

Case No. :SIC/GLP.1/2022
Complainant/ Appellant :Atul R Marak
Respondent :SPIO/O/o the CEO, Zilla Parishad, Goalpara,
Assam.
Date of Hearing : 25/02/2022
Complaint/ Second : Dr.A.P.Rout
Appeal heard by State Information Commissioner, Assam

(Pension Case – Case under Right to life and personal liberty)

O R D E R
25/02/2022

1. The petitioner Atul R Marak has filed one RTI application before the SPIO, Office of the Deputy Commissioner, Goalpara on 26.8.2021 seeking information on action taken report on letter No. GZPG-193/GIS/2011-12/25 dated 30.6.2012 and No. GZPG-194/GPF/2011-12/24 dated 3.7.2012 written by the CEO, GP, ZP to the Commissioner, Panchayat & Rural Development relating to pension of his father.
2. The SPIO & Addl. Deputy Commissioner, Goalpara transferred the RTI application u/s 6(3) of the RTI Act,2005 to the Chief Executive Officer, Zilla Parishad, Goalpara on 2.9.2021 with a direction to furnish the information directly to the appellant as the matter relates to Zilla Parishad Goalpara.
3. On non receipt of any information, the petitioner filed 1st appeal before the 1st Appellate Authority, O/o the Deputy Commissioner, Goalpara on 18.11.2021.
4. The SPIO & Addl. Deputy Commissioner, Goalpara again forwarded the RTI application of the appellant to CEO, Zilla Parishad Goalpara on 25.11.2021.
5. The petitioner then filed 2nd appeal before the Commission on 4.1.2022 and accordingly the matter was taken up for hearing.
6. The petitioner Atul R Marak is present.
7. The Public Authority is represented by Hirod Kumar Rabha, SPIO & A.S.O, Zilla Parishad, Goalpara. The SPIO has submitted a written statement dated 25.2.2022 which is taken into records.
8. On hearing, **the petitioner said that the matter is related to his father and his father retired in 2005 and died subsequently, but unfortunately till date they have not got any information on the pension related dues though this letters are written to Commissioner of Panchayat & Rural Development way back in 2012. He wanted copy of action taken reports on those two letters.**
9. This is a clear case of Right to life and personal liberty as enumerated under Article 21 of the Constitution of India and held by the Supreme Court in number of judgements. As per the provision of Section 7(1) of the RTI Act, 2005 *Quote* 1) Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9: Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request. *Unquote.*

10. In this connection, a few judgements of Supreme Court of India is quoted as follows:-

M. Suceela Bai Vs. Government of Tamil Nadu, Supreme Court dated 28.9.2019 commented that right to receive pension is a right to property and held that right to pension is not bounty but right to government servant.

Supreme Court of India in State of Jharkhand & Ors Vs. Jitendra Kumar Srivastava & Anr on 14.8.2013 held that denying the petitioner's right to receive pension affects the fundamental right of the petitioner under Article 19(1)(f), though Right of the property ceases to be fundamental right still his constitution right provided under Article 300A of the Constitution of India and fundamental right under Article 21.

Article 21 states that no person shall be deprived of his life or personal liberty exceptionally to the procedure mandated by law. This article basically secures two human rights:

(a) Right to life

(b) Right to personal liberty

Article 21 clearly states a right to life does not mean the mere animal existence or mere act of breathing. It emphasizes on life with dignity and respect. Providing pension post retirement would basically highlight the following human rights (i) Right to live with dignity (ii) Right to shelter (iii) Right to help which would overall help in the economic budgeting hence leading to a fundamental right for a person to demand pension post his/her permanent halting of service as a benefit for their efforts towards a particular profession.

The High Court of Bombay in the case of Shri Naini Gopal Vs. Union of India & Ors imposed a cost of Rs 50000 on the State Bank Of India for deducting more than 3 lakhs from petitioner's account holding that the pension is a property under Article 300A of the Constitution of India and a fundamental right to livelihood under Article 21 of the Constitution.

Even administrative instruction and proactive statements of political leaders also emphasize the need to dispense pension on the day of retirement.

In this instant case, the petitioner has not yet received the pension related dues as the retirement was in 2005.

Though as per provision of Section 7(1) of the RTI Act, 2005, the information should have been given within 48 hours. The SPIO could not even furnish after 30 days and the 1st Appellate Authority also could not furnish the information within another 30 days.

11. The Commission views the callousness and insensitiveness of the SPIO and directs him to take necessary steps and furnish the information within 10 days positively.

12. In light of it, the Commission directs the SPIO to furnish meaningful information on the RTI petition after taking up with the Commissioner of Panchayat & Rural Development.

The Commission orders to take up with the Commissioner of Panchayat & Rural Development and then furnish the information to the petitioner.

13. In view of the above, the case is disposed off.

(Dr. A.P. Rout)

Authenticated true copy.

Memo No. SIC/GLP.1/2022

Dtd. 25.02.2022

Copy to:

1. The Commissioner of Panchayat & Rural Development, Panjabari, Guwahati, Assam 781037 for information.
2. The SPIO, O/o the Chief Executive Officer, Zilla Parishad, Goalpara, Assam for information and necessary action as ordered above.
3. The petitioner Atul R Marak, Vill Bhoiskhuli, P.O. Bardamal, P.S Agia, Dist. Goalpara, Assam 783120 for information and necessary action
4. Computer Section for uploading in the Website.
5. Office File.
6. Order Book.

Secretary & Registrar
Assam Information Commission