cause.
3. Hon'ble HC further held in para 16 of the captioned judgment that the CPIOs have a solemn responsibility and they shall render reasonable assistance to the persons seeking information. It further held "The organization, as a whole, also has to cooperate in the functioning of the CPIOs.
4. In order to meet the objective of the RTI Act for demonstrating transparency in functioning of a Public Authority like IFCI, it is imperative on the part of CPIO, the First Appellate Authority and all other concerned to share the information with the applicants which has direct bearing on the livelihood of the spouses of the deceased employees.