

**GOVERNMENT OF PAKISTAN
REVENUE DIVISION
FEDERAL BOARD OF REVENUE**

F. No.1(18)/87-M-II(Cus-II)

Islamabad, 26th June, 2012

From

Masood Ahmed
Secretary (Mgt-Customs-II)
Federal Board of Revenue
Islamabad

To

- 1) Chief Collector North/South.
- 2) All Directors General of Customs.
- 3) All Collectors of Customs.

Subject:

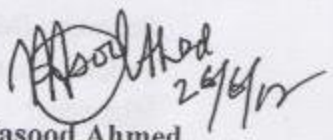
**PROVISIONAL INTER SE SENIORITY OF PAKISTAN CUSTOMS SERVICE
OFFICERS OF 24TH, 25TH & 26TH CTP CIRCULATED AFRESH IN COMPLIANCE
OF FST JUDGMENT IN APPEALS NO. 208(L)CS/2008 AND 277(L)CS/2010**

I am directed to refer to above cited subject and say that in view of the officers' representations in response to provisional seniority lists circulated on 4-5th April, 2012 and the FST's direction in judgment on Appeals No. 208(L)CS/2008 & 277(L)CS/2010 that the Departmental Authority is to prepare and finalize the seniority list afresh in accordance with law/rules after providing an opportunity of hearing to all those who are concerned, again a provisional seniority list of 24th, 25th & 26th CTP officers of Pakistan Customs Service has been prepared and is enclosed. The officers belonging to these CTPs having objections other than those raised and decided in aforesaid appeals (copy of the judgment enclosed) and those already addressed in instant provisional seniority list, may appear before a two member committee appointed/approved by Secretary Revenue Division in order to provide an opportunity of hearing. This committee comprises Chief (F&C), Customs Wing and Secretary (Mgt.Customs-I), FBR. The final date for personal hearing is 10th July, 2012.

2. Copies of the FST judgment in Appeal No. 107(L)CS/2010 and Establishment Division's O.M dated 08-04-2011, which were relied upon while preparing seniority lists dated 4-5th April, 2012 in

addition to Occupational Groups and Services (Probation, Training, Seniority) Rules 1990, are also enclosed for information of all those concerned.

3. It is requested that the relevant seniority lists may please be circulated to customs officers of 24th, 25th & 26th CTP, as the case may be, working under your administrative control and furnish the acknowledgement by 3rd July, 2012 positively.


Masood Ahmed
Secretary (Mgt-Cus-II)

Enclosed: As above

Copy to:

- i) Chief (F&C), Customs Wing, FBR(HQ), Islamabad for necessary action.
- ii) Secretary (Mgt. Customs-I), FBR(HQ), Islamabad for necessary action.

Seniority OF PCS OFFICERS OF 24TH CTP (1995-BATCH)

S.No	NAME	CSS	CTP	STP	FPOE'S Marks	Total Marks	FPOE's Attempt (s)
1	Muhammad Saeed Khan Jadoon	855	379.55	0	701	1935.55	1st Attempt
2	Aashad Jawwad	827	350.03	0	684	1861.03	1st Attempt
3	Muhammad Imran Khan Mohmand	890	339.9	0	627	1856.9	1st Attempt
4	Akhtar Hussain	846	318.54	0	688	1852.54	1st Attempt
5	Mehnaz Bhaur	833	347.85	0	639	1819.85	1st Attempt
6	Muhammad Adnan Akram	830	348.8	0	634	1812.8	1st Attempt
7	Misbah Khattana	840	363.6	0	599	1802.6	1st Attempt
8	Muhammad Javaid Ch.	826	345.25	0	628	1799.25	1st Attempt
9	Fayyaz Anwar	832	326.86	0	619	1777.86	1st Attempt
10	Irfan ur Rehman Khan	751	313.18	0	586	1650.18	1st Attempt
11	Muhammad Junaid Jalil Khan	847	398.8	0	774	2019.8	2nd Attempt
12	Zeba Bashir Ahmad	875	389.71	0	715	1979.71	2nd Attempt
13	Dr. Shazia Irfam	825	398.47	0	684	1907.47	2nd Attempt
14	Saeed Akram	822	334.55	0	673	1829.55	2nd Attempt
15	Saima Shehzad	845	362.61	0	604	1811.61	2nd Attempt
16	Iftikhar Ahmad	869	303.16	0	625	1797.16	2nd Attempt
17	Khalid Hussain Jamali	776	340.3	0	674	1790.3	2nd Attempt
18	Iram M. Amer	827	346.73	0	598	1771.73	2nd Attempt
19	Muhammad Irfan Sarfraz	824	351.7	0	591	1766.7	2nd Attempt
20	Feroze Alam Junejo	767	314.25	0	680	1761.25	2nd Attempt
21	Muhammad Yaqoob Mako	782	349.41	0	619	1750.41	2nd Attempt
22	Syed Shakeel Shah	850	322.06	0	577	1749.06	2nd Attempt

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14/6/21

Handwritten text:
Muhammad Akram
Secretary to the Government
Islamabad

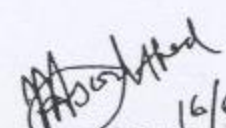
23	Muhammad Saleem	840	334.86	0	571	1745.86	2nd Attempt
24	Malik Kamran Azam Khan	821	306.35	0	595	1722.35	2nd Attempt
25	Zahid Ali Baig	791	271.05	0	576	1638.05	2nd Attempt
26	Ihsan Ali Shah	806	324.6	0	600	1730.6	3rd Attempt
27	Sadiqullah Khan	794	296.7	0	623	1713.7	3rd Attempt
28	Mumtaz Ali Khoso	776	278.56	0	568	1622.56	3rd Attempt

Muhammad
16/6/22

6/2

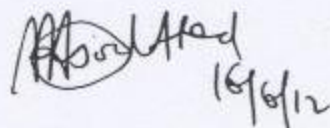
Seniority OF PCS OFFICERS OF 25TH CTP (1996-BATCH)

S.NO	NAME	CSS	CTP	STP	FPOE'S Marks	TOTAL	FPOE's Attempt (s)
1	Muhammad Mohsin Rafiq	825	374.22	0	696	1895.22	1st Attempt
2	Irfan Javed	839	338.85	0	662	1839.85	1st Attempt
3	Syed Asad Raza Rizvi	848	355.64	0	617	1820.64	1st Attempt
4	Qurat-UI-Ain Dogar	829	369.42	0	606	1804.42	1st Attempt
5	Rashid Habib Khan	821	369.15	0	612	1802.15	1st Attempt
6	Sajjad Hyder Jhinjhin	857	321.92	0	621	1799.92	1st Attempt
7	Dr.Tahir Qureshi	786	347.3	0	652	1785.3	1st Attempt
8	Ashraf Ali	827	336.47	0	593	1756.47	1st Attempt
9	Muhammad Jamil Nasir	820	299.63	0	632	1751.63	1st Attempt
10	Shafiq Ahmad Latki	828	330.12	0	582	1740.12	1st Attempt
11	Enger Riyaz Ahmed	776	312.43	0	651	1739.43	1st Attempt
12	Raza	778	325.95	0	628	1731.95	1st Attempt
13	Dr.Muhammad Nadeem Memon	785	318.45	0	627	1730.45	1st Attempt
14	Samiul Haq	793	313.02	0	604	1710.02	1st Attempt
15	Muhammad Saqif Saeed	822	270.2	0	597	1689.2	1st Attempt
16	Amjud-Ur-Rehman	821	275.34	0	591	1687.34	1st Attempt
17	Abu Nasr Shuja Akram	821	318	0	633	1772	2nd Attempt
18	Naureen Ahmad Tarar	854	299.35	0	595	1748.35	2nd Attempt
19	Faiz Ali	834	319.65	0	576	1729.65	2nd Attempt
20	Asif Abbas	821	315.35	0	587	1723.35	2nd Attempt
21	Imran Ahmad	824	306.45	0	587	1717.45	2nd Attempt
22	Khaleellbrahim Yousfani	768	300.1	0	561	1629.1	2nd Attempt
23	Ambreen Tarar	827	323.1	0	594	1744.1	3rd Attempt
24	Hasan Saqib Sheikh	825	327	0	523	1675	3rd Attempt


 16/6/12
Masood Ahmed
 Secretary (Mgt. Customs-II)
 Federal Board of Revenue (Hq)

**SENIORITY LIST OF OFFICER OF CUSTOMS & EXCISE GROUP OF 26TH CTP
(1998-BATCH)**

S.No	NAME	CSS	CTP	STP	FPOE'S Marks	Total	FPOE's Attempt (s)
✓1	Shafqat Ali Khan	796	355.86	0	702	1853.86	1st Attempt
✓2	Muneeza Maieed	794	372.89	0	682	1848.89	1st Attempt
3	Azmat Tahira	808	348.59	0	681	1837.59	1st Attempt
4	Zahid Habib Khan	806	358.47	0	672	1836.47	1st Attempt
✓5	Saima Aftab	822	377.75	0	634	1833.75	1st Attempt
✓6	Usman Bajwa	795	350.3	0	686	1831.3	1st Attempt
7	Khurram Naeem Khawaja	790	365.33	0	673	1828.33	1st Attempt
✓8	Syed Faisal Saeed	818	341.47	0	658	1817.47	1st Attempt
✓9	Basit Maqsood Abbasi	792	352.38	0	668	1812.38	1st Attempt
✓10	Saadia Naseem	793	336.67	0	675	1804.67	1st Attempt
✓11	Abdul Waheed Marwat	796	381.66	0	612	1789.66	1st Attempt
✓12	Ijaz Badshah	805	315.7	0	668	1788.7	1st Attempt
✓13	Syed Fawad Ali Shah	802	323.54	0	658	1783.54	1st Attempt
✓14	Masood Ahmed	788	334.78	0	659	1781.78	1st Attempt
✓15	Fayyaz Rasool	798	328.55	0	655	1781.55	1st Attempt
✓16	Dr. Nasir Khan	817	299.65	0	658	1774.65	1st Attempt
✓17	Sanaullah Abro	759	349.38	0	651	1759.38	1st Attempt
✓18	Syed Naeem Akhtar	723	337.07	0	658	1718.07	1st Attempt
✓19	Muhammad Tahir	789	300.7	0	623	1712.7	1st Attempt
✓20	Nyma Batool	741	335.25	0	618	1694.25	1st Attempt
✓21	Muhammad Saleem Memon	753	325.03	0	592	1670.03	1st Attempt
✓22	Muhammad Amir Thahim	753	304.38	0	612	1669.38	1st Attempt
✓23	Yousaf Haider Orakzai	764	302.23	0	561	1627.23	1st Attempt
✓24	Munib Sarwar	804	351.06	0	638	1793.06	2nd Attempt
✓25	Muhammad Ismail	803	326.04	0	622	1751.04	2nd Attempt
✓26	Qasim Hafeez Cheema	790	359.46	0	567	1716.46	2nd Attempt
✓27	Farrukh Sajjad	735	291.5	0	663	1689.5	2nd Attempt


Masood Ahmed
 Secretary (Mgt. Customs & Excise)
 Federal Board of Revenue

Judgment sheet

IN THE FEDERAL SERVICE TRIBUNAL, LAHORE BENCH

S. No.	Appeal No.	Appellant	Date of Institution
1.	208(L)CS/2008	Mrs. Naureen Ahmad Tamar, Deputy Director, Directorate of Internal Audit (Customs) 7-E, Model Town, Lahore	09.08.2008
2.	277(L)CS/2010	Munib Sarwar, Deputy Collector, Model Custom Collectorate, Lahore	02.11.2010

RESPONDENTS
in Appeal No.
208(L)CS/2008:

1. Federation of Pakistan through Secretary Establishment, Establishment Division, Islamabad
2. Chairman, Federal Board of Revenue, Islamabad
3. Muhammad Mohsin Rafic, Additional Collector (OPS) Collectorate of Customs, Nabha Road, Lahore
4. Quratul-Ain-Dogar, Deputy Director, Federal Board of Revenue, Islamabad
5. Irfan Javed, Deputy Director (PACCS) Custom House, Karachi
6. Syed Asad Raza Rizvi, office of UNDOF through Federal Board of Revenue, Islamabad
7. Rashied Habbib Khan, Additional Collector (OPS) MCC, Custom House, Pesinawar
8. Sajjad Haider Jhin Jhin, Deputy Collector (PACCS) Custom House, Karachi
9. Dr. Tahir Qureshi, Ministry of Industries and Special Initiatives, Islamabad (through Federal Board of Revenue, Islamabad)
10. Muhammad Jamil Nasir Khan, Deputy Collector MCC Custom House, Nabha Road, Lahore
11. Ashraf Ali, Additional Collector (OPS) MCC Custom House, Multan
12. Eng. Riyaz Ahmad Memon, Federal Board of Revenue, Islamabad
13. Dr. Muhammad Nadeem Memon, Deputy Collector, Directorate General of Intelligence & Investigation (FBR) Mauve Area, G-9/1, Islamabad
14. Shafiq Ahmad Latki, Deputy Director MCC (Preventive) Custom House, Karachi
15. Raza, Deputy Director, Directorate General Of Training Custom House, Karachi
16. Amjad-ur-Rehman, Second Secretary, Federal Board of Revenue, Islamabad
17. Sami-ul-Haq, Secretary, Federal Board of Revenue, Islamabad

Certified to be a true copy

(Rashid Ahmad Siddiqui)
Assistant Registrar
Federal Service Tribunal
Lahore

18. Faiz Ali, Secretary, Federal Board of Revenue, Islamabad
19. Ambreen Ahmad Tarar, Deputy Director of Custom Valuation, House No. 5-B, Elite Police Training School, Bedian Road, Lahore
20. Imran Ahmad Ch. Additional Collector (OPS) MCC Custom House, Rawalpindi.
21. Asif Abbas, Deputy Director, Directorate of Post Clearance Audit, 57-M Gulberg-III, Lahore
22. Hasan Saqib Sheikh, Deputy Director, Office of the Chief Collector Customs (North) Plot No.24, Mauve Area, G-9/1, Islamabad
23. Muhammad Saqif Saeed, Deputy Director Customs (Preventive) Quaid-e-Azam International Airport, Karachi

RESPONDENTS
in Appeal No.
277(L)CS/2010:

1. Chairman, Federal Board of Revenue, Islamabad
- 1-A. Federation of Pakistan through Secretary Establishment, Establishment Division, Islamabad
2. Ms. Saima Aftab, Deputy Collector, Customs C/o Federal Board of Revenue, Islamabad
3. Muhammad Anwar Chaudhary, Deputy Collector, Customs C/o Federal Board of Revenue, Islamabad
4. Ms. Azmat Tahira, Deputy Collector, Customs C/o Federal Board of Revenue, Islamabad
5. Zahid Habib Khan, Deputy Collector, Customs C/o Federal Board of Revenue, Islamabad
6. Syed Fawad Ali Shah, Deputy Collector, Customs C/o Federal Board of Revenue, Islamabad
7. Ahmad Kamal, Deputy Collector, Customs C/o Federal Board of Revenue, Islamabad
8. Fayaz Rasool, Deputy Collector, Customs C/o Federal Board of Revenue, Islamabad
- ✓ 9. Abdul Waheed Marwat, Deputy Collector, Customs C/o Federal Board of Revenue, Islamabad
- ✓ 10. Shafqat Ali Khan Niazi, Deputy Collector, Customs C/o Federal Board of Revenue, Islamabad
11. Ms. Muneeza Majeed, Deputy Collector, Customs C/o Federal Board of Revenue, Islamabad
12. Ms. Saadia Munib, Deputy Collector, Customs C/o Federal Board of Revenue, Islamabad
13. Basit Maqsood Abbasi, Deputy Collector, Customs C/o Federal Board of Revenue, Islamabad
- ✓ 14. Muhammad Tahir, Deputy Collector, Customs C/o Federal Board of Revenue, Islamabad

PCA Karachi

Secretary
TariffIntelligence
Karachi

MCC Mullam

15. Kh. Khurram Naeem, Deputy Collector, Customs
C/o Federal Board of Revenue, Islamabad
- ✓ 16. Masood Ahmed, Deputy Collector, Customs C/o
Federal Board of Revenue, Islamabad
17. Sana Ullah Abro, Deputy Collector, Customs C/o
Federal Board of Revenue, Islamabad
18. Muhammad Amir Thahim, Deputy Collector,
Customs C/o Federal Board of Revenue, Islamabad
19. Muhammad Saleem Memon, Deputy Collector,
Customs C/o Federal Board of Revenue, Islamabad
20. Ms. Nyma Batool, Deputy Collector, Customs C/o
Federal Board of Revenue, Islamabad
21. Syed Naeem Akhtar, Deputy Collector, Customs
C/o Federal Board of Revenue, Islamabad

Secretary
management

Date of hearing :	17.05.2012
Date of judgment :	25.05.2012

BEFORE: Mr. Justice (R) Abdul Ghani Shaikh, Chairman
Mr. M. A. Aziz and
Mr. Muhammad Iqbal Shaikh, Members

PRESENT: (Appeal No.208(L)CS/2008)
Mr. Anwar Kamal, Advocate with appellant
Khawaja Tariq Masood, Advocate for FBR
Mr. M. Tariq Mahmood, Advocate for respondents
No.3,5,6,7,9,10,11,12,13,16 & 17
None for Establishment Division

(Appeal No.277(L)CS/2010)
Ch. Muhammad Aslam and Mian Manzoor
Hussain, Advocates with appellant
Mr. M. Asif Hashmi, Legal Advisor for FBR
Mr. M. Tariq Mahmood, Advocate for respondents
No.2,4,8,9,10,14 to 18.
None for Establishment Division

JUDGMENT

M. A. AZIZ, MEMBER: Appeals bearing Nos. 208(L)CS/2008 and
No.277(L)CS/2010 have been remanded by the Hon'ble Supreme Court
of Pakistan vide common judgment dated 12.01.2012 passed in Civil
Appeals No.922/2011 and 26/2012 with the following direction:

"4. In the afore-referred circumstances, both these appeals
are allowed, the impugned judgments are set aside. The
appeals which culminated in the passage of the impugned

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judgments shall be deemed to be pending and decided within a month of the receipt of this order by the Full Bench of the Tribunal to be headed by the Chairman after hearing the officers who are likely to be affected. The application of the appellant in Civil Appeal No.922/2011 which was not allowed by the Tribunal is directed to be allowed. The deletion of necessary party by the Tribunal in the second case is also set aside and the Tribunal shall issue notice to them and hear them. Parties would be free to raise all issues including the alleged anomaly in the rules. During the course of hearing of these appeals and in response to the prayer made by the respondents that the appellant be directed to maintain status quo with regard to further promotion. Masood Ahmed, Secretary Management, F.B.R. submitted that the apprehension of the respondents is misconceived because they are not in line for the next promotion as presently only one post for promotion to next grade i.e. BPS-19 is vacant and respondents are not being considered for that."

2. Both the appellants belong to the same occupational group i.e. Customs and Excise Group. The appellant in Appeal No.208(L)CS/2008, by virtue of entry in service is senior to the appellant in Appeal No.277(L)CS/2010. Both appellants were unable to clear the Final Passing Out Examination conducted by the Federal Public Service Commission in the first attempt and cleared the examination in second attempt. Appellant in Appeal No.208(L)CS/2008 challenged the provisional seniority list issued by the respondent-department in 2007, whereas the appellant in other appeal challenged the provisional seniority list issued in the year 2010, almost 10-12 years after they joined the service. We propose to deal with these appeals through this common judgment since both the appeals involve common question of law and almost identical facts.

3. Appeal No.208(L)CS/2008: Appellant (Mrs. Naurcen Ahmed Tarar), who is, now, an officer of the Customs and Excise Group, appeared for the Central Superior Service Examination held in 1996 i.e. 25th Common Training Programme. She had acquired second position in her occupational group. Also, as a probationer, she was successful in qualifying the mandatory Final Passing Out Examination in February, 2000. She was promoted to BS-18 as Deputy Collector on

regular basis on 13.08.2003, however, she was relegated to a lower position in the provisional seniority list issued by respondent No.2 in 2007 by applying rule 7 of the Occupational Groups and Services (Probation, Training, Seniority) Rules, 1990 (hereinafter to be mentioned as Rules of 1990). She brought the grievance before this Tribunal by way of appeal which was allowed vide judgment dated 04.01.2010. The Federation of Pakistan and another respondent challenged that judgment in Civil Appeal No.922/2011 which was allowed by the Hon'ble Supreme Court of Pakistan and the matter was remanded in the terms noted hereinabove.

4. Appeal No.277(L)CS/2010. Appellant (Munib Sarwar) belongs to the Customs Group having joined the service through 26th Common Training Programme held in 1998. He had been placed at Serial No. 8 in his occupational group. He qualified the Final Passing Out Examination in second attempt in the year 2001. He was promoted to the post of Deputy Collector (BS-18) vide same order dated 13.08.2003, however, he was relegated to a lower position in the provisional seniority list issued by respondent No.2 in the year 2010 by applying rule 7(4) of the Rules ibid. He brought the grievance before this Tribunal by way of an appeal which was allowed vide judgment dated 11.06.2011. Respondent No. 2 Federal Board of Revenue through its Chairman challenged that judgment before Hon'ble Supreme Court of Pakistan by way of Civil Appeal No.26/2012 which was allowed and the matter was remanded vide common judgment dated 12.01.2012, noted hereinabove.

5. In both the appeals the respondent Nos. 1 and 2 have filed separate written objections. On behalf of Federation the main ground taken is that an officer qualifying Final Passing Out Examination in the first attempt would be senior to all those officers who qualified the examination in second or third attempt as the Occupational Groups and Services (Probation, Training, Seniority) Rules, 1990 mandated. Further

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that rules 6 and 7 of the Rules ibid are *ultra vires* the parent law. The maintainability of appeals has also been challenged. On behalf of respondent No. 2, the Federal Board of Revenue, in addition to above, it is stated that the inter-se seniority of officers of one batch is fixed by calculating the marks obtained by the officers of CSS Examination, Common Training Programme, Special Training Programme and Final Passing Out Examination. Also, that appeal is barred by limitation as the Rules of 1990 have been challenged at a very belated stage.

6. The private respondents stated in their objections that they had passed the Final Passing Out Examination in the first attempt whereas, the appellants could qualify the examination in second attempt, therefore, the appellants became junior to them in the light of relevant Rules of 1990, that since the appellants became junior and that the seniority list could not be prepared on the basis of merit acquired in CSS Examination. They emphasized that the seniority list circulated by respondent No. 2, as per Rules 1990, was legal just and correct. They stressed that there was no clash of the provisions of Rules.

7. Learned counsel for the appellants vehemently urged that respondent No. 2 wrongfully deprived the appellants of their seniority by misinterpreting and misapplying rule 7 of the Rules, 1990. According to them, the appellants were already in BS-18 after having been promoted on a regular basis vide notification dated 13.08.2003, therefore, the question of their inter-se seniority should have been settled in the light of Section 8(4) of the Civil Servant Act, 1973 and not by applying Rules of 1990. On the other hand, learned counsel appearing for the respondents vehemently opposed the contentions advanced on behalf of appellants and stated that the seniority lists prepared in the years 2007 and 2010 were in accordance with the relevant provisions of law. They placed much reliance on sub-rule 4 of rule 7 of the Rules ibid and stressed that both the appeals being not maintainable were liable to be dismissed on this score alone.


8. We have heard the learned counsel for the parties at length and have scanned the record available before us. Both the appellants were promoted to higher grade in absence of seniority list and they heavily rely on such promotion. At the very outset it is made clear that we are not going to decide the question of promotion and its effects, if any. We have before us is the question of seniority. Legal position per section 8(1) of the Civil Servant Act, 1973 is that no vested right to a particular seniority in a service, cadre or post, as the case may be, stands conferred upon; whereas, sub-section 3 provides that, "seniority on initial appointment to a service, cadre or post shall be determined as prescribed. The seniority lists of 2007 and 2010 were issued in pursuance of Rules of 1990, on the basis of seniority of incumbents in lower grade which were not prepared before the promotion of appellants and the private respondents to higher grade. Nothing has been brought to our notice that the Departmental Authority is prohibited from fixing or determining the seniority in service, cadre or post in a lower grade of an incumbent, such as in this case, on the basis it ought to have been inter-se among the appellants and private respondents in lower grade and that the promotion of appellants would come in the way of such exercise on one hand and on the other in case of appellants, their promotion having taken place in absence of such fixation or determination of his or her seniority in lower grade, shall debar the Departmental Authority from fixing the seniority of the incumbent as such. Thus, it can be safely concluded that in the instant case, such like position prevailing, the relevant authority was quite competent to fix or determine the seniority of both the appellants in accordance with the Rules of 1990 considering their actual position as it ought to have been in lower grade. Having so observed the question shall be how the Departmental Authority ought to proceed to make such determination. Admitted fact is that as probationers the appellants had not; whereas the private respondents had qualified the "Final Passing Out Examination" in the first attempt. The appellants by then

having not cleared the examination, therefore, remained on probation, such period within terms of Rule 8 of the Rules 1990 would be two years or for such period as the Government may extend for successful completion of Training Programme. Final Passing Out Examination is conducted by the Commission or the department concerned after conclusion of specialized training. As per rule 2(ii) of the Rules ~~ibid~~ the word "Examination" has been defined to include any exercise approved by the government which is intended to test a probationer in a field of training during the training programme. Thus, it becomes clear that Final Passing Out Examination is to test a probationer in a field of training during the training programme. Accordingly, an incumbent, during the course of such test or to say till he or she passes that test would remain a probationer. In the instant case, having qualified the Final Passing Out Examination the respondents in first attempt were not going through the period of probation; whereas, the appellants could not be said to have completed the probation to be considered for promotion. Therefore, in our opinion the authority fixing or determining the seniority of the incumbents vide seniority lists of the 2007 and 2010 had not violated the relevant Rules in which we do not find to be any clash in any manner. Be that as it may, above observations shall be relevant only to the controversy as amongst the appellants and the respondents herein and all their other batch mates, if any, not party before us. Sub-Rule 4 of Rule 7 ibid provides that for the purpose of determining the inter-se seniority of the probationers who commence their training with initial training programme the marks obtained by a probationer in the competitive examination of the Commission or his notional marks, as the case may be, shall be added to the marks obtained by him in the initial training programme, specialized training programme and the marks obtained by qualifying the Final Passing Out Examination in his first attempt. This exercise can alone be undertaken by the Departmental Authority therefore, in order to see that no one's interest is prejudiced, we remand the case to the

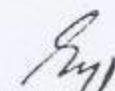
Departmental Authority to prepare and finalize the seniority list afresh after providing an opportunity of hearing to all those who are concerned and in accordance with law. Keeping in view afore-noted observations, both the above appeals are disposed of accordingly in these terms. A period of three months is provided for Departmental Authority to complete the exercise of finalizing the seniority of incumbents.

9. No order as to costs. Parties be informed in accordance with rule 21 of the Service Tribunals (Procedures) Rules, 1974.





CHAIRMAN


MEMBER


Certified to be a true copy
31/5/12


MEMBER


31/5/12

Ad. 10/5/2012

No. 4568

NO. 13(133) 2010

-50-

FEDERAL SERVICE TRIBUNAL, LAHORE BENCH,
45-J @ Gulberg-III, Near Firdous Market, Lahore

Dated. 14.9.11

To,

1. Ch. Jaffer Nawaz, Addl Commissioner Inland Revenue (Enforcement Collection Division,) Regional Tax office, Sialkot.

NOTICE

SUBJECT: COPY OF THE ORDERS PASSED BY THE TRIBUNAL IN APPEAL NO. 107(L)CS-10

FILED BY Ch. Jaffer Nawaz

AGAINST FBR

A certified copy of the order passed by the Tribunal in the above noted case is sent herewith for information.

By order

(RASHID AHMAD SIDDIQUI)
ASSTT REGISTRAR

COPY TO

1. The Secretary Establishment Division, Islamabad.
2. The Solicitor, Justice Division, Islamabad.
3. The Chief (Management) FBR, Islamabad.
4. Govt of Pakistan through Secretary Establishment Division, Islamabad.
5. The FBR through its Chairman, Islamabad.
6. Govt of Pakistan Revenue Division, Islamabad
7. Dr. Muhammad Idrees, Addl Commissioner (OPS), Regional Tax office Gujranwala.
8. Sayed Hussain Shah, Secretary (OPS), FBR (HQ) Islamabad.



(RASHID AHMAD SIDDIQUI)
ASSTT REGISTRAR
Tel: 042-99331987

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Judgment Sheet
IN THE FEDERAL SERVICE TRIBUNAL, LAHORE

Appeal No.107(L)CS/2010

Date of Institution	28.05.2010
Date of Hearing	07.09.2011
Date of Judgment	07.09.2011

Appellant: **Ch.Jaffer Nawaz**, Additional Commissioner Inland Revenue (Enforcement Collection Division) Regional Tax Office, Sialkot.

Respondents: (1) Chief (Management) Federal Board of Revenue, Islamabad.
(2) Government of Pakistan through Secretary Establishment Division, Islamabad.
(3) The Federal Board of Revenue through its Chairman, Islamabad.
(4) Government of Pakistan Revenue Division, Islamabad.
(5) Dr.Muhammad Idrees, Additional Commissioner (OPS), Regional Tax Office, Gujranwala.
(6) Mr.Sayed Hussain Shah, Secretary (OPS) Federal Board of Revenue (HQ), Islamabad.

Before : **Mr.Moazzam Hayat, and**
Mr.M.A.Aziz, Members.

Present : Malik Naveed Suhail, Advocate for the appellant.
Mr.Asim Akram, Advocate for the respondents

JUDGMENT

MOAZZAM HAYAT, MEMBER : Appellant Ch.Jaffer Nawaz is Additional Commissioner in Islamabad Revenue Division. He had entered into Income Tax Service through Competitive Examinations. He completed his training in 23rd CTP. He is aggrieved by his seniority position.

2. The appeal is resisted by the respondents. It is stated that since in the final examination the appellant had secured less marks, therefore, he was placed junior to respondents Muhammad Idrees and Sayed Hussain Shah.

3. We have heard the learned counsel for the parties and have also gone through the record.

4. The relevant rule, under which, the seniority of the respective parties should have been determined, is Rule-7 of the Occupational Groups and Services (Probation, Training and Seniority) Rules, 1990. This Rule is reproduced in verbatim as under:-



Certified to be a true copy
13/9/11

(Rashid Ahmad Siddiqui)
Assistant Registrar
Federal Service Tribunal
Lahore

"7. **Seniority.**—(1) The seniority of the probationers shall be determined by the appointing authority after Final Passing Out Examination.

(2) Inductees who join the initial training programme shall be given notional marks in a manner that each inductee has the same marks as the senior most probationer of the occupational group in which the inductee has been inducted.

(3) Inductees who join a specialized training programme directly shall be given notional marks equal to the marks obtained by the senior most probationer of the occupational groups including the marks in the initial training programme.

(4) For the purpose of determining the inter-se-seniority of the probationers who commence their training with initial training programme the marks obtained by a probationer in the competitive examination of the Commission or his notional marks, as the case may be, shall be added to the marks obtained by him in the initial training programme, specialized training programme and the marks obtained by qualifying the Final Passing Out Examination in his first attempt.

(underlining is ours for emphasis)

5. This Rule shows that marks obtained in the first attempt are relevant for fixation of seniority. This contention of the learned counsel for the appellant has not been converted that the appellant had passed the examination in the very first attempt whereas the respondents Muhammad Idrees and Sayed Hussain Shah had passed that examination in second attempt. Hence the marks obtained by these respondents were not relevant for the determination of seniority of the appellant who had passed the examination in the first attempt. The emphasis is on the last sentence of the Rule which is underlined by us.

6. The contention of the appellant that he had qualified the examination in the very first attempt, therefore, he could not be relegated in the seniority requires fresh determination by the concerned Department in the light of the Rule given above. The Authority shall take into consideration the said contention of the appellant that he had passed the departmental examination in the first attempt whereas the aforementioned respondents had not passed the examination in the first attempt. The matter shall be conclusively decided by the concerned authorities preferably within a period of 2 months from the date a copy of this judgment is received in the office of the respondents.

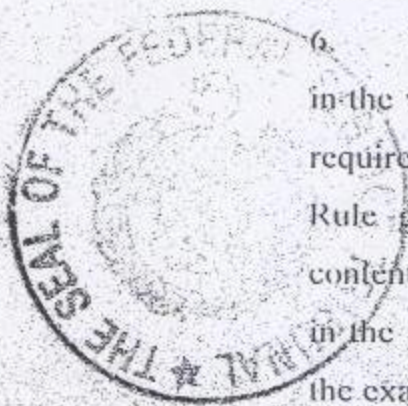
7. No order as to costs. Parties be informed accordingly.

MEMBER

MEMBER

Lahore

2011-02-22



Certified to be a true copy

13/9/2017

Residing Address: [illegible]
[illegible]
[illegible]

Government of Pakistan
Cabinet Secretariat
Establishment Division

Annexure A

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No. 1/2/2011-CP-X

Islamabad, the 8th April, 2011.

OFFICE MEMORANDUM

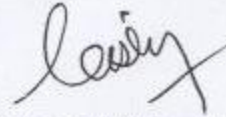
Subject:- BOARD'S POINT OF VIEW ON DETERMINATION OF INTER-SE-SENIORITY OF OFFICERS OF OCCUPATIONAL GROUPS.

The undersigned is directed to refer to FBR's O.M.No.1/18/87/M-II dated 03-01-2011 on the subject noted above and to invite attention towards following position:

I. Rule 7(4) (extract enclosed) of Occupational Groups and Services (Probationer, Training and Seniority) Rules 1990 provides that for the purpose of determining the inter-se-seniority of the probationers who commence their training with initial training programme, the marks obtained by a probationer in the competitive examination of the Commission or his notional marks, as the case may be, shall be added to the marks obtained by him in the initial training programme, specialized training programme and the marks obtained by qualifying the Final Passing Out Examination in his first attempt.

II. As regards, fixation of inter-se-seniority of the probationers who could not qualify Final Passing Out Examination in first attempt, second attempt or third attempt, attention is invited to Para 2(b) of O.M No.1/31/93-R-4 dated 23-02-1994 (copy enclosed) wherein it is provided that inter-se-seniority of a probationer may be fixed in such a manner that the probationers who cannot qualify the FPOE in the first attempt would lose seniority to those who qualify and those who cannot qualify in the second attempt would lose their seniority who qualify and so on. The similar practice is being followed in Establishment Division to determine the inter-se-seniority of probationers belonging to All Pakistan Unified Groups (APUG).

2. FBR is requested to see the above position for further action at their end.


(Muhammad Wishaq)
Deputy Secretary

✓ Revenue Division,
Federal Board of Revenue,
(Mr. Qurban Ali Khan),
Secretary (Management-II),
Government of Pakistan,
Islamabad.