

## IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 532-08-2020

Muhammad Waqas Khosa  
Vs  
Federal Public Service Commission

Date: 13.4.2021

Fawad Malik: Information Commissioner

### A. APPEAL

1. The brief facts of the appeal are that Mr. Muhammad Waqas Khosa, invoking the Right of Access to Information Act, 2017 filed an application dated 18.5.2020 followed by a reminder dated 8.6.2020, addressed to the Secretary, Federal Public Service Commission, Islamabad. The appellant through his application has desired the following information:

- i. *All the Requisition forms i.e. requisition form FPSC-21 for recruitment through the Commission notified / shared for ministries / divisions / departments prior to 4.7.1982 by FPSC may be shared.*
- ii. *The copy of advertisement, recruitment rules and recommendations of commission in which commission has recommended advance / premature increments for candidates since January, 1979 till May, 2020.*

2. The Assistant Director (FS-IV), Federal Public Service Commission vide letter dated 16.6.2020 responded to the above application as under:

*“The above information is generic in nature and as per retention schedules this record comes under Category-B of National Archive Act 1993. You are therefore requested to kindly provide the specific and precise details i.e Name of department, name of post, detail of cases so that your request may be entertained under Right of Access to Information Act 2017.”*

3. The appellant through letter dated 18.6.2020 submitted the specific and précised detail of his request as desired by the public body. He has also appended along with the copy of specimen of requisition form FPSC-21 that was in use prior to 4.7.1982 and the lists of the cases reported in Annual report of FPSC in the years 1981, 1982, 1983, 1989, 1991 and 1992. The relevant portion of the letter is reproduced as under:

*In this regard, it is submitted that the information asked is explicitly specific in nature because required documents and period is mentioned clearly i.e. (i) Requisition Form FPSC-21 in practice prior to 4-7-1982 (Specimen available on FPSC website is attached- Annex-I) and (ii) documents of advance/premature increments recommended cases of candidates from January, 1979 to May, 2020.*

*Furthermore, to facilitate FPSC officials, it is informed that FPSC report the list of recruitment cases where commission allowed higher starting salaries by way of advance increments prior to mid 1990s in Annual Report of the Federal Public Service Commission presented before the President of the Islamic Republic of Pakistan (as required under Section 9 of the FPSC Ordinance, 1977). The list of cases reported in Annual report of FPSC 1981, 1982, 1983, 1989, 1991 and 1992 available to undersigned is attached (Annex-II to VII). However, the same list has been discontinued from Annual Report from mid 1990s onwards and now FPSC doesn't public any such data for information. Hence, undersigned doesn't*

*know any cases from mid 1990s onward due to non-publication of data by FPSC in which commission has recommended the higher salary and that's why approached the commission to provide complete details of cases where commission has recommended higher salary from Jan, 1979 to May, 2020 as they are custodian of complete record. Moreover, the complete list of cases processed every year is available in each Annual Report of FPSC.*

4. On 29.6.2020, the letter was replied by the public body as under:

*This refers to your letter dated 18<sup>th</sup> June 2020 and it is informed that the advance/premature increments are granted to the candidates only if it has been mentioned in the recruitment rules and also the same have been advertised. All the advertisements are published in the daily newspapers, so copies of advertisement may be obtained from the National Library.*

*FPSC retains record only for 10-15 years and it is weeded out as per instruction of the government. Therefore once you formed a specific detail with regard to the cases in which advance/premature increment are advertised, it will enable FPSC to trace out whether such record is available in FPSC or not.*

*Further being employee of Ministry of Planning, Development and Reforms you are advised to route your requests through proper channel with the approval of Secretary Planning, Development and Reforms.*

5. In the later correspondence with the Secretary, the appellant besides requesting the nomination of the designated officer of the public body reiterated the provision of his request through letters dated 11.7.2020 and 17.8.2020. The reply dated 18.8.2020 by the FPSC was as under:

*You are once again advised to specify the cases for which the information is required as advised vide this office letter of even number dated 29-06-2020 and Section-2(xi) of Right of Access to Information Act, 2017.*

6. The appellant feeling aggrieved has filed his appeal under section 17 of the Act, before the Pakistan Information Commission, against the decision dated 18.8.2020, of Federal Public Service Commission.

## **B. PROCEEDINGS**

7. The Commission after taking the cognizance fixed the appeal for hearings on 23.9.2020, 21.10.2020, 25.11.2020, 30.12.2020 and 27.1.2021. Mr. Babar Zaidi, Director, Mr. Javed Akhtar, Dy Director and Mr. Mohammad Arshad, Assistant Director represented the FPSC whereas the appellant appeared in person before the Commission. The appeal was heard at length from both sides. During the course of arguments the representative of the public body produced a certificate dated 29.12.2020, handed out by Deputy Assistant Director (Record), to the effect that the record prior to year 1996 is not available in the main record room of FPSC, Headquarter, Islamabad. On query the representatives of the public body apprised that some record was damaged/destroyed during the shifting of the office however undertook to provide the appellant the post 1996 till date record. The respondent after discussing and arguing also agreed to provide the copies of advertisement where the advance increments mentioned and were provided besides the recruitment rules.
8. FPSC provided the appellant the list of cases advertised with advance increments from the year 1996 to 2017, Copy of the relevant pages of advertisement, Copy of FPSC Form 21 of each post and copy of recruitment rules on 1st April, 2021 on the payment of the cost.
9. The appellant is not completely satisfied with the shared information. He has filed the objections/rejoinder dated 12.4.2021. The relevant portion is reproduced here under:
- i. *The recommendations of commission regarding advance increments have not been provided for any case since 1997 to till date. The copy of commission recommendation will ascertain that whether advance increments were recommended or not on these shared 41 posts. Hence, the shared information didn't comply the orders of Information Commission in totality.*

- ii. *From perusal of information, it seems that FPSC have not gone through the complete records of commission recommendations in each case since 1997 till to date properly and that's why have shared the information of those cases as well which were re-advertised and no recommendations were made by commission. Hence, the shared information didn't comply the orders of Information commission in totality. The details of cases are as under:*
  1. F.4-114/2008-R (9/2008) re-advertised as F.4-248/2008-R (20/2008)
  2. F.4-79/2013-R (9/2013) re-advertised as F.4-173/2013-R (11/2013)
  3. F.4-87/2013-R (9/2013) re-advertised as F.4-3/2014-R (1/2014) again re-advertised as F.4-177/2014-R (7/2014) again re-advertised as F.4-39/2015-R (4/2015)
  4. F.4-78/2013-R (9/2013) re-advertised as F.4-8/2014-R (1/2014)
  5. F.4-90/2013-R (8/2013) re-advertised as F.4-20/2014-R (1/2014)
  6. F.4-88/2013-R (9/2013) re-advertised as F.4-43/2014-R (2/2014) again re-advertised as F.4-218/2014-R (11/2014)
  7. F.4-184/2013-R (11/2013) re-advertised as F.4-72/2014-R (3/2014)
  8. F.4-173/2013-R (11/2013) re-advertised as F.4-97/2014-R (3/2014) again re-advertised as F.4-154/2014-R (6/2014) again re-advertised as F.4-211/2014-R (11/2014)
  9. F.4-08/2014-R (1/2014) re-advertised as F.4-115/2014-R (5/2014)
  10. F.4-86/2013-R (9/2013) re-advertised as F.4-165/2014-R 97/2014)
  11. F.4-169/2016-R (7/2016) re-advertised as F.4-133/2017-R (5/2017)
- iii. *From perusal of information, it seems that FPSC have not provided the complete record of cases in which advance increments were mentioned in advertisement since 1997 till to date as well. The few missing cases are as F.4-51/2007-R (08/2007), F.4-181/2019-R (12/2019) etc. So, the criteria of sharing information is not clear.*
- iv. *The recommendations of commission since 1997 to till date in which commission has recommended advance/premature increments for candidates whether the advance/pre-mature increments were advertised for these posts or not have not been provided to support the information.*
- v. *The information was provided without the requisite certificate from designated official as required under section 13(3) of RTI Act, 2017.*

#### C. COMMISSION'S VIEW

10. The appellant as a citizen, under his right of access to the information has requested the Requisition Forms FPSC-21 for recruitment through the Commission that were notified and shared with the Ministries, Divisions and Departments prior to 4.7.1982 and copies of advertisement, recruitment rules and recommendations of the FPSC wherein the advance/premature increments has been recommended for the candidates from January, 1979 till May, 2020. The public body in its reply or during the course of arguments has never taken the plea that the requested record is not encompassed in the definition of public record nor has claimed the exemption from disclosure or declaration of being classified. The Commission has no hesitation in holding that the requested information is the public record enlisted in the category mentioned in section 5, ought to have been published including uploading over the internet by the public body.
11. The certificate dated 29.12.2020; by the Dy. Assistant Director (Record) to the effect that the record prior to the year 1996 is not available in the record room of FPSC at headquarter at Islamabad is ambiguous and unclear in its interpretation. The representative of the public body when confronted, informed the Commission that the said record was destroyed during the shifting of the office is not supported by any document in its proof. This is violation of the Secretariat Instructions, 2004 of the Federal Government and the Act, 2017 for not maintaining and indexing of the record.

12. The appellant, an employee of Ministry of Planning, Development and Reforms has filed the request, in private capacity, before the public body under his fundamental right of access to information, as a citizen of Pakistan. He cannot be compelled by the public body to route his request after approval of the Secretary of his Ministry.
13. The appellant has pointed out that FPSC has not notified the designated officer as required under section 9 of the Act, to route his request. The Commission vide letter dated 31.8.2020 directed the Secretary, Federal Public Service Commission to notify the Public Information Officer for the implementation of the Act but the same has not been regarded.
14. The record or information that is provided in accordance with Section 13(2)(a) is required to be certified as mandated under Section 13(3) of the Act.

**D. ORDER**

15. The appeal is allowed. The Secretary, Federal Public Service Commission is directed to address the objections raised by the appellant in his rejoinder, forthwith but not later than fortnight of the receiving of this order.

He is further directed to make arrangements for the implementation of the Sections 5 & 9 of the Act, under intimation to the Commission by or before 15.6.2021.

Mohammad Azam  
Chief Information Commissioner

Fawad Malik  
Information Commissioner

Zahid Abdullah  
Information Commissioner

Announced on 29.4.2021

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