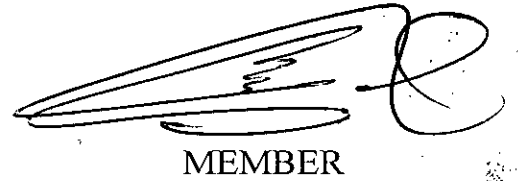


08.12.2015

Appellant with counsel (Mr. Muhammad Asif Yousafzai, Advocate) and Government Pleader (Mr. Muhammad Jan) with Arbab Khalid Mehmood, Legal Advisor for the respondents present. Arguments heard and record perused. Vide our detailed judgment of to-day in connected Service Appeal No. 201/2014, titled "Muhammad Qamar Versus the Chief Secretary, KPK Peshawar etc.", this appeal is also disposed off as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.


ANNOUNCED
08.12.2015


MEMBER


MEMBER

22.06.2015

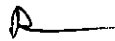
Appellant in person and Asstt. AG and Hamid Ali Shah, Standing Counsel with Haq Nawaz, AETO for the respondents present. Rejoinder on behalf of the appellant received. Due to general strike of the bar, counsel for the appellant is not available. To come up for arguments on 13.11.2015 alongwith connected appeals.



Member

13.11.2015

Counsel for the appellant, M/S Arshad Javed, Inspector (Lit) on behalf of respondents No. 3 alongwith Mr. Muhammad Jan, GP and Mr. Arbab Khalid Mehmood, Legal Officer for 2 to 4 present. Counsel for the appellant requested for adjournment. To come up for arguments on 8-12-15.



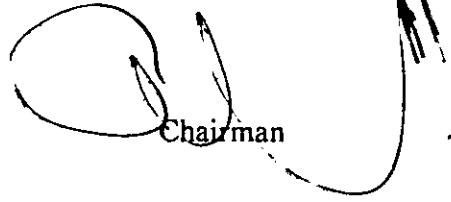
Member



Member

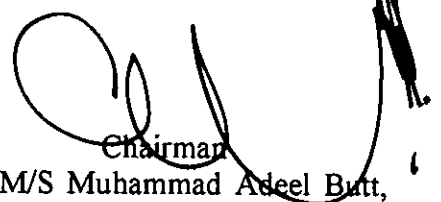
23.09.2014

Appellant in person and Mr. Arshad Javed, Inspector (Lit.) on behalf of respondents with Mr. Usman Ghani, Sr. G.P present. Written reply alongwith reply to application for interim relief received on behalf of respondents No. 2 to 4 and representative of the respondents and learned Sr. GP stated that the same reply be also considered on behalf of respondent No. 1 i.e Chief Secretary, KPK, Peshawar Copy of the written reply as well as reply to application for interim relief handed over to the appellant for rejoinder and arguments on application for interim relief (as arguments on application for interim relief could not be heard due to non-availability of learned counsel for the appellant and learned standing counsel for respondents), alongwith connected appeals on 30.10.2014.


Chairman

30.10.2014

Appellant with counsel, M/S Mr. Muhammad Adeel Butt, AAG for respondent No.1 and Hamad Ali Shah, Standing counsel for respondents No. 2 to 4 present. Rejoinder received on behalf of the appellant, but arguments could not be heard due to receipt of copy of rejoinder by the learned standing counsel today. To come up for arguments on application for interim relief as well as arguments on merits of the appeal alongwith connected appeals on 30.12.2014.


Chairman

30.12.2014

Clerk of counsel for the appellant, M/S Muhammad Adeel Butt, AAG for respondent No. 1 and Arshad Javed, Inspector (Lit.) on behalf of respondent No. 3 alongwith Hamad Ali Shah, Standing Counsel for respondents No. 2 to 4 present. The Tribunal is incomplete. To come up for arguments alongwith connected appeals on 22.06.2015.

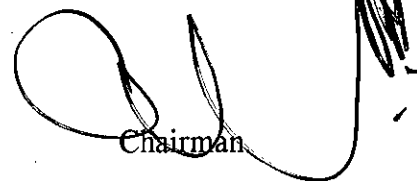


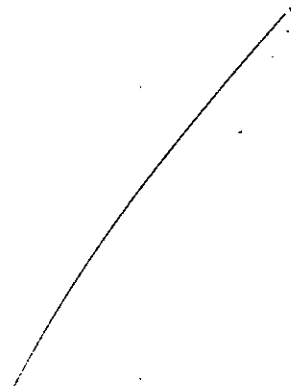
Reader.

203/14

28.8.2014

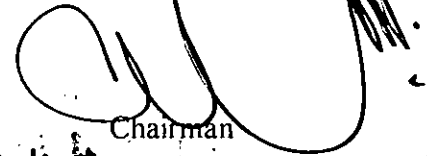
Appellant with counsel present. S. Hamad Ali Shah, Advocate appeared on behalf of the respondents as Legal Adviser of the Excise & Taxation Department, KPK, Peshawar. The learned AAG (Mr. Muhammad Adeel Butt) alongwith Mr. Usman Ghani, Sr. G.P pointed out that they have not yet received any intimation from the Law Department with regard to appearance and defence cases on behalf of Excise & Taxation Department by Legal Adviser of the department. Therefore, they would be seeking guidance/ instructions from the Law Department in this behalf. The learned Advocate/Legal Adviser of the department, on the other hand, stated that he has the authority to represent the department and defend the cases on behalf of the department as he has been appointed by the Secretary, Excise & Taxation Department, KPK, Peshawar. Be that as it may, the written reply alongwith reply to application for interim relief submitted on behalf of respondents No.2 to 4 does not bear signatures of respondents No.2 to 4 as only the learned Advocate/Legal Adviser has signed the same. When the said omission was pointed out to the learned Advocate, he requested for return of the written reply in order to submit the same in accordance with the requirement of law/rules. The written reply is accordingly returned to the learned Advocate/Legal Adviser. To come up for further proceedings/reply to application for interim relief and written reply/ comments on behalf of all the respondents as well as arguments on application for interim relief alongwith connected appeals on 23.9.2014.


Chairman



24.3.2014

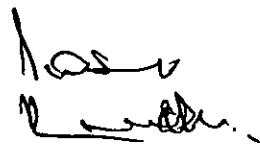
Counsel for the appellant and AAG alongwith Syed Hamad Ali Shah, Legal Advisor on behalf of respondents No. 2 to 4 present. Reply to application for interim relief has not been received, and request for further time made on behalf of the respondents. To come up for written reply/comments on and reply to application for interim relief and arguments thereon on the date already fixed i.e 20.5.2014



Chairman

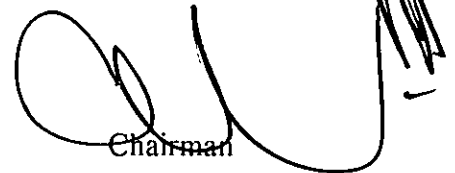
20-5-14.

counsel for the appellant Hamad Ali Shah, Legal Advisor for respondents 2 to 4 present. The worthy chairman is on tour to B/Board. To come up for written reply / comment on 20-5-14.



25.6.2014

Counsel for the appellant, AAG for respondents No. 1,2 and 4 and Mr. Hamad Ali Shah, Advocate standing counsel for respondent No. 3 present. Written reply has not been received neither reply to application for interim relief has been received on behalf of the respondents, and request for further time made on their behalf. Another chance is given for written reply/comments and reply to application for interim relief and also arguments thereon on 28.8.2014.



Chairman

Appeal No. 201/2014
Mr. Mohammed Ghannem

3.

03.03.2014

Counsel for the appellant present and submitted an application for fixing an early dated of hearing instead of 24.03.2014. Application is accepted. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Under Rule-9 of the Departmental Examination Rules.1950, to pass examination it will be necessary for Inspector and Sub-Inspector to obtain 50% (Lower Standard) Marks) whereas the method for ~~recruitment~~ ^{recruitment} and other conditions for appointment as Assistant Excise and Taxation Officers as notified vide order date 30.03.2010, that they shall be appointed by promotion on the basis of Seniority-cum-fitness from amongst the holder of post of Inspectors with at least five years service as such and who have passed departmental examination in higher grade. There seems anomaly as prescribed by the Department. He further contended that the impugned order dated 23.01.2014 is not a speaking order and has been issued in violation of Rule-5 of the Civil Servant (Appeal) Rules-1986. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents. Appellant has also filed an application for restraining the respondents from promoting the Junior Officials to appellant to the post of A.E.T.O on the basis of disputed rules till the disposal of main appeal. Notice of application should also be issued to the respondents for reply/arguments. To come up for written reply on main appeal on 20.05.2014 as well as reply/arguments on application on 24.03.2014.

Appellant Deposited
Security & Process Fee
Rs. 200/- Bank
Receipt is Attached with File.

4.

03.03.2014

This case be put before the Final Bench 1 for further proceedings.

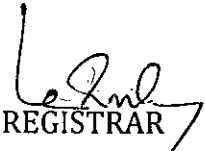

Member

Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 203/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	17/02/2014	<p>The appeal of Mr. Falak Nawaz presented today by Mr. M. Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	19-2-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>24-3-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 203 /2014.

Falak Nawaz.

VS

Govt: of KPK etc.

INDEX.

S.NO	DOCUMENTS	ANNEXURE	PAGE
1-	Memo of appeal.	---	1 - 6
2-	Stay application.	---	7 - 8
3-	Seniority list.	A	9 - 14
4-	Exam Rules 1950	B	15 - 16
5-	Up-gradation order 29.4.87	C	17
6-	Up-gradation order 28.12.86	D	18
7-	Service Rules 30.3.2010	E	19 - 27
8-	Appeal with letters.	F	28 - 32
9-	Rejection order 23.1.2014	G	33
10-	Order 22.6.2010	H	34
11-	Order 13.8.2012	I	35
12-	Vakalat nama	---	36

APPELLANT

THROUGH:



M.ASIF YOUSAFZAI

ADVOCATE.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.APPEAL NO. 203 /2014.

Stamp: KPK Service Tribunal Peshawar
 Date: 20/1/14
 No: 17-2-14

Falak Nawaz, E&T Inspector,

Excise & Taxation Deptt: Peshawar.....Appellant.

VERSUS

- 1- The Chief Secretary KPK Peshawar.
- 2- The Secretary Excise & Taxation Deptt: KPK Peshawar.
- 3- The D.G Excise & Taxation, KPK Peshawar.
- 4- The Standing Service Rules Committee through its Chairman the Secretary E&T Deptt: KPK Peshawar.

.....Respondents.

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT 1974 AGAINST THE ORDER DATED. 23.1.2014, WHEREBY THE APPEAL AGAINST THE ANOMALIES IN SERVICE RULES DATED. 30.3.2010 HAS BEEN REJECTED FOR NO GOOD GROUNDS.

Stamp: KPK Service Tribunal Peshawar
 Date: 17/2/14

PRAYER:- (i)- To set aside the order dated. 23.1.2014 and to declare the Service Rules dated. 30.3.2010 as irrational, disadvantageous and in conflict with the departmental examination rules-1950 which are still in field and operational with further

direction to the respondents to omit the words “*higher grade/standard*” replaced by *lower grade/standard* in column No.5 against S.No.8 as mentioned in the examination rules 1950 for the sub inspectors & Inspector E&T.

- (ii)- To direct the respondents to consider the appellant for promotion to the post of A.E.T.O from his due date being senior and qualified as per E&T Exam Rules 1950 with all back & consequential benefits.
- (iii)- To treat the appellant at par with those Sub Inspector who have been promoted as Inspector by waiving off the condition of passing exam under Rule -7 (3) of Exam Rules -1950 vide orders dated. 13.8.2012 & 22.6.2010 and to consider appellant for promotion on the principles of equality being the employee of the same Deptt:
- (iv)- Any other remedy which this august Tribunal deems fit and not specifically prayed for that may also be awarded in favour of appellant.

R.SHEWETH.

- 1- That the appellant joined the Deptt: in the year 1982. The appellant was later on promoted as S/Clerk in 1995, Inspector in 1997. The appellant is at S.NO. 13 of the seniority list of 2011 and has also passed the departmental exam. Copy of the seniority list is attached as Annexure – A.
- 2- That the E & T Deptt: is conducting examinations for the promotion to various posts under the Examination Rules 1950 which are still in field and operational. According to these

Rules, the Sub Inspector E&T has to pass Exam in Lower Standard (50%) for promotion to the post of Inspector, Inspector E&T has to pass exam in Lower Standard for promotion to the post of Asstt: Excise & Taxation Officer and A.E.T.O has to pass exam in Higher Standard (60%). Thus the eligibility has been set in the said Rules 1950. Copy of the Rules is attached as Annexure – B.

- 3- It is also worth to mention here that the Govt; had already upgraded & re-designated the posts of E&T Sub Inspector as E&T Inspector and upgraded from BPS-8 to BPS-11, similarly, the E&T Inspector re-designated as Asstt: E&T Officer and upgraded from BPS-11 to BPS-14 vide notification dated. 29.4.1987. Copies of orders are attached as Annexure – C&D.
- 4- That the Respondent Deptt: has notified new Rules in supersession of previous rules vide Notification dated. 30.3.2010. In the said rules in column No.5 against S.No.8, the post of AETO is to be filled in by promotion on the basis of seniority-cum-fitness from amongst the holder of post of inspectors with at least five years service as such and who have passed departmental exam in higher grade. Copy of the Rules is attached as Annexure – E.
- 5- That when the anomaly & contradiction with the Exam Rules was noticed by the appellant and his colleagues, he forth with filed appeal , which was routed properly to the authority on 20.8.2013 but the authority has rejected the same on 23.1.2014 for no good grounds. Copies of appeal with forwarding letters and rejection order are attached as Annexure – F&G.

- 6- That the now the appellant comes to this august Tribunal o the following grounds amongst the others.

GROUND:

- A- That the rejection order dated. 23.1.2014 is against the law, rules, norms of justice and material on record and also the Rules dated. 30.3.2010 are irrational, disadvantageous to the appellant's career, therefore, not tenable.
- B- That the Examination Rules 1950 has set the eligibility of the Sub Inspector and Inspectors as to pass the exam in lower standard which are still in field and followed by the respondent Deptt: till date. Thus rules for promotion can not be made in contradiction with the Departmental Exam Rules 1950.
- C- That the rules of 30.3.2010 are irrational and in contradiction with the Exam Rules 1950 because in rules the passing of exam is required in Lower Standard whereas, in the Promotion Rules the said exam is to be passed in Higher Standard.
- D- That the Rules of 30.3.2010 are irrational and disadvantageous to appellant's service career because in other Deptts: the officials are required to pass departmental exam only without specification of grade/standard e.g Treasury Deptt: More over the appellant and other Inspectors are not permitted by the Deptt: to improve their grade despite the fact that there is no prohibition clause for improvement in the Examination Rules-1950.



- E- That the appellant has been discriminated because the appellant is though the senior most but not considered for promotion due to passing the Exam in lower standard, while in case of promotion of Sub Inspector E&T the said provision has been waived by the Deptt: under Rules 7(3) of Exam Rules 1950 in respect of Sub Inspector Promotion vide order dated. 22.6.2010 & 13.8.2012. Thus one class of the Deptt: is benefited for promotion while the same benefits has not been extended to the appellant which is against the principles of equality and Article 25 of the Constitution. Copies of the orders are attached as Annexure – H & I.
- F- That the appellant has passed the departmental exam as per requirement of Exam Rules-1950 and he is legally entitled to be considered for promotion as AETO and the entry of “Higher Standard” in the rules of 30.3.2010 against S.No.8 in Column No.5 is not applicable to the appellant being in contradiction with the basic Exams Rules 1950.
- G- That the appellant has been kept deprived from his legal right of promotion in an arbitrary manner under the garb of Rules of 30.3.2010 which are not sustainable and contradictory with the Exam Rules 1950 in which the standards of passing departmental exams has already been set for various officers of E&T Deptt:
- H- That the appellant has also not been permitted by the Deptt: to improve his grade to meet the requirement of the new rules despite that there is no bar/prohibition in the Exam Rules 1950 for improvement of grade, which is also against the principles of fair play and natural justice.

- I- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT
FALAK NAWAZ

F. Nawaz

THROUGH:

M. Asif Yousafzai
M.ASIF YOUSAFZAI
ADVOCATE.

7

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. _____/2014.

Falak Nawaz.

VS

Govt: of KPK etc.

**APPLICATION FOR RESTRAINING THE
RESPONDENTS FROM PROMOTING THE
JUNIOR OFFICIALS TO APPELLANT TO THE
POST OF A.E.T.O ON THE BASIS OF
DISPUTED RULES TILL THE DISPOSAL OF
MAIN APPEAL.**

R.SHEWETH.

- 1- That the appellant has filed an appeal along with this application in which no date is fixed so far.
- 2- That the appellant has a good prima facie case and he is hopeful for its success.
- 3- That if the respondents are not restrained from promoting junior officials from promotion to next grade on the basis of disputed rules, then the appellant would suffer a lot and same will also give raise to multiple litigations.
- 4- That the appellant's appeal as well as this application is based on genuine grounds and proofs and the august Tribunal has got the jurisdiction to pass an interim order.
- 5- That the grounds of main appeal may also be considered as integral part of this application.

It is therefore most humbly prayed that the respondent Deptt: may be restrained from promoting the junior officials to appellant as AETO on the basis of disputed rues till the decision

of main appeal. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of appellant.

APPELLANT F. Nawaz
FALAK NAWAZ

THROUGH:

M. Asif Yousafzai
M. ASIF YOUSAFZAI
ADVOCATE.

AFFIDAVIT.

It is affirmed that the contents of this application are true and correct.

F. Nawaz
DEPONENT.



**DIRECTORATE GENERAL, EXCISE AND TAXATION,
KHYBER PAKHTUNKHWA, PESHAWAR.**


Auqaf Complex, Shami Road, Peshawar.
Phone. 091-9212260

A 9

NOTIFICATION

Peshawar dated /05/2012
No. /Estb/XIX-C-618 (Inspector) In exercise of powers conferred under Section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with sub rule-2(c)(i) of Rule-4 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, final seniority list of Excise & Taxation Inspector (BPS-14) Excise & Taxation Department Khyber Pakhtunkhwa as it stood on 31-12-2011 is circulated for information of all concerned.


Original

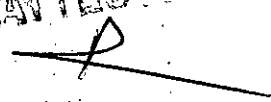

DIRECTOR GENERAL,
EXCISE & TAXATION,
KHYBER PAKHTUNKHWA,
PESHAWAR.

No. /Estb/XIX-C-618 (Inspector)

Copy forwarded for information to:

1. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Excise & Taxation Department, Peshawar.
2. All Regional Deputy Directors, Excise & Taxation Khyber Pakhtunkhwa with the direction to circulate the same amongst all concerned in their respective district Excise & Taxation offices.


DIRECTOR GENERAL,
EXCISE & TAXATION,
KHYBER PAKHTUNKHWA,
PESHAWAR.

ATTACHED


FINAL SENIORITY LIST OF EXCISE & TAXATION INSPECTORS (EPS-14) OF KHYBER PAKHTUNKHWA AS IT STOOD ON 31-12-2011

1008152012

S.NO	NAME OF E & T INSPECTOR	HOME DISTRICT	DATE OF BIRTH	DATE OF JOINING GOVT. SERVICE	DATE OF PROMOTION OF SENIOR CLERK	DATE OF APPOINTMENT/ PROMOTION AS E & T INSPECTOR	REMARKS
1	Mr. Arbab Aurangzeb	Peshawar	12-04-1959	10-07-1986	---	10-07-1986	Direct
2	Mr. Shakeel Ahmad-I	Charsadda	21-01-1967	19-07-1986	---	19-07-1986	Direct
3	Mr. Tariq Saleem	Mardan	15-03-1957	11-01-1987	---	11-01-1987	Direct
4	Mr. Pervez Khan	Charsadda	03-05-1954	17-10-1978	19-10-1991	27-09-1995	Promotee
5	Mr. Farid Ullah Shah	Malakand	25-11-1964	16-01-1984	25-08-1992	19-02-1997	Promotee
6	Mr. Farid Ahmad.	D.I.Khan.	20-03-1969	12-3-1992 08-04-1999	---	08-04-1999	Direct
7	Mr. Iqbalud Din	Mardan.	02-04-1954	15-11-1973	19-05-1993	15-09-2001	Promotee
8	Mohammad Qamar ✓	Peshawar	02-01-1959	03-06-1980	28-07-1994	15-09-2001	Proforma promotion had been granted w.e.f 28-07-1994 in pursuance of the Director Excise & Taxation vide order No.2240/Estb/P.File dated 08-05-1997
9	Mr. Shamsher Ali	Haripur	01-01-1967	10-06-1980	31-07-1994	19-02-1997	Promotee
10	Mr. Gul Zaman	Mansehera	12-01-1954	27-09-19980	31-07-1994	19-02-1997	Appointed on Acting Charge Basis as AETO (BPS-16)
11	Mr. Nizakat Ali	Peshawar	12-03-1964	11-06-1980	27-09-1995	19-02-1997	Promotee
12	Mr. Saad ud Djn	D.I.Khan	22-08-1956	12-09-1981	26-09-1995	19-02-1997	Promotee
13	Mr. Falak Nawaz	Peshawar	15-04-1964	11-10-1982	26-09-1995	19-02-1997	Promotee

ATTESTED
/

22/5/2012

Sl. No.	NAME OF E & T INSPECTOR	HOME DISTRICT	DATE OF BIRTH	DATE OF JOINING GOVT. SERVICE	DATE OF PROMOTION OF SENIOR CLERK	DATE OF APPOINTMENT/PROMOTION AS E & T INSPECTOR	REMARKS
14	Mr. Imran Hussain	Kohat.	04-01-1960	25-09-1978	26-09-1995	15-09-2001	Promotee
15	Mr. Musa Khan.	Peshawar.	01-06-1964	17-01-1984	26-09-1995	15-09-2001	Promotee
16	Mr. Mohammad Mushtaq	Peshawar.	02-05-1956	01-06-1980	19-02-1997	15-09-2001	Promotee
17	Mr. Khurshid Ahmad	Abbottabad.	10-02-1959	08-02-1981	19-02-1997	15-09-2001	Promotee
18	Mr. Naeem Akhtar.	Abbottabad	24-06-1963	16-09-1981	19-02-1997	15-09-2001	Promotee
19	Mr. Nasir Latif.	Peshawar.	15-04-1960	04-10-1982	19-02-1997	15-09-2001	Promotee
20	Mr. Javed.	Swat.	03-02-1965	02-08-1986	19-02-1997	15-09-2001	Promotee
21	Mr. Said Badshah	Swabi	20-07-1952	01-08-1974	25-09-2001	12-02-2002	Promotee
22	Mr. Fida Mohammad	Mardan	01-10-1957	03-06-1980	25-09-2001	12-02-2002	Promotee
23	Mr. Jehangir Hussain	Mardan	09-06-1958	04-06-1980	25-09-2001	12-02-2002	Promotee
24	Mr. Inamullah Khan	Peshawar.	10-08-1960	01-04-1984	25-09-2001	12-02-2002	Promotee
25	Mr. Mubarik Islam	Kohat.	06-02-1962	04-10-1982	25-09-2001	12-02-2002	Promotee
26	Mr. Saeed Gul	Peshawar.	01-09-1965	21-01-1985	25-09-2001	12-02-2002	Promotee
27	Mr. Ehsanul Haq	Peshawar.	14-11-1961	10-04-1986	25-09-2001	12-02-2002	Promotee
28	Mr. Javed Hussain	Peshawar.	21-05-1964	10-04-1986	25-09-2001	12-02-2002	Promotee
29	Mr. Farmanullah Jan	Charsadda	04-01-1965	10-04-1986	25-09-2001	12-02-2002	Promotee
30	Mr. Mohammad Salim	Charsadda	10-04-1963	12-04-1986	25-09-2001	12-02-2002	Promotee
31	Mr. Adaiat Khan	Swat.	01-04-1956	08-07-1987	25-09-2001	12-02-2002	Promotee

ATTESTED

22.5.2012

	NAME OF E & T INSPECTOR	HOME DISTRICT	DATE OF BIRTH	DATE OF JOINING GOVT. SERVICE	DATE OF PROMOTION OF SENIOR CLERK	DATE OF APPOINTMENT/ PROMOTION AS E & T INSPECTOR	REMARKS
	Mr. Shakeel Ahmad	Malakand Agency	19-06-1971	24-05-2002	---	24-05-2002	Direct.
	Mr. Javed-ur-Rehman	Karak	01-04-1974	28-05-2002	---	28-05-2002	Direct.
	Mr. Shaukat Ali	Abbottabad	16-04-1973	29-05-2002	---	29-05-2002	Direct.
	Mr. Usman Shahzad	Abbottabad	01-06-1976	29-05-2002	---	29-05-2002	Direct.
36	Mr. Muhammad Aslam	Peshawar	01-02-1957	01-08-1976	30-10-2002	30-05-2006	Seniority fixed in accordance with the decision of the Scrutiny committee meeting held on 17-05-2007.
37	Mr. Nazar Muhammad	Peshawar.	20-08-1952	19-07-1972	16-05-1991	06-10-2004	Promotee
38	Mr. Faizullah Khan-II	D.I.Khan.	01-02-1955	02-08-1974	---	11-08-2005	Promotee
39	Mr. Abdus Samad	D.I.Khan.	05-05-1981	30-05-2005	---	30-05-2005	Seniority fixed in pursuance to the Khyber Pakhtunkhwa, Public Service Commission.
40	Mr. Zahid Iqbal	Peshawar.	25-09-1977	28-05-2005	---	28-05-2005	
41	Mr. Khalid Qayum	Swat.	03-04-1972	30-05-2005	---	30-05-2005	
42	Mr. Ahmad Naeem	D.I.Khan.	19-05-1975	02-06-2005	---	02-06-2005	
43	Mr. Arifullah Khan	FR Bannu	02-06-1979	01-07-2005	---	01-07-2005	
44	Mr. Zia-ud-Din	Swat.	13-02-1978	04-06-2005	---	04-06-2005	
45	Mr. Amjad Zareen	Mansehra	12-04-1981	30-05-2005	---	30-05-2005	
46	Mr. Waheed-ur-Rehman	Mansehra	09-06-1972	09-06-2005	---	09-06-2005	

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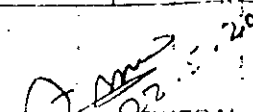
22.5.2012

13

	NAME OF E & T INSPECTOR	HOME DISTRICT	DATE OF BIRTH	DATE OF JOINING GOVT. SERVICE	DATE OF PROMOTION OF SENIOR CLERK	DATE OF APPOINTMENT/ PROMOTION AS E & T INSPECTOR	REMARKS
47	Mr. Gul Fishan	Swat.	05-05-1975	18-07-2005	---	18-07-2005	Seniority fixed in pursuance to the Khyber Pakhtunkhwa, Public Service Commission.
48	Mr. Muhammad Iqbal-II	Mardan	10-04-1980	02-06-2005	---	02-06-2005	
49	Mr. Muhammad Khalid	Swabi	20-04-1968	31-05-2005	---	31-05-2005	
50	Mr. Javed Sultan	Hangu	01-07-1975	30-05-2005	---	30-05-2005	
51	Mr. Matloob-ur-Rehman	Swat.	15-04-1982	13-07-2005	---	13-07-2005	
52	Mr. Fahim Nawaz	FR Bannu	20-06-1978	14-07-2005	---	14-07-2005	
53	Mr. Muhammad Khasroon	Bannu	15-06-1955	26-06-1980		30-05-2006	
54	Mr. Nisar Ahmad	Abbottabad	13-03-1956	01-11-1975		30-05-2006	promottee
55	Mr. Behr-e-Karam	Malakand Agency	10-07-1960	03-06-1980	19-03-2003	30-05-2006	promottee
56	Arbab Sultan Zeb	Peshawar	01-03-19857	03-07-1986	19-03-2003	30-05-2006	promottee
57	Mr. Arshad Pervez	Peshawar	01-03-1962	05-07-1986	19-03-2003	30-05-2006	promottee
58	Farid Ullah Khan	D.I.Khan	01-03-1980	04-02-2008	---	04-02-2008	Seniority fixed in pursuance to the Khyber Pakhtunkhwa, Public Service Commission.
59	Syed Naveed Jamal	Malakand	07-04-1977	30-01-2008	---	30-01-2008	
60	Ms. Saima Gul	Peshawar	28-03-1984	02-09-2008	---	02-09-2008	
61	Mr. Nasir Mehmood	Abbottabad	03-06-1966	05-12-1990	12-08-2005	11-02-2009	Promotee
62	Mr. Akhtar Nawaz	Haripur	17-11-1969	07-09-1991	12-08-2005	11-02-2009	Promotee
63	Zaitur Rehman	Mardan	02-01-1962	13-09-1981	12-08-2005	11-02-2009	Promotee
64	Mr. Abdul Rashid	Mardan	13-8-1955	01-7-1980	12-08-2005	11-02-2009	Promotee
65	Mr. Dost Muhammad	Mardan	02-05-1959	02-07-1986	12-08-2005	11-02-2009	Promotee

Handwritten signature and date: 22.5.2012

NO	NAME OF E & T INSPECTOR	HOME DISTRICT	DATE OF BIRTH	DATE OF JOINING GOVT. SERVICE	DATE OF PROMOTION OF SENIOR CLERK	DATE OF APPOINTMENT/ PROMOTION AS E & T INSPECTOR	REMARKS
66	Khan Zada	Peshawar	24-02-1961	07-07-1986	12-08-2005	11-02-2009	Promotee
67	Mr. Arshad Javed	Peshawar	10-01-1963	31-07-1986	12-08-2005	11-02-2009	Promotee
68	Mr. Amjad Ali	Peshawar	01-10-1964	03-09-1986	12-08-2005	11-02-2009	Promotee
69	Mr. Arshad Zaman	Peshawar	01-04-1979	07-05-2007	---	30-03-2010	Seniority fixed in pursuance to the Khyber Pakhtunkhwa Public Service Commission. (N.B) The nomenclature of the post of Assistant (BPS-14) in the Excise & Taxation Directorate and its subordinate offices have been changed in consultation with the Finance Department vide notification No.SO(E)E&T/1-41/2010 dated 30-03-2010
70	Mr. Sajjad Ahmad	Charsadda	18-02-1976	19-05-2007	---	30-03-2010	
71	Mr. Tariq Mehmood	D.I.Khan	03-10-1981	08-05-2007	---	30-03-2010	
72	Mr. Majid Khan	Mohmand Agency	23-03-1983	20-09-2007	---	30-03-2010	
73	Mr. Atif Qayyum	Mansehra	25-03-1981	10-05-2007	---	30-03-2010	
74	Mr. Abbas Khan	Karak	12-12-1958	09-03-1978	31-12-2003	23-07-2010	Promotee
75	Mr. Malik Aman	Swabi	17-08-1963	20-06-1987	31-12-2003	23-07-2010	Promotee


 DIRECTOR GENERAL
 EXCISE & TAXATION
 KHYBER PAKHTUNKHWA
 PESHAWAR

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EXCISE AND TAXATION

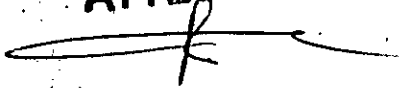
NOTIFICATION.

3rd August, 1950.

No. 1136-46-Taxn/XIX-C-140. The Governor, North West Frontier Province is pleased to make the following rules for the Departmental Examination of Officers of the North West Frontier Province Excise & Taxation Department.

- 1- A Departmental Examination for Officers of the North West Frontier Province Excise & Taxation Department will be held at Peshawar/Abbottabad twice a year; about the 3rd week of December at Peshawar and the first week of August at Abbottabad or on such other dates and places as are notified by the Excise & Taxation Commissioner, N.W.F.P. The exact dates and place of Examination will be notified before hand in the N.W.F.P. Gazette.
- 2- The Assistant Excise & Taxation Officers of circles should forward to the Excise & Taxation Commissioner, N.W.F.P. before 15th September of each year and 15th May next year or within one month after the publication of the result of the last examination whichever is later, the names of Officers who intend to set for the examination together with the subject in which they wish to be examined.
- 3- The examination will be conducted by the Excise & Taxation Commissioner, N.W.F.P.
- 4- The paper will be set, answer examined and marks awarded by the Examiner nominated by the Excise & Taxation Commissioner with the approval of the N.W.F.P. Government.
- 5- The answer books of the Candidates will be forwarded by the Excise & Taxation Commissioner, N.W.F.P., to the examiners appointed under rule (4). The examiners will submit under sealed cover their award of marks, along with answer books in original to the Excise & Taxation Commissioner, will fill in the names of the examinees in the award statement.
- 6- After each examination the names of successful candidates will be published in the N.W.F.P. Government Gazette.
- 7-
 - 1) The following Offices will be required to pass the examination :-
 - a) Assistant Excise & Taxation Officers.
 - b) Excise & Taxation Inspectors.
 - c) Excise & Taxation Sub Inspectors.
 - 2) Excise Inspectors and Sub Inspectors will normally be required to qualify subject IV only and the Taxation Inspectors and Sub Inspectors may qualify in all subject.
 - 3) The requirements of sub rules (1) may be waived, in the case of Officers falling in clause (a) by the Provincial Government & in the case of clause (b) and (c) by the Excise & Taxation Commissioner, N.W.F.P.

ATTESTED



8- The Excise & Taxation Commissioner may permit the following persons to appear in the examination :-

- a) All accepted candidates for executive posts in the Excise & Taxation Department.
- b) Any person whose name has been forwarded by the chief authority of an acceding State or Agency in the Tribal Areas.

9- To pass the examination it will be necessary for a candidate to secure the following minimum marks in each subject :

<u>Designation of Officers.</u>	<u>Minimum Marks.</u>
Assistant Excise and Taxation Officers.	60 per cent (High Standard)
Excise & Taxation Inspectors and Sub Inspectors.	50 per cent (Lower Standard)

10- An Officer of the N.W.F.P. Excise and Taxation Department must pass the departmental examination in the prescribed subjects within a period of 2 years from the date of appointment to the post, or the date of publication of these rules whichever is later. This condition will be deemed not to have been complied with if an officer fails to pass in any subject at his fourth attempt thereat.

Amendment. Vide Notification No.8072/T, dated 7-3-1953.

- 10-A. If any officer fails to pass the departmental examination within the prescribed period of two year he shall be liable for removal from service.
- 11- The subjects and text-books prescribed for the examination are given in Schedule-A appended; a three hours paper will be set in each subject carrying 100 marks. The Schedule is subject to amendment from time to time.
- 12- Candidates will be provided with the bare text of the various Acts for use in the examination. These are detailed in Schedule B appended to these rules.

Sd/-
 ARBAB HAJI AHMAD ALI JAN
 Secretary to Government N.W.F.P.,
 Excise and Taxation Department.

(SCHEDULE 'A')

Rule 11.

Subject I - Law of Crimes-

- 1- Pakistan Penal Code, Act 45 of 1860 Chapter I to V, IX to XI, XII, XIV and XXIII
- 2- Code of Criminal Procedure, Act 5 of 1898, omitting Chapters XVIII, XXVI, XXVII and the whole of Parts IV, VII and VIII.
- 3- Indian Evidence Act I of 1872, except Chapters VI and VIII.
- 4- General Clauses Act, 1897.

Subject II - Excise Law-

- 1- The North-West Frontier Province Act, 1938.
- 2- The Punjab Local Option Act, 1923, as extended to the North-West Frontier Province Prohibition Act, 1938.
- 3- The Opium Act 1878.
- 4- The Punjab Opium Smoking Act, 1923.
- 5- The Dangerous Drugs Act, 1930, as extended to the North-West Frontier Province.
- 6- The Punjab Excise Manual, Vol. I, 1925, edition (excluding Act I of 1914) as applicable to the North-West Frontier Province.
- 7- Notifications, Orders and Rules issued under (1) to 6).

Subject III- Taxation Law-

- 1- The North-West Frontier Province Entertainment Duty Act, 1937, as amended from time to time.
- 2- Notifications, Orders, Rules and Executive Instructions issued or framed under (1).

Subject IV - Taxation Law and Fraction and Law-

- 1- The North-West Frontier Province Urban Immovable Property Tax Act, 1948, as amended from time to time.
- 2- Notifications, Rules and Executive Instructions issued under (1) and
- 3- The following portions of the code of Civil Procedure :-
 - (i) Order V-Issue and Service of Summons.
 - (ii) Order XIII-Production, impounding and return of documents.
 - (iii) Order XVI-Summoning and attendant of witnesses.
 - (iv) Order XVIII-Hearing of the suits and examination of witnesses.

ATTESTED

(SCHEDULE "B").
Rule 12.

Subject. I- Law of Crimes-

- 1- Pakistan Penal Code, Act 45 of 1860.
- 2- Code of Criminal Procedure, Act of 1898.
- 3- Indian Evidence Act I of 1872.

Subject. II Excise Law-

- 1- The Punjab Excise Manual; Volume I.

Subject IV-Taxation Law and Practice and Civil Law-

- 1- Civil Procedure Code.

Dated Pesh: the 29th April, 1987.

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From

Saeed Ullah Jan,
Secretary to Govt: of NWFP,
Finance Department, PESHAWAR.

To

1. The Additional Chief Secretary Govt: of NWFP.
2. The Senior Member, Board of Revenue, NWFP.
3. All the Administrative Secretaries to Govt: of NWFP.
4. The Secretary to Governor, N.W.F.P.
5. The Secretary to Chief Minister NWFP.
6. All Heads of Attached Departments in NWFP.
7. All Commissioners/Deputy Commissioners/Political Agents/District and Session Judges in N.W.F.P.
8. The Registrar, High Court, Peshawar.
9. The Secretary, Public Service Commission, NWFP, Peshawar.
10. The Registrar, Services Tribunal, NWFP, Peshawar.
11. The Secretary, Board of Revenue, N.W.F.P. Peshawar.

E. A
Dir. R. T.
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30/4/87

SUBJECT: SCHEME OF BASIC PAY SCALES AND FRINGE BENEFITS OF PROVINCIAL CIVIL SERVANTS (1983) REDESIGNATION OF THE POSTS OF THE EXCISE AND TAXATION SUB INSPECTORS AND INSPECTORS IN THE EXCISE AND TAXATION DEPARTMENT.

Sir,

I am directed to refer to the Finance Department's letter NO. FD(SR-I)1-67/83, dated 24-8-1983 on the above noted subject and to state that the case regarding redesignation and upgradation of the posts of Excise and Taxation Sub Inspector (B-8) and Excise Inspector (B-11) in the Excise and Taxation Department has been under consideration of the Provincial Govt: for sometime past. The posts of Excise and Taxation Sub Inspector and Excise and Taxation Inspector have accordingly been redesignated as Excise and Taxation Inspector and Assistant Excise and Taxation Officer respectively vide Government of NWFP, Excise and Taxation Department notification NO. 28789/Estt/EST/77, dated 26-12-1986.

2- On consideration of the matter further, it has been decided to upgrade the posts of Excise and Taxation Sub Inspector now redesignated as Excise and Taxation Inspector from BPS-8 to BPS-11 and the post of Excise & Taxation Inspector now redesignated as Assistant Excise and Taxation Officer from BPS-11 to BPS-14.

3- These orders shall take effect immediately.

Your obedient servant,

(MIR LATIQ SHAH)
ADDITIONAL FINANCE SECRETARY (I)
GOVERNMENT OF N.W.F.P.

2469
2-5-87

ATTACHED

Endst.No:FD(SR-I)5-18/82. Dated Peshawar, the 28th April, 1987.

Copy forwarded for information to:-

- 1- All Autonomous and Semi-Autonomous bodies in N.W.F.P.
- 2- The Secretary, Finance Department, Government of the Punjab, Sind and Baluchistan.

Mian Sahib Jan

(Mian Sahib Jan)
Deputy Secretary(Regulation)
Government of N.W.F.P.

Endst.No:FD(SR-I)5-18/82. Dated Peshawar, the 28th April, 1987.

Copy forwarded for information to:-

- 1- The Accountant General, N.W.F.P., Peshawar.
- 2- All District/Agency Accounts Officers in N.W.F.P.
- 3- The Treasury Officer, Peshawar.
- 4- The Private Secretary to Finance Minister, N.W.F.P.
- 5- P.S. to Secretary/P.As. to Additional Secretaries/
Deputy Secretaries in Finance Department.
- 6- All Section Officers/Budget Officers in Finance Department.
- 7- The Director, Local Fund Audit, N.W.F.P.

Fakhr-uz-Zaman

(Fakhr-uz-Zaman)
Section Officer(SR-I).

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GOVERNMENT OF N.W.F.P.,
EXCISE AND TAXATION DEPARTMENT.
PESHAWAR DATED THE 28/7/1986.

NOTIFICATION

1986
28.789 / Estb: E&T.77.- The Government of North West Frontier Province are pleased to accord sanction to the re-designation of the posts of Excise and Taxation Sub-Inspectors and Excise and Taxation Inspectors, with effect from 27th July, 1986, as under :-

<u>Present designation.</u>	<u>Revised.</u>	<u>Remarks.</u>
1. Excise and Taxation Sub-Inspector.	Excise and Taxation Inspector.	Henceforth no person shall be appointed as Excise and Taxation Inspector, on initial recruitment unless he has passed B.A/B.Sc examination from a recognised University.
Excise and Taxation Inspector.	Assistant Excise and Taxation Officer.	

J. Ullah
SECRETARY TO GOVERNMENT NWFP.,
EXCISE AND TAXATION DEPARTMENT.
Peshawar dated the 28/7/1986.

28790-28801
1399-83 / Estb: E&T.

Copy is forwarded to :-

- Secretary to Chief Minister, Government of NWFP.
- P.S. to Chief Secretary, Government of NWFP.
- P.S. to Minister for Excise and Taxation, Government of NWFP.
- Secretary to Government of NWFP, Finance Department, with reference to their note dated 17.7.1986, alongwith the Chief Minister's orders thereon (photostat copies attached) with the request to please amend the schedule of Basic Scale, in respect of Inspectors and Assistant Excise and Taxation Officers from 8 and 11 to 11 and 14 respectively.
- Deputy Secretary (Regulation) to Government NWFP., S & G A D with the request that a Notification may kindly be issued substituting the words "Excise and Taxation Sub-Inspector" and "Excise and Taxation Inspector", wherever occurring in the present Service Rules, with the words "Excise and Taxation Inspector" and "Assistant Excise and Taxation Officer" respectively.
- All Commissioners, in NWFP.
- Director, Excise and Taxation, NWFP.
- Accountant General, N.W.F.P.
- All District Accounts Officers in NWFP.

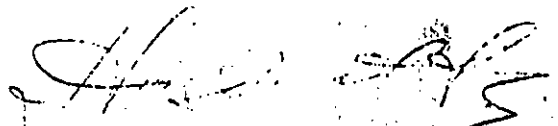
P.T.O.

ATTESTED
[Signature]

All Excise and Taxation Officers, in NWFP.

Secretaries to Government of Punjab, Sind and Baluchistan,
Excise and Taxation Department, Lahore Karachi and Quetta.

Manager Government Printing Press, NWFP, Peshawar with
request to please publish it in the next official Gazette
and send its 50 copies for record in this office.



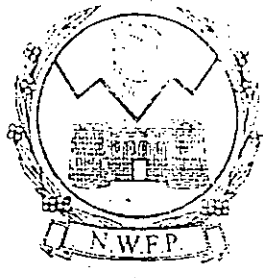
DEPUTY SECRETARY TO GOVERNMENT NWFP.,
EXCISE AND TAXATION DEPARTMENT.

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EXTRAORDINARY
GOVERNMENT



REGISTERED NO. P.III
G A Z E T T E

North-West Frontier Province

Published by Authority

PESHAWAR, TUESDAY, 30TH MARCH, 2010.

GOVERNMENT OF THE NORTH-WEST FRONTIER PROVINCE
EXCISE & TAXATION DEPARTMENT
SERICE RULES, 2010.

NOTIFICATION

Peshawar dated the 30th March, 2010.

No. SO(Est)E&T/1-41/2009: - In pursuance of the provisions contained in sub-rule (2) of rule (3) of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and in supersession of all rules issued in this behalf, the Excise & Taxation Department in consultation with the Establishment and the Finance Departments, hereby lays down the method of recruitment, qualifications and other conditions, specified in column No. 3 to 5 of the Appendix to this Notification which shall be applicable to posts in the Excise & Taxation Department specified in column 2 of the said Appendix.

SECRETARY
GOVERNMENT OF THE NORTH-WEST FRONTIER PROVINCE
EXCISE & TAXATION DEPARTMENT

737

Printed and published by the Manager,
Staty. & Ptg. Deptl. N.W.F.P. Pesh.

ATTESTED

**GOVERNMENT OF NWFP
EXCISE & TAXATION DEPARTMENT
SERVICE RULES, 2010.**

APPENDIX

SR.NO.	Nomenclature of post	Minimum qualification for appointment by initial recruitment/transfer	Age limit	Method of recruitment
1	2	3	4	5
1	Director General, Excise and Taxation.	Bachelor's Degree from a recognized University.	---	i) By transfer; or ii) By promotion, on the basis of seniority-cum-fitness, from amongst the Deputy Directors, Excise & Taxation having five years service as such or fifteen years service in BS-17 and above.
2	Deputy Director, Excise & Taxation.	Bachelor's Degree from a recognized University.	---	i) By promotion, on the basis of seniority-cum-fitness, from amongst the Excise & Taxation officers with at least five years Service as such or ten years service as Assistant Excise & Taxation Officer and Excise & Taxation Officer; or ii) If no suitable Excise & Taxation officer is available for promotion, then by transfer of suitable officer.

ATTEST


SR.NO.	Nomenclature of post	Minimum qualification	Age limit	Method of recruitment
1	2	3	4	5
3	Taxation Analyst	(a) i. MBA with Finance, from a recognized University; or ii. M.Com from a recognized University; and (b) i. Computer Literate with certificate in Microsoft Office (MS-Word, MS-Excel, MS-Access); and ii. three years experience in field relating to Taxation in Public / Private Sector, Autonomous/Semi Autonomous Bodies.	25-35 Years	By initial recruitment.
4	System Analyst	i. Ist Class Master's Degree in Computer Science; or equivalent qualification from a recognised institute; and ii. three years experience in field of Electronic Data Processing with System Designing and Programming Skills.	25-35 Years	By initial recruitment

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SR.NO. 1	Nomenclature of post 2	Minimum qualification 3	Age limit 4	Method of recruitment 5
5	Excise & Taxation Officer.	Second Division Bachelor's Degree from a recognized University.	21 to 30 years	<p>(a) i. Forty six per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Excise & Taxation Officers (BS-16) with at least 5 years service as such, who have passed the departmental examination in higher grade; and</p> <p>ii. Four per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Superintendents (BS-16) with at least 5 years service as such, who have passed the departmental examination in higher grade; and</p> <p>(b) Fifty per cent by initial recruitment, on the recommendations of N.W.F.P. Public Service Commission based on the result of a competitive Examination conducted by it, in accordance with the Syllabus prescribed for the Competitive Examination under Government of North-West Frontier Province Provincial Management Service Rules, 2007.</p>
6	Accounts Officer.	<p>i. Second Class Master's Degree in Commerce with Accounting as one of the subject, from a recognized University; and</p> <p>ii. one year Diploma in Computer Science from the Board of Technical Education.</p>	21 to 32 years	By initial recruitment.

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N.W.F.P. GOVERNMENT GAZETTE, EXTRAORDINARY, 30th MARCH, 2010. 741

SR.NO.	Nomenclature of post	Minimum qualification	Age limit	Method of recruitment
1	2	3	4	5
7	Computer Programmer.	(i) Second Class Master's Degree in Computer Science from a recognized University; and (ii) two years experience in a Government Department /Semi-Government/Public Corporation or any well reputed Private Organization.	26 to 35 years.	(i) Fifty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Data Processing Supervisors with at least five years service as such; and (ii) Fifty per cent by initial recruitment.
8	Assistant Excise & Taxation Officer.	---	---	By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Inspectors, with at least five years service as such, and who have passed Departmental examination in higher grade.
9	Superintendent.	---	---	By promotion, on the basis of seniority-cum-fitness, from amongst the Senior Scale Stenographers with at least five years service as such or ten years total service in the Department as Junior Scale Stenographer and Senior Scale Stenographer
10	Assistant Accounts Officer.	i. Second Class Bachelor's Degree in Commerce from a recognized University; and ii. one year Diploma in Computer Science from the Board of Technical Education.	21 to 32 years	By Initial Recruitment

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742 N.W.F.P. GOVERNMENT GAZETTE, EXTRAORDINARY, 30th MARCH, 2010.

SR.NO. 1	Nomenclature of post 2	Minimum qualification 3	Age limit 4	Method of recruitment 5
11	Senior Scale Stenographer	<p>(i) Second class Bachelor's Degree from a recognized University;</p> <p>(ii) a speed of hundred Words per minute in Shorthand in English & forty words per minute in typing; and</p> <p>(iii) one year Diploma in Computer Science from the Board of Technical Education.</p>	18 to 32 years	By promotion, on the basis of seniority-cum-fitness, from amongst Junior Scale Stenographers (BPS-12), with at least 5 years service as such; provided that if no suitable candidate is available for promotion, then by initial recruitment.
12	Inspector	<p>i) Second Class Bachelor's Degree, from a recognised University; and</p> <p>ii) One year Diploma/Certificate in Computer Science from the Board of Technical Education.</p>	21 to 32 years	<p>(i) Fifty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub-Inspectors with at least five years service as such who have passed the departmental examination in lower grade; and</p> <p>(ii) Fifty per cent by initial recruitment.</p>
13	Data Processing Supervisor.	<p>i) Second Class Bachelor's Degree with Computer Science from a recognized university; and</p> <p>ii) one year's experience in the field of Data Control or Key Punch Operation.</p>	21 to 32 years	<p>(i) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst Key Punch Operators/Data Entry Operators with at least three years service as such; and</p> <p>(ii) Fifty percent by initial recruitment.</p>

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1	2	3	4	5
SR.NO.	Nomenclature of post	Minimum qualification	Age limit	Method of recruitment
14	Junior Scale Stenographer	(i) Intermediate or equivalent qualifications from a recognized Board; and (ii) a speed of fifty words per minute in shorthand in English and thirty five words per minute in typing and knowledge of Computer in using MS-Word & MS-Excel.	18 to 32 years	By initial recruitment.
15	Data Entry Operator/ Key Punch Operator.	(i) Intermediate, with Statistics, Economics or Mathematics/ Physics as one of the Subjects from a recognized Board; and (ii) a minimum speed of ten thousand Key depressions per hour for punching/data entry/verification.	18 to 32 years	By initial recruitment.

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744 N.W.F.P. GOVERNMENT GAZETTE, EXTRAORDINARY, 30th MARCH, 2010.

SR.NO.	Nomenclature of post	Minimum qualification	Age limit	Method of recruitment
1	2	3	4	5
16	Sub Inspector	---	---	By promotion on the basis of seniority-cum-fitness from amongst Assistant Sub-Inspectors with at least five years service as such.
17	Assistant Sub-Inspector	i) Intermediate or equivalent qualification from a recognized Board; ii) One year certificate in Computer Science/Information Technology from Board of Technical Education; and iii) (Height: 5' 7") (Chest: 33" with expansion of 1 1/2 inches).	18 to 32 years	i) Forty per cent by promotion on the basis of seniority-cum-fitness from amongst the constables Excise & Taxation Department with at least five years service as such; and ii) Sixty per cent by initial recruitment.
18	Excise & Taxation Constable	Secondary School Certificate (Height: 5' 7"; (Chest: 33" with expansion of 1 1/2 inches).	18 to 30 years.	By initial recruitment from amongst bonafide residents of district concerned.

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N.W.F.P. GOVERNMENT GAZETTE, EXTRAORDINARY, 30th MARCH, 2010, 745

SR.NO.	Nomenclature of post	Minimum qualification	Age limit	Method of recruitment
1	2	3	4	5
19	Wireless Operator	i. Secondary School Certificate from a recognized Board of Intermediate & Secondary Education; and ii. a certificate in Telecommunication from a recognized Polytechnic/Vocational institution or equivalent qualification from a recognized institute.	18-30 years	By initial recruitment from amongst bonafide residents of district concerned.
20	Driver	Secondary School Certificate from a recognized Board of Intermediate and Secondary Education and possessing a valid Light Transport Vehicle License, with at least three year's experience of practical driving.	18 to 32 years	By initial recruitment from amongst bonafide residents of district concerned.
21	Distillery Security Guard	Secondary School Certificate	18 to 32 years	By initial recruitment from amongst bonafide residents of district concerned.
22	Daftri/Qasid			By promotion from amongst Naib Qasids.
23	Naib Qasid	Middle	18 to 32 years	By initial recruitment.
24	Chowkidar/Mali/Sweeper	Preferably literate	18 to 32 years	By initial recruitment.

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To: The Secretary to Govt, E&T Department;

Khyber Pakhtoon Khwa, Peshawar,

Through: - Proper channel.

Subject: - Removal of Anomaly in cases of Promotion of Inspectors to the rank of A.E.T.O

Sir,

We the inspectors of E&T Department beg to approach you with the following a few lines for your consideration and favorable orders:-

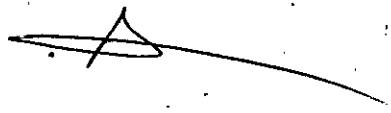
1. That we were promoted/appointed as Inspectors under Rules 5 of the west Pakistan E&T Department; Subordinates Service Rules, 1966, which stood applied to this province w.e.f 1.7.1970, on dismemberment of the defunct Govt of West Pakistan (One unit), till these were superseded by the Govt Notification No, SO (Estt) E&T/1-41/2009 dated 30.3.2010.
2. That according to the Service Rules, 1966, the promoted Inspectors were required to pass such and such examination in a prescribed manner and the manner was prescribed through the N.W.F.P Examination Rules, 1950, which laid down that the Inspectors (Previously Sub- Inspectors) were required to pass the examination by low standard within two years of their appointment in four chances. (Rule 7(1) and 10 refer).
3. That the designations of Inspectors and Sub-Inspectors were respectively changed as A.E.T.O and Inspectors vide Govt Notification No.28789/Estt/E&T/77 dated 26.12.1986, but unluckily the designations were not changed in the Departmental Examination Rules, 1950, as per its Rule 7(1).
4. That through another misshape, that while framing fresh Service Rules, vide Notification No. So (Estt) E&T/1-41/ 2009 dated 30.3.2010, in column No.5 of the appendix, against its S.No 8, the A.E.T.O's (Previously Inspectors) are required to pass the Departmental Examination by higher

ATTESTED

grade, in dereliction of rule 7(1)(b) of the examination Rules, 1950. Since according to natural justice the variation between Two Rules on One and the same subject, the provision of older Rules shall prevail over the new Rules, unless the former Rules are cancelled/superseded.

- 5. That the examination Rules, 1950, having not-so far been cancelled and being still in the field, as is apparent from the Govt Notification No. SO (Estt) E&T, 1-19/ 2010/ 27 dated 13.8.2012, shall have to be complied with.
- 6. That the provision of Rule 10 of Examination Rules, 1950, are aimed at retention in Service as Inspector (Previously Sub-Inspector) so as to safeguard against the provision of Rule 10-A of the Examination Rules.
- 7. That the attempt for the improvement of the grade is neither disallowed in the Examination Rules, 1950, nor any such bar is available in any academic Rules of the education institutions. For example a candidate having passed the CSS examination in a lower grade is allowed to sit in the next Examination for passing the Examination in better grade. Then why the Inspectors are deprived of availing a chance in the next Examination for improving his grade in any paper.
- 8. In the circumstances it is humbly prayed that:
 - a) Either the Inspectors (Previously Sub-Inspectors) be allowed to sit in the next examination for passing his paper (one or two) in higher grade to qualify for promotion as of E.T.O; Or
 - b) They may be considered for promotion as A.E.T.O (Previously Inspectors) because they are entitled for the promotion under the provision of Rule 9 of the Examination Rules, 1950, which requires them to pass the Examination by lower grade by securing 50 percent marks; Or
 - c) If the points at (a) and (b) above, are not acceptable for any reason, then we may be allowed exemption from passing the examination in one or two papers by higher grade, as provided for in Sub-Rule (3) of Rule 7 of the Examination Rules, 1950, on the analogy of the Notification No. SO (Estt)/1-19/2010/27 dated 13.8.2012.

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9. Hoping that our request will be sympathetically considered to save our future in Service where we have served the department for a long period of 25 to 32 years, thereby nearing retirement.

Thanking you in anticipation.

Yours obediently inspectors.

Dated: 19.08.2013

- 1) Muhammad Qamar
- 2) Shakeel Ahmad
- 3) Parvaize Khan
- 4) Nizakat Ali
- 5) Falak-Nawaz
- 6) Javed Hussain
- 7) Nasir Lateef
- 8) Khan Zada

Muhammad Qamar
Shakeel Ahmad
Parvaize Khan
Nizakat Ali
Falak-Nawaz
Javed Hussain
Nasir Lateef
Khan Zada

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[Signature]

Khyanment

OFFICE OF THE EXCISE AND TAXATION OFFICER-II, PESHAWAR

31

No. 1494 /E&T

Dated Peshawar

the 20/08/2013

To

The Deputy Director,
Excise and Taxation,
Peshawar Region,
Peshawar.


Subject:

REMOVAL OF ANOMALY IN CASES OF INSPECTORS (BPS-14)
TO THE RANK OF ASSTT. EXCISE & TAXATION OFFICER
(BPS-16)

Memo:

Enclosed find herewith an application received from the inspectors, office of the Excise and Taxation Officer-II, Peshawar for favourable consideration and further submission to the quarter concerned, please.

443
20/8/2013


Excise and Taxation Officer-II,
Peshawar.

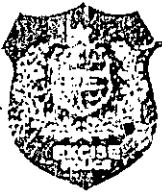
DIRECTOR (ADMN)	
DIRECTOR (REV)	
DY. DIR (ADMN)	
DY. DIR (LIT)	
DY. DIR (REGIS)	
S. ANALYST	
AD (ACCOUNTS)	
SUPDT (BPS-II)	
INCHARGE W/HOUSE	
PA TO DG EXCISE	
DATED:	

DIRECTOR GENERAL

w/o

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DIRECTORATE GENERAL, EXCISE AND TAXATION,
KHYBER PAKHTUNKHWA, PESHAWAR.

(32)

Auqaf Complex, Shami Road, Peshawar.
Phone. 091-9212260

No. 1723 /Estb/XIX-C-140

Dated // /09/2013

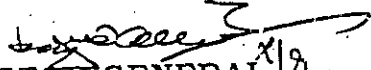
To

Secretary to Govt. of Khyber Pakhtunkhwa,
Excise & Taxation Department.

Subject: REMOVAL OF ANOMALY IN CASES OF PROMOTION OF INSPECTORS (BPS-14) TO THE RANK OF ASSTT. EXCISE & TAXATION OFFICER (BPS-16).

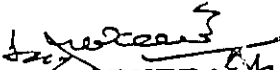
Enclosed please find herewith a copy of self-explanatory letter received from the Excise & Taxation Officer-II, Peshawar alongwith copy of an application submitted by Excise & Taxation Inspectors (BPS-14) on the subject captioned above.

2. It is submitted that the points raised in the application are genuine and forwarded under the provision contained in Khyber Pakhtunkhwa Departmental Examination Rules, 1950. (Enclosures: 13 Nos. pages)

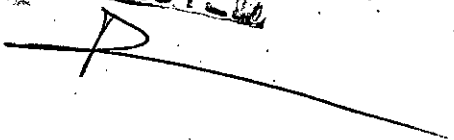

DIRECTOR GENERAL,
EXCISE & TAXATION,
KHYBER PAKHTUNKHWA,
PESHAWAR.

No. 1724 /Estb/XIX-C-140

Copy forwarded for information to Excise & Taxation Officer-II, Peshawar with reference to his letter No. 1494/E&T dated 20-08-2013.


DIRECTOR GENERAL,
EXCISE & TAXATION,
KHYBER PAKHTUNKHWA,
PESHAWAR.

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GOVERNMENT OF KHYBER PAKHTUNKHWA
EXCISE & TAXATION DEPARTMENT

No.SO(Estb)E&T/1-19/2010
Dated Peshawar the, 22.6.2010

ORDER

In exercise of powers conferred under sub-rule(3) of rule 7 of the Departmental Examination Rules, 1950 of the Excise & Taxation Department, one time relaxation in the condition of passing the Departmental Examination is granted to the eligible Sub-Inspectors, Excise & Taxation enabling them to be considered for promotion against the available posts of Inspector, Excise & Taxation falling in the share of promotion quota subject to the condition that they will have to pass subsequent examination for next promotion.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
EXCISE & TAXATION DEPARTMENT

Et dst: of Even No. and Date.

Copy forwarded to the: -

- ✓ 1 Director General, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar w/r to his letter No. 7822/Estb/XIX-C-140 dated 04.05.2010.
- 2. All the Excise & Taxation Officers in Khyber Pakhtunkhwa.
- 3. P.S to Minister for Excise & Taxation, Khyber Pakhtunkhwa, Peshawar.
- 4. P.S to Secretary, Excise & Taxation Department, Khyber Pakhtunkhwa, Peshawar.

(USMAN SHAH)
SECTION OFFICER (ESTT:)

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Dir (A) Govt
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22/6/2010

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25/6/10
Supd

Dir (A)

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Peshawar.
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**GOVERNMENT OF KHYBER PAKHTUNKHWA
EXCISE & TAXATION DEPARTMENT**

No.SO(ESIT)/E&T/1-19/2010/27
Dated Peshawar the, 13.08.2012

ORDER

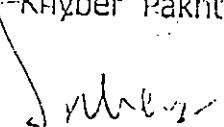
In exercise of powers conferred under sub-rules(3) of rule 7 of the Departmental Examination Rules, 1950 of the Excise & Taxation Department, one time relaxation in the condition of passing the Departmental Examination is granted to the eligible Sub-Inspectors, Excise & Taxation enabling them to be considered for promotion against the available posts of Inspector, Excise & Taxation falling in the share of promotion quota subject to the condition that they will have to pass subsequent examination for next promotion.

**SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
EXCISE & TAXATION DEPARTMENT**

Endst: of even No. & Date.

Copy forwarded to the: -

- FTO-11
1. Director General, Excise & Taxation, Khyber Pakhtunkhwa w/r to his letter No.919/Estb/XIX-C-140 dated 09.08.2012.
 2. All Excise & Taxation Officer in Khyber Pakhtunkhwa.
 3. P.S to Minister for Excise & Taxation, Khyber Pakhtunkhwa.
 4. P.S to Secretary, Excise & Taxation Department, -Khyber Pakhtunkhwa, Peshawar.


(SHAH JEHAN)
SECTION OFFICER (ADMN)

ATTESTED


BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

SERVICE APPEAL No.203/2014

Falak Nawaz.....Petitioner

VERSUS

Government of Khyber Pakhtunkhwa & others.....Respondents

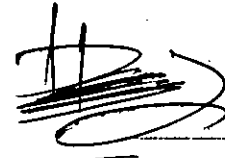
I N D E X

S.No.	Description of documents	Annexure	Pages
01	Para Wise Reply		1-4
02	Application for restraining respondent from the junior official to the appellant to the post of AETO on the basis of disputed rules till the disposal of main appeal.		5-6
03	Affidavit		7
04	Service Rules 2010	"A"	8-9
05	Examination Rules 1950	"B"	10-13

Dated 23/09 /2014

Respondent No. 2 to 4

Through



Syed Hamad Ali Shah
(Advocate)
Supreme Court Of Pakistan
Legal Advisor, Excise &
Taxation Department Khyber
Pakhtunkhwa
Cell No. 0321-9741104

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 203/2014

Falak Nawaz.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa & others.....Respondents

REPLY ON BEHALF OF RESPONDENTS NO. 2 TO 4

Respectfully Sheweth:

Preliminary Objection:

- a. That the appellant has got no locus standi to file the appeal-in-hand.
- b. That the appeal-in-hand is incompetent in its present form.
- c. That the appeal-in-hand is not maintainable in the eyes of law.
- d. That the appellant in view of his terms and conditions of service is duty bound to comply with the service Rules, 2010 and he has no right whatsoever, to challenge the same before this august tribunal for the purpose to escape the liability of passing examination in the required standard.
- e. That the appeal-in-hand is time barred.
- f. That the appeal-in-hand is based on malafide, and the appellant has come to court with unclean hands.
- g. That the appeal-in-hand is bad due to non-joinder of necessary parties, on this account too the instant appeal is liable to be dismissed.

ON FACTS:

1. In reply to Para No.1, it is submitted that the appellant has not qualified the departmental examination by the "higher standard" as required under the relevant Service Rules, 2010, therefore, he is not eligible for the promotion-in-question. (Annexure-"A")

2. Incorrect. It is submitted that Departmental Examination Rules, 1950, does not exist, and the appellant has not passed the departmental examination by higher standard in all the relevant four subjects in view of Service Rules, 2010. He is not qualified for promotion to the post of Assistant Excise and Taxation Officer. (Annexure-"B")



3. Para No. 3 is correct.

4. Para No. 4 is also correct.

5. In reply to Para No. 5, it is submitted that, due to non-qualifying the examination for promotion by higher grade, the case of appellant for promotion as Assistant Excise and Taxation Officer, was rejected and such order of the competent authority is well in accordance with law and relevant rules.

6. In reply to Para No. 6, it is submitted that appeal-in-hand is not maintainable in the eyes of law, thus it is liable to be dismissed.

REPLY TO GROUNDS:

A. Incorrect. The impugned order with regard to rejection of departmental appeal of appellant is correct, just and in accordance with the law and relevant rules. The impugned rules have been framed by the competent authority in accordance with law, indiscriminately and not targeted against any employee, as the same are based on principles of "merits" and "right person for the right job".

B. Incorrect. The employees of Excise and Taxation department Khyber Pakhtunkhwa are bound by the terms of their service to follow the new framed service rules, 2010, and such rules have been framed in the interest of all employees of the Department as well as the Government and the same are to ensure equitability and to cater for capable and competent officials of all ranks particularly for the officers to improve the assigned task of recovery of revenue for the Government Exchequer.

Similarly, the impugned rules were framed by the Excise and Taxation Department in consultation of Establishment and Finance Departments, keeping in view the interest of Government and employees.

3

- C. Incorrect. The new framed Service Rules, 2010 has superseded the previous Rules and no contradiction or irrationality is there in its all provisions, which are in accordance with law and justice.
- D. Incorrect. The provisions of the impugned Service Rules, 2010 are binding on all employees of Excise and Taxation Department notwithstanding the fact that the rules of other Department may have got different position, as every Department has its own sphere and responsibilities in view of assigned tasks by Government. The Government has set proper criteria for passing the examination in specified manner for specified posts for the purpose of prevailing merit and competency, therefore, the claim of appellant is contrary to the norms of law and justice.
- E. Incorrect. The appellant was not able to pass/qualify the examination by a higher standard, therefore, he is not eligible for the desired promotion. The allegations of "discrimination" are wrong, incorrect and against the facts and law. Contention of appellant is tantamount to deprive competent and able officials from promotion to the post of Assistant Excise and Taxation Officer, which is against the principles of merit and justice.
- F. Incorrect. The reference to the old and superseded rules is without any legal justification. The impugned rules are properly framed in view of the requirements of law and justice.
- G. Incorrect. Reply is already given in the preceding Paras.
- H. Incorrect. As there is no provision in the prevalent Rules for improving the standard, therefore, the appellant was not permitted to improve his standard. Further the appellant has already exhausted his chances of

appearance and failed to qualify the examination for promotion by the required standard.

(4)

- I. That the respondents seek permission to advance other grounds and proofs at the time of hearing.

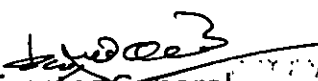
In view of aforesaid facts, it is therefore, most humbly prayed, that the appeal-in-hand may kindly be dismissed with costs.

Any other relief deemed fit in the circumstances of the case may also be passed in favour of the respondents and against appellant.

Dated: 20-05-2014

Respondents No. 2 to 4


2. Secretary to Government of
Khyber Pakhtunkhwa Excise & Taxation
Department.


3. Director General
Excise and Taxation
Khyber Pakhtunkhwa
Peshawar.
DIRECTOR GENERAL
EXCISE & TAXATION
KHYBER PAKHTUNKHWA
PESHAWAR.


4. Standing Service Rules Committee
through its chairman Secretary to Government
Khyber Pakhtunkhwa Excise and Taxation
Department.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 203/2014

Falak Nawaz.....Appellant

Versus

Govt: of Khyber Pakhtunkhwa & others.....Respondents

"APPLICATION FOR RESTRAINING RESPONDENT FROM PROMOTION THE JUNIOR OFFICIALS TO APPELLANT TO THE POST OF AETO ON THE BASIS OF DISPUTED RULES TILL THE DISPOSAL OF MAIN APPEAL."

REPLY ON BEHALF OF RESPONDENTS NO. 2-4

Respectfully Sheweth:

Preliminary Objections:

- a. That the applicant/appellant has got no locus standi to file the application-in-hand.
- b. That the application-in-hand is not maintainable in the eyes of law.
- b. That the applicant/appellant has come to court with unclean hands, therefore is not entitled for an equitable relief under the law.
- c. That the application-in-hand is bad due to non-joinder of necessary parties.


ON FACTS:


1. Para No. 1 needs no reply.
2. Para No. 2 is incorrect, against the facts and law, hence denied.
3. Para No. 3 is also correct, against the facts and law, hence it is also denied.
4. Para No. 4 is also incorrect, against the facts and law, hence denied.
5. Para No. 5 is legal, however, in view of preliminary objections, the application-in-hand is liable to be dismissed.

It is, therefore, most humbly prayed that in view of aforesaid facts, the application-in-hand may kindly be dismissed with cost.

Dated: 23-09-2014

Respondents No. 2 to 4


 2. Secretary to Government of
 Khyber Pakhtunkhwa Excise & Taxation
 Department.


 3. Director General
 Excise and Taxation
 DIRECTOR GENERAL
 Khyber Pakhtunkhwa
 KHYBER PAKHTUNKHWA
 Peshawar PESHAWAR.


 By Standing Service Rules Committee
 through its chairman Secretary to Government
 Khyber Pakhtunkhwa Excise and Taxation
 Department.

Respondents No. 2 to 4

Through



S. Hamad Ali Shah (Advocate)
 Supreme Court of Pakistan
 Legal Advisor,
 Excise and Taxation, Khyber Pakhtunkhwa,
 Peshawar.

7

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. 203/2014

Falak Nawaz.....Petitioner

Versus

Government of Khyber Pakhtunkhwa & others.....Respondents

AFFIDAVIT

I, Mr. Javed Marwat, Director General, Excise and Taxation Department Khyber Pakhtunkhwa, Peshawar, do hereby solemnly affirm and state on oath that contents of the accompanying reply are true and correct to the best of my knowledge and belief and that nothing has been kept concealed or misstated.


Deponent

DIRECTOR GENERAL
EXCISE & TAXATION
KHYBER PAKHTUNKHWA
PESHAWAR.

Identified by:



**S. Hamad Ali Shah (Advocate)
Supreme Court of Pakistan
Legal Advisor,
Excise and Taxation Khyber Pakhtunkhwa
Peshawar.**

(8)

GOVERNMENT OF THE NORTH-WEST FRONTIER PROVINCE
EXCISE & TAXATION DEPARTMENT

118

NOTIFICATION

Peshawar dated the 30th March, 2010.

No. SO(ESTT)E&T/1-41/2009: - In pursuance of the provisions contained in sub-rule (2) of rule (3) of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and in supersession of all rules issued in this behalf, the Excise & Taxation Department in consultation with the Establishment and the Finance Departments, hereby lays down the method of recruitment, qualifications and other conditions, specified in column No. 3 to 5 of the Appendix to this notification which shall be applicable to posts in the Excise & Taxation Department specified in column 2 of the said Appendix.

SECRETARY GOVERNMENT OF THE NORTH-WEST FRONTIER PROVINCE
EXCISE & TAXATION DEPARTMENT

Encl: No. SO(ESTT)E&T/1-41/2009. Peshawar dated the 30th March, 2010.

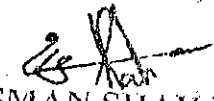
Copy forwarded for information & necessary action to the: -

1. Secretary to Governor, NWFP, Peshawar.
2. Principal Secretary to Chief Minister, NWFP, Peshawar.
3. Secretary to Government of NWFP Establishment Department, Peshawar.
4. Secretary to Government of NWFP Finance Department, Peshawar.
5. Secretary to Government of NWFP Law, Parliamentary Affairs & Human Rights, Department, Peshawar.
- ✓ 6. Director General, Excise & Taxation Department, NWFP, Peshawar with the directions to circulate the same amongst all the Deputy Directors / Excise & Taxation Officers and other concerned.
7. Registrar, Peshawar High Court, Peshawar.
8. Secretary, NWFP Public Service Commission, Peshawar.
9. Registrar, Service Tribunal, NWFP, Peshawar.
10. P.S to Minister for Excise & Taxation, NWFP, Peshawar.
11. Manager Government Printing Press, Peshawar with the request to provide Forty (40) printed copies of the Gazette notification.
12. P.S. to Secretary Excise & Taxation Department, NWFP, Peshawar.

Handwritten signature/initials: S/4

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(USMAN SHAH)
SECTION OFFICER (ESTT.)

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SR.NO. 1	Nomenclature of post 2	Minimum qualification 3	Age limit 4	Method of recruitment 5
7	Computer Programmer.	(i) Second Class Master's Degree in Computer Science from a recognized University; and (ii) two years experience in a Government Department /Semi-Government/Public Corporation or any well reputed Private Organization.	26 to 35 years.	(i) Fifty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Data Processing Supervisors with at least five years service as such; and (ii) Fifty per cent by initial recruitment.
8	Assistant Excise & Taxation Officer.			By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Inspectors, with at least five years service as such, and who have passed Departmental examination in higher grade.
9	Superintendent.			By promotion, on the basis of seniority-cum-fitness, from amongst the Senior Scale Stenographers with at least five years service as such or ten years total service in the Department as Junior Scale Stenographer and Senior Scale Stenographer By Initial Recruitment
10	Assistant Accounts Officer.	i. Second Class Bachelor's Degree in Commerce from a recognized University; and ii. one year Diploma in Computer Science from the Board of Technical Education.	21 to 32 years	

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EXCISE AND TAXATION

NOTIFICATION.

3rd August, 1950.

No. 1136-46-Taxn/XIX-C-1-10. The Governor, North West Frontier Province is pleased to make the following rules for the Departmental Examination of Officers of the North West Frontier Province Excise & Taxation Department.

- 1- A Departmental Examination for Officers of the North West Frontier Province Excise & Taxation Department will be held at Peshawar/Abbottabad twice a year, about the 3rd week of December at Peshawar and the first week of August at Abbottabad or on such other dates and places as are notified by the Excise & Taxation Commissioner, N.W.F.P. The exact dates and place of Examination will be notified before hand in the N.W.F.P. Gazette.
- 2- The Assistant Excise & Taxation Officers of circles should forward to the Excise & Taxation Commissioner, N.W.F.P. before 15th September of each year and 15th May next year or within one month after the publication of the result of the last examination whichever is later, the names of Officers who intend to set for the examination together with the subject in which they wish to be examined.
- 3- The examination will be conducted by the Excise & Taxation Commissioner, N.W.F.P.
- 4- The paper will be set, answer examined and marks awarded by the Examiner nominated by the Excise & Taxation Commissioner with the approval of the N.W.F.P. Government.
- 5- The answer books of the Candidates will be forwarded by the Excise & Taxation Commissioner, N.W.F.P., to the examiners appointed under rule (4). The examiners will submit under sealed cover their award of marks, along with answer books in original to the Excise & Taxation Commissioner, will fill in the names of the examinees in the award statement.
- 6- After each examination the names of successful candidates will be published in N.W.F.P. Government Gazette.
- 7- 1) The following Offices will be required to pass the examination :-
 - a) Assistant Excise & Taxation Officers.
 - b) Excise & Taxation Inspectors.
 - c) Excise & Taxation Sub Inspectors.
- 2) Excise Inspectors and Sub Inspectors will normally be required to qualify in subject IV only and the Taxation Inspectors and Sub Inspectors may qualify in all subject.
- 3) The requirements of sub rules (1) may be waived, in the case of C falling in clause (a) by the Provincial Government & in the case of (b) and (c) by the Excise & Taxation Commissioner, N.W.F.P.

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The Excise & Taxation Commissioner may permit the following persons to appear in the examination :-

- a) All accepted candidates for executive posts in the Excise & Taxation Department.
- b) Any person whose name has been forwarded by the chief authority of an acceding State or Agency in the Tribal Areas.

9. To pass the examination it will be necessary for a candidate to secure the following minimum marks in each subject:

<u>Designation of Officers.</u>	<u>Minimum Marks.</u>
Assistant Excise and Taxation Officers.	60 per cent (High Standard)
Excise & Taxation Inspectors and Sub Inspectors.	50 per cent (Lower Standard)

10. An Officer of the N.W.F.P. Excise and Taxation Department must pass the departmental examination in the prescribed subjects within a period of 2 years from the date of appointment to the post, or the date of publication of these rules whichever is later. This condition will be deemed not to have been complied with if an officer fails to pass in any subject at his fourth attempt thereat.

Amendment. Vide Notification No. 8072/T, dated 7-3-1953.

10-A. If any officer fails to pass the departmental examination within the prescribed period of two year he shall be liable for removal from service.

11. The subjects and text-books prescribed for the examination are given in Schedule-A appended; a three hours paper will be set in each subject carrying 100 marks. The Schedule is subject to amendment from time to time.

12. Candidates will be provided with the bare text of the various Acts for use in the examination. These are detailed in Schedule B appended to these rules.

Sd/-
ARBAB HAJI AHMAD ALI JAN
Secretary to Government N.W.F.P.,
Excise and Taxation Department.

(SCHEDULE "A")

Rule II

Subject I - Law of Crimes-

- 1- Pakistan Penal Code, Act 45 of 1860 Chapter I to V, IX to XI, XII, XIV and XXIII
- 2- Code of Criminal Procedure, Act 5 of 1898, omitting Chapters XVIII, XXVI, XXVII and the whole of Parts IV, VII and VIII.
- 3- Indian Evidence Act I of 1872, except Chapters VI and VIII.
- 4- General Clauses Act, 1897.

Subject II - Excise Law-

- 1- The North-West Frontier Province Act, 1938.
- 2- The Punjab Local Option Act, 1923, as extended to the North-West Frontier Province Prohibition Act, 1938.
- 3- The Opium Act 1878.
- 4- The Punjab Opium Smoking Act, 1923.
- 5- The Dangerous Drugs Act, 1930, as extended to the North-West Frontier Province.
- 6- The Punjab Excise Manual, Vol. I, 1925, edition (excluding Act I of 1914) as applicable to the North-West Frontier Province.
- 7- Notifications, Orders and Rules issued under (1) to (6).

Subject III- Taxation Law-

- 1- The North-West Frontier Province Entertainment Duty Act, 1937, as amended from time to time.
- 2- Notifications, Orders, Rules and Executive Instructions issued or framed under (1).

Subject IV - Taxation Law and Fraction and Law-

- 1- The North-West Frontier Province Urban Immovable Property Tax Act, 194 as amended from time to time.
- 2- Notifications, Rules and Executive Instructions issued under (1) and
- 3- The following portions of the code of Civil Procedure :-
 - (i) Order V-Issue and Service of Summons.
 - (ii) Order XIII-Production, impounding and return of documents.
 - (iii) Order XVI-Summoning and attendant of witnesses.
 - (iv) Order XVIII-Hearing of the suits and examination of witnesses.

Handwritten marks: a circled '12', a circled '16', a circled '26', and a circled signature.

138

(SCHEDULE "B").

Rule 12.

Subject I- Law of Crimes-

- 1- Pakistan Penal Code, Act 45 of 1860.
- 2- Code of Criminal Procedure, Act of 1898.
- 3- Indian Evidence Act I of 1872.

Subject II Excise Law-

- 1- The Punjab Excise Manual, Volume I.

Subject IV-Taxation Law and Practice and Civil Law-

- 1- Civil Procedure Code.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

SERVICE APPEAL No.203/2014

Falak Nawaz.....Petitioner

VERSUS

Government of Khyber Pakhtunkhwa & others.....Respondents

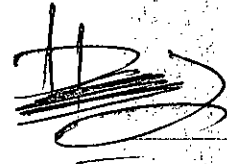
I N D E X

S.No.	Description of documents	Annexure	Pages
01	Para Wise Reply		1-4
02	Application for restraining respondent from the junior official to the appellant to the post of AETO on the basis of disputed rules till the disposal of main appeal.		5-6
03	Affidavit		7
04	Service Rules 2010	"A"	8-9
05	Examination Rules 1950	"B"	10-13

Dated 23/09 /2014

Respondent No. 2 to 4

Through



Syed Hamad Ali Shah
(Advocate)
Supreme Court Of Pakistan
Legal Advisor, Excise &
Taxation Department Khyber
Pakhtunkhwa
Cell No. 0321-9741104

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

①

Service Appeal No. 203/2014

Falak Nawaz.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa & others.....Respondents

REPLY ON BEHALF OF RESPONDENTS NO. 2 TO 4

Respectfully Sheweth:

Preliminary Objection:

- a. That the appellant has got no locus standi to file the appeal-in-hand.
- b. That the appeal-in-hand is incompetent in its present form.
- c. That the appeal-in-hand is not maintainable in the eyes of law.
- d. That the appellant in view of his terms and conditions of service is duty bound to comply with the service Rules, 2010 and he has no right whatsoever, to challenge the same before this august tribunal for the purpose to escape the liability of passing examination in the required standard.
- e. That the appeal-in-hand is time barred.
- f. That the appeal-in-hand is based on malafide, and the appellant has come to court with unclean hands.
- g. That the appeal-in-hand is bad due to non-joinder of necessary parties, on this account too the instant appeal is liable to be dismissed.

ON FACTS:

1. In reply to Para No.1, it is submitted that the appellant has not qualified the departmental examination by the "higher standard" as required under the relevant Service Rules, 2010, therefore, he is not eligible for the promotion-in-question. (Annexure-"A")

2. Incorrect. It is submitted that Departmental Examination Rules, 1950, does not exist, and the appellant has not passed the departmental examination by higher standard in all the relevant four subjects in view of Service Rules, 2010. He is not qualified for promotion to the post of Assistant Excise and Taxation Officer. **(Annexure-"B")**

3. Para No. 3 is correct.

4. Para No. 4 is also correct.

5. In reply to Para No. 5, it is submitted that, due to non-qualifying the examination for promotion by higher grade, the case of appellant for promotion as Assistant Excise and Taxation Officer, was rejected and such order of the competent authority is well in accordance with law and relevant rules.

6. In reply to Para No. 6, it is submitted that appeal-in-hand is not maintainable in the eyes of law, thus it is liable to be dismissed.

REPLY TO GROUNDS:

A. Incorrect. The impugned order with regard to rejection of departmental appeal of appellant is correct, just and in accordance with the law and relevant rules. The impugned rules have been framed by the competent authority in accordance with law, indiscriminately and not targeted against any employee, as the same are based on principles of "merits" and "right person for the right job".

B. Incorrect. The employees of Excise and Taxation department Khyber Pakhtunkhwa are bound by the terms of their service to follow the new framed service rules, 2010, and such rules have been framed in the interest of all employees of the Department as well as the Government and the same are to ensure equitability and to cater for capable and competent officials of all ranks particularly for the officers to improve the assigned task of recovery of revenue for the Government Exchequer.

Similarly, the impugned rules were framed by the Excise and Taxation Department in consultation of Establishment and Finance Departments, keeping in view the interest of Government and employees.

3

- C. Incorrect. The new framed Service Rules, 2010 has superseded the previous Rules and no contradiction or irrationality is there in its all provisions, which are in accordance with law and justice.
- D. Incorrect. The provisions of the impugned Service Rules, 2010 are binding on all employees of Excise and Taxation Department notwithstanding the fact that the rules of other Department may have got different position, as every Department has its own sphere and responsibilities in view of assigned tasks by Government. The Government has set proper criteria for passing the examination in specified manner for specified posts for the purpose of prevailing merit and competency, therefore, the claim of appellant is contrary to the norms of law and justice.
- E. Incorrect. The appellant was not able to pass/qualify the examination by higher standard, therefore, he is not eligible for the desired promotion. The allegations of "discrimination" are wrong, incorrect and against the facts and law. Contention of appellant is tantamount to deprive competent and able officials from promotion to the post of Assistant Excise and Taxation Officer, which is against the principles of merit and justice.
- F. Incorrect. The reference to the old and superseded rules is without any legal justification. The impugned rules are properly framed in view of the requirements of law and justice.
- G. Incorrect. Reply is already given in the preceding Paras.
- H. Incorrect. As there is no provision in the prevalent Rules for improving the standard, therefore, the appellant was not permitted to improve his standard. Further the appellant has already exhausted his chances of

appearance and failed to qualify the examination for promotion by the required standard.

(4)


- I. That the respondents seek permission to advance other grounds and proofs at the time of hearing.


In view of aforesaid facts, it is therefore, most humbly prayed, that the appeal-in-hand may kindly be dismissed with costs.


Any other relief deemed fit in the circumstances of the case may also be passed in favour of the respondents and against appellant.

Dated: 20-05-2014

Respondents No. 2 to 4


2. Secretary to Government of
Khyber Pakhtunkhwa Excise & Taxation
Department.


3. Director General
Excise and Taxation
Khyber Pakhtunkhwa
Peshawar.


4. Standing Service Rules Committee
through its chairman Secretary to Government
Khyber Pakhtunkhwa Excise and Taxation
Department.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 203/2014

Falak Nawaz.....Appellant

Versus

Govt: of Khyber Pakhtunkhwa & others.....Respondents

"APPLICATION FOR RESTRAINING RESPONDENT FROM PROMOTION THE JUNIOR OFFICIALS TO APPELLANT TO THE POST OF AETO ON THE BASIS OF DISPUTED RULES TILL THE DISPOSAL OF MAIN APPEAL."

REPLY ON BEHALF OF RESPONDENTS NO. 2-4

Respectfully Sheweth:

Preliminary Objections:

- a. That the applicant/appellant has got no locus standi to file the application-in-hand.
- b. That the application-in-hand is not maintainable in the eyes of law.
- b. That the applicant/appellant has come to court with unclean hands, therefore is not entitled for an equitable relief under the law.
- c. That the application-in-hand is bad due to non-joinder of necessary parties.

ON FACTS:


1. Para No. 1 needs no reply.
2. Para No. 2 is incorrect, against the facts and law, hence denied.
3. Para No. 3 is also correct, against the facts and law, hence it is also denied.
4. Para No. 4 is also incorrect, against the facts and law, hence denied.
5. Para No. 5 is legal, however, in view of preliminary objections, the application-in-hand is liable to be dismissed.


6


It is, therefore, most humbly prayed that in view of aforesaid facts, the application-in-hand may kindly be dismissed with cost.

Dated: 23-09-2014

Respondents No. 2 to 4


2. Secretary to Government of
Khyber Pakhtunkhwa Excise & Taxation
Department.


3. Director General
Excise and Taxation
Khyber Pakhtunkhwa
Peshawar.


By Standing Service Rules Committee
through its chairman Secretary to Government
Khyber Pakhtunkhwa Excise and Taxation
Department.

Respondents No. 2 to 4

Through



S. Hamad Ali Shah (Advocate)
Supreme Court of Pakistan
Legal Advisor,
Excise and Taxation, Khyber Pakhtunkhwa,
Peshawar.

7

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. 203/2014

Falak Nawaz.....Petitioner

Versus

Government of Khyber Pakhtunkhwa & others.....Respondents

AFFIDAVIT

I, Mr. Javed Marwat, Director General, Excise and Taxation Department Khyber Pakhtunkhwa, Peshawar, do hereby solemnly affirm and state on oath that contents of the accompanying reply are true and correct to the best of my knowledge and belief and that nothing has been kept concealed or misstated.


Deponent

OFFICE OF THE
DIRECTOR GENERAL
EXCISE AND TAXATION
KHYBER PAKHTUNKHWA
PESHAWAR

Identified by:



**S. Hamad Ali Shah (Advocate)
Supreme Court of Pakistan
Legal Advisor,
Excise and Taxation Khyber Pakhtunkhwa
Peshawar.**

(8)

GOVERNMENT OF THE NORTH-WEST FRONTIER PROVINCE
EXCISE & TAXATION DEPARTMENT

NOTIFICATION

Peshawar dated the 30th March, 2010. 118

No. SO(ESTT)E&T/1-41/2009: - In pursuance of the provisions contained in sub-rule (2) of rule (3) of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and in supersession of all rules issued in this behalf, the Excise & Taxation Department in consultation with the Establishment and the Finance Departments, hereby lays down the method of recruitment, qualifications and other conditions, specified in column No. 3 to 5 of the Appendix to this notification which shall be applicable to posts in the Excise & Taxation Department specified in column 2 of the said Appendix.

SECRETARY GOVERNMENT OF THE NORTH-WEST FRONTIER PROVINCE
EXCISE & TAXATION DEPARTMENT

Endst: No. SO(ESTT)E&T/1-41/2009. Peshawar dated the 30th March, 2010.

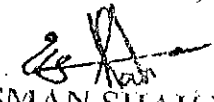
Copy forwarded for information & necessary action to the: -

1. Secretary to Governor, NWFP, Peshawar.
2. Principal Secretary to Chief Minister, NWFP, Peshawar.
3. Secretary to Government of NWFP Establishment Department, Peshawar.
4. Secretary to Government of NWFP Finance Department, Peshawar.
5. Secretary to Government of NWFP Law, Parliamentary Affairs & Human Rights, Department, Peshawar.
- ✓ 6. Director General, Excise & Taxation Department, NWFP, Peshawar with the directions to circulate the same amongst all the Deputy Directors / Excise & Taxation Officers and other concerned.
7. Registrar, Peshawar High Court, Peshawar.
8. Secretary, NWFP Public Service Commission, Peshawar.
9. Registrar, Service Tribunal, NWFP, Peshawar.
10. P.S to Minister for Excise & Taxation, NWFP, Peshawar.
11. Manager Government Printing Press, Peshawar with the request to provide Forty (40) printed copies of the Gazette notification.
12. P.S. to Secretary Excise & Taxation Department, NWFP, Peshawar.

EP
STC

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Da 4744
- 12/10/10


(USMAN SHAH)
SECTION OFFICER (ESTT)

9

8

1	2	3	4	5
SR.NO.	Nomenclature of post	Minimum qualification	Age limit	Method of recruitment
7	Computer Programmer.	(i) Second Class Master's Degree in Computer Science from a recognized University; and (ii) two years experience in a Government Department /Semi-Government/Public Corporation or any well reputed Private Organization.	26 to 35 years.	(i) Fifty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Data Processing Supervisors with at least five years service as such; and (ii) Fifty per cent by initial recruitment.
8	Assistant Excise & Taxation Officer.			By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Inspectors, with at least five years service as such, and who have passed Departmental examination in higher grade.
9	Superintendent.			By promotion, on the basis of seniority-cum-fitness, from amongst the Senior Scale Stenographers with at least five years service as such or ten years total service in the Department as Junior Scale Stenographer and Senior Scale Stenographer
10	Assistant Accounts Officer.	i. Second Class Bachelor's Degree in Commerce from a recognized University; and ii. one year Diploma in Computer Science from the Board of Technical Education.	21 to 32 years	By Initial Recruitment

B
206
10

EXCISE AND TAXATION

NOTIFICATION.

3rd August, 1950.

No. 1136-46-Taxn/XIX-C-1-10. The Governor, North West Frontier Province is pleased to make the following rules for the Departmental Examination of Officers of the North West Frontier Province Excise & Taxation Department.

- 1- A Departmental Examination for Officers of the North West Frontier Province Excise & Taxation Department will be held at Peshawar/Abbottabad twice a year about the 3rd week of December at Peshawar and the first week of August at Abbottabad or on such other dates and places as are notified by the Excise & Taxation Commissioner, N.W.F.P. The exact dates and place of Examination will be notified before hand in the N.W.F.P. Gazette.
- 2- The Assistant Excise & Taxation Officers of circles should forward to the Excise & Taxation Commissioner, N.W.F.P. before 15th September of each year and 15 May next year or within one month after the publication of the result of the 1st examination whichever is later, the names of Officers who intend to set for examination together with the subject in which they wish to be examined.
- 3- The examination will be conducted by the Excise & Taxation Commissioner N.W.F.P.
- 4- The paper will be set, answer examined and marks awarded by the Examiner nominated by the Excise & Taxation Commissioner with the approval of N.W.F.P. Government.
- 5- The answer books of the Candidates will be forwarded by the Excise & Taxation Commissioner, N.W.F.P., to the examiners appointed under rule (4). Examiners will submit under sealed cover their award of marks, along with the books in original to the Excise & Taxation Commissioner, will fill in the name of the examinees in the award statement.
- 6- After each examination the names of successful candidates will be published in N.W.F.P. Government Gazette.
- 7-
 - 1) The following Offices will be required to pass the examination :-
 - a) Assistant Excise & Taxation Officers.
 - b) Excise & Taxation Inspectors.
 - c) Excise & Taxation Sub Inspectors.
 - 2) Excise Inspectors and Sub Inspectors will normally be required to subject IV only and the Taxation Inspectors and Sub Inspectors in all subject.
 - 3) The requirements of sub rules (1) may be waived, in the case falling in clause (a) by the Provincial Government & in the case (b) and (c) by the Excise & Taxation Commissioner, N.W.F.P.

10

8- The Excise & Taxation Commissioner may permit the following persons to appear in the examination :-

- a) All accepted candidates for executive posts in the Excise & Taxation Department.
- b) Any person whose name has been forwarded by the chief authority of an acceding State or Agency in the Tribal Areas.

9- To pass the examination it will be necessary for a candidate to secure the following minimum marks in each subject :

<u>Designation of Officers.</u>	<u>Minimum Marks.</u>
Assistant Excise and Taxation Officers.	60 per cent (High Standard)
Excise & Taxation Inspectors and Sub Inspectors.	50 per cent (Lower Standard)

10- An Officer of the N.W.F.P. Excise and Taxation Department must pass the departmental examination in the prescribed subjects within a period of 2 years from the date of appointment to the post, or the date of publication of these rules whichever is later. This condition will be deemed not to have been complied with if an officer fails to pass in any subject at his fourth attempt thereat.

Amendment. Vide Notification No. 8072/T, dated 7-3-1953.

10-A. If any officer fails to pass the departmental examination within the prescribed period of two year he shall be liable for removal from service.

11- The subjects and text-books prescribed for the examination are given in Schedule-A appended; a three hours paper will be set in each subject carrying 100 marks. The Schedule is subject to amendment from time to time.

12- Candidates will be provided with the bare text of the various Acts for use in the examination. These are detailed in Schedule B appended to these rules.

Sd/-
 ARBAB HAJI AHMAD ALI JAN
 Secretary to Government N.W.F.P.,
 Excise and Taxation Department.

(SCHEDULE "A")

Rule 11

Subject I - Law of Crimes-

- 1- Pakistan Penal Code, Act 45 of 1860 Chapter I to V, IX to XI, XII, XIV and XXIII
- 2- Code of Criminal Procedure, Act 5 of 1898, omitting Chapters XVIII, XXV, XXVII and the whole of Parts IV, VII and VIII.
- 3- Indian Evidence Act I of 1872, except Chapters VI and VIII.
- 4- General Clauses Act, 1897.

Subject II - Excise Law-

- 1- The North-West Frontier Province Act, 1938.
- 2- The Punjab Local Option Act, 1923, as extended to the North-West Frontier Province Prohibition Act, 1938.
- 3- The Opium Act 1878.
- 4- The Punjab Opium Smoking Act, 1923.
- 5- The Dangerous Drugs Act, 1930, as extended to the North-West Frontier Province.
- 6- The Punjab Excise Manual, Vol. I, 1925, edition (excluding Act I of 1914 applicable to the North-West Frontier Province.
- 7- Notifications, Orders and Rules issued under (1) to (6).

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- 2- Notifications, Orders, Rules and Executive Instructions issued or framed under (1).

Subject IV - Taxation Law and Fraction and Law-

- 1- The North-West Frontier Province Urban Immovable Property Tax Act, as amended from time to time.
- 2- Notifications, Rules and Executive Instructions issued under (1) and
- 3- The following portions of the code of Civil Procedure :-

- (i) Order V-Issue and Service of Summons.
- (ii) Order XIII-Production, impounding and return of documents.
- (iii) Order XVI-Summoning and attendant of witnesses.
- (iv) Order XVIII-Hearing of the suits and examination of witnesses.

13

(SCHEDULE "B").
Rule 12.

Subject I:- Law of Crimes-

- 1- Pakistan Penal Code, Act 45 of 1860.
- 2- Code of Criminal Procedure, Act of 1898.
- 3- Indian Evidence Act I of 1872.

Subject II:- Excise Law-

- 1- The Punjab Excise Manual, Volume I.

Subject IV:- Taxation Law and Practice and Civil Law-

- 1- Civil Procedure Code.

**BEFORE THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 203/2014

Falak Nawaz VS Excise Deptt:

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(a-g) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACT

1. Incorrect. The appellant has passed the departmental exam ad eligible for promotion under the examination rules 1950 which are still in field and operation.
2. Incorrect. While para 2 of the appeal is correct.
3. Admitted correct by the respondents which means that para 3 of the appeal is correct.
4. Admitted correct by the respondents which means that para 4 of the appeal is correct.

5. Incorrect. The appellant passed the departmental exam and eligible for promotion under the examination rules 1950 which are still in field and operation. Therefore the appellant departmental appeal against the new rules as new rules deprived the appellant from his due right of promotion, but the same was also rejected for no good grounds.
6. Incorrect. The appeal in hand is maintainable in law and is liable to be accepted.

GROUNDS:

- A. Incorrect. While para A of the appeal is correct.
- B. Incorrect. The examination Rules 1950 has set the eligibility of the Sub inspector and Inspector as to pass the exam in lower standard which is still in field and followed by the respondents Deptt; till date.
- C. Incorrect. The rules 30.3.2010 are irrational and in contradiction with the rules 1950 as the new rules deprived the appellant as well as other employees from his legal right of promotion.
- D. Incorrect. While para D of the appeal is correct.
- E. Incorrect. The appellant passed the departmental exam and eligible for promotion under the examination rules 1950 which are still in field and operation. Moreover the appellant has been discriminated because the appellant is though the senior most but not considered for promotion due to passing the exam in lower standard, while in case of promotion of sub inspector E&T the said [provision has been waived by the Deptt: under rules 7(30 of exam rules 1950 in respect of sub inspector promotion vide order dated 22.6.2010 & 13.8.2012. thus one class of the Deptt; is benefited for promotion while the same benefits has not been extended to the appellant which is against the principles of equality and article 25 of the constitution.
- F. Incorrect. The exam rules 1950 are still in field and operational; therefore the appellant is eligible for promotion according to exam rules 1950.

G. Incorrect. As replied in the above paras.

H. Incorrect. While para H of the appeal is correct.

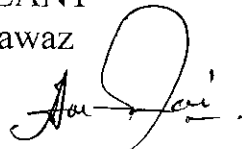
I. Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT

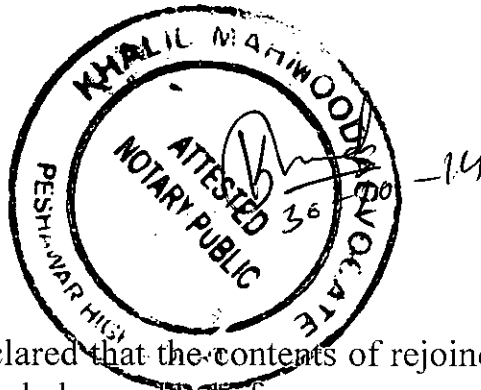
Falak Nawaz

Through:



(M. ASIF YOUSAFZAI)

ADVOCATE, PESHAWAR.



AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.


DEPONENT

**BEFORE THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 203/2014

Falak Nawaz

VS

Excise Deptt:

.....
REJOINDER ON BEHALF OF APPELLANT
.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

- (a-g) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACT

1. Incorrect. The appellant has passed the departmental exam ad eligible for promotion under the examination rules 1950 which are still in field and operation.
2. Incorrect. While para 2 of the appeal is correct.
3. Admitted correct by the respondents which means that para 3 of the appeal is correct.
4. Admitted correct by the respondents which means that para 4 of the appeal is correct.

5. Incorrect. The appellant passed the departmental exam and eligible for promotion under the examination rules 1950 which are still in field and operation. Therefore the appellant departmental appeal against the new rules as new rules deprived the appellant from his due right of promotion, but the same was also rejected for no good grounds.
6. Incorrect. The appeal in hand is maintainable in law and is liable to be accepted.

GROUNDS:

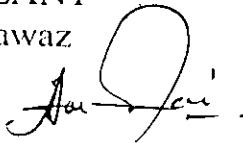
- A. Incorrect. While para A of the appeal is correct.
- B. Incorrect. The examination Rules 1950 has set the eligibility of the Sub inspector and Inspector as to pass the exam in lower standard which is still in field and followed by the respondents Deptt; till date.
- C. Incorrect. The rules 30.3.2010 are irrational and in contradiction with the rules 1950 as the new rules deprived the appellant as well as other employees from his legal right of promotion.
- D. Incorrect. While para D of the appeal is correct.
- E. Incorrect. The appellant passed the departmental exam and eligible for promotion under the examination rules 1950 which are still in field and operation. Moreover the appellant has been discriminated because the appellant is though the senior most but not considered for promotion due to passing the exam in lower standard, while in case of promotion of sub inspector E&T the said [provision has been waived by the Deptt: under rules 7(30 of exam rules 1950 in respect of sub inspector promotion vide order dated 22.6.2010 & 13.8.2012. thus one class of the Deptt; is benefited for promotion while the same benefits has not been extended to the appellant which is against the principles of equality and article 25 of the constitution.
- F. Incorrect. The exam rules 1950 are still in field and operational; therefore the appellant is eligible for promotion according to exam rules 1950.

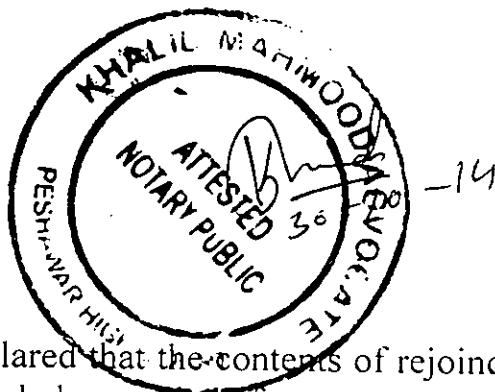
G. Incorrect. As replied in the above paras.

H. Incorrect. While para H of the appeal is correct.

I. Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT
Falak Nawaz
Through: 
(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.



AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.


DEPONENT

A-1

**DIRECTORATE GENERAL, EXCISE AND TAXATION,
KHYBER PAKHTUNKHWA, PESHAWAR.**

Anqaf Complex, Shami Road, Peshawar.
Phone. 091-9212260

No. 5274 / Estb/XXXV-D-412

Dated Peshawar the 06/02/2014

To

All Regional Deputy Directors,
Excise & Taxation,
Khyber Pakhtunkhwa.

Subject: PROMOTION.

The promotion of Excise & Taxation Inspector (BPS-14) to the post of Assistant Excise & Taxation Officer (BPS-16) is under process.

2. According to the seniority list of Excise & Taxation Inspectors the PERs of the following officials who passed the Departmental Examination as well as eligible for promotion are missing and incomplete.

S#	Name of official	Period
1	Mr. Farid Ullah Shah	01-01-1997 to date
2	Mr. Farid Ahmad	01-01-2013 to 31-12-2013
3	Mr. Iqbalud Din	01-07-2012 to date
4	Mr. Imran Hussain	01-01-2012 to date
5	Mr. Musa Khan	01-01-2013 to 31-12-2013
6	Mr. Khurshid Ahmad	01-01-2002 to date
7	Mr. Naeem Akhtar	01-01-2001 to date
8	Mr. Fida Mohammad	12-08-2000 to date
9	Mr. Inamullah Khan	01-01-2013 to 31-12-2013
10	Mr. Mubarak Islam	01-01-2001 to date
11	Mr. Ehsanul Haq	01-01-2001 to date
12	Mr. Farmanullah Jan	01-01-2013 to 31-12-2013
13	Mr. Mohammad Salim	12-08-2000 to date

3. The complete PERs file of Mr. Jehangir Hussain, Excise & Taxation Inspector is missing.

4. In view of the above, you are directed to initiate the issue with the concerned district Excise & Taxation Officers to complete the above mentioned information within ten (10) days positively enabling this office to process promotion case of the officials.

*Ask ETOs as well
as the concerned ETIs
to furnish the same
within 3 days
(9/2/14)*

[Signature]
DIRECTOR GENERAL,
EXCISE & TAXATION,
KHYBER PAKHTUNKHWA,
PESHAWAR.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 203/2014.

Falak Nawaz.

VS

E & T Deptt:

**APPLICATION FOR FIXING AN EARLY
DATE OF HEARING INSTEAD OF
24.3.2014.**

R.SHEWETH.

- 1- That the above noted appeal is pending in preliminary hearing and fixed for 24.3.2014.
- 2- That the main issue in appeal is regarding the vires of the rules which are in conflict with the examination Rules 1950 which has fully been explained in the memo of appeal.
- 3- That the urgent hearing of the case is requested because the respondents deptt: is going to promote junior officials to appellants on the basis of disputed rules and for that purpose stay application has already been filed along with the main appeal. Copy of letter is attached as Annexure – A-1.
- 4- That since the vested interests of the appellants are involved in the appeal and the date fixed for preliminary hearing is too far.

Therefore to meet the ends of justice, it is prayed that the appeal may be fixed on an early date instead of 24.3.2014.

APPELLANT

THROUGH:


M.ASIF YOUSAFZAI

ADVOCATE.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 203/2014.

Falak Nawaz.

VS

E & T Deptt:

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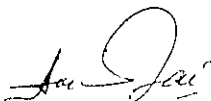
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APPELLANT

THROUGH:


M.ASIF YOUSAFZAI

ADVOCATE.

**DIRECTORATE GENERAL, EXCISE AND TAXATION,
KHYBER PAKHTUNKHWA, PESHAWAR.**

Auqaf Complex, Shami Road, Peshawar.
Phone: 091-9212260

S274 / Sub/XXXV-D-412

Dated Peshawar the 08/02/2014

All Regional Deputy Directors,
Excise & Taxation,
Khyber Pakhtunkhwa.

Subject: PROMOTION.

The promotion of Excise & Taxation Inspector (EPS-14) to the post of Assistant Excise & Taxation Officer (BPS-16) is under process.

2. According to the seniority list of Excise & Taxation Inspectors the PERs of the following officials who passed the Departmental Examination as well as eligible for promotion are missing and incomplete.

Sl#	Name of official	Period
1	Mr. Farid Ullah Shah	01-01-1997 to date
2	Mr. Farid Ahmad	01-01-2013 to 31-12-2013
3	Mr. Iqbalud Din	01-07-2012 to date
4	Mr. Imran Hussain	01-01-2012 to date
5	Mr. Musa Khan	01-01-2013 to 31-12-2013
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3. The complete PERs file of Mr. Jehangir Hussain, Excise & Taxation Inspector is missing.

4. In view of the above, you are directed to initiate the issue with the concerned district Excise & Taxation Officers to complete the above mentioned information within ten (10) days positively enabling this office to process promotion case of the officials.

*Ask ETOs as well
as the concerned ETIs
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[Signature]
DIRECTOR GENERAL,
EXCISE & TAXATION,
KHYBER PAKHTUNKHWA,
PESHAWAR.

[Signature]
7/2