

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

WP(C).No. 25800 of 2014 (Y)

PETITIONER(S) :

**DHANASREE.D, AGED 28 YEARS,
D/O.GIRIJAKUMARI, UPPER DIVISION CLERK,
KERALA STATE BEVERAGES (MANUFACTURING AND MARKETING)
CORPORATION LTD., WAREHOUSE, PETTAH, TRIPUNITHURA-682 301.**

**BY ADVS.SRI.P.B.SAHASRANAMAN
SRI.T.S.HARIKUMAR
SRI.K.JAGADEESH**

RESPONDENT(S) :

**KERALA STATE BEVERAGES (MANUFACTURING & MARKETING)
CORPORATION LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR,
SASTHAKRIPA OFFICE COMPLEX, SASTHAMANGALAM,
THIRUVANANTHAPURAM-695 010.**

BY ADV. SRI.C.S.AJITH PRAKASH, S.C

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 25800 of 2014 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE PHOTOSTAT COPY OF THE PROCEEDINGS OF
THE RESPONDENT, DATED 12-10-2010.**

**EXHIBIT P2: TRUE PHOTOSTAT COPY OF THE ORDER NO.1002/2012/AEI/KSBC,
DATED 28-10-2013.**

**EXHIBIT P3: TRUE PHOTOSTAT COPY OF THE REPRESENTATION MADE BY
THE PETITIONER TO THE RESPONDENT, DATED 15-01-2014.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

W.P.(C)No.25800 of 2014

Dated this the 11th day of February, 2015

JUDGMENT

The petitioner was appointed as Lower Division Clerk (LDC) under the dying-in-harness scheme. The petitioner is a Post graduate. The petitioner was promoted as Upper Division Clerk(UDC). The present writ petition is filed seeking a further promotion to the post of Assistant Grade-I. As per the service rules prevailing in the Kerala Beverages Corporation, there is no further promotion to the category of UDC. Accordingly, the petitioner requests for further promotion as Assistant Grade-I, has been declined.

2. The petitioner submits that all pay band applicable to UDC is the same that of the Assistant Grade-II. The Assistant Grade-II is the feeder category to the Assistant Gr.I for the purpose of promotion. It is the case of the petitioner

that qualified LDC is also eligible for promotion as Assistant Grade-II. Therefore, merely because of the petitioner has been promoted as UDC, she cannot be denied promotion to the Assistant Grade-I.

3. As rightly pointed out by the learned Standing Counsel that there is no provision in the Rules for promotion from UDC to the Assistant Grade-I. However, the question is whether the Assistant Grade-II can be equated with UDC for the purpose of promotion. Perhaps, it may be an anomaly in the rules and it is for the Beverages Corporation to correct the anomalies existed in the Rules. However, it is possible for the petitioner to request for a category change to the post of Assistant Grade-II. If the petitioner's category change is allowed, necessarily, the petitioner can aspire for promotion as Assistant Grade-I, as otherwise the petitioner appears to have been qualified for promotion.

4. The learned counsel for the petitioner also submits that even without category change, she is entitled for promotion as it is clearly seen from the rules that the Assistant Grade-II is equated with UDC for all purposes and therefore, the petitioner is entitled for promotion to the post of the Assistant Grade-I. I am of the view that this issue can be left open. The petitioner can approach the Corporation for a category change as Assistant Grade-I. If such request is made by the petitioner within two weeks, the same shall be considered within a further period of four weeks. If the category change is allowed, the petitioner shall be considered for promotion to the post of Assistant Grade-I without any delay if there are any vacancies of Assistant Grade-I exists. In view of the above, all issues in the writ petition are left open.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE