

**PUNJAB INFORMATION COMMISSION
LAHORE**

Mr. Khurram Shehzad, House No. 48, Gulshan Hayat Colony, Factory Area, Near
DHQ Hospital, Sargodha

(the Complainant)

Vs.

1. President/ CEO, The Bank of Punjab, BOP Tower, Main Boulevard, Lahore
 2. Group Head HR, The Bank of Punjab, BOP Tower, Main Boulevard, Lahore
- (the Respondents)

ORDER:

The Complainant submitted a complaint to the Commission alleging that the public information officers (PIOs) of the Board of Directors and HR Unit of the Punjab Bank had not provided him the requested information in response to his application under the Punjab Transparency and Right to Information Act 2013. The information sought by the Complainant, through his application dated 15/11/2014, was about (a) fate of his application dated 11/06/2014, which was addressed to the Company Secretary of the Bank, with reference to extra-ordinary general meeting of the Board of Directors of the Bank held on 17/06/2014; and (b) copy of office noting/ background comments regarding process of the acceptance of his resignation vide order dated 25/6/2014, the procedure/ rules / circulars regarding acceptance of resignations of employees, and information about the accepting authority as well as the authority, which decides the petition against the impugned order.

2. In view of the fact that the Bank had not designated any PIOs by that time, the Commission, through a letter dated 03/02/2015, called upon the Respondent No. 1 to “immediately provide the requested information to the complainant, if it is not exempt under section 13 of the Act; and/or explain the reasons, including rebuttal if any, of alleged non-response or delay in deciding the matter.” The respondent No. 2, vide his letter dated 13/02/2015, stated that the complainant had tendered resignation on his own accord, which was accepted and he was relieved from service at the close of office hours on 29/05/2014. It was further stated that the terminal benefits as well as experience certificate had already been delivered to the complainant upon his written request and, therefore, the relationship of employer and employee had ceased to exist.

In the same letter, the Respondent No. 2 requested the Commission to drop/ recall the letter dated 03/02/2015. The complainant, however, expressed his dissatisfaction with the response vide his letter to the Commission dated 14/2/2015; and stated that the information sought by him had still not been provided to him. The Commission again asked the respondents to explain their point of view.

3. Through his letter dated 10/03/2015, the Respondent No. 2 reiterated the earlier stance and added that the application of the complainant dated 11/06/2014 could not be and, therefore, had not been presented in the general meeting of the Board in view of the applicable bye-laws of the Bank. He further stated that there was no file noting on the record and that the resignation had been received through proper channel by the line management and was accepted after payment of three months basic salary in lieu of the notice. His response included as attachments (a) copy of the letter issued by the Company Secretary; (b) copy of the relevant rule of separation policy; (c) copy of the relevant attendance register reflecting that the complainant discontinued attending office since 30/05/2014; (d) copy of Circular No. 2008/101 dated 24/05/2008 superseding Circular No. 2008/15 dated 02/02/2008; and (e) copy of covering letter of complainant's line management vide which his resignation was accepted. Furthermore, in this letter, the Respondent No. 2 argued that the Punjab Transparency and Right to Information Act 2013 is not applicable on the Bank, which (a) is a trans-provincial institution with its branches throughout Pakistan, (b) has non-statutory rules and (c) is a banking company operating under the control of State Bank of Pakistan.

4. The complainant remained unsatisfied and, vide his letter dated 13/04/2015, argued that the Government of the Punjab is the major/ principal owner (with up to 80% shares) of the Bank of Punjab, which was established through the Bank of Punjab Act 1989. He also referred to section 24 of the Punjab Transparency and Right to Information Act 2013, whereby it has been given overriding effect over all other laws for the time being in force. He further stated that the State Bank of Pakistan has declared the Bank of Punjab as a provincial public sector bank. Moreover, it was argued that the Bank of Punjab is a statutory body and that Government of the Punjab appoints the Chairman of the Board of

the Bank, President and CEO of the Bank, as well as majority of the directors of the Board, which governs the Bank. As far as the facts of the instant complaint, the complainant asserted, *inter alia*, that, vide his application dated 06/06/2014, he had requested that the competent authority should allow him an opportunity of personal hearing before passing any order on his resignation. He also stated that his application dated 11/06/2014, which was addressed to Company Secretary, should have been presented before the competent authority and/or Board in its extra-ordinary general meeting held on 17/06/2014. He also noted that his resignation was accepted despite his applications/letters dated 06/06/2014 and 11/06/2014, and that no exit interview was conducted in accordance with the separation policy of the Bank. He also contested the Bank's argument that there is no provision in rules for entertaining appeals against the resignation. In this regard, he referred to the Code of Corporate Governance whereby, in his view, it is obligatory upon the President/ CEO to decide any petition against the impugned order dated 25/06/2014.

5. In the meanwhile, the Punjab Information Commission issued a circular dated 30/06/2015, whereby all the public bodies were required to submit their annual reports to the Commission. In response to this circular, the Bank of Punjab vide its letter No. CICD/2015/868 dated 27/07/2015, again reiterated that the Punjab Transparency and Right to Information Act 2013 does not apply to the Bank of Punjab. In view of this response and the pending complaint, the Commission felt the need of holding hearings, which were held on, among others, 06/08/2015, 01/10/2015 and 09/12/2015. During these hearings, the Commission heard the arguments of the complainant, the respondent No. 2, Mr. Waseem Majid Malik, Head Legal of the Bank, and Mr. Khalid Munir, Head Compliance of the Bank. In the meanwhile, through a letter dated 01/08/2015, the Complainant had submitted to the Commission copies of Finance Department's letters/ circulars No. FD(W&M)1-1/70-Vol-VI dated 22/05/2008 and No. IT(FD)3-4/2002.Pt.IX dated 6/05/2008, whereby government departments had been asked to transfer funds from other commercial banks to the Bank of Punjab in view of the fact that the Government of Punjab was a majority shareholder in the Bank. It was also highlighted during the hearings that the Bank of Punjab is a

body established by the Government of Punjab, which has also declared it as a special institution of the Government. In view of such arguments and other material brought on the record, the representatives of the Bank conceded during one of the hearings that the Bank of Punjab is a public body in terms of section 2(h) of the Act.

6. As regards the facts of the complaint, the representatives of the Bank kept insisting that the Complainant had tendered his resignation on his own accord; and that it had been accepted in accordance with the policy and procedure of the Bank. They also insisted that all of the requested information had been provided to the Complainant. On the other hand, the Complainant kept insisting that he had submitted his resignation as a measure of protest against the attitudes that he suffered for being a disabled person and, therefore, he had soon after made requests that he should be allowed a personal hearing before an order is passed on his resignation. He also insisted that the Bank had not provided him all of the requested information regarding, *inter alia*, the file noting and orders on his applications submitted in follow up to his resignation. The Bank, however, denied and stated that no file noting exists and that the application of the Complainant addressed to the Company Secretary had been filed, as the same could not be presented before the Board in view of relevant rules. The Complainant was of the view that the Company Secretary was duty bound to present his application to the competent authority and/ or in the Board for appropriate orders.

7. The Commission is of the view that its mandate is limited to ensuring disclosure of records, which have been created by or exist in the custody of a public body, subject to section 13 of the Act. It is beyond the scope of the Commission to pass orders on whether a public body deals with applications such as the ones by the Complainant in accordance with the applicable laws, policies and rules or not. Therefore, if the applications of the Complainant were not presented to the competent forum or authority, even if in violation of the application rules/ procedures, the Commission cannot be expected to direct completion of requisite process and then furnish the relevant record. However, if some of the requested record truly exists with the Bank and the Respondents have

wrongly denied it, they can be held accountable and proceeded against in accordance with sections 15 or 16 of the Act.

8. In the light of material on records and as conceded by the representatives of the Bank, the Commission holds that the Bank of Punjab is a public body in terms of section 2(h) of the Act and, therefore, the Respondents are directed to immediately fulfill their legal obligations under, *inter alia*, section 4, 7, 8 and 10 of the Act, especially in terms of proactive disclosure and designation of public information officers. The Respondents are further directed to ensure that any of the requested information, which exists in the Bank's record and has still not been disclosed, is immediately provided to the Complainant and a compliance report is submitted to the Commission latest by 07/03/2016. Copies of this order may be sent to the Complainant and Secretary Finance for information.

Announced on:
18/02/2016

(Mukhtar Ahmad Ali)
Information Commissioner

(Mazhar Hussain Minhas)
Chief Information Commissioner

(Ahmad Raza Tahir)
Information Commissioner