

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 1065-05-2021

Mughees Raza Malik

Versus

National Bank of Pakistan

Hearing Date: 11.8.2021

Fawad Malik: Information Commissioner

APPEAL

1. Mr. Mughees Raza Malik, Vice President, National Bank of Pakistan, Regional Office, Multan filed his appeal before the Pakistan Information Commission under section 17(1) of the Right of Access to Information Act, 2017 read with Article 19A of the Constitution of Islamic Republic of Pakistan. He is aggrieved for non-provision of the requested information by the Chief Human Resources Officer/Group Chief, National Bank of Pakistan, Head Office, Karachi.
2. The detail of the information/record/documents sought by the appellant through his application dated 2.5.2021 is reproduced here under:
 1. *“Certified copy of marks sheet with Marks given by interviewing committee/selection board to me and to Mr. Zamin Raza SVP, RH Bahalpur, Mr. Tariq Rashid SVP, RO Vehari & Mr. Sheryar Qaisrani SVP, RO Islamabad in the promotion Policies 2016 & 2017.*
 2. *Attested copy of decisions on my appeals on revision of Annual Performance Appraisals (APA) for the years 2015 & 2016 with given justification/comments by the committee/competent authority of not*

revising the same even after very strong recommendations of my 2 Group Chiefs as per Bank's policy/rules.

3. *Attested copy of the respective GCs recommendations for upgradation of my APAs for the year 2015 & 2016.*
4. *Attested copy of the respective GCs recommendations for upgradation of APAs of Mr. Tariq Rashid, Mr. Sheryar Qaisrani & Ms. Nadia Ahmer HO.*
5. *Attested copies of approval/final APAs of Mr. Tariq Rashid, Mr. Sheryar Qaisrani & Ms. Nadia Ahmer HO which were upgraded at the time of promotion for the year 2014, 2015 & 2016."*

PROCEEDINGS

3. Mr. Mughees Raza, appellant present in person while Mr. Muhammad Riaz, SVP, Mr. Muhammad Nadeem, VP along with Mr. Malik Muhammad Siddique Awan, Advocate High Court on behalf of the National Bank of Pakistan appeared before the Commission at the time of hearing on 11.8.2021.

The Commission heard the arguments with the able assistance of the learned counsel on behalf of the bank. The written reply is also submitted before the Commission. Amongst the preliminary objections, that the appellant has no right to ask for the personal record of the other employees, that the bank being financial institution this Commission lacks jurisdiction in this matter, that the appellant has concealed the litigation initiated by him before the Lahore High Court, Multan Bench by way of filing Writ Petition No. 18444/2018 and that in the said writ petition vide order dated 13.12.2018 the bank has redressed the grievance.

On merits the response of the bank to the respective desired information/record is reproduced here under:

1. *That para under reply, the copy of mark sheet of appellant is attached herewith as Annexure-B. However he has no right to get the record of other colleagues mentioned in the para. As already mentioned above that it would amount to breach the privacy of bank officials and their service record. Such demands are illegal unlawful and unjustified. This worthy forum has no such authority to allow such illegal demands of any appellant.*
2. *That the para under reply, it is submitted that the decision has already been provided to the appellant. However for his satisfaction, copy is attached herewith as Annexure-C and he can get certified copy from bank if he so desires.*
3. *That the para under reply, it is submitted that mere recommendations of supervisor(s) does not amount to final decision while the fate of final decision of Competent Authority mentioning the reasons in detail was communicated to the appellant through speaking order dated 18.03.2019.*
4. *That the para under reply, it is submitted that bank cannot share/provide the record of other officials with the appellant.*
5. *That the para under reply, it is submitted that bank cannot share/provide the record of other officials with the appellant.*

COMMISSION'S VIEW

- a. Objection on Jurisdiction.
4. The answering organization has raised the point of jurisdiction in the written reply submitted before the Commission. The organization has objected that the Commission lacks the jurisdiction but has not referred specifically the provision of the Act or any other law that oust the jurisdiction of this Commission in the appeal in hand against the bank. Section 2(ix)(d) encompasses the answering body in the definition of the public body within the meanings of the Act. The National Bank of Pakistan is a 'public body' within the meanings of the Act and this Commission holds the jurisdiction to entertain and pass an order in the appeal.

b. On Merits.

5. The representatives on behalf of the bank during the course of hearing candidly conceded the provision of the requested information/record except the record related to the other officials of the bank. The point to be resolved by the Commission is, whether the record pertaining to the participants in the run for promotion besides the appellant is encompassed in the category of public record or is exempted from disclosure under the Act.
6. The bank authority has argued it as exempted under section 16(c), touching the private privacy of the individuals. Be that as it may, the appellant has questioned the transparency in the polluted process of promotion in the organization alleging nepotism for the close accomplice of the man at the helm of affairs and malafide against himself during the process. It is not denied by the bank authorities that the appellant reserves his right to avail his departmental and legal remedies before the relevant forum, for the reprisal of his grievance, and for that resolve he has the right to ask for the record of any of the contestant he doubts favouritism and nepotism in the selection. The argument of the learned counsel is not applicable in the case in hand for the reason that the said officials are bank employees and the information relates to the functions of the public officials undertaken in the process of promotion. Section 16(c)(iii) of the Act contradicts the version of the bank. Transparency in the working of the government departments is the essence for the enactment of the Act 2017. Its spirit is to ensure that the people of the Islamic Republic of Pakistan have access to the records held by the federal public bodies for making the government accountable to the people. This practice would improve the participation of the people in the public affairs aimed at reducing nepotism, favoritism, corruption and inefficiency in the governance.
7. Promotion is right of every employee so it is also right of the employee to observe whether principal of fair play and equity is observed and whether the rules and regulations have been followed or in contrary the promotion has been granted at the whims and fancy of those who act as referee.
8. Article 19A of the Constitution of Islamic Republic of Pakistan provides fundamental whereas the Right of Access to Information Act, 2017 provides

statutory right of the access to information and record held by the public bodies, to the citizens. This right cannot be denied or delayed at the whims of the beurocratic hierarchy for technical reasons.

9. Furthermore Article 10A of the Constitution of Islamic Republic of Pakistan provides every person the right of fair trial.
10. The writ petition no. 18444/2018 filed by the appellant against the answering bank does not come in the way for the provision of the requested information. Honourable Lahore High Court, Multan Bench vide order dated 13.12.2018 directed the bank to decide the pending departmental appeal filed by the appellant, expeditiously within 30 days.

ORDER

11. The appeal is allowed. The Chief Human Resources Officer/Group Chief, National Bank of Pakistan, Head Office, Karachi is directed to provide the appellant all the requested information in his application dated 2.5.2021, after severing the personal information touching the privacy of the individuals i.e. the bank account, CNIC, phone number or related to the family members etc., forthwith but not later than seven days of the receipt of this order.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on 23.8.2021

Certified that this order consists of five (5) pages, each page has been read and signed.

