



Appeal No 052/06/19

Abdul Samad Sarla (Appellant)

Vs.

President, National Bank of Pakistan (Respondent)

Date: September 05, 2019

Order

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Ministry of Information and Broadcasting forwarded the appeal dated 18/12/2018, to the Commission, stating that the appellant had been working as temporary Godom Chowkidar at National Bank of Pakistan for 18 years. During this period, he served at 7 different branches of the bank and that his service record was available with the bank. The bank did not provide his service record to him despite his efforts to have access to this record at different forums.

B. Proceedings

2. Through a notice dated 14/03/2019 and, later, through a reminder notice dated 26/06/2019, the Commission called upon the Respondent to submit reasons for not providing the requested information.

3. The hearing date was fixed for 29/07/2019 through the hearing notice sent on 11/07/2019 and both parties were informed accordingly.

4. The Respondent did not appear before the commission and submitted its response through letter dated 07/08/2019 which is as under:

“In this regard, we would like to inform you that according to the State Bank of Pakistan Prudential Regulation M-3 regarding record retention it is stated banks/DFIs shall, therefore, maintain, for a minimum period of five years, all necessary records on transaction, both domestic and international”.

C. Discussion and Commission's View on Relevant Issues

5. It is a matter of grave concern that the Respondent did not respond to the commission within the time period stipulated in any of the notices sent to the Respondent. Even in the case of the Hearing Notice wherein the Respondent was directed to either provide the requested information to the Appellant within ten working days of the receipt of the notice or appear before the commission for hearing, the Respondent provided reasons for not providing the requested information eight days after the hearing.

6. The requested information pertains to service records of an employee. The requested information does not pertain to financial transactions carried out by a bank in normal course of its functions. Therefore, the commission is of the view that the State Bank of Pakistan Prudential Regulation M-3 pertaining to the retention of records is not applicable in the present case.

7. 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;”.

8. The National Archives Act, 1993 is applicable in the present case as the Respondent has raised the issue of retention of records. The service records of an employee are also public records according to Section 2 (2) (e) of the National Archives Act, 1993 which defines public records as under:

“Papers, documents, records, registers, printed materials, books, maps, plans, drawings, computer records (machine readable records), photographs, microfilms, cinematograph films, and audio and video recordings of any kind whatsoever officially received or produced by any public office for the conduct of its affairs or by any officer or employees, of a public office in the course of his official duties, including records relating to Commissions and Committees appointed by the Federal Government;”.

9. Section 7 of the National Archives Act, 1993 pertains to the retention or otherwise of public records which is as under:

“Public records not to be destroyed or disposed of without the authority of the Director General. — (1) No person or officer shall, without the consent of the Director General, destroy or otherwise dispose of, or authorise the destruction or disposal of, any public records which are in his possession or under his control.

(2) The Director General may, with the approval of a Committee consisting of the Director General, one departmental representative and two academicians nominated by the Federal Government authorise the destruction of any specified classes of public records;”.

10. The commission is of the view that enjoyment of fundamental freedoms and the exercise of fundamental human rights is dependent on our ability to exercise the right to information. Our constitutional right of access to justice is also dependant on the exercise of our constitutional right to information. Hence, any attempt to delay or deny access to service records of an employee is tantamount to delaying or denying the employee his or her right of access to justice in case an employee seeks to take any legal course against the employer based on service records.

D. Order

11. The appeal is allowed. The Respondent is directed to provide the Appellant his service record at the earliest, but in any case, not later than 20 working days of the receipt of this order. Furthermore, the Respondent is directed to notify Public Information Officer as required by Section 9 of the Right of Access to Information Act 2017 and share the notification to this effect with the commission within 10 working days of the receipt of this order.

12. Copies of this order be sent to the Respondent, the Appellant and Director General, National Archives for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

September 05, 2019

Announced

Certified that this order consists of three (3) pages, each page is read and signed.

Information Commissioner