

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.178/95

Thursday, this the 29th day of June, 1995.

CORAM:

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN  
HON'BLE MR SP BISWAS, ADMINISTRATIVE MEMBER

P Muraleedharan,  
Progress Recorder,  
Naval Ship Repair Yard,  
Cochin-4.

- Applicant

By Advocate Mr Varghese Myloth

vs

1. Union of India represented by  
the Secretary to Government,  
Ministry of Defence,  
New Delhi.
2. Chief of Naval Staff,  
Naval Head Quarters,  
New Delhi.
3. Flag Officer Commanding-in-Chief,  
Southern Naval Command,  
Cochin-4. - Respondents

By Advocate Mr TPM Ibrahimkhan, Senior Central Government  
Standing Counsel

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Applicant seeks to quash A5 and A6 orders and prays for a declaration that he qualifies by virtue of his past service as Progress Recorder, to appear for the test for promotion to the grade of Tradesman HS II(PP&C). Applicant would submit that he has put in seventeen years of service as Progress Recorder and that he should not be made to prove his eligibility by a test, at this distance of time. We may recall in this context the observations

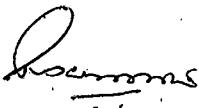
of the Supreme Court in BN Saxena Vs. New Delhi Municipal Committee and others, 1990 SCC(L&S) 588. Dealing with a similar situation, the Court observed:

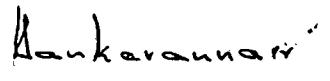
"It would be unreasonable to hold that in addition to this considerable experience, one must also have the diploma qualification prescribed under the first part"

A similar view was expressed in State of U.P. Vs. JP Chaurasia, 1989(1) SCC 121.

2. Respondents 1 to 3 will consider whether applicant should be subjected to a further test to prove his suitability in the light of the principles enunciated in the decisions cited. Till a decision is taken, the operation of A5 and A6 will be held in abeyance.
3. The Original Application is disposed of as aforesaid. No costs.

Dated, the 29th June, 1995.

  
SP BISWAS  
ADMINISTRATIVE MEMBER

  
CHETTUR SANKARAN NAIR(J)  
VICE CHAIRMAN

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**List of Annexures:**

- 1. Annexure A5:** True copy of the order No. NSRY/10/869/5(6) dated 6/4/94 issued by the Civilian Admin. Officer
- 2. Annexure A6:** True copy of the order No. NSRY/10/269/5(6) dated November '94 issued by the Commander Senior Manager (P&A)