

ONLINE MODE / ~~SPEED~~ / SPEED POST

ORDER

Date: 19/09/2022

This is an order on your RTI appeal Registration No. IFCI/A/1/22/00007 dated 11/03/2022 preferred against CPIO's response IFCIL/R/E/22/00028 dated 19/07/2022 to your RTI Application dated 21/06/2022.

2. The Undersigned as FAA had perused the appeal, the RTI application and the response given by the CPIO thereof and the information provided by the concerned department.

3. After perusal of the above, it is found that the CPIO has provided the information vide his letter dated 19/07/22 based on the inputs given by the department concerned. Therefore, the RTI appeal was forwarded to the concerned Dept for their comments.

3. The concerned Dept has now shared the information as under.

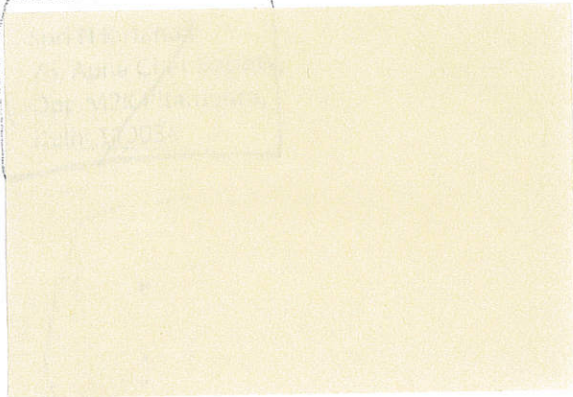
(a) Copy of the noting dated 31/12/2021 seeking legal opinion alongwith the legal opinion is enclosed herewith.



(सपना लीन)

प्रथम अपील प्रतिकारी

-220909015



o/c

आई एफ सी आई लिमिटेड

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Re: Pension related matters – IRWF – Legal Opinion

E-mail dated 23rd December 2021 from DFS with a copy of representation from IRWF

Vide PUC, DFS has requested to provide a self-contained note on all the issues raised in the attached representation dated 20.11.2021 of IRWF. IRWF has raised an issue of fixation of Family Pension in its representation. The background and rule position of the matter is placed below:

Background:

- i. IFCI had no pension scheme till the year 1993 and the Retrial Benefits consisted of the Contributory Provident Fund and Gratuity.
- ii. The Pension scheme in IFCI was introduced vide Admn Circular No. 15/94 dated 20th October 1994 and IFCI framed its Pension Regulation, IFCI Pension Regulation 1993. The Pension Scheme was effective from 1st November 1993. These Regulations governed the payment of pension and all other matters relating to Pension of the Retirees of IFCI whether they were normally retiree or VRS Optees.

IRWF Representation:

IRWF in its representation has stated that family pension to the widows of the deceased employees/pensioners is granted with reference to defunct and non-existent pay scale period 1.11.1992 to 31.10.1997 whereas the deceased employee/pensioners had drawn pay/pension in the pay scales prevalent during 1.11.1997 to 31.10.2002 and from 1.11.2002 to 31.10.2007.

For payment of family pension, IRWF has also referred to para (I) (2) of chapter VI of "Memorandum of Instructions for implementation of pension scheme under IFCI Pension Regulations, 1993" as under:

"It may be noted that pay for the purpose of Family Pension will refer to the Pay drawn by an employee immediately before retirement or on the date of his death while in service and will include various types of pay as defined in regulation 2 (9) of the IFCI Pension Regulations, 1993."

IRWF has insisted that the above memorandum of instruction shall be followed in the matter of payment of Family Pension.

Rule Position:

Since the introduction of Pension Scheme, IFCI has been paying Family Pension to the family of the deceased employees as per clause 32(4) and 32(5) of Chapter VI and Memorandum of Instructions for implementation of pension scheme under IFCI Pension Regulations, 1993" of IFCI Pension Regulations 1993. The 32(4) and 32(5) clauses are as under:

Clause 32(4) - "In the event of death after retirement the family pension at twice the ordinary rate of family pension or @ 50 per cent of the pay last drawn, whichever is less, shall be payable from the date following the date of death for a period of 7 years or till the deceased employee would have attained the age of 65 years, whichever is earlier, provided that the amount of enhanced family pension as above shall not exceed the normal pension admissible on retirement".

32(5) - The Ordinary rate of Family Pension will be as under:

For employees retired before 1st November 1993

Pay Range	Rate of Family Pension per mensem
Up to Rs. 1500	30% of pay, subject to a minimum of Rs. 375 per month
Rs. 1501 to Rs. 3000	20% of pay, subject to a minimum of Rs. 450 per month
Above Rs. 3000	15% of pay, subject to a minimum of Rs. 600 per month and maximum of Rs. 1250 per month

For employees retired on or after 1st November 1993

Pay Range	Rate of Family Pension per mensem
Up to Rs. 2870	30% of pay, subject to a minimum of Rs. 720 per month
Rs. 2871 to Rs. 5740	20% of pay, subject to a minimum of Rs. 860 per month
Above Rs. 5740	15% of pay, subject to a minimum of Rs. 1150 per month and maximum of Rs. 2400 per month

For the purpose of family pension and as per clause 32(5) as above, the deceased ex-employee's pay is fixed in 1992-97 pay scale if the employee retired in 1997-2002 pay scales or later.

Further, as per clause 32(5), the family pension is minimum Rs. 375 per month and maximum Rs. 1250 per month for employees retired before 1st November 1993. The family pension is minimum Rs. 720 per month and maximum Rs. 2400 per month for employees retired on or after 1st November 1993.

In view of the above, it is proposed to seek opinion on the rule position as stated above from our Legal Deptt before proceeding further in the matter.

Submitted please.

DGM(CA)

Recy 3/11/22

GM (Estt)

3/11/22

GM(LSVN)

M. examine & discuss.

03/11/2022

Asst(L) VP

M
3/11/22

P. FO

Information is supplied under the provisions of the RTI Act, 2005

3/12/2021

The Establishment Dept. is in receipt of email from Sh. Mantosh Kumar Ojha (Section Officer), DFS, MOF, GOI requesting IFCI to provide a self-contained note on all the issues raised in the representation dt. 20/11/2021 submitted by IFCI Retiree Welfare Forum (IRWF) duly mentioning the background, rule position and decision taken by IFCI Ltd. on each matter falling its administrative purview. It is also requested vide said email to reconsider the request of the above said forum w.r.t. DA linked pension.

2. The Establishment had prepared the note and the brief points are stated herein under:-

Claim by IRWF in the representation: -

IRWF had relied on Para (I)(2) of Chapter VI of "Memo of Instructions for implementation of pension scheme under IFCI Pension Regulations, 1993" which provides that pay for family pension refers to pay drawn by an employee immediately before retirement or on date of his death while in service and includes various types of pay as per regulation no. 2(9) of IFCI Pension Regulations, 1993.

Establishment Dept. reply:-

IFCI after the implementation of Pension Regulations, 1993 has been paying the family pension as per the provision of Regulation no.32(4) read with 32(5). The Regulation no. 32(5) provides the rate of family pension for employees retired before 1/11/1993 as well as those employees who retired after 1/11/1993.

3. It is submitted that as per regulation no. 32(5), the rate of family pension has been quantified and the same cannot be ignored while calculating the family pension as per IFCI's pension regulations. Whereas the provision contained in Para (I)(2) of Chapter VI (as quoted by IRWF) is in the nature of explanatory notes only (inserted with the objective of aiding and explaining the extant regulations) and the explanatory notes appended with the Regulations cannot take the place of extant regulations and in case of dispute between explanatory notes and extant provision, the extant provision will prevail. Further, it is further suggested that Establishment Dept. (in case considered appropriate by the said Dept) should also explain the calculation by inserting an example to show how the family pension is calculated for the employees who are eligible for family pension.] X

Submitted please.

Vinod Malil
AGM(L) 4/1/22

GM-L (VSN) pls -

We may explain the position to the ministry. 'X' is not required.

~~Am (EST)~~

① n

4/1/22

~~_____~~
04/01/22

~~DGM (AY)~~

①

05/01/2022