

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO.711-11-2020

M. Abbas Raza
Vs
National Tariff Commission
Ministry of Commerce

Dated: 9.3.2021

Fawad Malik: Information Commissioner

A. APPEAL.

1. The brief facts of the appeal are that the National Tariff Commission (NTC), Ministry of Commerce, demanded refund of an amount of Rs 1,060479 from Mr. M. Abbas Raza, appellant, former Chairman NTC, on account of excess payment of salary for the years 2013-17. The appellant requested the NTC to furnish the office record that depicts fixation of money back against the appellant. He has sought the record to adequately reply to NTC. Feeling aggrieved for the non-provision of the information the appellant filed appeal dated 16.11.2020, under the Right of Access to Information Act, 2017 read with 19A of the Constitution of Pakistan, 1973 before the Pakistan Information Commission. The appellant has appended along with the appeal the letter dated 15.10.2020, addressed to the appellant by the Deputy Director (Admin) of NTC, Ministry of Commerce, denying the provision of the requested documents/record for the reason that it pertains to government record therefore cannot be provided to any other person.
2. The Information that has been requested by the appellant through his application dated 21.9.2020 addressed to Deputy Director (Admin) NTC, pertains to the following:
 - i. *“Copies of the office order / notification of the appointment of Mr. M. Abbas Raza ex-Chairman NTC.*
 - ii. *The official record and internal file noting of the pay fixation of Mr. M. Abbas Raza.*
 - iii. *The detail of any role / instructions passed Mr. M. Abbas Raza for his pay fixation.*
 - iv. *The copies of the written orders / notification of the pay fixation Mr.M. Abbas Raza.*
 - v. *The copies of the written orders / notification of pay fixation endorsed to the Ministry of Commerce for approval*
 - vi. *The copies of the approval of Ministry of Commerce regarding the approval of pay fixation.*
 - vii. *Was the pay of Mr. M. Abbas Raza protected, if yes on what grounds?”*

B. PROCEEDINGS:

3. The Commission vide letter dated 26.11.2020, directed the Secretary, National Tariff Commission to provide reasons in writing within seven working days as to why the requested information has not been provided to the applicant as under section 14 of the Right of Access to Information Act 2017, each public body is bound to respond to a request as early as possible and in any case not later than ten working days of the receipt of the request.

4. As a consequence of the intervention of the Commission the Deputy Director, National Tariff Commission responded the request of the appellant through letter dated 18.12.2020 and provided the following documents which were shared with the appellant:
 - i. *“Copy of notification dated 03.03.2015, issued by M/o Commerce regarding appointment of Mr. Muhammad Abbas Raza as Chairman, NTC;*
 - ii. *Copy of notification dated 12.03.2015, issued by M/o Commerce regarding correction of number of Notification dated 03.03.2015,*
 - iii. *Copy of NTC’s u.o. No.3(116)/2015-NTC (Admn.)-106 dated 06.03.2015, regarding charge assumption of Mr. Muhammad Abbas Raza..*
 - iv. *Copy of a certificate dated 11.04.2014 regarding payment of daily fee of PKR30000/-;*
 - v. *Copy of O.M No. 3(116)/2015-NTC (Admn.)-127 dated 16.03.2015, regarding pay & other terms and conditions sent to M/o Commerce by NTC.*
 - vi. *Copy of Pay Bill for the month of March, 2015 in respect of Mr. Muhammad Abbas Raza as Chairman.”*
5. The appellant feeling dissatisfied with the response and documents provided by the NTC have filed objections before the Commission. He has reiterated for the provision of following information for the redressal of his grievance:
 - i. *“The details of the Note Portion of File No.3(116)/2015-NTC (Admn) on the subject of “Charge Assumption of Mr. Muhammad Abbas Raza, as Chairman (MP-1 Scale), National Tariff Commission, Islamabad on Contract Basis” with noting from para 1 to 26 dates March 7, 2015 to March 16, in which the pay package was proposed by the Administration Section of the NTC and the letter of the NTC vide file No.3(116)/2015-NTC (Admn)-127 dated March 16, 2015 was forwarded to the ministry of Commerce for Approval of the Competent Authority.*
 - ii. *The response and the approval of the Competent Authority in regard to the pay fixation in the instant case based on which the salary package was fixed and disbursed to the undersigned on the basis of the pay package proposed by the “Administration Section of the NYC and the letter of the NTC vide file No.3(116)/2015-NTC (Admn)-127 dated march 16, 2015 was forwarded to the Ministry of Commerce for Approval of the Competent Authority.*
 - iii. *The details of the Note portion of the NTC of the file No.3(116)/2015-NTC (Admn) dated September 9, 2016 in which the outstanding amount against the undersigned on account of Car Advance (Rs.337500/-) and TA/DA (Rs.534869 was adjusted against the payment to be made to the undersigned on account of (a) salary from 01.09.2016 to 05.09.2016 (Rs.92852), (b) Salary w.e.f 06.09.2016 to 05.10.2016 (Rs.494610) and (c) one month’s gratuity (Rs.283000) with net payable amount against these two heads to the tune of Rs(1907), along with the TA/DA Allowance Bills dated September 19, 2016.*
6. In response to the dissatisfaction shown by the appellant, public Information officer of the respondent public body through letter dated 28.01.2021, forwarded the copies of the following documents to the appellant:

- i. *“Noting / para 1 to 26 of F. No.3(116)/2015-NTC(Admn) / Copy of letter dated 16.03.2015 already provided.*
- ii. *The response of letter No.3(116)/2015-NTC(Admn)-127 from M/o Commerce was not received in Admn. Section.*
- iii. *Notes Dated 19.9.2016 F. No.3(116)/2015-NTC(Admn) regarding adjustments.*
- iv. *Adjustment of TA/DA Advance of Mr. M. Abbas Raza as demanded by Appellant in para iii of his letter dated 02.01.2021.*

7. The appellant vide letter dated 10.02.2021 once again expressed his dissatisfaction against the respondent which reads as follows:

“The NTC has still not provided the approval of the Competent Authority in regard to the pay fixation in the instant case based on which the salary package was fixed and disbursed to the undersigned in consideration of the proposal forwarded by the Administration Section of the NTC to the Ministry of Commerce for Approval of the Competent Authority vide its letter File No. 3(116)/2015-NTC (Admin)-127 dated March 16, 2015.”

8. The respondent vide letter dated 23.2.2021, replied as under:

“It is informed that NTC vide letter dated 28.01.2021, has already submitted to the Pakistan Information Commission (PIC) and the appellant (Mr. Muhammad Abbas Raza Former Chairman NTC), that reply of letter No. 3(116)/2015-NTC (Admin)-127 dated March 16, 2015, from Ministry of Commerce, was not received in National Tariff Commission.”

C. COMMISSION’S VIEW.

9. The appellant has requested the provision of the notification of his appointment, internal file noting, role/instructions, if any by the appellant for the fixation of his pay, notification of the pay, approval of the Ministry of Commerce and related queries pertaining to the ascertainment of his pay, allowances and perks & privileges.
10. The respondent although has provided the appellant in fractions all information except the approval of the competent authority in regard to the fixation of the pay on which the salary package was fixed and disbursed to the appellant in consideration of the proposal forwarded by the Administration Section of the NTC to the Ministry of Commerce for the approval of the competent authority. The appellant has specifically mentioned this document; vide letter File No. 3(116)/2015-NTC (Admin)-127 dated March 16, 2015, in his request. The Commission is of the considered view that all record asked by the appellant falls in the category of public record for the following reasons:
 - I. The appellant has desired the provision of the categories of info that ought to have been disclosed proactively by the public body as required under section 5 of the Right of Access to Information Act, 2017.
 - II. The documents and record anticipated by the appellant is the set of notifications related to the person of the appellant to the exclusion of third party’s personal privacy.
 - III. The right of access to the information is guaranteed as fundamental right in Art 19A of the Constitution of Pakistan.
 - IV. It is legal right of the appellant to defend the demand of refund of Rs 1,060479/- by the public body and for that purpose he has pinpointed the documents that can be instrumental for fixing the responsibility to reach a just conclusion.
11. The earlier denial of the respondent through letter dated 15.10.2020 on the ground that the requested documents are the part of the government record therefore cannot be shared with any person is not well reasoned, illogical and against the spirit of the

Constitution, the Act of 2017 and the principals of natural justice. Suffice to say that 'Right to Information' means that all information and record in the custody of the public bodies belong to the citizens, the tax payers and public officials are the custodians of the record. Since the citizens are the owners of the information and record held by the government, they can access the information whenever desire, if not expressly exempted under the Act.

12. The stance of the respondent to the effect that reply to the desired document was not received by NTC from the Ministry of Commerce does not appeal to a prudent mind. It is hard to believe that an officer has served his complete tenure, pay was disbursed without the approval of the competent authority and now after a considerable period he has been served the notice for refund of excess payment. Apparently the document is being concealed by the public body. Furthermore the NTC is the attached departments/subordinate organization operating under the administrative control of the Ministry of Commerce.

D. ORDER.

13. The appeal is allowed. The Director NTC/Public Information Officer is directed to provide the appellant a copy of the approval of Ministry of Commerce regarding the approval of pay fixation, forthwith but not later than seven days of the receipt of this order.

A copy of this order be sent to the Secretary, Commerce for the implementation of this order and making arrangement for the proactive disclosure of the information as required under section 5 of the Act, under intimation to the Commission by or before 30.4.2021.

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on 9.3.2021

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