

Pakistan Information Commission
Government of Pakistan

1st Floor, National Arcade, 4-A Plaza
F-8 Markaz, Islamabad
Website: www.rti.gov.pk
Phone: 051-9261014
Email: appeals@rti.gov.pk
f @PkInfoComm



In The Pakistan Information Commission, Islamabad

Appeal No: 2274-09/22

Irfan Jahangir Wattoo

Vs

Ministry of Railways

ORDER

Ijaz Hassan Awan: Information Commissioner

Date

June 13, 2023

Appellant not present. Mr. Muhammad Ishfaq, Audit Officer present on behalf of Director General (Audit), Pakistan Railways.

2. The representative of respondent / public body has not furnished the required information or written reply on behalf of public body and has sought some more time for that. Record shows that this appeal is pending since October, 2022.

3. After service of notice to the public body, its representative had been appearing before the commission on 15-02-23, 27-02-23, 16-05-23, and 13-06-23 but in spite of availing number of opportunities neither written reply has been furnished nor the required information has been shared. No reasonable grounds have been explained today by the representative of public body for non-submission of written reply / information.

4. The appellant sought following information from the respondent / public body;

(i) Who is the designated "Appointing Authority" in terms of Rule 6 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 as amended for your office for officials working in Basic Pay Scales 1-2 of your office?

(ii) Who is the designated "Authority" in terms of Clause (c) of Sub Rule (1) of Rule 2 of Civil Servants (Efficiency and Discipline)

Rules, 2020 in your office for officials working in Basic Pay Scales 1-2 in your office?

(iii) Were the orders of Dismissal from Service dated 03-12-2021, in the case of ex Naib Qasid Muhammad Sajid Hanif, issued by the "Authority" prescribed for him in terms of Clause (c) of Sub Rule (1) of Rule 2 of Civil Servants (Efficiency and Discipline) Rules, 2020 as is mentioned above and if not then under whose orders were the same issued and under what provisions of law?

(iv) Was the minimum period of 10 days allowed for giving reply to the Show Cause Notice as provided in Clause (b) of Section 7 of the Civil Servants (Efficiency and Discipline) Rules, 2020 allowed to the aforementioned ex-employee and was this fact mentioned in the Show Cause Notice dated 23-11-2021 and if the period of 10 days was not allowed, then please quote the authority that allows to curtail the period of 10 days which is by law allowed for reply to the Show Cause Notice in the case of all Civil Servants including the aforementioned ex-employee namely Muhammad Sajid Hanif?

(v) Please state the grounds in consideration of which regular inquiry was dispensed with in the case of the aforesaid ex-employee and whether these grounds were recorded on file and if so by whom?

(vi) Who was the designated appellate authority in the case of employees working in Basic Pay Scales 1 and 2 in your office and if it was Director Audit (Railways), then under what authority he imposed the penalty of "Dismissal From Service" in the case of the aforementioned ex-employee of your office instead of sending it back to the "Authority" prescribed for officials working in Basic Pay Scales 1-2 in your office in terms of Clause (c) of Sub Rule (1) of Rule 2 of Civil Servants (Efficiency and Discipline) Rules, 2020?

(vii) Was "personal hearing" given to the aforementioned ex-employee by the "Authority" designated as such for your office for officials working in Basic Pay Scales 1-2 in your office, as required in terms of Clause (d) of Rule 7 of Civil Servants (Efficiency and Discipline) Rules, 2020, after issuing him Show Cause Notice dated 23-11-2021? And it was not given then kindly quote the authority for doing so.

(viii) Are you aware of the fact that there is no position called as "Authorized Officer" in Civil Servants (Efficiency and Discipline) Rules, 2020? And if you are so aware then why Show Cause Notice dated 23-11-2021 was issued to the aforementioned ex-employee of your office namely Muhammad Sajid Hanif by an officer of your office claiming himself to be "Authorized Officer" when no such position was available called "Authorized Officer" in Civil Servants (Efficiency and Discipline) Rules, 2020?

(ix) Are you aware of the fact that there is no position known as "Competent Authority" in Civil Servants (Efficiency and Discipline) Rules, 2020? And if so then why did your good self repeatedly used the words "Competent Authority" in Parawise Comments to the Appeal of Muhammad Sajid Hanif, for Director Audit (Railways) of your office?

5. The appellant filed his complaint before Director General (Audit), Pakistan Railways for having the required information on 23-09-22. Since said information was neither supplied to the appellant nor it was replied therefore, present appeal was filed on 10-10-22 which is filed within limitation.

6. The commission has examined the contents of the appeal, copy of the complaint annexed with the appeal and conduct of the respondent / public body. As mentioned above neither the respondent / public body addressed the complaint of the appellant nor furnished any written reply in spite of grant of number of opportunities therefore, the appeal is decided as under;

7. The information required in the appeal is with regard to appointment, promotion and transfer of officials working in BPS 1, and BPS 2 of the respondent / public body and proceedings conducted for the dismissal of service of Ex Naib Qasid Mr. M Sajjad Hanif including proceedings against him under E&D rules 1973. None of the information required by the appellant is exempted from disclosure; rather it is to be proactively made available under section 5 of the Right of Access to Information Act, 2017, subject to its finalization. The public body has furnished copy of letter dated 19-04-23 about regularization of intervening period

from 03-12-2021 to 27-02-2023 on the directions of Federal Service Tribunal in respect of Mr. M Sajid Hanif which shows that the inquiry proceedings against the said officials stand finalized and were assailed before Federal Service Tribunal from where decision has been made and implemented.

8. In view of the above said discussion the appellant has fundamental right to have the requisite information from the public body and none of the required information is excluded from disclosure under the Right of Access to Information Act, 2017.

9. Therefore the appeal is allowed; the respondent / public body is directed to provide the requested information to the appellant as detailed in Para-4 of this order, within 10 working days from receipt of copy of this order.

10. Copy of the order be sent to Director General (Audit), Pakistan Railways and Secretary, Ministry of Railways for implementation.

11. Adjourned for submission of compliance report on July 27, 2023.

Ijaz Hassan Awan

Information Commissioner

Huzaifa Rehman

Information Commissioner

Shoaib Ahmad Siddiqui

Chief Information Commissioner

Announced on: June 13, 2023

Certified that this order consists of 4 (four) pages, each page has been dictated, read, corrected and signed.