

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 1259-08/2021

M. Saleem Butt

Versus

Establishment Division

APPEAL NO. 1260-08/2021

M. Saleem Butt

Versus

Ministry of Law and Justice

APPEAL NO. 1261-08/2021

M. Saleem Butt

Versus

Federal Board of Revenue

Fawad Malik

Information Commissioner

A. APPEALS

1. The titled three appeals numbers 1259-08/2021, 1260-08/2021 & 1261-08/2021 are decided through this consolidated order for the reason that same set of questions are asked by the same appellant from the four different public bodies i.e. Establishment Division, Ministry of Law and Justice, Finance Division and Federal Board of Revenue.
2. Through an application dated 10.08.2021 under the Right of Access to Information Act, 2017 addressed to the designated persons of Establishment Division, Ministry of Law and Justice, Finance Division and Federal Board of Revenue, M. Saleem Butt has asked the following set of questionnaire:

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“Before me is a promotion Notification No 0566-10-1/2013. (Attached A) virtue of which I was promoted on regular basis to BS-21. I am appearing at Serial No 2 in the above Notification. You may also review the notification No F-1(42)/2004-A-IV Dt. 10 July 2010 (13) when the Government of Pakistan Law and Justice Division on FBR's promotion posted me in BPS-21 as Member Income Tax Tribunal Lahore. This above Notification is gazette in the Printing Press of Pakistan.

Question No 1

How a person if notified in BS-21 twice cans is not granted ante dated promotion? Civil Servants are governed through law, rule and regulations and Precedents that are law because of various Supreme Court cases (List of SC Cases attached above are final and implementable by application of Article 189 to the Constitution of Pakistan 1973.

1. You should also review your office letter No 103(19)-19-MIR 1/206/68862-R Islamabad dated 24 April 2020 addressed to me. (Attach C)

This is a letter which is inviting Contempt of court 1976. Read the last three lines of Para No 3 and I quote it below as "it is pertinent to mention here that the CSB 2015 made in Denova case, recommended your case for deferment FBR again forwarded the case to Finance Division for reconsideration of FR (17) committee.

A issue connected with the above fetter is when CSB had promoted a officer in BS-21 on 11-03-2012, how can a CSB hold a meeting in the year 2015 in case after my retirement on 05-06-2013. Can they put me back in service after two years from my retirement?

Question No 2

2. How can CSB 2015 defer me again after I have attained Anti-date promotion from 10-07-2010 till I was regularly promoted on 11-03 2013. Your office Memorandum Dt. 01-06-2013, (Annexure D) by which Chairman FBR had recommended my Ante Date Promotion from 02-11-2011, so had the Wafaqi Mohtasib, by its order No 3072/2016 and NCHR order No 58/2018 all had accepted my seniority from 02-11-2011 arising due to SHC order No 3430/2011.(Annexure E)

Your office Letter No MIR-1/206/68862 DL 24 April 2020 is inviting contempt of Court 1976 because of a monumental final decided. Supreme Court cases No 2006 SCMR 1938. This decision is a monumental verdict where Ante-date promotion, as observed by the SC is a right of BS-21 officer, who get eligibility and is sent on Deputation.

When a officer is promo in BS-21. in my case first on 10-07 2010, how can FBR lower the basic pay of BS-21 49680 constitutionally protected to 44550/- (Annexure (F) curtailing perks and allowance of a eligible candidate who was sure to be promoted, that is why he was sent to Deputation as from others he had a edge in legal matters particularly useful for in the Income Tax Tribunal.

Question No 3

Can you show me a single notice issued against me through which a Major penalty, of reduction in pay was levied on me after following due course of law. Pay can only be reduced by levying a Major Penalty? Can you please throw light on this provocative act of the FBR.

3. Mis-application of law and Precedents by FBR on flouting various decisions of the Supreme Court of Pakistan requires explanation. Even the action taken by FBR is against Rule of FR (17) also (because it also envisages no antedated seniority in case of levying penalty to reduce pay. What do law say?

"In this behalf, in a case titled as the Province of the Punjab through the Secretary Vs. Syed Muhammad Ashraf (1973 SCMR 304) the Hon'able Supreme Court held that where a civil servant for no fault of his own was wrongly prevented from rendering service to state in higher post to which he was admittedly entitled should be given salary for the higher post in arrears. In case listed "Syed Sultan Shah Vs. Government of Baluchistan (1985 SCAR 1394 as well as "Mrs. Aqeela Asghar Ali & others Vs. Miss Khalida Khatoon Malik & others" (PLD 1991 SC 1118) and Abdul Jabbar Khan Vs Government of Sindh through Chief Secretary. Karachi and five others (1996 SCMR 850; the Hon'ble Supreme Court held that Performa Promotion from a date in retrospect would entitle a civil servant for salary and other benefits for the period he was improperly denied his promotion. Also allow Ante Date seniority if penalty is not levied in due course of law.

FBR should explain this issue viz-e-viz Supreme Court decision quoted Supra as well as FR(17) rule which is also in favor of the officer. "No penalty is leviable except by due course of law states FR(17)(1).

Supreme Court Cases

A	<i>2006 SCMR 1938 Luqman Zareena and other Vs Secretary Education NWFP Applicant were granted promotion from 31-08-2000 the date of OPS till their Regular promotions later after 4 years. No need of FR-17(1) and FR 3 ^ 2 * (2)</i>
B	<i>Government of NWFP and other 1985 SCMR 9158</i>
C	<i>Iftikhar ullah Vs Chief Secretary and other (1998 SCMB) 736</i>
D	<i>Kholid Mehmood Vs Chief Secretary Government of Punjab and other (2013 SCMR 754)</i>
E	<i>Federation of Pakistan and other Vs Rois Khan (1993 SCMR 609) 5.C Petition No 472 of 2014.</i>

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4. The above decision of Supreme Courts, do not require holding of FR * (17) * (1) and IR * (17) * (11) for an officer who was g_{j}*b * k and had held BS-21 posting. Letter dated on 24 April 2020 is therefore ultra vires in law and facts.

Question No 4

Question arises that as to why did the FBR not allow Antedated Seniority from 10-07-2010 to 05-06-2013 within 3 months of regular promotion of the incumbent officer effected from 11-03-2013 to 05 06 * 2013 he remained on Job.

SC 2006 SCMR 1938 Luqman Zareena and others Vs Secretary Education NWFP had settled the matter once and for always hence SC final order under article 189 to the Constitution of Pakistan 1973 is implementable through the Constitutional provision given in Article 199.

Question No 5

5. Through Notification No. 0566-10-1/2013, the officer was promoted on eligibility at a higher post on 10-07-2010 with higher grade pay and perks. His ante-dated promotion had become due on 12-03 2012, a day after regular promotion as per the SC decision quoted above. Why was FBR complacent to implement the above decision within the tenure of service? Why is it being delayed till now. I am raising the issues again after remaining unsuccessful for many years?

FBR was levied a token compensatory cost in case decided by SC of Pakistan No 3857/2019 on delaying matters and filing frivolous appeals Why did the FBR delay the matter for 8 years in the case of the petitioner Can I assume it is a sheer victimization or for what did the FBR wait for!

Question No 6

Officer appearing at serial Number 14 to the Notification No 0566 10-1/2013, Mr. Shafqat Mehmood was granted Ante-dated seniority with arrears from 02-11-2013. Why was the ante-dated Seniority of the person appearing at No 2 the petitioners was denied seniority and arrears. This is sheer Discrimination under Article 3 of the Constitution of Pakistan 1973. What were the fate of other officers appearing from 1 to 25 setting aside number 2 in my case who was denied seniority and officer appearing at 14 who was given seniority with arrears of pay who was promoted with the incumbent office, Were other officer paid arrears in Antedate seniority? This is a very important question resolution of which can solve the issue of Ante-dated seniority of the incumbent officers from 02-11-2013, a partial relief is definitely due to the incumbent officer.

Question No 7

On promotion to BS-20, the incumbent officer was sent to Deputation for 3 years which was extended to five years vide Establishment Notification No/2003/E-4 Dt. 03 January 2004. (Annexure G)

This was justified on promotion but FBR immediately demoted the petitioner to OPS 21 on 13-07-2010 after he was regularly promoted in BS-21 and sent as Member Income tax Tribunal Lahore. Under the Rules of Establishment Division; a candidate cannot be sent on Deputation in same grade not exceeding five years (Rules enclosed

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H). Would you kindly throw some light to this void abinitio Act of FBR which even went against the Rule of Establishment Division? While demoting him to BS-20 and reducing pay from Rs. 49440 to Rs. 44480 you ignored many officers who had been holding OPS 21 in BS-20 in the past. A typical example is Malik Bashir who remained in BS-21 Chief Commissioner LIU Karachi in BS-20 on OPS 21 for four years but he was not regularly promoted to BS-21 yet he enjoyed all perk and privileges As reversion or demotion was effected by FBR. it issued an order on Du 13-07-2010 showing the petitioner as Member ITAT Lahore also till 15-10-2010, the FBR protected the pay of the office but reverting him to Commissioner Inland Revenue it reduced the pay of the incumbent officer. Summarizing this Question No 7 is Car FBR ignore Rules of Establishment and promotion Rules and can the IBR levy Major penalty without due process of law?

Question No 8

In order to hide it illegalities, the FBR promoted two officers at Serial No 25 and 38, (Annexure I) these officers were junior the incumbent officer who was appearing at 24. A questionnaires' arises when a person from 38 number was elevated to 23-A. (how can FBR sent the number as 23-A which clearly show an after thought event). This officer was Junior to the incumbent officer by three years, Why was his seniority list changed and not circulated to Effectees of the list that started from Serial No 24 and reached till Serial No 37 (Annexure J). Resorts to Supreme Court order No 1986 SCMR 873 which states the Decision of the department to order firms in selection, there are all part of a overall policy to deal fairly and properly with all Civil servant alike (Unquote). Had the FIR circulated the list, the matter was resolvable in few days due to the above following Supreme Court Case.

PLD (SC) 1153/Dispute is resolvable when Supreme Court order relegation of a person seniority if the list is wrongly made in seniority and officer effected are not circulated upon. (Unquote)

Question No 9

The Question is "Did the FBR circulate the change in Seniority list to the incumbent which effected the Seniority of the officer, when his case was sent to CSB held on 25 May 2009. According to the opinion of the author of this letter, particularly after SC case PLD (SC) 1153 those people who were effected from 24, after Serial No 26 (25 was promoted) onward till the 37 position, are liable to get ante-dated seniority of higher grade for pay protection in 21 or 22 as is the case of incumbent officer appearing at Serial No 24.

Question to 10

Incumbent officer was sent on promotion in BS-21 to Lahore as Member Income Tax Tribunal for which the readily joined the Tribunal a promotion with high perk and privileges but due to accommodating person at serial No 25 and 38. (Both junior officer the petitioner was superseded three times consequently he became Junior to 32 officers that is from 24th position he fell down to 72th position. The petitioner had observed, two serious irregularities committed by FBR in applying Rules and law and thus infringing the Fundamental rights of the person.

If the petitioner was demoted to OPS 21 from BS-21 there is no rule in Deputation, framed by the Establishment Division, whereby an officer can be sent for more than 5 years in the same grade.

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SC decision 1996 SCMR 1183, had pinpointed that persons who attain eligibility are elevated to attain higher post should be regularly promoted soon. Eligibility criteria is tabulated by FBR on the basis of performance of the officer in the department. It is true there is Nepotism. Jobbery Corruption and political patronage everywhere but that do not apply to honest innocent officers allowing others to gunned down ruthlessly people by rules of the thumb. FBR even ignored section 130(4) of the IT ordinance 2001 which had placed a bar on a Member's selection in ITAT, if that officer had not completed five years' service in the Income Tax department FBR furnished wrong data to the Ministry as Member Income Tax Tribunal which is under the Ministry of law and parliamentary affair. The officer who was elevated to 23-A position from 38th without observing rules he had less service, than the incumbent officer. The incumbent had served for four years in Wafaqi Mohtasib which is under the President of Pakistan. FBR is not disorganized, even before but after it was completely put on computer technology from 2007. Why was the incumbent officer sent on Deputation for period exceeding 5 years in BS-20 or OPS 21 to ITAT why did the FBR ignore a income tax law of section 130(4) by sending a person who had less service to qualify as ITAT Member orders of Ministry of Law enclosed? (Annexure K)

Question No 11

If as a Member ITAT had I decided a case in favor of FBR in good Faith, the other party would have gone in Contempt against me because I was incorrectly posted as ITAT in OPS 21 on 13-07-2010 Original posting in BS-21 on 10-07-2010 was correct, would have saved my job. On Representation to the Ministry of Law, it acceded to the request of the incumbent officer and declared the act of FBR against law? Why did the FBR act in haste to send the officer of FBR to ITAT in Contravention to the Deputation rules of the Establishment Division and also in Definable of Section 130(4) of the Income tax Ordinance 2001? Explanation has to be tendered.

Question No 12

FBR had tipsy thrived the entire carrier of a officer who is a writer (CV enclosed L) and had served the Department better than lot many officer FBR is a organization which had collected more than 4500 billion tax in the year 2020-2021. Mr. Imran Khan wants collecting of taxes of FBR to be more than 10000 billion Rupees a year How a responsibility or series of lapses in responsibility cans fixed an these series legal lapses after which intervention of due process of law can take its course? Is there an administrative remedy available to provide financial relief to the incumbent officer on illegal acts which deprived not only promotion at the right time but pay was reduced and Rules were wrongly applied?

Question No 13

It is not to be assumed that the Petitioner is raising this question now, but on every forum in verbatim and not less than four to five letters in a year were sent to FBR hoping that they provide me administrative remedy but all effort went in vain. Believe you me, letter No M/208/68802 DI 24 April 2020 was the first letter received from FBR after 11-03-2012. when the incumbent had started writing about these grievances to the Head of Department, Chairman FBR and have met many out of them. No one has replied to a single letter.

For serving. FBR for 35 years in the field, it is impossible for a officer in field to defray a single letter for more than fifteen days. Should I assume that letters which

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are written in sycophancy and in "Goody Goody" mode are responded whereas invigilation is absent in matters where the complainant pin points irregularities which can be mended to prevent senior officers by one way or the other to ruin Junior Public servants. Can the responsibility be fixed of officer or officers in light of there observation? If so, I would then try to re-think that FBR has really improved in the governance performance after Imran Khans Initiative?

Question No 14

A edifice of wrong doing of FBR in evident. Enclosed is the chart which requires explanations.

There are five column and sub column in the chart that show different years lapses committed by the FIR, Following letters would show official correspondence (Attached My by which explanations were required but no one had responded. Notification or posting order of the stay at Bahawalpur and Lahore was being demanded for at last a reply in this behalf is awaited for the last 8 years? Quantification shown at 4.67 in column No 4 was corrected by FBR on the basis of my official correspondence but was not informed otherwise the FBR should not had refrained to reply and prove the incumbent officer was wrong?

Performance Evaluation Report of ITAT grade 21 from 10-07-2010 is not being shown, definitely the stay of the incumbent officer was more than 3 month in ITAT. This report was sent as per law and rules but this has not been included in the Tabulation chart. All there discrepancies need a reply. Would you please reply to this part of the dossier?"

<i>S #</i>	<i>Post held</i>	<i>Min/Div/Dept</i>	<i>Period From</i>	<i>To</i>	<i>PER's Assessment</i>	<i>Wrong score</i>	<i>Correct Score</i>
	<i>IAC (A)</i>	<i>Income Tax-Bahawalpur</i>	<i>01.04.1993</i>	<i>31.12.1993</i>	<i>Very good</i>	<i>08.00</i>	<i>Not posting order</i>
	<i>(B)</i>	<i>Income Tax-Bahawalpur</i>	<i>30.03.1994</i>	<i>30.03.1994</i>	<i>Very good</i>	<i>02.00</i>	<i>Not posting order</i>
	<i>IAC (C)</i>	<i>DOT, Lahore</i>	<i>021.01.1995</i>	<i>31.12.1995</i>	<i>Good</i>	<i>07.00</i>	<i>Not posting order</i>
	<i>Do (D)</i>	<i>Wafaqi Mohtasib Secretariat</i>	<i>01.01.2004</i>	<i>31.12.2004</i>	<i>Very good</i>	<i>04.67</i>	<i>No PER NO quantification</i>
<i>Member ITAT grade 21 10- 07- 2010 to 04- 02- 2-10 No ACR, hence to number quantified</i>							

Question No 15

According to the Promotion Policy 2007, issued by the government of Pakistan by which 70 Mark is allocated to performance in field (others than training and evaluation by CSB Board it both carries 15 Marks each), On wrong Dossier constituting 70 marks, how can the CSB evaluate a person on a wrong file? Why has

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the FBR not resorted to independent verification or the matter should have been given to FIA for inquiry The Establishment Division, Ministry of Finance along with Ministry of law and parliamentary affairs have also failed to file reply. They are being sent these letters separately to answer to the questions raised on the misdoing of the FBR These things are also effecting Establishment Division, and Ministry of law and parliamentary affairs.

If the matter is not resolved administratively under the R11 2017, the main Department that is the Federal Board of Revenue to whom these Questions are again being forwarded to the Designated person the Chairman Federal Board of Revenue Islamabad for the last time to tender reply within 10 days of issue of this letter. The officious remedy finally will vest with the High Court of Pakistan under Article 199 to the Constitution of Pakistan 1973.

A separate legal notice is also being sent by my daughter Advocate Mst. Fatima Saleem Butt MA LLB LLM (London) who probably would file writ before the SHC in case the grievance of the petitioner is not replied within the stipulated time of 10 days and the Information Commissioner fails to get answer form this department. Writ can follow making Chairman FBR Secretary Finance Ministry, Establishment Division and Law Ministry are surely to respond. All these deliberate lapses effected the entire service and its benefits of Promotion and pay and privileges that is available to other officers. Other designated person viz Establishment Division Secretary has to answer all 15 question so would the designated person, Secretary Ministry of law and parliamentary affair.

N.B: Except Secretary Finance who is required to Answer Question No 3 and 5 by which FR - 17(1) and FR - 17(11) meeting denied Antedated seniority to the incumbent officer against law and allowing antedated seniority to a candidate appearing at serial No 14 was done. Minutes of the meeting to disapprove all cases except the Antedate promotion of the officer appearing at serial No 14 Fate of other officer would determine the legality of FR-17(I) and FR - 17(11) meeting as has been mentioned in the letter written by FBR after 8 years on 24th April, 2020."

3. He filed appeals before the Pakistan Commission on access to information against the Establishment Division (1259-08/2021), Ministry of Law and Justice (1260-08/2021), and Federal Board of Revenue (1261-08/2021) for not responding on his applications within the time frame stipulated in the Right of Access to Information Act, 2017.

B. PROCEEDINGS

4. The notices of the Commission were replied by the Establishment Division, Ministry of Law and Justice and Federal Board of Revenue. Their respective replies are reproduced here under:

Reply of Establishment Division (Appeal No. 1259-08/2021)

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“The applicant instead of seeking any specific information under Right of Access to Information Act, 2017, has made his own arguments / propositions and sought rebuttal thereof. Asking for rebuttal of arguments is not covered under the ibid Act. The applicant may file a proper application as per prescribed proforma available on official website of Establishment Division.”

Reply of Ministry of Law and Justice (Appeal No. 1260-08/2021)

“Mr. Saleem Butt, an officer was appointed as Accountant Member in the Income Tax Appellate Tribunal (Now Appellate Tribunal Inland Revenue (ATIR) vide Notification dated 10-07-2009 and he assumed charge of the post but he was not willing to work. Before joining he was on leave and remained on leave till his repatriation vide this Division’s U.O. dated 10-10-2009.

Mr. Saleem Butt, former officer of IRS (BS-21) has raised 15 questions regarding his antedated promotion in BS-21 and directed to provide reasons in writing within 07 days in writing. The contents of appeal reveal that all the 15 points/questions relate to Federal Board of Revenue (FBR) as the officer belongs to Income Tax Group (now Inland Revenue Service) and the Revenue Division/FBR look after the administration matters of IRS Officers.”

Para wise reply of Federal Board of Revenue (Appeal No. 1261-08/2021)

S#	Questions	Remarks
1	<p><i>How can a person if Notified in BS-21 twice is not granted ante dated promotion? Civil Servants are governed through law, rule and regulations and Precedents that are law because of various Supreme Court cases (List of SC Cases attached above are final and implementable by application of Article 189 to the Constitution of Pakistan 1972.</i></p> <p><i>You should also review your office letter No 103(19)-19-MIR 1/206/68862-R Islamabad dated 24 April 2020 addressed to me.</i></p> <p><i>This is a letter which is inviting Contempt of court 1976. Read the last three lines of Para No 3 and I quote it below as "it is pertinent to mention here that the CSB 2015 made in Denova case, recommended your case for deferment FBR again forwarded the case to Finance Division for reconsideration of FR (17) committee.</i></p>	<p><i>The officer was notified in BS-21/ only once, on 11.03.2013, not twice. Further, Supreme Court of Pakistan vide its judgment dated 11.10.2002 in Civil Appeal No.1599 to 1606/1999 had observed that "no civil servant can ask for promotion as a right". The detailed history of his case is asunder: 1. Mr. Muhammad Saleem Butt (Retd.IRS/BS-21) was considered for promotion from BS-20 to BS-21 by CSB in its meeting held on 25 to 28 March, 2009. CSB recommended him for supersession on the following grounds:</i></p> <p><i>"His total scores of PERs, training evaluation reports and marks awarded by the Board was</i></p>

	<p><i>A issue connected with the above fetter is when CSB had promoted a officer in BS-21 on 11-03-2012, how can a CSB hold a meeting in the year 2015 in case after my retirement on 05-06-2013. Can they put me back in service after two years from my retirement</i></p>	<p><i>below the prescribed score of 75".</i></p> <p><i>The officer did not challenge his supersession in any court of law, even when he lost his seniority with his batch mates.</i></p> <p><i>2. Mr. Muhammad Saleem Butt was considered for promotion from BS-20 to BS - 21 by CSB in its meeting held on 06.12.2009, CSB recommended him for supersession on following grounds: "His total score of PERS, Training Evaluation Reports and marks awarded by the Board was below the prescribed score of 75".</i></p> <p><i>The officer did not challenge his supersession in any court of law, even when he lost his seniority with his batch mates.</i></p> <p><i>3. Mr. Muhammad Saleem Butt was again considered for promotion from BS 20 to BS-21 by CSB in its meeting held on 23rd to 24th September and 3rd October, 2011. CSB again recommended him for supersession on the following grounds:</i></p> <p><i>"Performance below average as opined by the Departmental Representative. His total score of PERS, TERs and marks awarded by the Board was below the prescribed score of 75".</i></p> <p><i>4 Being aggrieved by the decision of CSB held on 23rd to 24h September and 3rd October, 2011, Mr Muhammad Saleem Butt filed appeal vide CP No.D. 3430/2011. The Sindh High Court vide Order dated 19.12.2012 directed as under:-</i></p> <p><i>"We set aside the earlier decision of CSB with regards to non suitability of petitioner's promotion and direct the CSB for</i></p>
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	<p><i>de novo consideration of promotion of petitioner in its next/future meetings”.</i></p> <p><i>5. Mr. Muhammad Saleem Butt was promoted to BS - 21 on 11.03.2013.</i></p> <p><i>6. It is pertinent to mention here that Ms Iram Adnan and others filed writ petition before Honourable Islamabad High Court against their supersession for promotion from BS-19 to BS-20 on the recommendation made by CSB held on 03.10.2011. The Honourable Islamabad High Court vide order dated 20.03.2012 declared all meetings of CSB unconstitutional without jurisdiction and unjust and directed to hold de novo proceedings of CSB.</i></p> <p><i>7. In compliance of the above Court directions, CSB held meeting on 5th to 8th May, 2015 for de novo consideration of officers for promotion from BS-20 to BS- 21 and BS - 19 to BS - 20 (who were either recommended for supersession or deferment by the CSB held on 3.102011. All officers of IRS including Mr. Muhammad Saleem Butt were recommended for deferment by CSB held on 05th to 8th May, 2015 .</i></p> <p><i>8. In compliance of Honourable Sindh High Court Judgment dated 19.12.2012, FBR forwarded case to Finance Division for consideration of FR - 17(1) Committee of Finance Division. The Junior Level committee on FR-17(1) and High Level Committee on FR - 17(1) recommended his case for proforma promotion to BS 21 with effect from 02.12.2011.</i></p>
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		<p>9. FBR moved summary to the Prime Minister on 16.11.2016 to accord approval to the recommendation of High Level Committee on FR-17(1). However, queries were raised by Prime Minister office which were replied by FBR. The Prime Minister office returned the summary with observation that since recommendations of CSB 2015 made in de novo cases were not brought on record during proceedings of the Junior and High Level Committee meetings, therefore, the case for proforma promotion of officers mentioned in Para 1 of the summary may be resubmitted by the FBR to the Committee on FR - 17(1) for considerations while also keeping in view the recommendations of the CSB in May 2015. FBR again forwarded the officers' case to Finance Division for consideration of FR-17(1) Committee.</p> <p>10. The High Level Committee on FR. 17(1) discussed the case in detail in its meeting held on 22.11.2019 and did not recommend his case for grant of ante dated promotion. The recommendations of High Level Committee were duly approved by the Prime Minister.</p> <p>The same details were briefly communicated to Mr. Muhammad Saleem Butt vide Board's letter dated 24.04.2020</p>
2	<p>How can CSB 2015 defer me again after I have attained Ante dated promotion from 10.07.2009 till I was regularly promoted on 11.03.2013 Your office Memorandon De 01.06.2013 (Annexure D) by which Chairman, FAR had recommended ny ante dated promotion from 02.11.2011 so that the Wafap Mohtasib, by its order No3072/2016 and SCHR order N58/2018 all had accepted my seniority from 02.11.2011 arising due to SHC order No.3430/2011 (Annexure-E)</p>	<p>Ill conceived statement. The officer was not regularly promoted rather he was superseded by CSB thrice i.e. in March 2009, Dec-2009 and Sep/Oct 2011.</p>

	<p><i>Your office letter No MIR-1/206/68862 dated 24.04.2020 is inviting contempt of Court 1976 because of a monumental final decided Supreme Court case No 2006 SCMR 1938. This decision the SC is a right of BS-21 officer, who get eligibility and is sent on of monumental verdict where ante-date promotion as observed by deputation.</i></p> <p><i>When an officer is promoted in BS-21 in my case first on 10.07.2010 how can FBR lower the basic pay of BS-21 49680 constitutionally protected to 44550- curtailing perks and allowance of an eligible candidate who was sure to be promoted that is why he was sent to Deputation as from others he had an edge in legal matters particularly useful for in the Income Tax Tribunal.</i></p>	
3	<p><i>Can you show me a single notice issued against me through which a Major penalty of reduction in pay was levied on me after following due course of law. Pay can only be reduced by levying a major penalty. Can you please throw light on this provocative act of the FBR.</i></p> <p><i>Mis- application of law and precedents by FBR on flouting various decisions of the Supreme Court of Pakistan requires explanation. Even the action taken by FBR is against Rule of FR 17 also (because it also envisages no antedated seniority in case of levying penalty to reduce pay. What do law say?</i></p> <p><i>In this behalf, in a case titled as the province of the Punjab through the Secretary Vs. Syed Muhammad Ashraf (1973) SCMR 304) the Honourable Supreme Court held that where a civil servant for no fault of his own was wrongly prevented from rendering service to state in higher post to which he was admittedly entitled should be given salary for the higher post in arrears. In case titled Syed Sultan Shah Vs. Government of Baluchistan /1985 SCMR 1394 as well as "Mrs. Aqeela Asghar Ali & others Vs. Miss Khalida Khatoon Malik & others" [PLD 1991 SC 1118] and Abdul Jabbar Khan Vs. Government of Sindh through Chief Secretary, Karachi and five others [1996 SCMR 850] the Honourable Supreme Court held that performa promotion from a date in retrospect would entitled a civil servant for salary and other benefits for the period he was improperly denied his promotion. Also</i></p>	<p><i>Perusal of file shows that he was never awarded a major or minor penalty during service but it does not assure/ affirm/ grant him promotion</i></p>

	<p><i>allow ante date seniority if penalty is not levied in due course of law.</i></p> <p><i>FBR should explain this issue viz-a-viz Supreme Court decision quoted Supra as well as FR-17 rule which is also in favour of the officer. No penalty is leviable except by due course of law.</i></p> <p><i>A. 2006 SCMR 1938 Luqman Zareena and other Vs. Secretary Education NWFP Applicant were granted promotion from 31.08 2000 the date of OPS till their akistan I</i></p> <p><i>B. 17(2) Government of NWFP and other 1985 SCMR 1958</i></p> <p><i>C. Iftikharullah Vs. Chief Secretary and other (1998 SCMR 736)</i></p> <p><i>D. Khalid Mehmood Vs. Chief Secretary Government of Punjab and other (2013 SCMR 754)</i></p> <p><i>E. Federation of Pakistan and other Vs. Rais Khan (1993 SCMR 609)</i></p> <p><i>F. Performa Promotion was elaborated by Islamabad High Court on 03.12.2015 Prime Minister Vs. Mairaj Retired Mohammad Habib Khan (I.C.A No.8750W/2012.</i></p> <p><i>The above decision of Supreme Court, do not require holding of FR (17) and FR (17) (II) for an officer who was and had held BS-21 posting. Letter dated 24.04.2020 is therefore ultra vires in law and facts.</i></p>	
4	<p><i>Question arises that as to why did the FBR not allow antedated seniority from 10.07.2009 to 05.06.2013 within 3 months of regular promotion of the incumbent officer effected from 11.03.2013 to 05.06.2013, he remained on job.</i></p> <p><i>SC 2006 SCMR 1938 Luqman Zareena and others Vs. Secretary Education NWFP had settled the matter once and for always hence SC final order under article 189 to the Constitution of Pakistan 1973 is implantable through the Constitutional provision given in Article 199.</i></p>	<p><i>The officer is requesting for restoration of seniority with his original batch-mates which is not possible due to his supersession for two times as mentioned at Answer-1 which has not been challenged by the officer in any Court of law as per record of this office. The officer challenged only his supersession made by CSB held on 03.10.2011. On promotion to BS-21, his seniority was re stored vide letter dated 28.01.2015</i></p>

5	<p><i>Through Notification promoted on eligibility at a higher post on 10.07.2009 with higher No.0566-10-1/2013, grade pay and perks. His ante-dated promotion had become due on 12.03.2012, a day after regular promotion as per the SC decision quoted above. Why was FBR complacent to implement the above decision within the tenure of service? Why it is being delayed till now. I am raising the issues again after remaining un successful for many years?</i></p>	<p><i>As above</i></p>
6	<p><i>Officer appearing at S. No. 14 to the Notification No.0566-10 1/2013, Mr. Shafqat Mehmood was granted ante-dated seniority with arrears from 02.11.2013. Why was the ante dated seniority of the person appearing at No.2 the petitioners was denied seniority S and arrears. This is a sheer discrimination under Article 3 of the Constitution of Pakistan 1973. What were the fate of other officers appearing from 1 to 25, setting aside number 2 in my case who was denied seniority and officer appearing at 14 who was given seniority with arrears of pay who was promoted with office. Were other officer paid arrears in Antedate seniority? This is a very important question resolution of which can solve the issue of ante dated seniority of the incumbent officers from 02.11.2013, a partial relief is definitely due to the incumbent officer.</i></p>	<p><i>The officer lost his seniority due to his supersession twice as mentioned at Answer-I, hence, question of ante-dated seniority does not arise.</i></p>
7	<p><i>On promotion to BS-20, the incumbent officer was sent to Deputation for 3 years which was extended to five years vide Establishment Notification no.2003/E-4 dated 03.01.2004. This was justified on promotion but FBR immediately demoted, the petitioner to OPS 21 on 13.07.2009 after he was regularly promoted in BS-21 and sent as Member Income tax Tribunal Lahore. Under the Rules of Establishment Division, a candidate can not be sent on Deputation in same grade not exceeding five years. Would you kindly throw some light to this void ab-initio act of FBR which even went against the rule of Establishment Division? While demoting him to BS-20 and reducing pay from Rs.49440 you ignored many officers who had been holding OPS 21 in BS-20 in the past. A typical example is Malik Bashir who remained in BS-21 Chief Commissioner LTU Karachi in BS-20 on OPS-21 for four year but he was not regularly promoted to BS-21 yet he enjoyed all perk and privileges. As reversion or demotion was effected by FBR, it issued an</i></p>	<p><i>Posting/transfer on acting / OPS/ attachments / additional charges / stationed basis are always made as per rules and regulation governed by Establishment Division.</i></p> <p><i>The officer was not on promotion in BS-21 to Lahore, rather he was appointed as Accountant Member (BPS-21) in the Income Tax Appellate Tribunal, Lahore on deputation basis for three years.</i></p> <p><i>The word "appointment" is clearly used in Law & Justice Division's Notification dated 10.07.2009. It was not a promotion at all, hence question of demotion does not arise.</i></p>

	<i>order on 13.7.2009 showing the n petitioner as Member ITAT Lahore also till 15.10.2010 the FBR protected the pay of the officer but reverting him to Commissioner Inland Revenue it reduced the pay of the incumbent officer. Summarizing this question No.7 is, Can FBR ignore Rules of Establishment and promotion Rules and can the FBR levy major penalty without due process of law?</i>	
8	<i>In order to hide it illegalities, the FBR promoted two officers at S.No.25 and 38 these officers were junior to the incumbent officer who was appearing at 24. A question arises when a person from 38 number was elevated to 23-A, (how can FBR sent the number as 23-A which clearly show an after thought event). This officer was junior to the incumbent officer by three years, why was his seniority list changed and not circulated to effectees of the list that started from S.No.24 and reached till S.No.37. Resort to Supreme Court order No.1986 SCMR 973 which states the Decision of the department to order fairness in selection, there are all part of a overall policy to deal fairly and properly with all Civil servant alike. (unquote) Had the FBR circulated the list, the matter was resolvable in few days due to the above following Supreme Court Case. PLD (SC) 1153/Dispute is resolvable when Supreme Court order regulation of a person seniority if the list is wrongly made in seniority and officer effected are not circulated upon. (unquote)</i>	<i>No illegality lies on part of FBR. Promotions to BS-20 to 21 are made on the recommendations of CSB, governed by Establishment Division. The officer was promoted by CSB at that time and he is considering it as a vested right.</i>
9	<i>The question is "did the FBR circulate the change in seniority list. to the incumbent which effected the seniority of the officer, when his case was sent to CSB held on 25th May, 2009. According to the opinion of the author of this letter, particularly after SC case PLD (SC) 1153 those people who were effected from 24, after S.No.26 (25th was promoted) onward till the 37th position, are liable to ge ante dated seniority of higher grade for pay protection in 21 or 22 as is the case of incumbent officer appearing at S.no.24.</i>	<i>Seniority lists are always shared either on website or through circulation</i>

10	<p><i>Incumbent officer was sent on promotion in BS-21 to Lahore as T Member Income Tax Tribunal for which he readily joined the E Tribunal a promotion with high perk and privileges but due to a accommodating person at S.No.25 and 38, (both junior officer) the I petitioner was superseded three times consequently he became c Junior to 32 officers that is from 24h position he fell down to 72th position. The petitioner had observed two serious irregularities committed by FBR in applying Rules and law and thus infringing the fundamental rights of the person. If the petitioner was demoted to OPS 21 from BS-21 there is no rule in deputation, framed by the Establishment Division, whereby an officer can be sent for more than 5 years in the same grade. SC decision 1996 SCMR 1183 had pinpointed that persons who attain eligibility are elevated to attain higher post should be regularly promoted soon Eligibility criteria is tabulated by FBR on the basis of performance of the officer in the department. It is true there is Nepotism, Jobbery Corruption and political patronage everywhere but that do not apply to honest innocent officers allowing others to gunned down ruthlessly people by rules of the thumb. FBR even ignored section 130(4) of the IT Ordinance, 2001 which had placed a bar on a Member's selection in ITAT, if that officer had not completed five years service in the Income Tax department. FBR furnished wrong data to the Ministry as Member Income Tax Tribunal which is under the Ministry of law and parliamentary affair. The officer who was elevated to 23-A position from 38 without observing rules he had less service, than the incumbent officer. The incumbent had served for four years in Wafaqi Motasib which is under the President of Pakistan FBR is not disorganized even before but after it was completely put on computer technology from 2007. Why was the incumbent officer sent on deputation for period exceeding 5 years in BS-20 or OPS 21 or ITAT why did the FBR ignore an income tax law of section 130(4) by sending a person who had less service to qualify as ITAT Member (orders of Ministry of law enclosed)</i></p>	<p><i>The officer was not sent on promotion in BS-21 to Lahore, rather he was appointed as Accountant Member (BPS-21) in the Income Tax Appellate Tribunal, Lahore on deputation basis for three years.</i></p> <p><i>The word "appointment" is clearly used in Law & Justice Division's Notification dated 10.07.2009. It was not a promotion at all, hence, question of demotion does not arise.</i></p>
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11	<p><i>As a Member ITAT, had I decided a case in favour of FBI i good faith, the other party would have gone in Contempt against me because I was incorrectly posted as ITAT in OPS 21 on 13.07.2009 Original posting in BS-21 on 10 07 2009 was correct would have saved my job On representation to the Ministry of law, it acceded to the request of the incumbent officer and declared the act of FBR to ITAT in Contravention to the deputation rules of the Establishment Division and also in defiance of Section130(4) of the Income Tax Ordinance, 2001? Explanation has to be tendered.</i></p>	<p><i>On 13.07.2009, the officer was appointed as Accountant Member (BS-21) in the Income Tax Appellate Tribunal, Lahore on deputation basis for three years.</i></p> <p><i>Under the rules, a person can be appointed on deputation in one scale high than his current scale. No contravention of rule appears.</i></p>
12	<p><i>FBR had tipsy turvied the entire carrier of an officer who is al writer and had served the Department better than lot many officers FBR is an organization which had collected more than 4500 billion tax in the year 2020-21. Mr. Imran Khan wants collecting of taxes of FBR to be more than 10000 billion Rupees a year.</i></p> <p><i>How can a responsibility or series of lapses in responsibility fixed on these series legal lapses after which intervention of due process of law can take its course? Is there an administrative remedy available to provide financial relief to the incumbent officer on illegal acts which deprived not only promotion at the right time but pay was reduced and Rules were wrongly applied.</i></p>	<p><i>No illegality lies on part of FBR. Reasons behind his supersession are answered in detail in question No.1.</i></p> <p><i>Moreover, no administrative remedy to provide financial relief is available.</i></p>
13	<p><i>It is not to be assumed that the petitioner is raising these question now but on every forum in verbatim and not less than four to five letters in a year were sent to FBR hoping that they provide me administrative remedy but all effort went in vain. Believe you me letter No.M/208/68802 dated 24.04.2020 was the first letter received from FBR after 11.03.2012, when the incumbent had started writing about these grievances to the Head of Department, Chairman, FBR and have met many out of them. No one has replied to a single letter.</i></p> <p><i>For serving FBR for 35 years in the field, it is impossible for a officer in field to defray a single letter for more than fifteen days. Should I assume that letters which are written in sycophancy and in Goody Goody mode are responded wherein invigilation is absent in matters where the complainant pin points irregularities which can be mended to prevent senior officers by one way or the other to ruin</i></p>	<p><i>This office receives frequent applications from Mr. Muhammad Saleem Butt in which same issues are raised which had already been addressed time and again. Moreover, he filed complaints in FTO, Human Rights Commission, Human Rights Cell of Supreme Court of Pakistan and Federal Ombudsman etc. which were duly addressed by FBR and the same were either rejected by above agencies or have been filed</i></p>

	<i>junior public servants. Can be responsibility be fixed of officer or officers in light of three observation? If so, I would then try to re-think that FBR has really improved in the governance performance after Imran Khan Initiative?</i>	
14	<p><i>Division and Law Ministry are surely to respond. All these deliberate lapses effected the entire service and its benefit of promotion and pay and privileges that is available to other officers. Other designated person viz Establishment Division Secretary has to answer all 15 question so would be designated person, Secretary Ministry of law and parliamentary affairs.</i></p> <p><i>NB: Except Secretary Finance who is required to Answer Question No.3 and 5 by which FR-17(1) and FR(17)(11) meeting denied antedated seniority to the incumbent officer against law and allowing antedated seniority to a candidate appearing at S.No. 14 was done. Minutes of the meeting to disapprove all cases except the antedate promotion of the officer appearing at S.No.14 Fate of other officer would determine the legality of FR-17(1) and FR-17(11) meeting as has been mentioned in the letter written by FBR after 8 years on 24.04.2020</i></p>	<i>No comments on part of FBR required</i>

C. COMMISSION'S VIEW

5. The Pakistan Commission on access to information is established by the Federal Government with the purpose to provide the citizens access to the record and information held by the Federal Public Bodies subject to rules and reasonable restrictions imposed by law. This Commission does not accept the complaints against the maladministration, illegalities committed by the departments or against the poor performance of the government offices. The jurisdiction to adjudicate on such sort of complaints rest with the respective forums established by the Government.
6. The appellant herein instead asking for any specific information or record available with the public bodies in printed or digital form has raised a set of interrogations and questions built on his allegations and claims against the department. He has made his own arguments / propositions thereto and sought rebuttal thereof. In *stricto sensu* the questions that cannot be answered by the public body in printed or digital form does not make a

request under the RTI Act of 2017. Section 11(3) of the Act specifically requires the request to identify the information or record in sufficient detail failing which it does not make a valid and legal request under the Act.

7. Admittedly the appellant is a serving officer and this Commission has given verdict in several appeals holding that official public record is not barred from access of the employees/officials for availing the remedies under the service rights. The general queries and questions, however, that warrant only oral reply i.e. not available with the organization in the form of document in printed or digital record cannot be termed as a valid request under the Act. It is vital for the applicants to formulate and express the request, asking for specific record available with the public body in digital or printed arrangement. The public bodies cannot be compelled to reply the general queries that do not make a request under the Act or in other words which is not available in digital or printed shape/form with the organization.
8. This Commission facilitates the citizens to enable them access to the information and record held by the public bodies which can be instrumental and contributory in availing their legal rights, civil rights, criminal rights, service rights, fundamental rights or any other right from the court or forum of competent jurisdiction. But the Commission in itself is not empowered to entertain any complaint/appeal against the maladministration, illegalities committed by the departments or against the poor performance of the government offices except the one connected to the provision of access to information and record held by the public bodies, under the Act.
9. The request under the Act must be in accordance with the Act. All the prerequisites in section 11 of the Act must be adhered to by the applicants. The request by a citizen must be in writing and made in the manner in which the public body has the facility to receive it, identifying the information or record sought in sufficient detail to enable the public body to locate it and which provide complete address and contact details for delivery of the information or record, shall be treated as a valid request. Any prerequisite missing in the request will make it void and can be negated by the public body.
10. Keeping in view the assertions above and information/responses provided by the FBR based on available record, the instant appeals do not call for any further interference or processing by this Commission.

APPEAL NO. 1259-08/2021
APPEAL NO. 1260-08/2021
APPEAL NO. 1261-08/2021

D. ORDER

11.The appeals numbers 1259-08/2021, 1260-08/2021 & 1261-08/2021 are disposed of with no direction to any of the three public bodies.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on 24.2.2022

Certified that this order consists of 21 pages, each page has been read and signed.