CENTRAL INFORMATION COMMISSION

(Room No.315, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 066)

File No.CIC/DS/A/2013/001589-SA

(Sumitra Devi Vs. Women & Child Dev. Dept GNCTD)

Appellant	**:**	**Sumitra Devi**
Respondent	**:**	**Women and Child Development Department, GNCTD, Delhi**
Date of hearing of Penalty and Non-compliance	**:**	**25-3-2015**
Date of decision	**:**	**01-04-2015**
Information Commissioner	**:**	**Prof. M. Sridhar Acharyulu (Madabhushi Sridhar)**
Referred Section		**Sections 20(1) of the RTI Act**
Result	**:**	**Penalty imposed**

1. The appellant is present along with Ms. Anjali Bhardwaj, Ms Amrita Johri, representatives from NGO. The Public Authority is represented by Mrs. Saroj Rawat,PIO, Dy Director, Mrs. Amita Suday and Ms. Abha Singh, Department of Women and Child Development, GNCTD, Delhi.

2. Para 13,14,15, 16 & 17 of Commission order dt 26.9.2014 is restated as under:

13. …The Commission views this as a serious lapse on the part of the PIO, as a poor, uneducated and old-aged pensioner like the appellant is not expected to get updated through the public awareness camps or through the newspaper reports or accessing to internet. Not giving this information to her in response to RTI application is a serious dereliction of duty on the part of public authority and thus a violation of her right to information.

14. The Commission, therefore, ***directs*** *the respondent authority to inform the appellant within fifteen days from the date of receipt of this order, as to when they are going to pay all the dues of pension, as per the latest calculation and entitlement of appellant which could be Rs 43,500 (Rs 1500 x 29 months) or whatever amount is due from date of due to date of payment with simple rate of interest. The Commission also* ***directs*** *the respondent authority in order to compensate the losses incurred by the appellant a token amount of Rs. 5,000 shall be paid to her for stopping her old age pension for no fault of appellant without any information.*

15. The then PIO is also directed to ***show cause*** *why maximum penalty cannot be imposed on him for not complying with FAA Order. The PIO's explanation should reach the Commission within 3 weeks from the date of receipt of this order.*

16. The Commission further observes that the RTI request of the appellant is a 'life and liberty' related request and the respondent authority should have responded to within 48 hours. The Commission found inordinate delay in addressing the appellant's case. The stand taken by the respondent authority that the pension is stopped as there was no bank account is unreasonable and not acceptable. Going by reasonability, common sense and legal duty, the respondent authority would have continued paying pension to the appellant through the Post Office Account, till she got the account opened in the bank. The Commission directs the respondent authority to file information with the Commission as to – the number of such cases, where the pension is stopped, within 3 weeks from the date of receipt of this order.

17. The Commission recommends the public authority to put in place a mechanism of not stopping the pension till the communication is reached the pensioners and respond to their general enquiries and RTI question very promptly without any delay, maximum in 48 hours from the date of receipt of request.

3. On non-compliance of the Commission's order above the appellant complained the Commission on 21.11.2014. The registry on 10.3.2015 issued a show cause notice to the respondent as to why penalty should not be imposed upon them for non-compliance of Commission's order.

Submission by Respondent

4. Both the parties made elaborate submissions. The respondent officer Mrs. Saroj Rawat, PIO/Deputy Director (FAS) stated: It was a case of old age pension. Appellant had an account in Post Office and her pension earlier was being credited there. To prevent the various kinds of scams resulting in denial of pension to hundreds of old person and appropriation by the others, the Delhi Government, in 2009 took a policy decision to credit old age pension amount in bank accounts only and not in Post Office accounts any more, for that, it was directed that those having post office account, should open a bank account as a precondition to get pension regularly.

5. Mrs. Rawat stated that Government had given a very wide publicity by publishing in print media, Radio- jingles etc to make the people aware of the new policy to enable them to get their account transfer. Besides they have also organized camps at different places from time to time and visited the houses of people receiving old age pension personally. They were given prolonged 2-year-time to shift to bank.

6. Respondent officer further submitted that Appellant is a resident of Mayur Vihar. Three times the camps have been organized there but she did not turn-up there and was not even found at home when officials visited. They made all their efforts to contact her and help but failed to trace her, then they have deleted her account in January 2013. In June 2013 appellant filed this RTI application. Mrs. Rawat Said: “In response, we replied that for claiming your old age pension you need to apply afresh as your account has been deleted and for same reason arrears cannot be provided”.

7. Respondent officer further submitted that instead of running behind NGO and waiting for date of hearing before the Commission, she should have applied for her pension afresh, then she would have got the pension. She ruled out payment of arrears under any circumstances because her account was deleted.

Submission by appellant:

8. Appellant was present and represented by a two leaders of NGO. They submitted appellant has never been informed by any means nor anybody visited her house personally so that she was told to open a Bank account. She found discontinuation of crediting pension in post office account, and enquired with the post office and in August 2012, then she opened a bank account in Syndicate Bank on 4.8.2012 and informed the respondent authority about the account. Despite that her pension account was not restored.

9. They contended that it was unethical and unprofessional for Government to delete her account from data base in January 2013 without any prior intimation to her, even though she had opened account four months before the last date.

Commission's observation:

10. A woman below poverty line, surviving only on pension sanctioned by the state is now left without any source of survival, despite complying with requirement of shifting Account from post office to Bank, even after CIC's order. The Commission would like to state that pension information for an old women like appellant is 'life' related information, to be given in 48 hrs. It was not given.

11. Having heard the submissions and perused the record, the Commission observed that there was a non compliance of the Commission order dt 26.9.2014. It is a matter of fact borne out of representations of both the sides that appellant was found eligible to receive her pension and she was regularly getting until it was discontinued. As per the policy of Government of Delhi, she has a right to get her pension. The very fact that she was getting it since beginning and she is alive proves her right to pension amount every month. The old-age pension is a welfare scheme of the Government intended to help old people to avoid starving for want of money or care by heirs. The discontinuation of

pension on the pretext that her account is deleted, had resulted in violation of her legal right.

12. The rule of pension is that once government found her eligible to get pension as per the qualifications prescribed, the pension gets attached to her and it cannot abate until her death. It is the responsibility of respondent authority to inform her, see that she noticed the change of policy and understand need to have bank account. By opening account in bank, informing the authority about it and filing RTI appeal, she was seeking the payment of pension. But on the pretext that formal, separate and straight application was not filed before the officer, she was deprived of her pension. Hence, the Commission directed the respondent authority to pay compensation of Rs 48,500 including amount she should have received plus a token amount of costs of Rs 5000/- towards the losses she suffered due to non payment for 29 months to the appellant.

13. The Commission asked Mrs. Saroja Rawat, whether she knew that appellant opened bank account before the expiry of time for that, i.e., two years, she said 'yes'. She agreed that she had time till end of year to give her pension. But she did not do so, because she has not given any application for that. She reiterated that appellant lost it because, instead of giving a fresh application she chose to file RTI with the help of NGO representatives. When Commission asked 'can she do anything now at least to pay arrears and restart pension', she said it was impossible.

14. It appears that the whole issue is of ego of the officers exhibiting angerfor approaching through RTI and intolerance to the presence and support of NGO to the appellant. It was most unreasonable for a public servant to deny pension in unreasonable way, even after appellant opened her bank account and approached their office through RTI. It is sad to note that the officer designated as 'Public Information Officer' does not give information to poor member of public and when she approaches under RTI, the officer

rejects for not approaching her directly. It is surprising how an officer working in a welfare wing such as women and child department, did not have that human -concern for the poor, eligible, old woman. The PIO might have made a point when she said that NGOs should have helped poor appellant to open a bank account in time and made her to give fresh application so that she get pension without break. The fact that she opened in time is enough to counter this point. Approaching an NGO and resorting to RTI cannot become grounds for denial of pension. The mental block and attitude of officers especially of PIO was inhuman and Commission found her adamant as she refused repeated alternatives suggested.

Non-compliance of CIC orders

15. The issue before the Commission is non-compliance of the order of the Commission to inform the appellant about restoration and the payment of arrears of the pension within 15 days. They should have informed by what date they would restore the pension and also direction to pay compensation of Rs 5000 for discontinuing the pension without any fault of appellant though she continued to be eligible to receive the pension. By this date neither the order was complied nor did they present any hope for compliance of any direction in near future.

16. All the facts discussed above were earlier heard by the Commission, based on which the order dated 26.9.2014 was pronounced. The PIO and public authority did not care to comply with any of the directions. Based on complaint against non-compliance the Commission issued sufficient notice so that they comply and report the compliance. But they did not. The Commission heard them again meticulously though PIO reiterated same facts. She said: “there is no question of payment of arrears, we will consider if she makes a fresh application for pension”. The Commission desist usage of expression ‘arrogance’,

but would like to say that a woman officer was so unkind towards a 70-yr-old poor woman surviving on pension.

17. Regarding nonpayment of compensation, Mrs. Saroj Rawat stated she "asked concerned PIO to pay compensation, he would do so within a few days". The Commission told her that it was not penalty but compensation to be paid by the public authority, not by PIO. A senior officer holding position of Deputy Director/PIO does not know this basic provision of RTI Act.

18. After hearing the 'explanation' to show cause notice and reading written submission made by Mrs. Saroj Rawat PIO/Dy Director (FAS) the Commission noticed that PIO tried to shift the blame on to the NGO for not helping appellant to act as per publicity given by Government. The Commission finds PIO has no regret and she is in no mood to restore pension or pay compensation. Hence, the Commission considers it a fit case to impose maximum penalty on Mrs. Saroj Rawat besides recommending departmental action against her, for following reasons:

a. For giving incomplete and misleading reply-"your pension may have been stopped by head office" at first instance. (This separately invokes Section 20 of RTI Act.)

b. For not complying with order of first appellate authority to give revised reply. (Breach of RTI again, under Section 20 of RTI Act)

c. For not announcing any policy as to what will be alternative for those pensioners who could not open Bank Account and thus lost pension, which would amount to defying of section 4 of the RTI Act,

d. For denying pension and denying information about that denial even after CIC ordered it. (non-compliance of CIC order, another count invoking S20 RTI Act, for breach of each and every aspect of order of CIC)

e. For not informing appellant about need to open bank account before cancelling pension and not checking whether bank account was opened, before cancelling the pension or deleting account. (Its breach of administrative duty which also is violation of right to information)

f. For not restoring pension, nor responding to her RTI application. (Its breach of administrative duty which also is violation of right to information)

19. For the reasons mentioned above and order dated 26.9.2014, the Commission imposes penalty of Rs 25,000 on Mrs. Saroj Rawat. The Appellate Authority, the Women and Child Development Dept is directed to recover the amount of Rs.25,000/- from the salary payable to Mrs. Saroj Rawat by way of Demand Draft drawn in favour of PAO, CAT, in 5 equal monthly installments. The first installment should reach the Commission by 10th May 2015 and the last installment should reach by 10th September, 2015. The demand draft should be sent to Shri Shanti Priye Beck, Joint Secretary & Additional registrar, Central Information Commission, Bhikaji Cama Place, August Kranti Bhawan, New Delhi-110066.

20. The Commission recommends the public authority to take disciplinary action against the PIO Mrs. Saroj Rawat for defying RTI Act, order of the CIC, besides dereliction of duty, being adamant to right of appellant to pension, and information, and for non-compliance of orders of Commission, within one month and intimate the compliance to this commission.

21. The Commission also directs public authority to comply with the order dated 26.9.2014 paragraph 14 and explain what mechanism was put in place as directed in paragraph 17, and to pay the compensation within 15 days from the date of receipt of this order, which include the following: a) Rs 48,500 (Rs 1500 x 29 months plus Rs 5000) along with the interest accruing on that amount from the date of due to date of payment

and b) costs of Rs. 1000 for compelling appellant to approach commission again for compliance.

22. The Commission recommends the head of public authority to consider the RTI request and her second appeal as formal request and restore pension as soon as possible, (within 48 hours, being a life related issue) and pay the pension dues until that date of restoration.

23. The Commission directs the head of the public authority to ensure compliance of the all the orders of CIC in this second appeal. If there is no compliance and compliance report is not received by the public authority within one month, the Commission will be compelled to initiate measures to prosecute officers guilty of non-compliance under Indian Penal Code for following offences:

> **S 166. Public servant disobeying law, with intent to cause injury to any person.--** Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.
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> **S 187. Omission to assist public servant when bound by law to give assistance.--**Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both; and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence, or suppressing a riot, or affray, or of apprehending a person charged with or guilty of an offence, or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

S 188. Disobedience to order duly promulgated by public servant.-- Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management. disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both: and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. Explanation.-It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm."

24. The Commission orders accordingly.

(M.Sridhar Acharyulu)
Information Commissioner

Authenticated true copy

(Babu Lal)
Deputy Registrar

Addresses of the parties:

1. The Head of Department,
   Department of Social Welfare, Women & Child Development
   Officer(South), Govt. Of NCT of Delhi, Kasturba Niketan,
   Lajpat Nagar-III, NEW DELHI, and its PIO.

2. Ms. Sumitra Devi,

S-85/23, Lal Gumbad Camp, Panchsheel Park

New Delhi

3. The Additional Director(SW) and First Appellate Authority

Under RTI, Government of NCT of Delhi

DEPARTMENT OF SOCIAL WELFARE, GLNS Complex,

Ferozshah Kotla, Delhi Gate

New Delhi-110002

4. Shri S.P.Beck, Joint Secretary (Adm)

Central Information Commission, August Kranti Bhawan

Bikaji Cama Place, New Delhi-110066