

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 460-08-2020

Syed Muhammad Aala Imran

Vs

Pakistan Railways

Date: February 17, 2021

Fawad Malik: Information Commissioner

**A. APPEAL.**

1. Syed Muhammad Aala Imran filed his appeal under the Right of Access to Information Act 2017 before the Pakistan Information Commission indicating the appointment of four individuals against the scale BS-20 and one appointment in BS-21 (MP Scale) in legal department of Pakistan Railways. In the appeal he has complained that he has not been provided the requested information by the public body.
2. The appellant under his Right of Access to Information Act 2017 has requested the following information and record from the office of Secretary / Chairman Pakistan Railway:-
  - a. *“That how many candidates have applied for the appointment as Legal Advisors (L.A)?*
  - b. *How many candidates have applied for the post of Legal Consultants (L.G)?*
  - c. *Provision of copies of CVs of candidates / Applicants who succeeded.*
  - d. *Criteria and standard of scrutiny and shortlisting of candidates*
  - e. *Composition of relevant Committees, their names, designations, and cadre’s (Shortlisting Committee, Scrutiny Committee).*
  - f. *Provision of policy for appointment against MP Scale at the relevant time.*
  - g. *Whether the appointment / selection was done subject to examination or test? If so, what was the result and question asked in the examination? (copy of question paper and result requested as well).*
  - h. *Whether an interview / or only an interview was conducted by the Committee? What was the criteria or standard on which the candidates were assessed? Along with the Composition of the interview committee.*
  - i. *What was the modus operandi for calling candidates, whether they were called through call letters or through telephone calls or email or any other means of communication for selection?*
  - j. *What distinguished the successful candidates from the rest of the lot / other candidates?*

**B. PROCEEDINGS.**

3. On the intervention of the Commission the Focal person of the respondent public body filed para wise reply along with certain documents which were shared with the appellant. The appellant feeling dissatisfied with response of Ministry of Railways has reiterated for the provision of information. The proposed questions, their reply and reason of dissatisfaction are as follows:-

<b>Q.No.</b>	<b>Question</b>	<b>Response</b>	<b>Reason for Dissatisfaction</b>
A	That how many candidates have applied for the appointment as Legal Advisors (L.A)?	May not be provided as according to section 6 and 7 subsection (b) (c) (g) and (h) of RATI; 2017 the requisite information / document is not a public record as well as exempted	The content of the question does not fall within exempted document. It is a simple question as to the number of applicant, and if the department fails miserably to answer such a basic question, then there is no reason as to why the questioned appointments should not be referred to the accountability department?
B	How many candidates have applied for the post of Legal Consultants (L.G)?	May not be provided as according to section 6 and 7 subsection (b) (c) (g) and (h) of RATI, 2017 the requisite information / document is not a public record as well as exempted	The content of the question does not fall within exempted document. It is a simple question as to the number of applicant, and if the department fails miserably to answer such a basic question, then there is no reason as to why the questioned appointments should not be referred to the accountability department?
C	Provision of copies of CVs of candidates / Applicants who succeeded	Denied, as copies of CVs may not be provided as it involves particular antecedents of individuals which are personal and without permission of these individuals information / particulars passed on to any irrelevant person may be called as an offensive action and may lead to legal consequences for the Ministry of Railways. According to section 6 and 7 subsection (b) (c) (g) and (h) of RATI, 2017 the requisite information / document is not a public record as well as exempted	The CVs are not for the personal storage but for use and to showcase the achievements to the public. If the Department is so naive that it considers that CVs of successful candidates must not be disclosed, then perhaps Department intends to say that Supreme Court of Pakistan, Punjab University and all other government institutions are idiots who have shared the CVs of its high ups and achievements on their website. This is clear evidence of the fact that the people who are appointed, are undeserving, and their C Vs have nothing to show (if they even knew as to how to make a CV).
D	Criteria and standard of scrutiny and shortlisting of candidates	Shortlisting was done on the basis of eligibility criteria	This is not the answer. We demand the criteria and standard. Mere statement is not sufficient, we do not ask if they were done on the basis of criteria, our mere request is to share the criteria and standard of scrutiny and shortlisting
E	Composition of relevant Committees, their names, designations, and cadre's (Shortlisting Committee, Scrutiny Committee)	According to section 6 and 7 subsection (b) (c) (g) and (h) of RATI, 2017 the requisite information / document is not a public record as well as exempted	Not caught by the alleged sections. Rather, section 6 requires such data to be provided to the Appellant.
F	Provision of policy for appointment against MP Scale at the relevant time	Provided	The provided documents deals with salary package and pre-requisite for professionals from the private sector. Whereas in the instant case all hiring and appointment was done of individuals belonging to the public sector (Ministry of Railways itself), In other words, some of the appointee were already employees

			of department hence, this is either gross violation of the policy itself or the requested policy is concealed from the Information Commission and the Appellant.
G	Whether the appointment / selection was done subject to examination or test? If so, what was the result and question asked in the examination? (copy of question paper and result requested as well)	No written examination was condition	Only interviews were conducted by the board which did not include even a single person who belonged to the relevant field. Hence, this was an appointment made by individuals who had nothing to do with the law and were irrelevant for the interview.
H	Whether an interview / or only an interview was conducted by the Committee? What was the criteria or standard on which the candidates were assessed? Along with the Composition of the interview committee	Interviews were conducted in which questions were not preset and different on spot questions were asked by members of selection board as mentioned at para e above, the selection of candidates in terms of <b>Qualification, experience, knowledge, communication skills and suitability for the job</b> , and According to section 6 and 7 subsection (b) (c) (g) and (h) of RATI, 2017 the requisite information / document is not a public record as well as exempted. Therefore it cannot be provided	The criteria which appears to be provided by the focal person is <b>qualification, experience, knowledge, communication skills and suitability for the job, fitness can be checked but how the eligibility?</b> <b>CV shall be considered as fitness but not the eligibility and how can a non legal background check experience and ask relevant questions?</b> <b>The scrutiny committee or selection board comprising of people who had no link, nexus or expertise with Law cannot in any way judge the quality of qualification, experience, knowledge, communication skills and suitability for the job. How can non-legal individual judge knowledge required for appointment of DGLA? What sort of on-spot questions, or on-spot or deal could have been happened?</b> The questions which were asked are no answered. Rather doubts are casted on the entire process and reference may be sent to Accountability Department, or even Supreme Court of Pakistan under section 183(3) of the constitution of Islamic Republic of Pakistan, ;or to the High Court under article 199 of the Constitution of Islamic Republic of Pakistan, 1973.
I	What was the modus operandi for calling candidates, whether they were called through call letters or through telephone calls or email or any other means of communication for selection?	Candidates were called for interview by sending call letters / invitations by post or email on their email Ids and also they were informed telephonically. According to section 6 and 7 subsection (b) (c) (g) and (h) of RATI, 2017 the requisite information / document is not a public record as well as exempted. Therefore it cannot be	The department failed to answer our letter, and request for information. They did not even intimate us or bothered to text, email, call or courier the information when originally asked.

		provided	
J	What distinguished the successful candidates from the rest of the lot / other candidates	In terms of <b>qualification, experience, knowledge, communication skills</b> and suitability for the job the candidates were awarded marks by each member of selection board. Summary was sent to <b>PM</b> of these top candidates for the post of <b>L.A</b> and top candidates for the post of <b>L.C</b> which was approved by <b>PM</b> and they were issued offer letter accordingly. According to section 6 and 7 subsection (b) (c) (g) and (h) of RATI, 2017 the requisite information / document is not a public record as well as exempted. Therefore it cannot be provided	This refers to the dissatisfaction mentioned above. <b>How can non-legal individual (a person who is not himself expert on the law) judge knowledge, experience, quality and skills required for appointment of L.A and L.G?</b>  <b>Not even such a mark scheme is shared with the Appellant.</b>  The questions which were asked are not answered. Rather doubts are casted on the entire process and reference may be sent to Accountability Department, or even Supreme Court of Pakistan under Section 184(3) of the Constitution of Islamic republic of Pakistan, or to the High Court under article 199 of the Constitution of Islamic Republic of Pakistan, 1973.

4. The legal advisor of the Pakistan Railways has filed the second reply before the Commission after the dissatisfaction expressed by the appellant. This reply is reproduced as under:-

- a. "Three posts of Legal Consultant (MP-II Scale), Pakistan Railways, Headquarters Office, Lahore on contract basis for two years were advertised in the Press on 16.04.2019. In response to the advertisement, one hundred and fourteen (114) applications were received.

b.

S. No.	Name of the Candidate	Qualification & Experience
1	Mr. Tahir Sultan Malik	LL.B LL.M & eight years experience in relevant field
2	Mr. Salman Kazmi	LL.B LL.M & Twelve experience in relevant field
3	Syed Khursheed ul Hassan	L.L.B & eighteen years experience in field

- c. As per advertisement, the candidates having Bachelor's Degree in Law (LL.B) with the experience of Practicing Advocate, and Post qualification experience of Six years including at least four years as an Advocate of the High Court were eligible for the post. According to this, the shortlisting process was done.
- d. The scrutiny Committee comprises of Secretary Railway board, M/o Railways, Director Legal Affairs, Chief Personnel Officer and Director/Property & Land, P.R. HQ's Office, Lahore. As per instructions of Establishment Division, the Selection Board was as under:-

1	<b>Sheikh Rashid Ahmed</b> Federal Minister for Railways, Islamabad	<b>Chairman</b>
2	<b>Mr. Sikandar Sultan Raja</b> Secretary/Chairman Railways, Ministry of Railways, Islamabad	Member
3	<b>Dr. Kazim Niaz</b> Additional Secretary II Establishment Division, Islamabad	Member
	<b>Mr. Farrukh Taimur Ghilzai</b>	

4	Secretary Railway Board, Ministry of Railways, Islamabad	Member
5	<b>Mr. Muhammad Aftab Akbar</b> CEO/Senior General Manager, Pakistan Railways, H.Q's Office, Lahore	Co-Opt. Member

e. Policy/Instruction regarding appointment in MP Scales at that time is enclosed as **Annex-B**

5. The Commission vide letter dated 26.11.2020 shared the second response with the appellant. The letter mentions that if the appellant is not satisfied with the response of the public body he can contact the Commission, but no further objection was received from the appellant. The Commission has received the order dated 1.2.2021 of the honourable Lahore High Court, Lahore in Constitutional Petition No. 6647-2021 wherein the Commission has been directed to decide the appeal, if pending within 3 weeks.

#### C. COMMISSION'S VIEW.

6. The appellant in his request has asked for the number of candidates for the posts of legal advisors and legal consultants, CV's of the successful candidates, criteria adopted for shortlisting, Composition of selection committee with their names and designations, policy for appointment against the post of MP scale, modus operandi for calling for interview and other associated information from the respondent public body through his request. In the reply the public body has claimed exclusion of record by hiding behind subsections (b)(c)(g)&(h) of section 7 of the Act 2017.
7. The Commission is of the view that except the identity card, telephone or cell number, address and particulars relating to the family members of the candidates mentioned in their CV, all the information requested by the appellant in his application, are the category of information that ought to have been proactively published by the public body including uploading over the internet to ensure its access to the citizens as required under section 5 of the Act. The subsections(b)(c)(g)&(h) of section 7 of the Act does not come in the way of the appellant for the provision of the said information, therefore the exclusion as claimed by the public body is irrelevant.
8. 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 corruption and inefficiency in the governance. It is the right of the citizens to be aware as to whether transparent procedure has been adopted for the selection of the candidates for the government posts or nepotism has been assumed.

#### D. ORDER.

The appeal is allowed. The Chief Personal Officer, Ministry of Railways is directed to provide the appellant all the requested information except the identity card, telephone or cell number, address and particulars relating to the family members of the candidates mentioned in their CV, forthwith but in any case not later than seven days of the receipt of this order.

He is further directed to make arrangement for the implementation of section 5 of the Act, under intimation to the Commission by 31.3 2021.

Mohammad Azam  
Chief Information Commissioner

Fawad Malik  
Information Commissioner

Zahid Abdullah  
Information Commissioner

Certified that this order consists of six (6) pages, each page has been read and signed.