



In the Pakistan Information Commission, Islamabad

Appeal No 1734-02/22

Sajid Iqbal

(Appellant)

Vs.

Pakistan Software Export Board

(Respondent)

ORDER

Date: May 31, 2022

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated February 03, 2021, to the Commission, stating that he submitted an information request to the Managing Director, Pakistan Software Export Board, (G) Ltd on January 17, 2022 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:

“ The undersigned is a law abiding citizen of the country For information and record, the undersigned contacted the Secretary Establishment Division through a letter dated December 30, 2021 (copy enclosed as Annex-A) and requested to provide updated information pertaining to Establishment Division regarding Promotion Rules/Regulations specifically for contract employees serving Autonomous Bodies of the Government of Pakistan and incorporated under Section 43 of the Companies Ordinance 1984 Establishment Division was kind enough to provide the desired information through letter F No 8/1/2022/R-3 dated January 12, 2022 which is self explanatory (copy attached as Annex-B)

Pakistan Software Export Board (G) Ltd (PSEB) is also an autonomous body of the Government of Pakistan operating under the administrative control of the Ministry of Information Technology and Telecommunication (MoITT) and also incorporated under Section 43 of the Companies Ordinance 1984. All employees serving PSEB purely contractual and hence their appointments are also tenure based and therefore according to Establishment Division clarification are not eligible for promotion. In the presence of above referred OM issued by Establishment Division even MoITT and/or PSEB Board of Directors is not authorized to bypass this regulation and promote any PSEB employee However, according to available information, few employees of PSEB were promoted in the past despite the restrictions which seems to be a clear cut deviation from the prevailing regulations.

It seems that like the previous Managing Directors, you being the current MD PSEB were also not clearly briefed about the barriers in the way of promotions of contract employees which were the primary responsibility of Director Admin & HR being the focal person for HR related matters PSEB BOD must also be briefed in depth by the Company Secretary regarding effective rules/regulations on every matter before requesting for any type of approval including promotions Hence accurate data/information regarding applicable rules and regulations on PSE organizational matters seems to be intentionally concealed from the Chief Executives and BOD

Under the Right to Information Act 2017, for record and reference, the undersigned urgently require the below mentioned information/record pertaining to promotions granted by Pakistan Software Export Board to some of its employees:

- a) List employees (including the above) promoted by PSEB since 1995 with dates
- b) If these employees are actually promoted despite being contractual employees what is the justification/regulation under which they are promoted?
- c) If promoted attested copies of the approvals either by PSEB BOD and/or MoiTT may kindly be provided
- d) In case these employees were moved to higher grades by applying to the new positions and contesting with other candidates, relevant advertisements and selection record may kindly be provided
- e) If they are promoted illegally and/or against the rules/regulations who is responsible for the huge loss to public money?

What steps PSEB is likely to take in order to rectify these irregularities? Such as to revert such employees to their original appointments and/or recovery of additional salary and allowances paid to them as a result of these illegal promotions and to cap further losses to public funds?

You are requested to kindly provide the above information/record at the earliest possible on the below mailing address. It may please be noted that under section 14 of the Right of Access to information Act 2017, each federal public body is bound to respond to a request and in any case within 10 working days of the receipt of the request.”

B Proceedings

3. In response to the notice of the commission dated February 09, 2022, the Respondent submitted its response and its relevant portions are as under:
“That the information requested by the Appellant does not fall within the ambit of public record in terms of section 6 of the Right of Access to Information Act 2017 (“the Act”).”
4. Through a letter dated February 28, 2022, the Appellant expressed his dissatisfaction with the response submitted by the Respondent.
5. The commission held two hearings, first one on March 24, 2022 vide letter dated March 03, 2022 and the second one on May 26, 2022.
6. In the hearings, learned counsel for the Respondent Mr. Daniyal Hassan reiterated written response earlier submitted and also maintained that queries of general nature could not be treated as ‘request for information’.

C. Discussion and Commission's View on Relevant Issues

7. This commission concurs with the Respondent that queries of general nature cannot be treated as 'request for information' and to this extent the Respondent is not bound to respond to the queries of general nature in the application of the Appellant. At the same time, it cannot be concluded that the entire application does not constitute 'request for information' as it contains some items which can be termed as queries of general nature. Each item of the application is to be treated separately and in accordance with the dictates of the law.
8. This commission holds that the disclosure of the requested information is warranted under Section 5 (b), (d), (e) and () I) as well as Section 6 (c) and d) of the Right of Access to Information Act, 2017.
9. So far as the request for access to the "list of employees (including the above) promoted by PSEB since 1995 with dates" is concerned, the commission is of the view that disclosure of this list along with all the records/information pertaining to their promotion is also in public interest as this information would bring to the light as to whether or not promotions were carried out in accordance with relevant laws and rules.
10. This commission also believes that the disclosure of the requested information will help achieve stated objectives of the Act enunciated in its Preamble which are as under:
 - a. Making government more accountable to citizens';
 - b. Greater level of participation of citizens in the affairs of the government';
 - c. 'Reducing corruption and inefficiency';
 - d. Promoting sound economic growth'; and
 - e. Promoting good governance and respect for human rights.

D. Order

- 11 Appeal is allowed. Managing Director, Pakistan Software Export Board is directed to provide the Appellant list of employees (including the names of employees mentioned in the request) promoted by PSEB since 1995 with dates along with all the records/information pertaining to their promotions as requested by the Appellant in para 2 of this Order, within 7 working days of the receipt of this Order, with intimation to this office.
- 12 Copies of this Order be sent to the Respondent and the Appellant for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on: May 31, 2022

This order consists of 3 (three) pages, each page has been read and signed.