

Original Application No. 1179 of 2012
Original Application No. 166 of 2013
Original Application No. 1176 of 2013

Wednesday, this the 19th day of February, 2014

CORAM:

Hon'ble Mr. Justice A.K. Basheer, Judicial Member
 Hon'ble Mr. K. George Joseph, Administrative Member

1. Original Application No. 1179 of 2012 -

1. Southern Naval Command Civilian Employees Association (ALDEF), Vyapara Bhavan, Perumanoor P.O., Thevara, Kochi-682 015, represented by its General Secretary, K. Balakrishnan, S/o. Late M. Govindan Nair, aged 59 years, UDC, Naval Armament Depot, NAD PO, Aluva, Ernakulam – 683 563, residing at Kodenchery House, Nochima, NAD PO, Edathala, Aluva, Ernakulam.
2. K.M. Krishnakumar, S/o. K.I. Madhavan, aged 35 years, Multi Tasking Staff (Ministerial), INS Venduruthy, Boatswainstore, Naval Base, Kochi – 682 004, residing at Kelothonthundy House, Vytila PO, Kochi – 19.
3. Biju T.M., S/o. Mohanan T.K., aged 38 years, Multi Tasking Staff (Ministerial), INS Dronacharya, Fort Kochi – 682 001, residing at Thandassery House, Church Road, Njarakkal PO, Pin – 682 505. **Applicants**

(By Advocate – Mr. M.R. Hariraj)

V e r s u s

1. Union of India, represented by the Secretary to Government, Ministry of Defence, New Delhi.
2. Flag Officer, Commanding in Chief, Southern Naval Command, Naval Base, Kochi – 682 004.
3. Chief Staff Officer, Southern Naval Command, Naval Base, Kochi – 682 004. **Respondents**

(By Advocate – Mr. Sunil Jacob Jose. SCGSC)



2. Original Application No. 166 of 2013 -

1. Nibin Bose, aged 28 years, S/o. C.K. Bose, Multi Tasking Staff (Ministerial), Head Quarters, Southern Naval Command, residing at Thankabhavanam, Thevara Colony, Thevara P.O., Kochi – 682 013.
2. Robin C. Jose, aged 29 years, S/o. V.C. Jose, Multi Tasking Staff (Ministerial), Head Quarters, Southern Naval Command, residing at Veliparambil, Cheekuvilla, Palluruthy PO, Perumpadappu, Kochi- 682 006.
3. C.J. Jenish, aged 29 years, S/o. C.D. Janardanan, Multi Tasking Staff (Ministerial), Head Quarters, Southern Naval Command, residing at Chakkumgal House, Palluruthy PO, Kochi – 682 006.
4. K.B. Prasanth, aged 26 years, S/o. Late Sri Balakrishna Pillai, Multi Tasking Staff (Ministerial), Naval Armament Inspectorate, Kochi, Southern Naval Command, residing at Kizhakkeparackel, Vechuchirakunnam, Pathanamthitta District, Pin- 686 511.
5. Hirosh S., aged 26 years, S/o. K.M. Saravanan, Multi Tasking Staff (Ministerial), Head Quarters, Southern Naval Command, residing at Saravana House, Chooya, Kannur – 6.
6. K.L. Manjula, aged 37, W/o. T.P. Sudheeshkumar, Multi Tasking Staff (Ministerial), INS Dronacharya, Southern Naval Command, Kochi, residing at.
7. M.K.T. Ajith, aged 39 years, S/o. M.K. Krishnapanicker, Multi Tasking Staff (Non Industrial), INS Zamorin, Southern Naval Command, Ezhimala, residing at MKT House, Ettikkulam, Ramanthali, Kannur – 670 308.
8. Sumesh O.M., aged 27 years, S/o. Muralidharan K.V., Multi Tasking Staff (Ministerial), Naval Armament Depot, Southern Naval Command, Aluva, residing at Kolikkat, Eloorkara, Muppathadam PO, Aluva – 683 110.
9. Preethi M., aged 33 years, D/o. Madhavan, Multi Tasking Staff (Ministerial), Naval Armament Depot, Southern Naval Command, Aluva, residing at Chakkalakkal House, Ashokapuram PO, Idayapuram, Aluva – 683 101.

10. Santhosh K.V., aged 34 years, S/o. P. Kunhiraman, Multi Tasking Staff (Ministerial), Naval Armament Depot, Southern Naval Command, Aluva, residing at Kaduveedu, Alakkad, Eriyam PO, M.M. Bazaar via Kannur – 670 306.



11. Sandeep K.A., aged 27 years, S/o. K.K. Appu, Multi Tasking Staff (Ministerial), Naval Armament Depot, Southern Naval Command, Aluva, residing at Karuvelil House, Maravanthuruthu, Vadakkekara PO, West Paravur – 683 522.
12. V.B. Wadekar, aged 33 years, S/o. Babu Raoji Wadekar, Multi Tasking Staff (Ministerial), Naval Armament Depot, Southern Naval Command, Aluva, residing at 76, Sri Krishna Nagar, behind Nandanvan, Nagpur – 440 009.
13. M.V. Sajith, aged 33 years, S/o. Krishnan O, Multi Tasking Staff (Ministerial), Naval Armament Depot, Southern Naval Command, Aluva, residing at Kunniyan East, Karivelloor, Kannur – 670 521.
14. V.G. Bhomkar, aged 38 years, S/o. Ganaputhy V. Bhomkar, Multi Tasking Staff (Non Industrial), Naval Armament Depot, Southern Naval Command, Aluva, residing at Sakalabel, Angola, Uttar Kannada District, Karnataka.
15. Asokan K, aged 35 years, S/o. K. Kunthu, Bearer, Naval Armament Depot, Southern Naval Command, Aluva, residing at Udhayam House, Kalathottam, Moolankodu PO, Palakkad – 678 684.
16. Sharon Thomas M.T., S/o. Thomas M.T., aged 25 years, Bearer, Naval Aircraft Yard, Naval Base, Kochi – 682 004, residing at Manayil House, Kumbalangi, Kochi – 682 007.
17. K. Jayamohan, S/o. Mohanan, aged 29 years, MTS Ministerial, BV yard, Naval Base, Kochi, residing at Kanjuthara, Nedungad, Nayrambalam PO, Ernakulam.
18. K.S. Saneeshkumar, S/o.P.K. Satheeshan, aged 29 years, MTS Non Industrial, BVYard, Naval Base, Kochi, residing at Kuzhuvelipparambil, Ponnoth Road, Kochi – 682 017.

..... **Applicants**

(By Advocate – Mr. M.R. Hariraj)

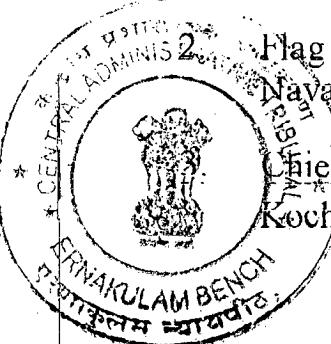
V e r s u s

1. Union of India, represented by the Secretary to the Government, Ministry of Defence, New Delhi – 110 001.

Flag Officer, Commanding in Chief, Southern Naval Command, Naval Base, Kochi – 682 004.

Chief Staff Officer, Southern Naval Command, Naval Base, Kochi – 682 004.

..... **Respondents**



3. Original Application No. 1176 of 2013 -

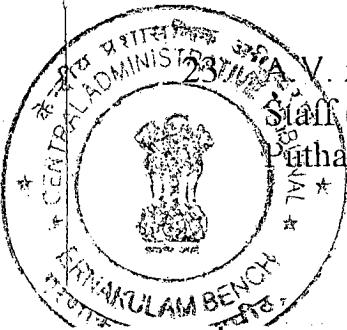
1. K. Asokan, aged 36 years, S/o. Kunchu, Bearer, Naval Armament Depot, Aluva, residing at Udayam House, Moolancode PO, Palakkad, Pin – 678 674.
2. P. Satheesh, aged 34 years, S/o. Ramakrishnan, Multi Tasking Staff (Ministerial), INS Venduruthy, Naval Base, Kochi, Residing at Kunnakkavu, Cherukara, Malappuram.
3. P.A. Mohammed Ishac, aged 26 years, S/o. Abdulsalam, Multi Tasking Staff (Ministerial), INS Venduruthy, Naval Base, Kochi, Residing at Puthupparambu, Muhamma, Alappuzha.
4. Arun George, aged 28 years, S/o. George, Multi Tasking Staff (Ministerial), INS Venduruthy, Naval Base, Kochi, Residing at Ambalathuparambil, Manjummel PO, Ernakulam District.
5. Shinoy Francis, aged 27 years, S/o. Francis, Multi Tasking Staff (Ministerial), INS Venduruthy, Naval Base, Kochi, residing at Puthenpurackal House, Chottanikkara PO, Ernakulam District.
6. M.R. Jayan, aged 30 years, S/o. Raman, Multi Tasking Staff (Ministerial), INS Venduruthy, Naval Base, Kochi, Residing at Manchadiparambil, Maruvakkad, Chellanam PO, Kochi.
7. Dany Raphel, aged 34 years, Multi Tasking Staff (Ministerial), INS Venduruthy, Naval Base, Kochi, Residing at Chanithara, Ezhupunna PO, Cherthala, Alappuzha District.
8. K. Vinod, aged 30 years, S/o. Unnibalan, Multi Tasking Staff (Ministerial), INS Venduruthy, Naval Base, Kochi, Residing at Karangottil, Pariyaram PO, Tannor, Malappuram.
9. P. Dhanesh Mohan, aged 34 years, S/o. Mohanan, Multi Tasking Staff (Ministerial), INS Venduruthy, Naval Base, Kochi, Residing at Pazhumadom, Madavam, Panangadu PO, Ernakulam.
10. K.K. Shaji, aged 51 years, S/o. Kumaran, Multi Tasking Staff (Ministerial), INS Garuda, Naval Base, Kochi, Residing at Karikappilly House, Appangad, Narakkal PO, Pin – 682 505.

11. S. Anish, aged 31 years, S/o. Sadasivam, Multi Tasking Staff (Ministerial), INS Garuda, Naval Base, Kochi, Residing at Shekkumkattil House, Killimangalam PO, Adakkancherry, Malakkara, Pin – 680 591.



12. A. Rajeeb, aged 35 years, S/o. Abdulkada, Multi Tasking Staff, (Ministerial), INS Garuda, Naval Base, Kochi, Residing at Thuravoor PO, Alappuzha District.
13. S. Harikuttan, aged 36 years, S/o. Sivanandan, Multi Tasking Staff (Ministerial), INS Garuda, Naval Base, Kochi, Residing at Valayil House, Kakkazham PO, Alappuzha District.
14. S. Girija, aged 34 years, D/o. Sathyaseelan, Multi Tasking Staff (Ministerial), INS Garuda, Naval Base, Kochi, Residing at Thaliassery House, Maliyekkal Road, Thevara, Kochi-13.
15. S.R. Jyothiraj, aged 34 years, S/o. Raveendran, Multi Tasking Staff (Ministerial), INS Garuda, Naval Base, Kochi, Residing at Ravi Vihar, Kadaikodu PO, Ezhukone, Kollam.
16. M.D. Dilulal, aged 25 years, S/o. Damodaran, Multi Tasking Staff (Ministerial), INS Garuda, Naval Base, Kochi, Residing at Deepesh Nivas, P.D. Road, Palluruthy, Kochi-6.
17. C.B. Suma, aged 45 years, D/o. Bahuleyan, Multi Tasking Staff (Ministerial), INS Garuda, Naval Base, Kochi, Residing at Puthenthara, Kadavanthra, Kochi – 20.
18. Athulya S. Raj, aged 25 years, D/o. Natarajan, Multi Tasking Staff (Ministerial), INS Garuda, Naval Base, Kochi, Residing at Raja Bhavan, Vattachal, Arathupuzha, Alappuzha.
19. K.G. Joseph Benny, aged 26 years, S/o. George, Multi Tasking Staff (Ministerial), Naval Air Craft Yard, Naval Base, Kochi, Residing at Kavavil Parambil, Palluruthy Ind. Est. PO, Kallassery Road, Kochi.
20. Mukesh Mohan, aged 26 years, S/o. Girijakumari, Multi Tasking Staff (Ministerial), Naval Air Craft Yard, Naval Base, Kochi, Residing at Uzhathil, Niranam North PO, Thiruvalla, Pathanamthitta.
21. K.A. Jessy, aged 44 years, D/o. Agustine, Multi Tasking Staff (Ministerial), INS Venduruthy, Naval Base, Kochi, Residing at Kunnath House, 19/957, SBPY Road, Palluruthy, Kochi -6.
22. K.P. Rajesh, aged 29 years, S/o. Prakasan Multi Tasking Staff (Ministerial), INS Venduruthy, Naval Base, Kochi, Residing at Kandathil, Vadakara PO, Thalayolaparambu, Kottayam District.

A. V. Abraham Gladys, aged 39 years, S/o. Varghese, Multi Tasking Staff (Ministerial), INS Venduruthy, Naval Base, Kochi, Residing at Pathandan House, Chirakkara PO, Thalappuzha, Wayanad.



24. B. Vinu, aged 25 years, S/o. Balan, Multi Tasking Staff (Ministerial), INS Venduruthy, Naval Base, Kochi, Residing at Valiyavila Veedu, Thrippilazhimam PO, Kuzhimathicad, Kollam.

25. G. Biju, aged 32 years, S/o. Gopalakrishnan, Multi Tasking Staff (Ministerial), INS Venduruthy, Naval Base, Kochi, residing at Biju Bhavanam, Kadaoppa, Kuttipuram, Myagappally PO, Kollam.

26. K.J. Jose, aged 40 years, S/o. Joseph, Multi Tasking Staff (Ministerial), INS Venduruthy, Naval Base, Kochi, Residing at Chakkrezhathe Parambil, Maradu, Nettoor PO, Ernakulam.

27. D.K. Umesh Babu, aged 32 years, S/o. Karunakaran, Multi Tasking Staff (Ministerial), INS Venduruthy, Naval Base, Kochi, Residing at Umesh Bhavanam, Puthukundam, Karthikappally PO, Alappuzha.

28. P.V. Pratheesh, aged 36 years, s/o. Vasudevan, Multi Tasking Staff (Ministerial), INS Venduruthy, Naval Base, Kochi, Residing at Deva Nivas, Poovathuparambil, Paruthippalli PO, Palakkad.

29. Sibi Francis, aged 34 years, D/o. C.J. Xavier, Multi Tasking Staff (Ministerial), INS Venduruthy, Naval Base, Kochi, residing at Thurakkal House, 14/1064 A, Nazreth, Kochi.

30. C.A. Mohammed Kunju, aged 36 years, S/o. Abdul Rahiman, Multi Tasking Staff (Ministerial), INS Venduruthy, Naval Base, Kochi, Residing at Chamalayil, Mulavoor PO, Muvattupuzha.

31. R. Rejith, aged 32 years, S/o. Ravidas, Multi Tasking Staff (Ministerial), INHS Sanjeevani, Kochi, Residing at Appurathu House, Valiazheekal PO, Kandalloor (via), Alappuzha.

32. S. Rejani, aged 32 years, D/o. Damodaran, Multi Tasking Staff (Ministerial), INHS Sanjeevani, Kochi, Residing at Thachayil, Vedarapluv PO, Charummodu, Alappuzha.

33. T. Valsala, aged 49 years, D/o. Balakrishnan Nair, Multi Tasking Staff (Ministerial), INHS Sanjeevani, Kochi, Residing at Thazhathidath House, Mullool, Pattuvam, Talipaamba (via), Kannur.

34. C.G. Satheesh, aged 33 years, S/o. Gopalakrishnan Nair, Multi Tasking Staff (Ministerial), INS Garuda, Naval Base, Kochi, Residing at Chalayil House, Muhamma PO, Alappuzha.

35. A.S. Satheesh, aged 36 years, S/o. Subramanian, Multi Tasking Staff (Ministerial), T.S. Kalamassery, Kochi, Residing at Anathara, Panangad PO, Panangad.

36. P. Binu, aged 33 years, S/o. Parameshwaran Nair, Multi Tasking



Staff (Ministerial), INS Venduruthy, Naval Base, Kochi, Residing at Ayyanbayyathu Vadakkathil, Mali Bhagam, Chavara South PO, Kollam.

37. S. Soumya, aged 34 years, D/o. Sasi, Multi Tasking Staff (Ministerial), INS Garuda, Naval Base, Kochi, Residing at Kothampadathu, Karunaya, Cheravally, Kayamkulam PO, Kayamkulam.

38. Santha Mohanan, aged 51 years, D/o. Sankunny Nair, Peon, SNOM, Naval Base, Kochi, residing at Peedakkal Parambu, Inery Road, Karadu, Kochi.

39. P.R. Ranju, aged 27 years, Bearer, Material Organisation, Naval Base, Kochi, S/o. K.V. Rameshan, Panambukavvveli PO, Ulavipu, Cherthala. **Applicants**

(By Advocate – Mr. T.A. Rajan)

V e r s u s

1. Union of India, represented by the Secretary to Government, Ministry of Defence, New Delhi – 110 001.

2. Flag Officer, Commanding-in-Chief, Southern Naval Command, Naval Base, Kochi – 682 004.

3. Chief Staff Officer, Southern Naval Command, Naval Base, Kochi – 682 004. **Respondents**

(By Advocate – Mr. Sunil Jacob Jose, SCGSC)

These applications having been heard on 13.12.2013 the Tribunal on

19.02.2014 delivered the following:

O R D E R

By Hon'ble Mr. Justice A.K. Basheer, Judicial Member-

These three Original Applications are being disposed of through this common order since a common issue is involved in them.

2. Applicants are erstwhile Group-I employees (now re-designated as Multi Tasking Staff) working under the Civil Naval Command at Naval Base in Kochi. They have filed these Original Applications challenging the



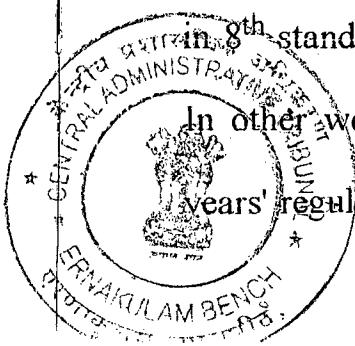
process of direct recruitment initiated by the respondents to fill up 235 vacancies of un-skilled labourers in the Naval Units under the Southern Naval Command. According to the applicants the respondents are bound to absorb them as un-skilled labourers and not to make any direct recruitment from outside, in terms of the provisions contained in the Naval Group C&D Industrial Posts (Tradesman & Labourer) Recruitment Rules, 2000. While seeking to quash the recruitment notice, the applicants pray that the respondents be directed to fill up the above vacancies by absorbing them in accordance with the Rules referred to above.

3. Naval Group C&D Industrial Posts (Tradesmen & Labourers) Recruitment Rules, 2000 (hereinafter referred to as "2000 Rules") were framed by the Government of India, regulating the method of recruitment to Group-C & D posts in the Navy under the Ministry of Defence. The Rules stipulate that method of recruitment to the grade of un-skilled labourer shall be by absorption failing which by direct recruitment.

4. The case of the applicants is that 235 vacancies of un-skilled labourers notified under the impugned recruitment notice have to be filled up by resorting to the method of absorption as provided under the "2000 Rules" and not by direct recruitment as proposed. Applicants contend that they are eligible to be absorbed since they possess the essential qualification of pass

in 8th standard from a recognized board/institution as provided in the Rules.

In other words the contention is that the prescription of minimum of five years' regular service as Group-D employee for absorption is not relevant so

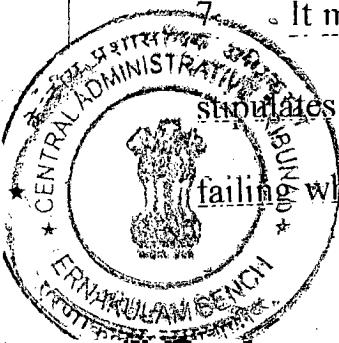


far as they are concerned.

5. It is further contended by them that the heavy backlog of vacancies occurred only because of the laches and inaction on the part of the respondents. Therefore, these vacancies will have to be filed up in terms of the provisions contained in the 2000 Rules. The contention of the applicants is that the Integrated Headquarters, Ministry of Defence (Navy) Group-C Industrial Post (Tradesman) Recruitment Rules, 2012 (for short 2012 Rules) which superseded the 2000 Rules have no application so far as these vacancies are concerned, since they were in existence even prior to the introduction of the 2012 Rules.

6. Respondents have conceded that the notified vacancies are proposed to be filled up only in terms of 2000 Rules, since those vacancies had occurred prior to the introduction of the 2012 Rules. In this context it is pointed out by them that under the 2012 Rules there is no provision for absorption at all. Any how, in view of the above categorical statement made by the respondents in their written statement, the short question that arises for consideration is whether the claim made by the applicants for their absorption as unskilled labourers in terms of "2000 Rules" is legally valid and sustainable.

7. It may at once be noticed that clause 12 in the Schedule of 2000 Rules stipulates that recruitment of unskilled labourers shall be "by absorption failing which by direct recruitment". The above clause is extracted hereunder.



for the sake of convenience:-

"12. **Absorption**- Group-D employees of the Navy or persons serving in analogous, equivalent or higher grades in the lower formation of the defence services with at least 5 (five) years regular service in the pay scale of Rs. 2550-55-2660-60-3200/-,

Or

Persons possessing the qualification and experience as laid down in column 8 for direct recruitment,

(the period of deputation including the period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organization/department of the Central Government shall ordinarily not exceed 03 (three) years.)"

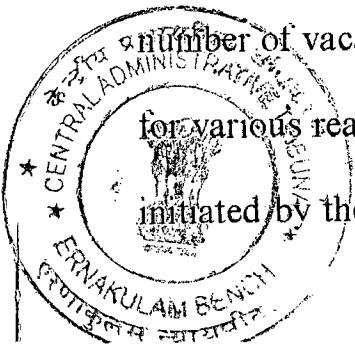
8. A perusal of the above clause will unambiguously show that any Group-D employee of the Navy or any person serving in the Navy or in any analogous, equivalent or higher grades in the lower formation of the defence services with atleast 5 years regular service in the pay scale of Rs.2550-3200/- will be eligible for absorption as un-skilled labourer. According to the applicants the latter part of the clause extracted above, will unambiguously show that any Group D employee possessing the qualification and experience as laid down in column 8 will be entitld to be absorbed in service as skilled labourer. It is contended by them that since they possess the minimum educational qualification of pass in 8th standard as provided in column 8 of the Rules, they fit the bill for absorption. In other words the contention is that the prescription of at least 5 years regular service as Group-D employee is irrelevant or inapplicable in their case. In our view the above contention is wholly misconceived, if not preposterous.



It has been noticed already, the eligibility criteria for absorption have been clearly spelt out in the former part of the clause under column 12. The

latter part refers to the criteria for direct recruitment only. In our view the above two clauses have to be read disjunctively since they are intended to meet two different and distinct contingencies. This interpretation is the most logical and sensible one as otherwise the criteria stipulated for absorption will become totally redundant or meaningless. If the interpretation sought to be given by the applicants is accepted, any Group-D employee who enters the service will automatically become eligible for absorption irrespective of the number of years of regular service. The very concept of absorption which envisages gaining some experience by the employee in the field of his work after his initial recruitment, will be rendered nugatory or absurd in such an eventuality. This could never have been the intention of the framers of 2000 Rules. Still further, the above interpretation given by the applicants will result in a paradoxical situation whereby two sets of eligibility criteria will be created for absorption; of employees with minimum of 5 years regular service and for those with no such minimum regular service at all. Such a preposterous situation would not have been in contemplation of the rule makers.

10. The applicants have raised a contention that the respondents had not made any effort to fill up the large number of vacancies of un-skilled labourers over the past few years, nor had they resorted to the process of absorption from among eligible Group-D employees. Resultantly, large



number of vacancies of un-skilled labourers remained unfilled over the years for various reasons. But it is not in dispute that in February, 2012 steps were initiated by the respondents to fill up the vacancies as provided under 2000

Rules. Accordingly, Annexure R1 notice was issued on February 16, 2012 inviting applications from among eligible Group-D employees for absorption against the vacancies of un-skilled labourers. In response to the above notice, 59 applications were received from Group-D employees who had the requisite regular service of atleast 5 years to their credit. After a due process of selection, 56 out of those 59 employees were duly absorbed as is seen from Annexure A6 order produced by the applicants themselves in OA No. 1179 of 2012. Therefore, the contention raised by the applicants that no opportunity was given to the eligible employees for being absorbed in service as un-skilled labourers is totally belied by their own admission.

11. It is contended by the respondents that none of the applicants in these three Original Applications had got the requisite minimum five years of regular service as Group-D as on January 1, 2012 in order to make them eligible for absorption. A perusal of Annexure A1 list of the members of applicant No. 1-Association will show that none of them had got five years regular service to their credit as on January 1, 2012. It is true that serial No. 8 in Annexure A1 list had got the requisite qualification. However, it is pointed out by the respondents that the said employee had not applied in response to Annexure R1 notice. Therefore, it is obvious that all the applicants in these cases were very well aware when Annexure R1 notice was issued that they were ineligible to be considered for absorption since they did not have the

requisite minimum regular service of 5 years as Group-D. For the aforesaid reasons the contention raised by the applicants that the respondents had not afforded them any opportunity to get themselves absorbed as un-skilled



labourers is wholly untenable.

12. Still further, if in fact the applicants were of the view that minimum five years regular service was not required for absorption as is now being contended by them, they would have, under normal circumstances, made a clamour for such absorption much earlier. There is not even a whisper in their pleadings that such a request was ever made by them at any point of time. Significantly, Annexure R1 notice was never challenged by the applicants. Similarly they do not have a case that any Group-D employee with less than five years' service was ever absorbed as un-skilled labourer in the past. This aspect will also show that the applicants were fully conscious of the fact that regular service of at least five years as Group-D was sine qua non for absorption as unskilled labourer.

13. It has been noticed already that erstwhile Group-D posts were re-designated as Multi Tasking Staff (Ministerial), Multi Tasking Staff (Non-Industrial) and Multi Tasking Staff (Industrial) in July, 2012 as could be seen from Annexure A5. It appears that certain categories like Bearer, Peon etc. have not been re-designated as yet. All the applicants in these three Original Applications except 3 or 4 among them, belong to the Multi Tasking Staff (Ministerial) and (Non-Industrial) whereas re-designated Multi Tasking Staff (Industrial) consists of the erstwhile semi skilled workers, un-skilled labourers and Tradesman (Mate). It is not in dispute that under 2012 Rules there is no provision for absorption of Group-D employees as un-skilled labourer. Instead, it is provided that the vacancies are to be filled through



direct recruitment only. It is pointed out by the respondents that under existing 2012 Rules the applicants are not eligible to be absorbed as un-skilled labourer (now re-designated as Multi Tasking Staff (Industrial)) as they also have been re-designated as Multi Tasking Staff (Non-industrial) or Multi Tasking Staff (Ministerial) as the case may be with equal status as Multi Tasking Staff (Industrial). Any how in our view it is not necessary to consider the impact of introduction of 2012 Rules on the impugned recruitment process since it is admitted by the respondents that all the 235 vacancies are being filled up as per the provisions contained in 2000 Rules.

14. It is further contended by the applicants that there is no statutory provision providing that the qualifying service of minimum 5 years is to be reckoned as on January 1 of the year concerned. In response to the above contention it has been pointed out by the respondents that Annexure R3 office memorandum dated September 17, 1998 is the complete answer to the above un-tenable proposition. In this memorandum issued by the Ministry of Personnel, Public Grievances and Pension, it has been stipulated "that the crucial date for determining eligibility of officers for promotion in case of financial year- based vacancy year would fall on January 1 immediately preceding such vacancy year and in the case of calendar year-based vacancy year, the first day of the vacancy year, i.e. January 1 itself would be taken as the crucial date." Any how neither the applicants nor their Association had raised any objection or protest when Annexure R1 notice was issued inviting

applications from eligible Group-1D employees with five years' regular service for considering their suitability for absorption as un-skilled labourers.



They have not challenged the above Office Memorandum either.

15. Thus having perused the entire materials available on record and having considered the arguments advanced by the learned counsel for the parties, we have no hesitation to hold that the process initiated by the respondents for direct recruitment to fill up the 235 vacancies of un-skilled labourers is fully in accord with the relevant clauses contained in 2000 Rules. In other words the above 235 vacancies which are available after completing the process of absorption, are liable to be filled up only by direct recruitment and not by absorption. It is further held that the applicants are not eligible or entitled for absorption as contended by them since admittedly they did not have the requisite minimum regular service of five years as Group-D employees as on January 1, 2012. It will be open to the respondents to complete the process of selection initiated by them. The interim order is vacated.

16. Original Applications are dismissed. In the peculiar facts and circumstance of the case the parties are directed to suffer their respective costs.

Sd/-

Sd/-

(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER

(JUSTICE A.K. BASHEER)
JUDICIAL MEMBER

CERTIFIED TRUE COPY

Date 20/2/14

Section Officer (Judicial)

