

RTI APPEAL DETAILS			
<b>RTI Appeal Registration No. :</b>	IFCIL/A/E/23/00006	<b>RTI Appeal Received Date :</b>	01/05/2023
<b>RTI Request Registration No. :</b>	IFCIL/R/E/23/00016	<b>RTI Request Registration Date :</b>	12/03/2023
<b>Name :</b>	[REDACTED]	<b>Gender :</b>	Male
<b>Address :</b>	FLAT NO. 3002, IFCI APARTMENTS, PLOT NO.4 SECTOR 23, DWARKA, NEW DELHI		
<b>Pin Code :</b>	110077		
<b>State :</b>	Delhi	<b>Country :</b>	India
<b>Phone :</b>	+91-9910104486	<b>Mobile No. :</b>	+91-9910104486
<b>Email :</b>	[REDACTED]		
<b>Status :</b>	Urban	<b>Educational Status :</b>	Above Graduate
<b>Citizenship :</b>	Indian	<b>Is Appellant below poverty line ? :</b>	No
<b>CPIO of Public Authority Approached :</b>	38570	<b>CPIO's Order/Decision Date :</b>	Details not provided
<b>CPIO's Order/Decision No. :</b>	Details not provided		
<b>Ground For Appeal :</b>	Provided Incomplete, Misleading or False Information		
<b>Text of RTI First Appeal :</b>	<p>(TEXT OF APPEAL)</p> <p>Briefly, in my online RTI application Regn. No. IFCIL/R/E/23/00016, I have sought information regarding the specific Regulations of the IFCI Pension Regulations, 1993, along with certified copies thereof which -</p> <p>(a) Deals with sanction of family pension in respect of those who die after 7 years of retirement or had attained the age of more than 65 years (my queries at 1(a) and 1(b) of my RTI application.</p> <p>(b) Authorize IFCI to fix pay for family pension as per the pre-revised pay scale basis of 1992-97 (S.No.10 of the Table given in the Noting attached to my RTI application and my queries at 2(a) and 2(b) therein.</p> <p>(c) authorize IFCI to pay family pension and DR thereon in respect of those employees who retired/died in harness after 1.11.1997 on the basis of pre-revised pay scales of 1992-97 (S No.12.4 of the Table and the sentence written below the Table given in the Noting attached to my RTI application – Queries at 3(a) and 3 (b) of my RTI application.</p> <p>2. As the CPIO, IFCI has denied me the requisite information, I hereby prefer my</p>		

first appeal against denial of information. Detailed appeal is given in the attached Annexure which may kindly be considered as a part and parcel of my appeal.

## ANNEXURE

FIRST APPEAL AGAINST DENIAL OF INFORMATION BY CPIO, IFCI ASKED FOR VIDEO MY ONLINE RTI APPLICATION REGN. NO. IFCIL/R/E/23/00016

Vide his letter No. IFCI/RTI/1169/2023 dated 6<sup>th</sup> April, 2023, the CPIO, IFCI had denied me the requisite information on flimsy and frivolous grounds that –

- (i) I should refer to the IFCI Pension Regulations, 1993 which are available on the official website of IFCI; and
- (ii) Information asked for by me does not fall under the definition of Section 2(f) of the RTI Act, 2005.

2. In this connection, it is stated that even after diligent study and thorough examination of the entire set of the IFCI Pension Regulations, 1993 as also the 'Memorandum of Instructions for implementation of Pension Scheme under IFCI Pension Regulations, 1993' (Memo of Instructions), **NO** mention of the Regulations which deal with -

- (a) Sanction of family pension in respect of those who die after 7 years of retirement or die after attaining the age of 65 years.
- (b) Authorizes IFCI to fix pay for family pension with reference to the pay which existed in the pre-revised pay scale period of 1992-97 in respect of those who had retired/died in harness after 1.11.1997, as is being wrongly done by IFCI.
- (c) Authorize IFCI to pay family pension and DR thereon in respect of those employees who retired/died in harness after 1.11.1997 on the basis of pre-revised pay scales of 1992-97

has been found either in the IFCI Pension Regulations, 1993 or in the Memo of Instructions. Therefore, I had requested the CPIO to inform me about the specific/exact Regulation of the IFCI Pension Regulations which deal with the queries raised in my RTI application and briefly mentioned at 1(a), 1(b), 1(c) and 3(a), 3(b) and 3(c) above and ***provide a copy each of the same Regulations.***

3. The payment of pension/family pension and DR thereon involves expenditure of the public funds for which the public authorities, including IFCI, are accountable to the public and are expected to be transparent. Sanction and disbursement even of one Rupee out of public funds can only be allowed if the same is backed by the clear/transparent and notified Rules/Regulations. An extract from the preamble to the RTI Act is reproduced for your kind perusal ***"AND WHEREAS democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed." The attitude of evading sharing information on flimsy grounds attract more suspicion and disbelief in the public authorities in general, and the officials dealing with RTI matters, in particular.***

4. In regard to the definition of "information" as per Section 2(f) of the RTI Act, your kind attention is drawn to the first seven words which state **"information" means any material in any form.** A careful reading of this Section reveals that "information" is not restricted or limited records, documents etc. mentioned in the said Section. Importantly, the CPIO has totally overlooked my request for the copies of the particular Regulations which are definitely records and documents. Further, while quoting Section 2(f) of the Act, the CPIO, IFCI has ignored to mention Section 2(j) of the same Act, which is reproduced below:-

2(f) "right to information" **means the right to information accessible under this Act which is held by or under the control of any public authority** and includes the right to –

- (i) inspection of work, documents, records;
- (ii) taking notes, extracts or certified copies of documents or records;
- (iii) taking certified samples of material;
- (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electro mode or through printouts where such information is stored in a computer or in any other device;

From the queries at 1(b), 2(b) and 3(b) of my RTI application, it may kindly be seen that I have asked for copies of the documents, records which are held by or under the control of IFCI and my RTI application is definitely is covered under Section 2(f) and 2(j) of the RTI Act. Nowhere in my entire RTI, I have sought for advice/reasoning or clarification, as alleged by the CPIO, IFCI. Queries raised in my RTI application are very clear and definite wherein I have asked "information" in the form of sharing with me the exact/specific Regulation of the IFCI Pension Regulations along with certified copies thereof which authorizes IFCI to fix pay for the purpose of family pension with reference to the pre-revised pay scales of 1992-97 even in respect of those who retired or died in harness after 1.11.1997. By not sharing the exact number of the Regulation as requested, IFCI has been hiding the genuine information which is not in consonance with the letter and spirit of the RTI Act. CPIO, IFCI has attempted to obfuscate the issue in order to withhold the information.

5. Relying on various previous judgements enumerated in the judgement dated 22<sup>nd</sup> January, 2021, the Hon'ble Delhi High Court, in the case of Rakesh Kumar Gupta & Ors VS Central Information Commission (CIC) & Anr (W.P. (C ) 900/2021, had defined the role of CPIO and the principles/guidelines to be followed by him/her while dealing with the RTI applications. Paras 15 and 16 of the Judgement are reproduced below for your kind perusal and compliance by the CPIO. It may also be added that judicial pronouncements made by the higher Courts of the land supplant the legislative enactments themselves and become precedents to be followed in future and have as much authority as a law passed by a legislature.

"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) A PIO/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 would work as a deterrent against suppression of information for vested interests;
- v) PIO/CPIO cannot function merely as "*post offices*" but instead are responsible to ensure that the 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 the PIO/CPIO. The exercise of power by the 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."

"16. Thus, under the RTI Act, the CPIOs have a solemn responsibility. Section 5(3) requires that every CPIO or SPIO shall deal with requests for information and '*render reasonable assistance*' to the persons seeking information. CPIOs or SPIOs can seek assistance from higher/other officials in the organization in order to enable them to furnish the information sought for the '*proper discharge*' of their duties, as per Section 5(4). Such other officers from whom assistance may be sought would also be treated as CPIOs, under Section 5(5). CPIOs are thus expected to look into queries raised by the Applicants under the RTI Act, and fulfill an important responsibility while furnishing the said required information, in a fair, non-arbitrary and truthful manner. The organization, as a whole, also has to cooperate in the functioning of the CPIOs."

6. In view of the foregoing, you are requested to kindly advise the CPIO to follow the above principles/guidelines summarized by the Hon'ble High Court and advise ***him to provide me information about the Regulation(s) which authorizes IFCI to fix pay for the family pension as per pre-revised pay scales of 1992-97 and also provide a copy of that/those Regulation(s). In case such a Regulation does not exist in the records/documents of IFCI, information regarding non-existence of the same may please be provided. I request and hope that sitting on appeal as a judge, you will not mechanically toe the line of CPIO and will pass judicious and cogent orders on my appeal.***