

CENTRAL INFORMATION COMMISSION
2nd Floor, 'B' Wing, August Kranti Bhawan,
Bhikaji Cama Place, New Delhi -110066
Tel : +91-11-26186535

Appeal No. CIC/BS/A/2016/001957

Appellant: Mrs.Mistu Biswas,
882, J N Bose Road, Near
Subhasgram Railway,
Subhas Park/SBI/Railway Gate,
PO Kodalia, dist. 24 Paragans
(South) Kolkata, (8017088581).

Respondent: Central Public Information Officer
AGM (Admn./ BKP) BSNL,
O/o., The A.G.M. (Admn./Bkp.), Barrackpore,
Calcutta Telephones,
Barrackpore Telephone Exchange
Bldg., LAlkuthi, Barrackpore,
24 Parganas (N),
Kolkata-700120.

Date of Hearing: 18.07.2017

Dated of Decision: 18.07.2017

ORDER

Facts:

1. The appellant filed RTI application dated 20.04.2016 seeking information regarding: latest monthly salary slip indicating total emolument, basic pay, D.A., HRA, medical allowance, 'Bounce' of Sri Binay Biswas; and other related issues.
2. The CPIO responded on 25.05.2016 and denied information under section 8(1)(j) of the RTI Act . The appellant filed first appeal dated 01.06.2016 with First Appellate Authority (FAA). The response of FAA is not on record. The appellant filed second appeal on 03.08.2016 before the Commission on the ground that information has not been provided to her.

Hearing:

3. The appellant and the respondent Shri Binay Biswas, APIO participated in the hearing through video conferencing.

4. The appellant stated that she has not been provided the sought for information. The appellant stated that her husband, Shri Binay Biswas, is an employee of BSNL. The appellant stated that her husband is not taking care of her and his 7 years old son. No medical facility is being provided to her and her son. The son remains ill frequently. Hence, she has filed a maintenance claim against her husband. The appellant stated that information sought for in the RTI application should be provided to her. The appellant referred to a Commission's decision no. CIC/AD/A/2012/003341/SA dated 07/01/2014, wherein the Commission had ordered the public authority to furnish the man's income details to his wife within one week.

5. The respondent who participated in the hearing is an interested party in the instant matter, being husband of the appellant. He stated that the sought for information are personal information. The respondent stated that the CPIO, AGM (Admin) had authorised him to appear on behalf of BSNL.

Discussion/ observation:

6. The CPIO was represented by an employee, who is himself is interested party in the matter (husband of the appellant). The Commission strongly objected to this and admonished the CPIO for authorising Shri Binay Biswas to represent the matter. The Commission did not allow him to represent the matter before the Commission. The Commission observes that the CPIO in connivance with the appellant's husband Shri Binay Biswas does not want to give information to the appellant.

7. The Commission observed that information about the salary of an employee of a public authority is not third party information and such information has to be voluntarily disclosed u/s 4(1)(b)(x) of the RTI Act. The Commission observed that denying information about salary appears to be with malafide intentions either to harass the spouse or delay the process of justice or to avoid payments necessary for maintenance. The Commission is

of the view that the husband, as the earning member of family, has a legal duty to maintain the wife and children and 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 mandates that husband has a general duty to maintain wife and children. In such cases, the public interest in disclosure outweighs the harm to the protected interest. Thus, the wife's entitlement to know the salary and other financial particulars/assets of her husband cannot be avoided.

Decision:

8. The respondent is directed to provide the information sought for by the appellant in her RTI application, free of cost, within 15 days of this order.

9. The respondent CPIO is directed to be personally present before the Commission on next date of hearing and show cause as to why penalty should not be imposed for contravening the provisions of the RTI Act including not providing the information and appointing interested party in the matter to represent the matter before the Commission, within 15 days of this order.

10. The Dy. Registrar is directed to relist the matter after 15 days of this order.

Copy of the order be given to the parties free of cost.

(Radha Krishna Mathur)
Chief Information Commissioner

Authenticated true copy

(S.C. Sharma)
Dy. Registrar