

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN** ... CHAIRMAN
FAREEHA PAUL ... MEMBER(Executive)

Service Appeal No.632/2022

Date of presentation of Appeal.....26.04.2022

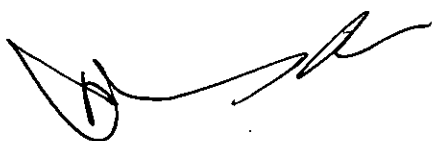
Date of Hearing.....25.07.2023

Date of Decision.....25.07.2023

Siyar Ullah, Auditor (BPS-15) Office of Director Local Fund Audit Department, Khyber Pakhtunkhwa, Peshawar.....*Appellant*

Versus

1. **Director** Local Fund Audit Department, Khyber Pakhtunkhwa, Peshawar.
2. **Government** of Khyber Pakhtunkhwa through Secretary Finance Department, Peshawar.
3. **Government** of Khyber Pakhtunkhwa through Secretary Establishment Department, Peshawar.
4. **Chairman**, Standing Service Rules Committee, Khyber Pakhtunkhwa, Finance Department, Civil Secretariat, Peshawar
5. **Asad Khan**, Auditor in Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
6. **Zahid Ur Rahman**, Auditor in Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
7. **Parvez Khan**, Auditor in Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
8. **Asad Yar Khan**, Auditor in Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
9. **Ijaz Ahmad**, Auditor in Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
10. **Muhammad Matloob**, Auditor in Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
11. **Mofeed Ahmad**, Auditor in Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
12. **Shakil Ahmad**, Auditor in Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
13. **Inayat Ullah**, Auditor in Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
14. **Nasir Ud Din**, Auditor in Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.



15. **Asad Ullah Durani**, Auditor in Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.....(**Respondents**)

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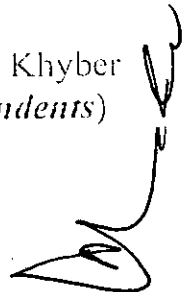
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Muhammad Asif Anjum, Auditor (BPS-15) Office of Director Local Fund Audit Department, Khyber Pakhtunkhwa, Peshawar.
.....**Appellant**

Versus

1. **Director** Local Fund Audit Department, Khyber Pakhtunkhwa, Peshawar.
2. **Government** of Khyber Pakhtunkhwa through Secretary Finance Department, Peshawar.
3. **Government** of Khyber Pakhtunkhwa through Secretary Establishment Department, Peshawar
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14. **Nasir Ud Din**, Auditor in Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
15. **Asad Ullah Durani**, Auditor in Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.....(**Respondents**)



Present:

Mr. Mir Zaman Safi,
Advocate.....For the appellants

Mr. Muhammad Jan,
District Attorney.....For official respondents No. 1 to 4.

Mr. Muhammad Zia Ullah,
Advocate.....For Private respondent No. 5 to 15

APPEALS UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE LETTER NO. LFA/ESTT/SAS/2014 DATED 28.03.2022 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT FILED AGAINST THE NOTIFICATION NO. SO(ESTT)/FD / 1-16/ 2014/ LFA/SSRC/VO/IV DATED 25.05.2018 WHEREBY IN THE APPENDIX AGAINST SERIAL NO.4 IN COLUMN 6 AMENDMENT HAS BEEN MADE, HAS BEEN REGRETTEED.

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment both the above appeals are being decided as both are similar in nature and with the same contentions, therefore, both can conveniently be decided together.

2. Brief facts of the appeals are that the appellants were appointed as Auditors (BPS-14) on 20.03.2013 in the Local Fund Audit, which is an attached body of the Finance Department, Khyber Pakhtunkhwa; that the appellants qualified Subordinate Accounting Services Examination in the year 2018, which was notified vide notification



dated 15.01.2018; that initially the department was governed for recruitment and appointment as per the Recruitment and Appointment Rules, 1980, wherein 67 % quota was reserved for Subordinate Accounting Services (herein after referred to as SAS) qualified Auditors for promotion to the post of Audit Officer (BPS-16), while 33% quota was reserved for direct recruitment, which was amended vide notification dated 10.02.1993, whereby the SAS qualified quota of 67% was kept intact while 33% quota was reserved for promotion on the basis of seniority cum fitness; that the Khyber Pakhtunkhwa Recruitment Appointment Rules 1980 were further amended, whereby quota of Auditors for promotion to the post of Audit Officer (BPS-16) was revised, wherein the quota of SAS qualified Auditors was brought to 60% and 40% was equally distributed for initial recruitment as Audit officer and promotion on the basis of seniority cum fitness vide notification dated 01.06.2005; that due to non-availability of SAS qualified Auditors and acute shortage of officers to run the routine work of Local Fund Audit, the appointment and promotion rules were temporary amended by reducing the SAS qualified Auditors quota from 60% to 20% and enhancing the non-SAS qualified Auditor quota from 20% to 60% in order to meet the increasing demand of officers where as the quota of initial recruitment through public service commission remain unchanged to 20% duly notified vide notification dated 29.04.2010; that the stated rules were once again amended in the year 20189 in response to the appeal of SAS qualified Auditors for

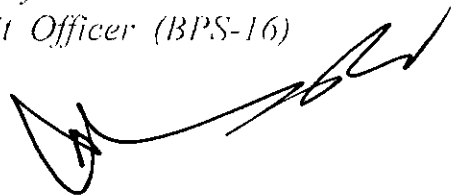
restoration of original quota of SAS qualified auditors to 60% however the grievances/demand of qualified auditors were not fully addressed and SAS quota was enhanced to 30% instead of 60% vide notification dated 25.05.2018, thus depriving Local Fund Audit department from officers with professional audit/account certification; that finally the appellants approached respondent No.1 by filing departmental appeals on 04.03.2022 which was regretted vide letter dated 28.03.2022, hence, this appeal.

03. We have heard learned counsel for the appellants, learned District Attorney for official respondents No. 1 to 4 and learned counsel for private respondents No. 5 to 15 for the respondents.

04. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney and learned counsel for private respondents No.5 to 15 controverted the same by supporting the impugned order(s).

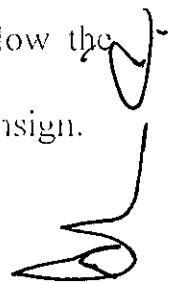
05. The appellants have made the following prayer in their appeals:-

"On acceptance of this appeal the impugned order/decision communicated to the appellant vide letter no. LFA/Estt/SAS/2014 dated 28.03.2022 and Notification No. SO(Estt)/FD/1-16/2014/LAF/SSRC/Vol/IV dated 20.05.2018 whereby rules in the appendix against serial No.4 in Column 6, amendment has been made, may kindly be struck down and the rules for promotion to Audit Officer (BPS-16)



notified as per Notification No. SO(ESTT)FD/1-16/04 dated 01.06.2005 may please be restored thereby restoring 60% quota for promotion for Subordinate Accounting Service (SAS) qualified Auditors.

06. The appellants were appointed as Auditors (BPS-14) on the recommendations of Khyber Pakhtunkhwa Public Service Commission on 20.03.2013 i.e. at the time when the amended service rules notified vide Notification dated 19.04.2010 were already in field, wherein 20% quota was reserved for promotion, to be made on seniority cum fitness from amongst the Auditors, who have passed the SAS examination of the department and have at least three years experience as such. During the service of the appellants, the rules were amended vide impugned notification dated 25.05.2018, whereby the 20% promotion quota was increased to 30% for promotion to the post of Audit Officer. It is incomprehensible as to how the appellants, who were quite satisfied on 20% quota for promotion to the post of Audit Officer since their induction till increase of quota for promotion from 20% to 30%, were aggrieved/dissatisfied/not contented with the enhancement of 20% to 30% promotion quota? Moreover, gradual reduction of promotion quota notified at different times, was not challenged even by those who were already in service prior to induction of the appellants into service. When confronted, learned counsel for the appellants could not explain the situation. As such we hold that these appeals are misconceived, ill-founded and groundless, therefore, dismissed. Costs shall follow the event. Copy of this judgment be placed in the connected file. Consign.



Service Appeal No632/2022 titled "Siyar Ullah-vs-Director Local Fund Audit Department, Khyber Pakhtunkhwa, Peshawar and others" and connected appeal No. 633/2022 titled "Muhammad Asif Ajum versus Director Local Fund Audit Department, Khyber Pakhtunkhwa, Peshawar and others" decided on 25.07.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Miss. Fareeha Paul, Member, Executive Khyber Pakhtunkhwa Service Tribunal, Peshawar

07. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 25th day of July, 2023.*



KALIM ARSHAD KHAN
Chairman



FAREEHA PAUL
Member (Executive)