

NAGALAND INFORMATION COMMISSION
AGRI-FARM COLONY, LANE-6, H/NO. AFC-578
NAGALAND, KOHIMA-797001

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No. NIC/Appeal-8/2022-23

Dated Kohima, the 13th July, 2022

Subject: Closing Order of Appeal Case.

WHEREAS, under Section 19 of the Right to Information Act, 2005, and in accordance to the Nagaland State Information Commission (Appeal procedure) Rules, 2005, the Nagaland Information Commission had received a second appeal dated 28.02.2022 from Dr. Kuhoi Zhimomi, House No. 307, Post Box – 23, East Dimapur, Purana Bazar – 797112, Mobile No. 9612818192, 9436000170 and Rev. Dr. W. Pongsing Konyak, Post Box No. 25, Chumukedima, Mobile No. 8731057082 against the unsatisfactory response of the First Appellate Authority, Personnel & Administrative Reforms Department, Nagaland, Kohima to their first appeal dated 09.11.2021 which was submitted against the unsatisfactory response of the PIO, Personnel & Administrative Reforms Department, Nagaland, Kohima to their RTI application dated 27.09.2021.

AND WHEREAS, the applicants had submitted an RTI application dated 27.09.2021 addressed to the PIO, Department of Finance, Nagaland, Kohima along with the prescribed application fee of Rs. 10/- paid in cash seeking the following information regarding Pension Fixation done by the State Government in respect of the State Chief Information Commissioner and the State Information Commissioners:-

1. *In reference to the Department of Personnel & Administrative Reforms Order No. AR-7/NIC-31/2020 dated Kohima the 25th November, 2020, an arrear amounting to Rs. 29,63,000 (Rupees twenty nine lakhs sixty three thousand only) has been sanctioned as pension arrears to the State Chief Information Commissioner and the State Information Commissioners. Therefore, we the undersigned would like you to provide to us **the basis/criteria/guidelines** used by the State Government in determining the fixation of our pension arrears and the subsequent payment released to us.*
2. *Whether the State Government has framed the rules as directed by the Gauhati High Court for payment of pension benefits to the undersigned. If such a rule had been framed by the State Government, kindly furnish a copy of the same to us for our perusal.*
3. *Whether the Pension arrears was computed by the Accountant General (AG), or by the Director of Treasuries & Accounts office or not? If it was computed by any of the aforesaid authorities, please furnish to us **the detail mathematical calculation** evolved by them.*

AND WHEREAS, on receipt of the above RTI application dated 27.09.2021 by Shri. V. Kezo, PIO, Finance Department on 27.09.2021, he had, vide letter No. FIN/REV-4/RTI/8/14/13 dated 30.09.2021 transferred to the PIO, P&AR Department, Nagaland, Kohima. On receipt of the above RTI application transferred from the PIO, Finance Department, Smti. Renboni Mozhui, PIO, P&AR Department, 'B' Branch had, vide letter No. AR-7/RTI-8/2006 dated 18.10.2021 furnished the information to the applicants stating as under:-

1. *The amount released as pension arrears to the former State Chief Information Commissioner and the State Information Commissioners were computed as per the Government guidelines vide Notification No. AR-3/GEN-346/2017 dated 27.11.2019.*
2. *A Notification No. AR-3/GEN-346/2017 dated 27.11.2019 enclosed.*
3. *The pension for the former State Chief Information Commissioner and the State Information Commissioners were computed based on the Government Notification No. AR-3/GEN-346/2017 dated 27.11.2019.*

AND WHEREAS, on not being satisfied with the above reply of the PIO, P&AR Department, 'B' Branch, the applicants had submitted first appeal dated 09.11.2021 before the First Appellate Authority, Department of Personnel & Administrative Reforms, Nagaland, Kohima.

AND WHEREAS, on receipt of the first appeal dated 09.11.2021, Shri. R. Ramakrishnan, First Appellate Authority, Department of Personnel & Administrative Reforms, Nagaland, Kohima had, vide letter No. AR-7/RTI-8/2006 dated 24.11.2021 furnished the information to the applicants(now appellants). However, on not being satisfied with the above response of the First

Appellate Authority to their first appeal dated 09.11.2021, the applicants (now appellants) had preferred a second appeal dated 28.02.2022 before the Commission.

AND WHEREAS, on receipt of the second appeal dated 28.02.2022, since the information pertains to basis/criteria/guidelines used by the State Government in determining the fixation of pension arrears and detail mathematical calculation, and that the FAA had simply extracted verbatim of the Notification No. AR-3/GEN-346/2017 dated 27.11.2019 and furnished to the applicants (now appellants), the Commission had, vide letter No. NIC/GEN/RTI-19/17(Vol. III) dated 14.03.2022 directed the Commissioner & Secretary & PIO, Finance Department, Nagaland, Kohima to furnish the complete information as sought in their RTI application dated 27.09.2021 to the applicants (now appellants) under intimation to the Commission within 30 (thirty) days from the date of receipt of the directive.

AND WHEREAS, the PIO, Finance Department had, vide letter No. FIN/REV-4/GEN-18/10/19 dated 28.03.2022 furnished to the applicants (now appellants) the replies as under:-

1. *Nagaland Information Commission must have fixed the pension arrears and paid the same to the retired SCIC and SICs in accordance with the provision of P&AR Notification No. AR-3/GEN-346/2017 dated 27.11.2019. Hence it is for the State Information Commission to provide the basic criteria/guidelines used by them in determining the fixation of pension arrears.*
2. *P&AR had issued Notification No. AR-3/GEN-346/2017 dated 27.11.2019 containing comprehensive provisions for regarding the payment of pensions to the retired SICs. Copy of the Notification has been provided to the applicants.*
3. *Pension arrears must have been computed by the State Information Commission. Hence they can provide the detailed mathematical calculations used.*

AND WHEREAS, on receipt of the above explanation, the Commission had, vide letter No. NIC/GEN/RTI-19/17(Vol. III) dated 13.05.2022 clarified that the State Information Commission had not done the mathematical calculations, however the arrears were computed purely based on the P&AR Notification and further directed the PIO to furnish complete information as sought directly to the appellants under intimation to the Commission within 30 (thirty) days from the date of receipt of the directive. A statement of pension computed and payable to the former SCICs and SICs and copies of comparative statement for grant of pension benefits to SCIC and SICs of Arunachal Pradesh, Mizoram and Kerela were enclosed.

AND WHEREAS, in compliance to the directive of the Commission dated 14.03.2022, Shri. V. Kezo, PIO, Finance Department had, vide letter No. FIN/REV-4/GEN-18/10/30 dated 08.06.2022 furnished the copies of information to the applicants (now appellants) with regard to the yardstick/formula adopted for fixing the rate of pension for SCIC/SICs of Nagaland, and had enclosed copies of note sheets which is read as under:

“6. Though there is no doubt that the SCIC/SICs are entitled to pension, they cannot be granted full pension as under extant rules the minimum qualifying years of service for grant of full pension is 20 years. The SCIC/SICs are appointed for a period of 5 years.

7. Some State Governments are paying pension to SCIC/SIC as below:

(i) Mizoram: A special additional pension of Rs. 8000/- per annum in respect of each completed year of service is granted to officials already in Government service and worked as SIC on attachment/deputation. No pension has been prescribed for SICs who are not already in Government service.

(ii) Tamil Nadu: In respect of all SCIC/SICs irrespective of whether they are retired government officials or not, in case they have worked as SCIC/SICs for a minimum period of 3 completed years, pension of Rs. 16,020/- per annum in respect of each completed year of service, from the next day of demitting office. In respect of retired government officials already drawing pensions, it shall be termed as “additional pension” and their pension and additional pension combined should not exceed Rs. 15,00,000/- per annum.

8. *The formula adopted by the Government of Mizoram and Tamil Nadu for fixing the rate of pension of SCIC/SICs are not available with us. But it is apparent that they arrived at the rate of pension independently. Accordingly, the following rate of pension may be considered for SCIC/SICs of Nagaland:*

(i) Pension (in respect of those not getting pension from previous service/additional pension (in respect of those getting pension from previous service) at the rate of Rs. 15,000/- per annum for each completed years of service.

(ii) The duration of service shall be computed in terms of completed years, but if the service rendered is 6 months or more, additional benefit of half years pension i.e. Rs. 7500/- per annum may be allowed.

(iii) There shall be no family pension.

(iv) Pension may be paid from the next day of demitting office.

(v) In respect of retired government officials already drawing pension, their pension and additional pension combined should not exceed Rs. 15,00,000/- per annum.

(vi) State Information Commission may obtain budget allocation for discharging the pension liabilities every year and pension may be paid directly by the Commission.”

AND WHEREAS, since the PIO, Finance Department had furnished to the applicants (now appellants) the copies of file noting on note sheets wherein the fixation of the pensions to SCIC/SICs was evolved/determined, the Commission had, vide letter of even No. dated 22.06.2022 wrote to the applicants (now appellants) to confirm satisfaction or non-satisfaction of the information so furnished to them within 15 days from the date of receipt of its letter.

AND WHEREAS, the Commission had observed that:-

1. **Query No. 1:** Since there do not seemed to have any **basis/criteria/guidelines** used by the State Government in determining the fixation of the pension arrears for the SCIC/SICs of Nagaland, in the absence and in lieu of such **basis/criteria/guidelines**, copies of the **file noting** on Note sheets of the Finance Department wherein the determination of the pension/additional pension of the SCIC/SICs are granted were furnished.
2. **Query No. 2:** On the direction of the Gauhati High Court in WP(C) No. 98(K)/2017 dated 02/07/2018, the State Government had, vide Notification No. AR-3/GEN-346/2017 dated 27.11.2019 notified for pension benefits to former SCICs/SICs and a copy was furnished to the applicants(now appellants). Further, in pursuance to the Gauhati High Court in case No. COP(C) 17/2019 dated 30.01.2020 for payment of pension benefits to the SCIC/SICs, the State Government had, vide Notification No. AR-7/NIC-31/2020 dated 25.11.2020 sanctioned an amount of Rs. 29,63,000 (Rupees twenty nine lakhs sixty three thousand only) as pension payment to the State Chief Information Commissioners and the State Information Commissioners. Since the State Government has notified as directed by the Gauhati High Court for payment of pension benefits, the applicants (now appellants) were provided with the above Notification.
3. **Query No. 3:** The PIO, P&AR had not given straight reply instead only the Notification was referred to basing on which the pensions were calculated. The PIO should have replied as to who had computed the Pension arrears - whether by the Accountant General (AG), or by the Director of Treasuries & Accounts Office, and also to furnish **the detail mathematical calculation** evolved by them. However, with the furnishing of the file noting, it has transpired that the Finance Department had evolved with the pension arrears.

AND WHEREAS, the Commission had perused the information including the file noting (note sheets) furnished by the PIO, Finance Department though the applicants(now the appellants)

did not ask for copy of file noting, and was satisfied/ convinced with the explanation given by the Finance Department as far as furnishing of information is concerned. However, it is apparent that the applicants (now the appellants) were not satisfied with the contents of the Notification No. AR-3/GEN-346/2017 dated 27.11.2019.

AND WHEREAS, relying on the clarification given by the Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, New Delhi vide OM No. 11/2/2008-IR dated 10th July, 2008, that the PIO is required to supply information to the citizen who seek it. However, the RTI Act does not require the PIO to deduce some conclusion and supply the 'conclusion' so deduced to the applicant. The PIO is required to supply information in the form as held by the Public Authority and is not required to do research on behalf of the citizen to deduce anything from the material and then supply to him. The Commission further reiterate that RTI is a tool to access information and not to create information for the applicant(s).

AND WHEREAS, under Section 25(5) of the RTI Act, 2005, the Commission recommends that the Government review the Notification No. AR-3/GEN-346/2017 dated 27.11.2019 within a period of **three (3) months** so that the salaries, allowances and other conditions of service of the SCIC/CICs shall not be varied to their disadvantage after their appointment as envisaged under Section 16(5).

NOW THEREFORE, on the above observations and with this recommendation, the Commission dispose of the appeal.

Copies be given to:-

1. The First Appellate Authority, Department of Personnel & Administrative Reforms, Nagaland, Kohima.
2. Shri. V. Kezo, Commissioner & Secretary & PIO, Finance Department, Nagaland, Kohima.
3. The PIO, Department of Personnel & Administrative Reforms, Nagaland, Kohima.
4. The Computer Programmer, Nagaland Information Commission for uploading on the website.
5. The applicants (now appellants), Dr. Kuhoi Zhimomi, House No. 307, Post Box – 23, East Dimapur, Purana Bazar – 797112, Mobile No. 9612818192, 9436000170 and Rev. Dr. W. Pongsing Konyak, Post Box No. 25, Chumukedima, Mobile No. 8731057082.
6. Office Copy.

(I. MEYIONEN JAMIR)
Chief Information Commissioner

(G. H. RAMLIA)
State Information Commissioner

- The applicants desired that the payment of pensions should not be per annum but per month.
- On what basis was the rate of pension evolved or determined? Who did the calculation?
- Challenge the Notification