BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR SERVICE APPEAL NO 769/2024

WAHEED-UR-REHMAN

VERSUS

GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY EXCISE, TAXATION & NARCOTICS CONTROL DEPARTMENT & OTHERS

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The Respondents

Through counsel

Parkha Aziz Khan

Advocate High Coun

Excise, Taxation &

Narcotics Control Department

Khyber Pakhtunkhwa

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO 769/2024

Khyber Pakhtukhwa Service Tribund

WAHEED-UR-REHMAN

VERSUS

Dated 22/8/24

GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY EXCISE, TAXATION & NARCOTICS CONTROL DEPARTMENT & OTHERS

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth,

Preliminary Objections:

- 1. That the appellant has no cause of action.
- 2. That the appeal is not within time.
- 3. That the appellant has no locus standi.
- 4. That the appeal is not maintainable in its present form.
- 5. That the appellant has not come to Tribunal with clean hands.
- 6. That the present appeal is bad for misjoinder & non-joinder of parties.
- 7. That this Tribunal has got no jurisdiction to entertain and adjudicate upon the instant appeal.
- 8. That the appeal is without substance, hence liable to be dismissed summarily.

FACTS

- 1. Para No.1 pertains to record.
- 2. Para No.2 pertains to record.
- 3. Para No.3 needs no comments.
- 4. Para No.4 is not correct, hence denied. The appellant was promoted to Assistant Excise & Taxation Officer vide notification SO(ADMIN)/E&T/1-12/2021/7947-54 dated December 22,2021 WHEREAS the respondents 3,4,6,7 and 8 were promoted to the post of Assistant Excise & Taxation Officer vide notification 10082/Estb/XXXVD-5 dated 03.11.2017. The Departmental Promotion Committee (DPC) unanimously agreed upon promotion of Respondent No.05 from Inspector to post of Assistant Excise & Taxation Officer in DPC meeting held on 20.12.2017. The Respondent No.09 was promoted from Inspector to AETO vide order SO (ADMN) E&T/1-12/2018 dated 23.02.2018. The respondent No.10 was promoted from Inspector to AETO vide order SO (Admn) E&T/1-26/2020

dated 26.01.2021. Hence the appellant and the respondents belonged to different batches and promoted to the post of AETO in different years, but the appellant neither challenged nor raised any objection on any forum. The seniority is fixed and circulated as per law, which attained finality and the appeal is meritless.

(Notification of Appellant vide order No. SO(admn)/E&T/1-12/2021/794754 dated 22-12-2021 is annexed)

(Notification of respondents No 3,4,6,7,8), 5, 9, 10 are annexed)

- 5. Para No.05 is correct to the extent that a service appeal has been filed by Respondent 10 which has its own facts and merits. The appellant can't take any benefit from that litigation.
- 6. Para No.6 needs no comments.
- 7. Para No.7 is sternly denied. The aforesaid respondents are most senior to the appellant, hence placed senior to the appellant as per their seniority.
- 8. Para No.8 is wrong, incorrect hence denied. The meeting and promotion would be held/made as per law and the eligible and qualified employees would be considered and promoted.
- 9. Para No.9 is wrong and incorrect, hence sternly denied. As replied above.
- 10. In reply to para No.10 it is submitted that the departmental appeal of the appellant was time barred and was based on self-engineered grounds, that is why not considered by the competent authority.
- 11. In reply to para No.11 it is submitted that the appellant is not an aggrieved person and has no cause of action to file the instant appeal.

GROUNDS

- A. Denied. The seniority list is made as per Section 8 of Khyber Pakhtunkhwa Civil Servant Act,1973 read with Rule 17 of Khyber Pakhtunkhwa of Civil Servants (Appointment, Promotion & Transfer) Rules 1989.
- B. Denied. No illegality has been done by respondent department in fact the appellant has been dealt in accordance to rules.
- C. Denied. The appellant and respondent 3-10 belonged to different batches. The respondents are senior to the appellant hence places senior in seniority list.
- D. Denied. The appellant is made in accordance with law and as per rules.
- E. Denied. The instant appeal is against law and rules. Hence not maintainable.
- F. That this Hon'ble tribunal got no jurisdiction to entertain instant appeal.
- G. The respondents seek leave to raise additional grounds at the time of arguments.

PRAYER:

It is therefore prayed that the instant appeal may kindly be dismissed with costs.

Mr. Fayyaz Ali Shah Secretary to Govt of Khaber Pakhtunkhwa Excise, Taxation & Narcotics Control (RESPONDENT NO. 1)

Director General
Excise, Taxation &
Narcotics Control
Khyber Pakhtunkhwa
(RESPONDENT NO. 02)

Parkna Aziz Khan
Advocate High Count
Legal Advisor,
Excise, Taxation &
Narcotics Control Department
Khyber Pakhtunkhwa

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNA, PESHAWAR.

SERVICE APPEAL NO. 769 OF 2024

WAHEED UR REHMAN,

VERSUS

GOVT. OF KHYBER PAKHTUNKHWA THROUGH SECRETARY EXCISE & **TAXATION DEPARTMENT & OTHERS.**

..... Respondents

AFFIDAVIT.

I, Mr. Maqsood Ali, Section Officer (Litigation), Govt. of Khyber Pakhtunkhwa, Excise Taxation & Narcotics Control Department, do hereby solemnly affirm and declare on oath that the contents of the Parawise comments on behalf of Respondents are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court. It is further stated on That in this appeal The answering respondents placed Asparte nor Their defence is retru been have Stuck off / wst.

DEPONENT

(Magsood Ali) Section Officer (Litigation) Excise Taxation Department

CNIC: No. 17301-3294452-1 Cell # 0333-9139229



Annex - A **GOVERNMENT OF KHYBER PAKHTUNKHWA EXCISE, TAXATION & NARCOTICS CONTROL DEPARTMENT**

Dated Peshawar, the December 22, 2021)

NOTIFICATION

No.SO(ADMN)/E&T/1-12/2021/7947 On the recommendations of the Departmental Promotion Committee, in its meeting held on 11.11.2021, the Competent Authority has been pleased to promote the following Inspectors (BPS-16) of the Excise, Taxation & Narcotics Control Department to the post of Assistant Excise & Taxation Officers 17) on regular basis with immediate effect:-

S.#	Name & Designation	Promoted to
1.	Mr. Shakeel Ahmad, Inspector (BPS-16)	Assistant Excise & Taxation Officer (BPS-17)
2.	Mr. Javed, Inspector (BPS-16)	Assistant Excise & Taxation Officer (BPS-17)
3.	Mr. Javed Ur Rehman, Inspector (BPS-16)	Assistant Excise & Taxation Officer (BPS-17)
4	Mr. Amjad Zareen, Inspector (BPS-16)	Assistant Excise & Taxation Officer (BPS-17)
5.	Mr. Waheed Ur Rehman, Inspector (BPS-16)	Assistant Excise & Taxation Officer (BPS-17)
6. 7.	Mr. Javid Sultan, Inspector (BPS-16)	Assistant Excise & Taxation Officer (BPS-17)
8.	Mr. Matloob Ur Rehman, Inspector (BPS-16)	Assistant Excise & Taxation Officer (BPS-17)
9.	Ms Salma Gul, Inspector (BPS-16)	Assistant Excise & Taxation Office: (BPS-17)
10.	Mr. Akhtar Nawaz, Inspector (BPS-16)	Assistant Excise & Taxation Officer (BPS-17)
11.	Mr. Zaitur Rehman, Inspector (BPS-16) Mr. Arshad Javed, Inspector (BPS-16)	Assistant Excise & Taxation Officer (BPS-17)
12.	Mr. Amjad Ali, Inspector (BPS-16)	Assistant Excise & Taxation Officer (BPS-17)
13.	Mr. Yasin Khan, Inspector (BPS-16)	Assistant Excise & Taxation Officer (BPS-17)
14.	Mr. Arshad Zaman, Inspector (BPS-16)	Assistant Excise & Taxation Officer (BPS-17)
15.	Mr. Sajjad Ahmad, Inspector (BPS-16)	Assistant Excise & Taxation Officer (BPS-17)
-		Assistant Excise & Taxation Officer (BPS-17)

- The Officers on promotion will remain on probation for a period of one year, in terms of Section-6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with rule-15(1) of Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.
- Posting/Transfer notification in respect of the above named officers will be issued later on.

SECRETARY **EXCISE, TAXATION & NARCOTICS CONTROL** KHYBER PAKHTUNKHWA

Endst: No. & Date Even.

Copy is forwarded for information and further necessary action to the:-

1. Accountant General, Khyber Pakhtunkhwa.

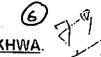
- 2. Director General, Excise, Taxation & Narcotics Control, Khyber Pakhtunkhwa, Peshawar.
- 3. Additional Secretary (Reg-I), Establishment Department, Khyber Pakhtunkhwa, Peshawar.
- 4. Additional Secretary (Regulation), Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 5. All Regional Directors, Excise, Taxation & Narcotics Control, Khyber Pakhtunkhwa.
- 6. District Accounts Officers Concerned.
- 7. PS to Secretary, Excise, Taxation & Narcotics Control Department.
- 8. (PS to Additional Secretary, Excise, Taxation & Narcotics Control Department.

Officers concerned.

10 Office Order File / Personal Files.

(BARKAT KHAN) SECTION OFFICER (ADMN)





EXCISE, TAXATION & NARCOTICS CONTROL KHYBER PAKHTUNKHWA Augaf Complex, Shami Road, Peshawar, Phone No. 091-9212260

NOTIFICATION.

Peshawar, dated 0.3 /11/2017.

/Estb/XXXV-D-5. The competent authority in consultation with the Departmental Promotion Committee, held on 30-10-2017, is pleased to promote the following Excise & Taxation Inspectors (BPS-15) to the post of Assistant Excise & Taxation Officer (BPS-16) on regular basis with immediate effect with usual allowances as admissible under the rules, in the best public interest. .

- 1- Muhammad Qamar.
- 2- Mr. Nizakat Ali.
- 3- Mr. Saeed Gul.
- 4- Mr<u>-Zia-ud-Din</u>
- Mr. Gulfishan.
- 6- Muhammad Igball,
- 7- Mr. Faheem Nawaz. 8- Mr. Faridullah Khan.
- 9- Syed Naveed Jamal.
- 2-The said officers will remain on probation for period of one year under Rule-15(1) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 updated upto 20th January 2009.

3-The posting / transfer order of the said officers will be issued accordingly.

> DIRECTOR GENERAL. EXCISE, TAXATION & NARCOTICS, CONTROL KHYBER PAKHTUNKHWA, PESHAWAR, &

No. 10083-91 /Estb/XXXV-D-5.

Dated Pesh 0.5/11/2017.

Copy forwarded for information and necessary action to-

- Accountant General, Khyber Pakhtunkhwa, Peshawar. 1-
- Director (Admn) Excise & Taxation Khyber Pakhtunkhwa, Peshawar. 2-
- Regional Deputy Directors Excise & Taxation concerned. 3-
- 4-Excise & Taxation Officers-concerned.
- Assistant Director (Audit & Accounts) Directorate General, Peshawar. 5-
- 6-District Accounts Officers concerned.
- PS to Minister for Excise, Taxation & Narcotics Control Khyber Pakhtunkhwa. 7-
- PS to Secretary Excise, Taxation & Narcotics Control Khyber Pakhtunkhwa, Peshawar 8-

Officers concerned

DIRÉCTOR GENERAL, EXCISE, TAXATION & NARCOTICS. CONTROL KHYBER PAKHTUNKHWA,

PESHAWAR為

Errors and omissions excepted Waheed Khan.

Cantal DA





GOVERNMENT OF KHYBER PAKHTUNKHWA EXCISE, TAXATION & NARCOTICS CONTROL DEPARTMENT

NO.SO(ADMN)E,T&NC/1-12/2017 Dated Peshawar the, 29.12.2017

To

The Director General, Excise, Taxation & Narcotics Control, Khyber Pakhtunkhwa, Peshawar.

Subject: -

MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE'S MEETING HELD ON 20.12.2017 AT 1500 HOURS UNDER THE CHAIRMANSHIP OF SECRETARY, EXCISE, TAXATION & NARCOTICS CONTROL DEPARTMENT

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith a copy of minutes of the Departmental Promotion Committee meeting held on 20.12.2017 under the Chairmanship of Secretary, Excise, Taxation & Narcotics Control Department, duly signed by the Chairman/Members of the Committee for further necessary action at your end, please

Yours faithfully,

(MUHAMMAD.ISRAR) SECTION OFFICER (ADMN)

Encl. As Above Endst: No; & date even.

Copy is forwarded to PS to Secretary, Excise, Taxation & Narcotics Control Department, Khyber Pakhtunkhwa, Peshawar.

SECTION OFFICER (ADMN)



GOVERNMENT OF KHYBER PAKHTUNKHWA EXCISE, TAXATION & NARCOTICS CONTROL DEPARTMENT

Subject:

MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE'S MEETING HELD ON 20.12.2017 AT 1500 HOURS UNDER THE CHAIRMANSHIP OF SECRETARY EXCISE. TAXATION & NARCOTICS CONTROL DEPARTMENT

A meeting of the Departmental Promotion Committee (DPC) vias the CV 20.12.2017 at 1500 hours under the Chairmanship of Secretary Excess, Taxation & Narcotics Control Department in his office to discuss/consider via 20.6 promotion cases of Excess, Taxation & Narcotics Control, Physical Paker Linkows. The following officers/members of the Departmental Promotion Committee (DPC) attended the meeting:

- In-chair

 Muhammad Javed Markat.

 Secretary Excise, Taxation & Narcobics Control Department
- Muhammad Anwar Khan,
 Director General Excise, Taxation & Narcoucs Control,
 Khyber Pakhtunkhwa.
- Renan Gui Khattak, Deputy Secretary Excise, Taxation & Narcotics Control Department
- Abdul Anad,
 Section Officer (Reg-III), Establishment Department
- Lagat Air, Section Officer (SR-III), Finance Department.
- The Secretary Excise, Taxation & Narcotics Control Department welcomed the participants and asked the Director General Excise, Taxation & Narcotics Control, Khyber Pakhtunkhwa to present the instant promotion cases to the committee. The Director General Excise, Taxation & Narcotics Control, Khyber Pakhtunkhwa informed that the following promotion cases are required to be examined by the committee:
 - Promotion of one Inspector to the post of Assistant Excise & Taxation Officer.
 - Taxation Officer.

 ii. Promotion of one Senior Scale Stenographer to the post of Superintendent.
 - ik. Promotion of one Junior Scale Stenographer to the post of Sen or Scale Stenographer

Promotion of one Excise Inspector to the post of Assistant Excise & Taxation Officer.

Inspector was placed before the DPC in its meeting held on 30.10.2017 and was deferred due to Ehtehab Commission inquiry and regular ball granted by the Peshawar High Court, Peshawar wherein clarification of the Law Department was required. The Director General informed that the requisite clarification of the Law Department as well as Establishment Department was obtained and placed Department as well as Establishment Department was obtained and placed

Ly.

1/150

Departments and threadbare discussion held during the meeting, the torum unaminously agreed upon the suitability of Muhammad Khalid Inspector to the post of Assistant Excise & Taxation Officer on regular basis. The officer will be on one year probation period.

Promotion of one Senior Scale Steno to the post of Superintendent.

5. The Director General informed that one Mr. Pervez Athrar was promoted as regular Scale Stenographer on 16.05.2017 in compliance of the Khyber Pakhtunkhwa Service Tribunal judgment with a probation penod of one year under rule 15(1) of the Khyber Pakhtunkhwa Civil Servants (APT) Ruies, 1989.

6. The forum, after detailed discussion on the Issue decided that the promotion case of Mr. Pervez Akhrar, Senior Scale Stanographer to the post of Superintendent may be placed before the DPC after successful completion of probation period of the official concerned.

The meeting ended with a note of thanks for and from the chalt.

ed Marvat) Mr. 7 of Khyber Pakhlunkliwa nitcs Control Department	Secretary to Government Secretary to Government Excise, Taxadon & Navco
Section Officer (Reg-III), Establishment Department	Deputy Secretary Excise, Taxation & Marcotics Control Department
Finance Department Finance Department	(Muhammad Anivar Khan) Director General Excise, Taxadon & Narcotics Control, Khyber Pakhtunkhwa



GOVERNMENT OF KHYBER PAKHTUNKHWA EXCISE, TAXATION AND NARCOTICS CONTROL DEPARTMEN

Dated Peshawar the 23 42018

NOTIFICATION

NO. SO(ADMN)E&T/1-12/2018 The Competent Authority in consultation with thy Departmental Promotion Committee, is pleased to promote Mr. Mehboob Alam, Inspector (85 16) to the post of Assistant Excise & Taxation Officer (85-17) on regular basis with immediate erfe**c**t.

- The officer will be on probation for a period of one year extendable for further period of one year under Rule 4(1)(b) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.
 - Consequent upon the promotion, Mr. Mehboob Alam is hereby posted as Assistant Excise & Taxation Officer (BS-17) in the Office of Excise & Taxation Officer Haripur 3. against the vacant post.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA EXCISE, TAXATION AND NARCOTICS CONTROL DEPARTMENT

No. SO(ADMN)E&T/1-12/2018/726-33

Dated Peshawar the 23.02.2018

Copy forwarded to the:-

- Director General Excise, Taxation and Narcotics Control, Khyber Pakhtunkhwa with the request to provide the personal file/record of the officer.
- District Accounts Officer, Haripur. 2.
- Excise & Taxation Officer, Haripur.
- Excise & Taxation Officer, Mardan. P.S to Minister for Excise, Taxation & Narcotics Control, Khyber Pakhtunkhwa.
- P.S to Secretary Excise, Taxation and Narcotics Control Department, Khyber 5. 6.

Pakhtunkhwa.

Officer concerned. 7.

SECTION OFFICER (ADMN)



Dated Peshawar, the January 26, 2021

NOTIFICATION

NO.SO(Admn)E&T/1-26/2020:- Consequent upon the Promotion of two SuperIntendents to the post of Assistant Excise & Taxation Officers (BPS-17), the competent authority is pleased to order the following transfer / posting with immediate effect in the best interest of public :-

S#	Name & Designation	From	То
11	Mr. Pervez Akhtar, Assistant Excise & Taxation Officer(BS-17).	Superintendent o/o Director Hazara Region Abbottabad.	AETO o/o Directorate General, ET&NC Khyber Pakhtunkhwa, against the vacant post (incharge Establishment-I&II)
2	Mr.Waheed Khan, Assistant Excise & Taxation Officer(BS-17).	Superintendent, Directorate General, ET&NC Khyber Pakhtunkhwa, Peshawar	AETO o/o Excise & Taxation Office Nowshera, against the vacant post

SECRETARY GOVERNMENT OF KHYBER PAKHTUNKHWA EXCISE, TAXATION & NARCOTICS CONTROL DEPARTMENT

Endst. NO.SO (ADMN) E&T/1-26/2020/439-57 Dated Peshawar, the January 26, 2021 Copy forwarded for information & n.action to the:

- 1. Director General Excise, Taxation & Narcotics Control, Khyber Pakhtunkhwa.
- 2. Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 3. All Regional Directors ET&NC Khyber Pakhtunkhwa.
- 4. District Accounts Officers, Abbottabad and Nowshera.
- 5. P.S to Secretary ET&NC Department.
- Officers concerned.
- 7. Office Order File / Personal Files.

(BARKAT KHAN)
SECTION OFFICER (ADMN)



GOVERNMENT OF KHYBER PAKHTUNKHWA EXCISE, TAXATION AND NARCOTICS CONTROL DEPARTMENT

Dated Peshawar the, 8th August, 2024

AUTHORITY LETTER

Mst. Parkha Aziz, Legal Advisor for Excise, Taxation & Narcotics Control Department is hereby authorized to submit the Parawise comments/reply in Khyber Pakhtunkhwa, Service Tribunal, at Peshawar in the Case Titled "Appeal No. 769 of 2024 – Waheed Ur Rehman vs the Secretary Excise & Taxation Peshawar" on behalf of the undersigned.

SECRETARY TO GOVE OF THY BER PAKHTUNKHWA EXCISE, TAXATION AND MARCOTICS CONTROL DEPARTMENT

DIRECTORATE GENERAL EXCISE, TAXATION & NARCOTICS CONTROL DEPARTMENT KHYBER PAKHTUNKHWA

بحرالت
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مورد وصد الرحان بنام الكسيائر الور وغرة
3
باعث تحريراً تكه
- مقدم مديده عنوان بالله شما في طرف مدوا مطه يروي و جمال المروان المر
مقرب كريك اقرار كبياجا تا ہے - كرمها حب موسوف كومقدمه كى كل كاروائى كا كامل اختيار ، وكا ينز
و کیل برساحب کوراه تی نامه کرستے و تقرر را الب و فیصله برحلف دیا بچواب دهی اورا قبال دعوی اور الله در مرفق کی کار کر از ۱ در این صدار می در در با عض می داد به خواب التم کرات و ا
بسورت ڈکری کرنے اجراء اورصول چیک ورویبیاد عرضی دعوی اورورخواست مرقتم کی تقدیق زرایس بردسخفا کرانے کا مفتیار موکار نیز صورت عدم پیروی ماڈگری محطرف یا ایل کی براندگ اورمنسوفی 🛓
نیز دائر کرے ایک منظر فانی و بیروی کرنے کا اختیار موگا۔ از بصورت ضرورت مقدمہ ندکور
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