

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

C. M. No _____/2022

In

Service Appeal No 632/2022

Siyar Ullah.....Petitioner/Appellant

V E R S U S

Director & others.....Respondents

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Dated:-24-10-2022



Appellant

Through



Fazal Shah Mohmand

Advocate,

Supreme Court of Pakistan

**OFFICE: - Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301
8804841**

Email: - fazalshahmohmand@gmail.com

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

C. M. No _____/2022

In

Service Appeal No 632/2022

Khyber Pakhtunkhwa
Service Tribunal

No. 1682

Dated 24-10-2022

Siyar Ullah **Petitioner/Appellant**

V E R S U S

Local Fund Audit
Director & others **Respondents**

Application for restraining respondents from making promotions to the post of Audit Officers (BPS-16) on the basis of impugned rules, till the final disposal of titled case.

Respectfully Submitted:-

1. That the accompanying appeal is pending before this honorable Tribunal wherein next date of hearing is fixed for 28-10-2022.
2. That the grounds of appeal may be considered as integral part of this application and some of the Auditors have submitted application for their impleadment in the panel of respondents which has been allowed and even the official respondents have filed their reply while last chance has been given to the impleaded respondents for submission of written reply, however the appellant/applicant has learnt that official respondents are going to hold meeting of Departmental Promotion Committee for considering the promotion of Auditors on the basis of impugned rules which may result in multiplicity of litigation besides may deprive the appellant/applicant of accrued rights. **(Copy of working paper is enclosed as Annexure A).**

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3. That the appellant has got good prima facie case in his favor and is sanguine of its success.
4. That the balance of convenience is also in his favor and if respondents are not restrained from making promotions to the post of Audit Officers, the appellant would suffer irreparable loss.

It is therefore prayed that on acceptance of this application, respondents may kindly be restrained from making promotions to the post of Audit Officers (BPS-16) on the basis of impugned rules, till the final disposal of titled appeal.

Dated:-24-10-2022



Appellant

Through



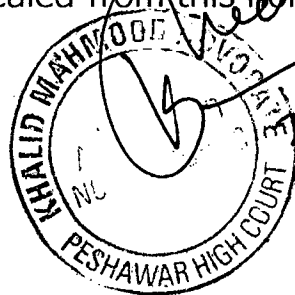
Fazal Shah Mohmand

Advocate,

Supreme Court of Pakistan

AFFIDAVIT

I, Siyar Ullah, Auditor (BPS-15) Office of Director Local Fund Audit Department, Khyber Pakhtunkhwa, Peshawar, do hereby solemnly affirm and declare on oath that the contents of this **Application**, are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.



Deponent

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Amex
A³

**WORKING PAPER
FOR THE DEPARTMENTAL PROMOTION COMMITTEE**

Department: Local Fund Audit Khyber Pakhtunkhwa, Peshawar

1. Nomenclature of the post/Basic Scale: AUDIT OFFICER (BPS-16)
2. Service/Group/Cadre: LOCAL FUND AUDIT
3. Sanctioned strength of the cadre: 44 Annex-"I"

	Reserved posts	Occupied under the quota	Vacant posts	Remarks
20% by initial recruitment	9	07	02	02- posts of Audit Officer are lying vacant to be filled through Khyber Pakhtunkhwa Public Service Commission
50% by promotion on the basis of seniority-cum-fitness from amongst auditors having at least 10 years service as such.	22	15	07	These working papers are submitted for filling up of 07- Vacant posts of Audit Officer (BS-16) on the basis of seniority-cum-fitness
30% S.A.S. Quota	13	13	0	--
Total	44	35	09	

i) How did the vacancy (lies)

1) 01-Post is lying vacant due to retirement of Mr. Mushtaq Ahmad, Audit Officer (BS-16) vide Office Order No. L.P.VI(3)20.18/1041-47 dated 04-04-2022, Annex-III.

2) Due to promotion of 02- Audit Officers (BS-16) to the post of Assistant Director (BS-17) on regular basis vide Finance Department Notification No. SO(EST)FD/1-55/2022/DPC/LFA dated 19-05-2022 (Annex-III)

3) Due to promotion of 04- Audit Officers (BS-16) to the post of Assistant Director (BS-17) on regular basis vide Finance Department Notification No. SO(EST)FD/1-55/2022/DPC/LFA dated 07-04-2022 (Annex-IV)

ii) Recruitment Rules.

Khyber Pakhtunkhwa Local Fund Audit (Recruitment & appointment) Rules 1980, Amended in 2018

(a) 20% by initial recruitment.

(b) 50% by promotion, on the basis of seniority-cum-fitness, from amongst the Auditors, having at least 10 years service as such; and

(c) 30% by promotion, on the basis of seniority-cum-fitness, from amongst the Auditors who have passed the SAS examination of the Department and have at least three years service as such" (Annex-V)

iii) Required length of service.

10- years for seniority-cum-fitness Auditors.

vi) Whether to be promoted on regular basis or appointed on acting charge basis

On regular basis.

The seniority list of Auditors (BPS-14/5) as stood on 31-12-2021 is placed as (Annex-VI).

4. It is submitted that 07-Nos post of Audit Officers (BS-16) are lying vacant in this Directorate due to one Audit Officer (BS-16) retired on superannuation (Annex-I) and 06- Nos of Audit Officers (BS-16) are promoted to the post of Assistant Directors (BS-17) on regular basis. (Annex-III & IV) are required to be filled under clause S.No.4 column 6 (b) of the Khyber Pakhtunkhwa Local Fund Audit Recruitment & Appointment Rules 1980 amended 2018, by promotion on the basis of seniority-cum-fitness from amongst the Auditors having at least 10-years service as such.

5. It is further added that Auditors BS-15 from (S.# 1 to 06) of the final seniority list as stood on 31-12-2021 have already been promoted the post of Audit Officer (BS-16) vide this office Notifications No.LFA/ESTT/DPCG/2021/544-50 dated 22-02-2022, & No. 1344-51 dated 25-04-2022. (Annex-VII & VIII). Now Auditors from (S.# 7 to 13) are the senior most and eligible for promotion to the post of Audit Officer (BS-16) on the basis of seniority-cum-fitness on regular basis.

Therefore, panel of 14 Nos of Auditors are submitted for promotion to the post of Audit Officer (B-16) on regular basis.

PANEL OF OFFICIALS FOR CONSIDERATION.

S.#	Name	Whether completed 10-years	Remarks
1	Mr. Inayatullah	Yes	Eligible for promotion on regular basis
2	Mr. Nasir-Ud-Din.	Yes	-do-
3	Mr. Ijaz Ahmad.	Yes	-do-
4	Mr. Muhammad Matloob.	Yes	-do-
5	Mr. Muhammad Asad Yar Khan	Yes	-do-
6	Mr. Shakil Ahmad	Yes	-do-
7	Mr. Asad Khan	Yes	-do-
8	Mr. Zahid Ur Rehman	Yes	-do-
9	Mr. Asadullah Durrani	Yes	-do-
10	Mr. Mulced Ahmad	Yes	-do-
11	Mr. Bakhtiar Muhammad	Yes	-do-
12	Mr. Waheed Khan	Yes	-do-
13	Mr. Noman Safdar	Yes	-do-
14	Mr. Fazalullah	Yes	-do-