



In the Pakistan Information Commission, Islamabad

Appeal No 976-04/21

Muhammad Umar

(Appellant)

Vs.

State Bank of Pakistan

(Respondent)

ORDER

Date: January 5, 2022

Mohammad Azam: Chief Information Commissioner

A. The Appeal

1. The Appellant filed Appeal on April 03, 2021, to the Commission, stating that he had submitted information requests to Managing Director, State Bank of Pakistan (Banking Services Corporation) on February 23, 2021 under the Right of Access to Information Act 2017 but did not receive any response from the public body.
2. The information sought by the Appellant is as follows:
*“i) Copies of documents which were got signed by the Bank for opting Pension Scheme.
ii) Copy of the Pension Scheme which was then applicable to me with all its amendments, up to date.
iii) Copies of the documents got signed by the Bank at the time of my retirement from Bank's Service, for issuing my pension.”*

B. Proceedings

3. Through a notice dated April 07, 2021, sent to Public Information Officer / Director, Legal Services Department, State Bank of Pakistan stated that “Under Section 14 of the Right of Access to Information Act 2017, each federal public body is bound to respond to a request as soon as possible and in any case within ten working days of receipt of the request. You are directed to provide reasons in writing within 7 working days of the receipt of this notice as to why the requested information has not been provided to the applicant, (copy of the information request and appeal thereon enclosed)”.
4. Through another notice dated April 19, 2021, the Respondent was directed to submit written arguments within 15 days, otherwise the appeal will be decided Ex Parte in the light of the record available on the file and the Right of Access to Information Act 2017.
5. Respondent through a letter vide No. HRMD/(ERD-100616)/24988/2021 dated April 06, 2021 submitted its response, which is as under:
“In this regard, it is apprised that a response has already been provided to the appellant vide letter No. HRMD/ERD-100616)/24988/2021 dated 6th of April, 2021.”

6. The Appellant on April 12, 2021 submitted rejoinder to the response of the public body, which is as under:
“1. This with reference to your letter No. HRMD/ (ERD-100616)/ 24988 /2021 dated the 6th April, 2021 regarding the subject noted above.
2 Records/Papers which your goodself has refused to supply does not fall under any of the categories mentioned under Section 7 of the Act.
3 Copies of the Papers which I have requested to be provided to me are MY PERSONAL PAPERS lying with the Bank.
4. I therefore, once more request your gracious honour to please let me have copies of my OWN documents lying in the BANK.”
7. Rejoinder submitted by the Appellant was shared with the public body on May 20, 2021 with the directions to submit written arguments within 15 days, otherwise the appeal will be decided Ex Partee in the light of the record available on the file and the Right of Access to Information Act 2017.
8. The Respondent through a letter vide No. LSD/68/2021 dated May 31, 2021 again submitted, which is as under:
“This is with reference to your hearing summons dated 20th May, 2021 on the captioned subject in appeal No. 976/04/2021.
2. In this regard, it is apprised that the appellant has applied to SBP BSC vide his application dated 23rd February, 2021 for information as under:
a. Copies of documents which were signed by him for opting pension scheme.
b. Copy of the pension scheme which was then applicable to him with all amendments,
c. Copies of the documents signed by him at the time of his retirement from Bank's service, for issuing him pension.
3. The appellant was informed vide letter dated 6th April, 2021 that the desired information does not fall within public record under the Right of Access to Information Act, 2017 and therefore his request could not be entertained.
4. Subsequently, SBP received a letter dated 7th April, 2021 from your good office regarding the grievance of the appellant that he had not received any response to his letters sent to SBP BSC. Accordingly, SBP apprised vide letter dated 19th April, 2021 that a response had been provided to the appellant vide letter No. HRMD ERD-100616) /24988/2021 dated 6th April, 2021.
It is pertinent to mention that a hearing summons with the same date as our reply i.e. 19th April, 2021 was also received which was responded vide SBP letter dated 7th May, 2021.
6. In light of the above, it is requested that the matter may kindly be disposed of in light of the provisions of the Right of Access to Information Act, 2017.”
9. The response submitted by the Respondent was shared with the Appellant on June 07, 2021.
10. The Appellant on June 15, 2021 submitted rejoinder to the response of the public body, which is as under:
“Please refer to your leter dated June 07, 2021 on the subject noted above, celled by me, the appellant on 10 June, 2021

I have perused the response information shared by State Bank of Pakistan in my sine Appeal and I have to submit that I am not satisfied with response of the public body. The response is, I say it with deep sense of regret, in blatant regard of the applicable law, that is the provisions of the Right of Access to information Act 2017 (the Act"). The admitted fact, as reproduced in the State Bank of Pakistan's response letter No LSD/68/2021 Dated 31/05/2021, is that I, the appellant, requested for providing the information as reproduced hereunder:

a) copies of the documents which were signed by me for opting pension scheme.

b) copy of the pension scheme which was then applicable to me with all amendments up to date.

c) copies of the documents signed by me at the time of my retirement from Bank's service for issuing my pension

I have to point it out with vehemence that the information at item b., cannot be considered anything other than the public record, without prejudice to the position that the information at item a and c. is purely and purely the appellant's personal record and is not covered under any of the excepted record under Section 7 or any other provision of the Act. The relevant provisions of the Act are reproduced hereunder for the facility of reference:

Under sub-section (1) of Section 3 of the Act, subject to the provisions of this Act, no applicant shall be denied access to information or record held by a public body.

Under clause (v) of Section 2 of the Act, "information" means information based on record

Under sub-section (1) of Section 5 of the Act, the principal officer of each public body shall, within six months of the commencement of the Act, ensure that, inter alia, the following categories of information and record are duly published including uploading over the internet in a manner which best ensures that these are accessible subject to reasonable restrictions based on limited resources -

(b) statutes statutory rules, regulations, bye-laws, orders and notifications, etc applicable to the public body disclosing the date of their respective commencement or effect

(c) substantive or procedural rules and regulations of general application evolved or adopted by the public body, including any manuals or policies used by its employees

Under of Section 6 of the Act, Subject to the provisions of Section 7, the following record of all public bodies is hereby declared to be the public record namely. -

(a) policies and guidelines;

(b),

(d) final orders and decisions, including decisions relating to members of public, and

(e).....,

Under of Section 7 of the Act regarding exclusion of certain record, "Nothing contained in section 6 shall apply to the following record of all public bodies, namely:

(a) noting on the files, subject to a final decision by the public body. (b) minutes of meetings, subject to a final decision by the public body: (c) any intermediary opinion or recommendation subject to a final decision by the public body, (d) record of the banking companies and financial institutions relating to the accounts of their customers;

(e) record relating to defence forces, defence installations or connected therewith and ancillary to defence and national security excluding all commercial and welfare activities; (f) record declared as classified by the Minister-in-charge of the Federal Government:

Provided that the Minister in-charge of the Federal Government will have to record reasons as to why the harm from disclosure of information outweighs public interest, and further that information pertaining to allegation of corruption and violation of human rights shall not be excluded;

(g) record relating to the personal privacy of any individual; and (h) record of private documents furnished to a public body either on an express or implied condition that information contained in any such documents shall not be disclosed to a third party.

In view of the above, I, the appellant request that the response of the Respondent State Bank of Pakistan be graciously rejected and the Respondent be graciously ordered to provide to the appellant the 'Information'/documents within a specified time period.”

11. The rejoinder submitted by the Appellant was shared on June 25, 2021 with the public body, with the directions to respond to the queries of the Appellant within 10 working days.
12. The rejoinder submitted by the Appellant was again shared on August 25, 2021 with the public body, with the directions to respond to the queries of the Appellant within 10 working days.
13. The appeal was fixed for hearing on October 19, 2021 and both parties were informed through notices sent on October 08, 2021.
14. Through a notice dated October 11, 2021, the Respondent was directed to submit written arguments within 15 days, otherwise the appeal will be decided Ex Parte in the light of the record available on the file and the Right of Access to Information Act 2017.

C. Discussion and Commission’s View on Relevant Issues

15. The commission has to decide that whether the information requested by the citizens falls within the ambit of the public record and whether the public body has responded or not to the information request and notices of the commission within time limit mentioned in the Right of Access to Information Act, 2017, hereafter referred to as the “Act”.
16. The service records of an employee are public records according to Section 6 (c) of the Right of Access to Information Act 2017 which is as under:
“Information regarding grant of licenses, allotments and other benefits, privileges, contracts and agreements made by a public body;”
17. The public bodies are bound to ensure that all such categories of the information and record defined in Section 5 of the Act are duly published including uploading over the internet or in a manner which best ensures that these are accessible to the public.
18. In the instant appeal the public body has failed to acknowledge and respond to the information request of the appellant. This commission has observed that the public bodies are reluctant to share the basic information to the citizen which should be available on their website under the Section 5 of the Act. As such, citizens have to approach the commission for information due to the wilful delay or denial by the public bodies which causes undue cost to citizens and the commission.
19. This Commission maintains that the information proactively published under Section 5 of the Right of Access to Information Act 2017 should be ‘accessible’ for all citizens, including the blind, low-vision, physically disabled, speech and hearing impaired and people with other disabilities. Apart from the interpretation of ‘accessible’ in section 5 of the Act, section 15 (5) of the ICT Rights of Persons with Disabilities Act 2020 requires federal public bodies to ensure accessibility of web sites to the special needs of persons with disabilities and it is as under:
“The government shall ensure that all websites hosted by Pakistani website service providers are accessible for persons with disabilities”.

D. Order

20. The appeal is allowed. The Public Information Officer / Director, Legal Services Department, State Bank of Pakistan is directed to provide the information requested in Para-2 with intimation to this office, at the earliest, but in any case, not later than 10 working days of the receipt of this Order.

21. The Respondent is also directed to take immediate steps to proactively share through the web site all categories of information mentioned in Section 5 of the Right of Access to Information Act 2017 and submit the compliance report to the commission in the Template for the Compliance Report-Proactive Disclosure of Information under Section 5 of the Right of Access to Information Act 2017'. This template is available under 'Information Desk' category at the web site of the commission www.rti.gov.pk. The compliance report be submitted to this commission within 30 days of the receipt of this Order.
22. The Respondent is directed to ensure accessibility of the information proactively published on its web site under Section 5 of the Right of Access to Information Act 2017 for all citizens, including the blind, low-vision, physically disabled, speech and hearing impaired and people with other disabilities and submit compliance report to this effect using 'Web accessibility checklist'. This checklist is available under 'Information Desk' category at the web site of the commission www.rti.gov.pk. The compliance report be submitted to this commission at the earliest but not later than 10 working days of the receipt of this Order.
23. Copies of this order be sent to the Public Information Officer / Director, Legal Services Department, State Bank of Pakistan and the Appellant for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on: January 5, 2022

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