

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

Original Application No.361/2012

*friday*..... this the 24<sup>th</sup> day of July 2015

C O R A M :

HON'BLE Mr.JUSTICE N.K.BALAKRISHNAN, JUDICIAL MEMBER  
HON'BLE Mrs.P.GOPINATH, ADMINISTRATIVE MEMBER

Peter George, S/o.P.M.George,  
Lower Division Clerk,  
Headquarters Southern Naval Command,  
Cochin – 682 004.  
Residing at Quarters Type I, A-15, Dawson Vihar,  
Vyttila, Kochi – 682 019. Ernakulam District. ....Applicant

(By Advocate Mr.T.C.Govindaswamy)

V e r s u s

1. Union of India  
represented by the Secretary to the Government of India,  
Ministry of Defence (Navy), South Block, New Delhi – 110 011.
2. The Chief of the Naval Staff,  
Integrated Headquarters,  
Ministry of Defence (Navy), 'C' Wing,  
Sena Bhavan, New Delhi – 110 011.
3. The Flag Officer Commanding in Chief,  
Headquarters Southern Naval Command,  
Naval Base, Cochin – 682 004.
4. The Chief Staff Officer (P&A),  
Headquarters Southern Naval Command,  
Naval Base, Cochin – 682 004.
5. The Staff Officer (Civilian Personnel),  
Headquarters Southern Naval Command,  
Naval Base, Cochin – 682 004. ....Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGC)

This application having been heard on 15<sup>th</sup> July 2015 this Tribunal  
on 24<sup>th</sup> July 2015 delivered the following :



ORDERHON'BLE Mrs.P.GOPINATH, ADMINISTRATIVE MEMBER

The applicant a Lower Division Clerk, in PB-1 Rs.5200-20200/- plus grade pay Rs.1900/-, is aggrieved by denial of chance to appear in the Limited Departmental Competitive Examination (LDCE) for promotion to Upper Division Clerk (UDC). Applicant is short of qualifying service by 9 days as on 1.1.2011. As per Annexure A-3 Recruitment Rules (RR) filling up the post of UDC is to be made 75% by promotion of LDC and 25% by Limited Departmental Competitive Examination of LDCs and Hindi Typist who have rendered five years regular service in the grade and with an age limit of 40 years/45 years for General/SC/ST candidates respectively. Applicant has drawn attention to note 1 in the RR which states that where juniors who have completed their qualifying eligibility service are being considered for promotion, their seniors would also be considered provided they are not short of the requisite qualifying eligibility service by more than half of such qualifying eligibility service or two years whichever is less.

2. Respondents in the reply statement have cited the non completion of five years qualifying service as the main factor disqualifying the applicant. Applicant was appointed on 9.1.2006 and completes qualifying service on 9.1.2011. The crucial date for determining eligibility service criteria is 1.1.2011. Note 1 in Recruitment Rule referred by the applicant applies to "promotion" quota and is not applicable to the applicant who is applying under the Limited Departmental Competitive Examination quota.



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3. Heard arguments for applicant and respondents. The applicant is seeking relaxation of 9 days for appearing in LDCE for promotion to UDC. Such a relaxation if given to applicant would result in denial of opportunity to similarly placed candidates in the recruitment year. Further the qualifying service has been stipulated by the nodal ministry on personnel matters in the Government of India ie. Department of Personnel, Public Grievances and Pension as a uniform qualifying service criteria for similar cadres of all departments of the Government of India. Such examinations are held at regular intervals and the candidate has the option of appearing in future UDC examinations, against the 25% quota. As per guidelines issued regarding the conduct of examination, it is held during the month of July/August or in the month administratively convenient to the respective Command Headquarters and hence sufficient opportunity is available to the applicant.

4. Note 1 in the Recruitment Rules below column 12 pointed out by the applicant refers to promotion quota, not the Limited Departmental Competitive Examination quota, wherein a junior with qualifying service is considered, their seniors should also be considered provided they are not short of qualifying service by more than half the service prescribed. This is clarified from Col.10 which stipulates two modes of filling up the post, namely, 75% by promotion of LDC and Hindi Typist with 8 years regular service in the grade and secondly 25% through LDCE of LDC and Hindi Typist of the cadre who have rendered 5 years regular service in the grade



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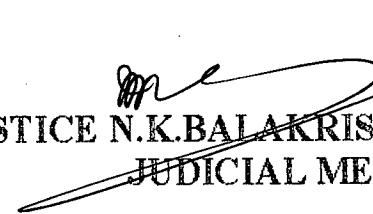
with age limit of 40. The first mode above uses the mode promotion and the second mode does not use the term "promotion". Note 1 below column 12 also states that where a junior who completes qualifying eligibility service is being considered for 'promotion', their seniors would also be considered. Hence the critical and relevant term in the recruitment rules to which Note 1 below Column 12 refers is 'promotion'. That the Recruitment Rules for promotion and LDCE are different is also clear from the respective qualifying service prescribed as 8 years and 5 years respectively. Hence the respondents have fixed different criteria for the two types of escalation from LDC to UDC and to extrapolate the conditions of promotion to be applied to LDCE is inappropriate and unfair to all similarly placed.

5. The applicant has not applied for the examination knowing very well that he is short of the eligibility criteria and hence on that ground also he has no locus standi to claim any relief.

6. The Original Application is dismissed. No order as to costs.

(Dated this the 24<sup>th</sup> day of July 2015)

  
P.GOPINATH  
ADMINISTRATIVE MEMBER

  
JUSTICE N.K.BALAKRISHNAN  
JUDICIAL MEMBER

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