

Central Information Commission

Ritu Namdeo vs Central Railway on 27 March, 2018

CENTRAL INFORMATION COMMISSION

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File No.: CIC/CRAIL/A/2017/195502

In the matter of:

Ritu Namdeo

...Appellant

VS

PIO and Sr. DCM, Central Railway, Division
Railway Manager Commercial, Commercial Department,
Mohan Nagar, Nagpur, Maharashtra- 440001

...Respondent

	Dates
RTI application	: 23.06.2016
CPIO reply	: 10.07.2016
First Appeal	: 19.08.2016
FAA Order	: 20.09.2016
Second Appeal	: 24.12.2016
Date of hearing	: 08.03.2018
Facts	

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The appellant vide RTI application dated 23.06.2016 sought details of salary pertaining to her husband. The CPIO replied on 10.07.2016. The appellant was not satisfied with the CPIO's reply and filed first appeal on 19.08.2016. The First Appellate Authority (FAA) vide order dated 20.09.2016 disposed of the first appeal. Aggrieved with the non-supply of the desired information from the respondent authority, the appellant filed a second appeal under the provision of Section 19 of the RTI Act before the Central Information Commission on 24.12.2016.

Grounds for Second Appeal The CPIO did not provide the desired information.

Order

Appellant :	Present with representative, Advocate, Shri Manish Upadhyay
Respondent :	Shri Ajay Daniel, Divisional Commercial Manager cum APIO,

Central Railway

During the hearing, the respondent APIO submitted that they had provided the requisite reply vide their letter dated 10.07.2016 and the First Appellate Authority (FAA)'s order dated 20.09.2016. He further submitted that the third party concerned had objected to the parting of the sought for information related to him, to the appellant. Hence, the reply furnished to the appellant is just and proper and hence the case might be dismissed. Since the same was not available in the case record, the respondent PIO was asked to read the same over the VC facility. He was intimated to send a copy of the same to the Commission through e-mail for record.

The appellant submitted that she was not satisfied with the reply received from the respondent. The appellant relied on the CIC decision in the case of Jyoti Sherawat vs Home (General) Department in file no. CIC/AD/A/2012/003341-SA dated 7.1.2014.

The relevant portion of the order is extracted below:

"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." On perusal of the case record, it was seen that the sought for information is related to a third party which is his personal information. Hence the same is clearly exempted u/s 8(1)(j) of the RTI Act and hence the reply of the first appellate authority was just and proper. The Commission is of the opinion that the above CIC decision relied on by the appellant in the present case cannot be considered as applicable in the present case as the Hon'ble Supreme Court in its recent decision dated 31.08.2017 has held unambiguously that personal details of third parties or employees are exempted u/s 8(1)(j) of the RTI Act. The relevant extract of the judgment in the case of Canara Bank vs C.S. Shyam (CIVIL APPEAL No.22 OF 2009) dated 31.08.2017 is extracted below:

"12) In our considered opinion, the issue involved herein remains no more res integra and stands settled by two decisions of this Court in Girish Ramchandra Deshpande vs. Central Information Commissioner & Ors., (2013) 1 SCC 212 and R.K. Jain vs. Union of India & Anr., (2013) 14 SCC 794, it may not be necessary to re-examine any

legal issue urged in this appeal.

13) In Girish Ramchandra Deshpande's case (supra), the petitioner therein (Girish) had sought some personal information of one employee working in Sub Regional Office (provident fund) Akola. All the authorities, exercising their respective powers under the Act, declined the prayer for furnishing the information sought by the petitioner. The High Court in writ petition filed by the petitioner upheld the orders. Aggrieved by all the order, he filed special leave to appeal in this Court. Their Lordships dismissed the appeal and upholding the orders passed by the High Court held as under:-

"12. We are in agreement with the CIC and the courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show-cause notices and orders of censure/punishment, etc. are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act. The performance of an employee/officer in an organisation is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.

13. The details disclosed by a person in his income tax returns are "personal information" which stand exempted from disclosure under clause (j) of Section 8(1) of the RTI Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information."

14) In our considered opinion, the aforementioned principle of law applies to the facts of this case on all force. It is for the reasons that, firstly, the information sought by respondent No.1 of individual employees working in the Bank was personal in nature; secondly, it was exempted from being disclosed under Section 8(j) of the Act and lastly, neither respondent No.1 disclosed any public interest much less larger public interest involved in seeking such information of the individual employee and nor any finding was recorded by the Central Information Commission and the High Court as to the involvement of any larger public interest in supplying such information to respondent No.1."

It is also relevant to mention here that the Hon'ble Delhi High Court in the case of Vijay Prakash Vs Union of India [W.P. (C) 803/2009] held as follows:

"23. As discussed earlier, the "public interest" argument of the Petitioner is premised on the plea that his wife is a public servant; he is in litigation with her, and requires information, - in the course of a private dispute - to establish the truth of his allegations. The CIC has held that there is no public interest element in the disclosure of such personal information, in the possession of the information provider, i.e. the Indian Air Force. This court concurs with the view, on an application of the principles discussed. The petitioner has, not been able to justify how such disclosure would be in "public interest": the litigation is, pure and simple, a private one. The basic protection afforded by virtue of the exemption (from disclosure) enacted under Section 8(1)(j) cannot be lifted or disturbed."

Following the above ratio it is a settled law at present that the sought for information relates to salary details of the appellant's husband and that it is a purely personal detail pertaining to the concerned employee who happens to be a third party in the present case. Hence the same is exempted u/s 8(1)(j) of the RTI Act. Moreover, no public interest was found to be involved in this case. Accordingly, information as sought in the RTI application is not possible to be disclosed to the appellant concerned. With the above observation, the appeal is disposed of. Copies of the order be sent to the concerned parties free of cost.

[Amitava Bhattacharyya] Information Commissioner Authenticated true copy (A.K. Talapatra)
Deputy Registrar