



Government of Jammu and Kashmir

Finance Department

Civil Secretariat, Srinagar.

Subject: Promotion/regularization of Inspectors of Excise and Commercial Taxes Department as ETO's/ CTOs.

- i). Ref. Hon'ble High Court Judgment dated 20.12.2013
- ii). Ref. PSC/DPC/Fin/2013 dated 14.03.2017
- iii). Ref. GAD (Adm)311/2015-V dated 09.02.2016
- iv). Ref. Codes Section, Finance Department A/90(2007)-355 dated 11.09.2015

Government Order No. 247 - FD of 2017

Dated: 11 - 08 - 2017

Whereas, Sh. Harwant Singh was appointed as Sub-Inspector and joined as such on 12.07.1971, in the office of the Deputy Excise Commissioner, Executive, Jammu; and

02- Whereas, S/Sh. Mohd Hanief Choudhary and Rajinder Kumar Khajuria were appointed as Sub-Inspector on 11.11.1974; and

03- Whereas, S/Sh. Mohd Hanief Choudhary and Rajinder Kumar Khajuria were promoted as Inspectors on 26.09.1978, being graduate Sub-Inspectors and Sh. Harwant Singh also a graduate was promoted as Inspector vide Government Order No. 115-F of 1989; and

04- Whereas, the seniority list of Sub-Inspector was issued vide circular dated 02-01-1986 and Sh. Harwant Singh, figured in the said seniority list at S. No. 197 and S./Sh. Mohd Hanief Choudhary and Rajinder Kumar Khajuria at S. No. 271 and 272, respectively; and

05- Whereas, Sh. Harwant Singh, aggrieved of the promotions of S/Sh. Mohd Hanief Choudhary and Rajinder Kumar Khajuria filed a writ petition No. 2339 of 2000, titled Harwant Singh and another V/s State of J&K and Ors. before the Hon'ble High Court at Jammu and the said writ petition came to be disposed of on 27/09/2006 by the Hon'ble Court with the directions:

"Keeping in view submissions of the learned counsel for official respondents admitting that the petitioners were senior to private respondents 4 and 5 but was ignored illegally. As discussed herein above, it will be a futile exercise to quash

seniority list now for the reasons that the petitioners have already reached the age of superannuation. Thus, I deem it proper to pass the following direction by allowing this writ petition:

Official respondents shall consider the case of petitioners in terms of Rules applicable and they shall also consider whether the petitioners were entitled to promotion as Excise Inspectors w.e.f the date the private respondents 4 and 5 were promoted i.e. 26th of September, 1978, within a period of three months from the date copy of judgment is served upon the respondents. The petitioner, if found eligible as per the rules governing the field, be granted all the monetary benefits to which they would entitled to"; and

06- Whereas, pursuant to Hon'ble High Court directions, the issue was taken up in the State Level Departmental Promotion Committee meeting held on 20.01.2007, 21.04.2007 and 03.03.2008 and was examined in light of the Hon'ble High Court directions and rules. The State Level Departmental, Promotion Committee recommended as under:

"Sh. Harwant Singh was a graduate as on 26.09.1978, thereby, qualifying for his promotion over his Junior S/Sh Mohd Hanief Choudhary and Rajinder Kumar Khajuria who had already been promoted because the rule to the promotion against the post of Inspector as per SRO-244 dated 21.05.1970 provides on the relevant date as under":-

"40% by promotion from Class-II from amongst the persons possessing an experience of not less than ten years in service and who are atleast Matric and have passed the departmental examination prescribed for Excise & Taxation Officers/Inspectors by lower standard. 15% of promotion posts will be reserved for graduate Sub-Inspectors who have passed the departmental examination for Excise & Taxation Officers/Inspectors by lower standard and have rendered atleast five years service and are otherwise reported well; provided that if suitable qualified graduate Sub-Inspector are not available for promotion these reserved posts will be diverted to general quota for promotion." ; and

07- Whereas, the State Level Departmental Promotion Committee accordingly recommended that Sh. Harwant Singh be considered for promotion w.e.f 26.09.1978, i.e from the date his juniors were promoted as Sh. Harwant Singh was a graduate and was figuring in seniority list of Sub-Inspectors at S. No. 197, above S./ Sh. Mohd Hanief Choudhary and



Rajinder Kumar Khajuria who figured at S. No. 271 and 272, respectively and were promoted in the year 1978 as Excise Inspectors; and

08- Whereas, in pursuance of Hon'ble High Court directions dated 27.09.2006 and recommendations of the State Level Departmental Promotion Committee dated 03.03.2008, the petitioner was promoted as Inspector vide Govt. Order No 141-F of 2008 dated 01.04.2008 and was regularized w.e.f. 26.09.1978 i.e the date on which his Juniors were promoted; and

09- Whereas, Sh. Harwant Singh filed another writ petition SWP No. 1983/2011 titled Harwant Singh Vs State of J&K and others and sought directions for regularization of his services as ETO w.e.f. 02.05.1997 on the ground that services of his junior colleague Sh. Rajinder Kumar Khajuria were regularized by the Finance Department w.e.f. 02.05.1997. The said writ petition has been disposed of by the Hon'ble High Court of J&K vide judgment dated 20.12.2013 with the following directions; and

"In view of case set up and stand taken by learned counsel for the parties, petition is disposed of with a direction to respondents to accord consideration to the petitioner's claim in light of averments made in the petition, annexures appended thereto and the treatment given to respondent No. 5, provided he is similarly circumstanced with the petitioner. Respondents shall do well to take a decision in the matter within a period of four weeks from the date of receipt of copy of the order. Petitioner on his part may hand over copy of order, writ petition and annexures, to the respondents to facilitate early decision in the matter."

10- Whereas, Secretary J&K PSC conveyed that as per records Mr. Harwant Singh S/o Udham Singh had applied and appeared in paper-A (Last Paper) of Excise and Taxation Officers Departmental Examination under Roll No. 02 Session September, 1995 and vide **result notification No. PSC/ex-96/33 dated 04-04-1996 has been declared to have passed paper-A**; and

11- Whereas, the case was referred to Codes Section, Finance Department for creation of supernumerary post of ETO. The Codes Section, Finance Department vide their U.O No. A/90(2007)-355 dated 11-09-2015 has conveyed as under:

"Finance Department conveys its agreement to the creation of a supernumerary post of Excise and Taxation Officer w.e.f 02-05-1997 to 31-01-2002, subject to the following conditions:

- (i) *The post is created in the applicable Pay Band and Grade Pay as per prescribed Service Recruitment Rules of the Department.*
- (ii) *The post shall cease to exist immediately after drawal of salary arrears in favour of the petitioner.*

(iii) Orders are issued after obtaining approval of the Competent Authority."

12- Whereas, the case was referred to GAD for their approval with regard to creation of supernumerary post of Excise & Taxation Officer in the Pay Band of Rs. 7500-250-12000(pre-revised) for regularization of Mr. Harwant Singh against the said post w.e.f 02-05-1997 to 31-01-2002, so that matter can be placed before PSC/DPC. In turn the GAD vide its U.O No. GAD (Adm) 311/2015-V dated 09/02/2016 conveyed as under; and

"The General Administration Department conveys its concurrence to the Finance Department to the creation of supernumerary post of Excise and Taxation Officer, in the Pay Band of Rs. Rs. 7500-250-12000(pre-revised) for regularization of Mr. Harwant Singh against the said post w.e.f. 02/05/1997 to 31/01/2002. The post shall cease to exist after drawal of salary arrears in favour of Mr. Harwant Singh."

13- Now, therefore, on the basis of the directions passed by the Hon'ble High Court and as recommended by PSC, GAD and Codes Section of Finance Department, sanction is hereby accorded to the:

- a. Creation of a supernumerary post of Excise and Taxation Officer w.e.f. 02.05.1997 to 31.01.2002 in the pay band of Rs. 7500-250-12000 (pre-revised). The post shall cease to exist immediately after drawal of salary arrears in favour of the petitioner.
- b. Regularization of the services of Mr. Harwant Singh, Incharge ETO (now retired) against the supernumerary post of ETO w.e.f 02.05.1997 to 31.01.2002.

By order of the Government of Jammu and Kashmir.

Sd/-
(Navin K. Choudhary), IAS
Principal Secretary to Government
Finance Department

Dated:- 11-08-2017

No:-ET/Estt/03/2014

Copy to the:-

1. Excise Commissioner, J&K, Government Srinagar.
2. Commissioner Commercial Taxes, J&K, Government Srinagar.
3. Registrar, J&K High Court, Srinagar.
4. Pvt. Secretary to Ld. Advocate General J&K High Court, with the request to kindly get the statement of facts prepared and filed in contempt (SWP) No. 261 of 2007, accordingly.
5. OSD, to Hon'ble Finance Minister, J&K.
6. Pvt. Secretary to Hon'ble Minister of Stet for Finance.
7. Pvt. Secretary to Principal Secretary to Government, Finance Department, J&K Civil Secretary, Srinagar.
8. Sh. Harwant Singh, S/o Sh. Udham Singh R/o Patel Nagar, Kathua.
9. Government order file/concerned file.

(Dr. Aadil Fareed)

Under Secretary to Government
Finance Department