

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.423 OF 2007

FRIDAY, this the 3RD day of October, 2008.

CORAM:

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER

M.P.George
Crane Operator
Marine Engineering Division
Fishery Survey of India
Foreshore Road,
Cochin - 16 : **Applicant**

(By Advocate Mr. Millu Dandapani)

v.

1. Union of India represented by Secretary
Department of Animal Husbandry
Dairying and Fisheries
Ministry of Agriculture
Krishi Bhavan,
New Delhi
2. Director General
Fishery Survey of India
Mumbai
3. Zonal Director
Fishery Survey of India
Foreshore Road,
Cochin -16 : **Respondents**

(By Advocate Mr. TPM Ibrahim Khan, SCGSC)

The application having been heard on 16.09.2008, the Tribunal
on 03.10.2008 delivered the following:

O R D E R

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

The applicant, an ex-serviceman, joined civil employment in 1985
as driver on ad hoc basis in the Integrated Fisheries Project in the erstwhile
scale of Rs 260 – 350/-, vide Annexure A-1 order dated 10-10-1985. This



adhoc stamp was removed w.e.f. 01-02-1986 vide Annexure A-2 order dated 26-02-1986. He was thereafter, promoted to the post of Driver (Heavy Vehicle) in the grade of Rs 1150 – 1500 w.e.f. 01-09-1990 vide Annexure A-3 order dated 20-09-1990.

2. Vide Annexure A-4 order dated 22-12-1993, the applicant was appointed as Crane Operator (GCS Group 'C' Non-Gazetted Non-Ministerial) in the Integrated Fisheries Project in the pay scale of Rs.1,200-1,800/- w.e.f. 07-10-1995. His pay was accordingly fixed at Rs 1260 plus P.P. of Rs 25/- . In the wake of the Fifth Central Pay Commission Recommendation, the pay scale of the applicant was revised to Rs 4,000 – 6,000/- and pay fixed accordingly at Rs 4,100/- plus PP Rs 25/- vide Annexure A-7.

3. The respondents have revised the structure of Staff Car Drivers and seven drivers in the respondents' organization have been accordingly designated and fitted in the respective pay grades. However, the applicant who is a crane operator has not been given the benefit of the re-structure. It is the case of the applicant that he having enshouldering higher responsibilities, should be placed in the scale of Rs 4,500 – 7,000 instead of Rs 4,000 – 6,000/. He had, therefore, penned various representations (Annexure A-10 to 14)and these not having been responded to, the applicant has come up before this Tribunal seeking the following relief(s):-

- (a) direct the 1st and 2nd respondents to consider and dispose of Annexure A10, A11, A12 and A14 representation, pending before them by passing speaking order, within a period of one month;
- (b) to direct the 1st respondent to refix the scale of pay of the applicant working as Crane Operator presently in the scale of Rs 4000 – 6000 to the next higher scale of Rs 4500 – 7000 (Staff Car Driver Grade I)



4. Respondents have contested the O.A. Their contention is that the post of Crane Operator is a direct recruitment post, vide Annexure R-1 and the applicant, on selection to that post, had tendered his resignation from the post of Staff Car Driver vide Annexure R-2. Again, restructuring has taken place only with reference to Staff Car Drivers and not Crane Operators, which does not come within the hierarchy of Staff Car Driver. As such, there being no link between the post of Staff Car Driver and Crane operator, any pay scale revision in the posts of Staff Car Drivers cannot result in any corresponding revision in the post of Crane Operator, nor can the applicant link his position with the grade of Staff Car Drivers, from where he had severed all his links at the time when he accepted the appointment as Crane Operator.

5. Applicant in the rejoinder submitted that admittedly the post of Crane Operator is of higher responsibilities and duties and the said post was carrying a higher pay scale than Driver (Heavy Vehicle) altogether. And by virtue of agitation of Drivers, the scale of pay of Drivers has been revised as per Annexure R-3, whereas there has been a conspicuous silence over revision of pay scale of crane operator. Thus, there is arbitrariness.

6. Respondents have filed their additional reply statement stating that restructuring of pay scale of staff car drivers was in the wake of a decision of the Principal Bench of the Tribunal and in so far as crane operator is concerned, separately, there has been a suggestion from FSI to the VI Pay Commission. Again, since the applicant and other 100 odd persons were transferred from IFF to FSI and amendment to the Recruitment Rules in FSI being in the process of finalization, financial



upgradation under the ACP scheme in respect of the employees transferred from IFP to FSI would be processed on the framing of the Recruitment Rules.

7. Counsel for the applicant argued that this is a case where admittedly, the post of Crane Operator carries higher responsibilities than staff car drivers (Heavy Vehicles) and in that event, as and when there has been an upward revision of the pay scale of Drivers (Heavy Vehicle) a corresponding upward revision is fully justified and omission to so revise would result in higher pay for lesser responsibility, which would be rather imbalanced. He has therefore, submitted that a direction to the respondents to consider the representation or for consideration of the suggestions from FSI to VI Pay Commission would render justice to the case of the applicants.

8. Counsel for the respondents submitted that the prayer is for disposal of representation on the one hand and direction to the respondents to afford the applicant the pay scale of Rs 4,500 – 7,00 on the other. These two cannot simultaneously be directed.

9. Arguments were heard and documents perused. Admittedly, the post of Crane Operator is a direct recruitment post and it has no link with the hierarchy of Staff Car Drivers. Though the applicant had earlier been serving as Staff Car Driver, he had severed his connection with that hierarchy, the day he joined as Crane Driver. The respondents have already taken up the matter with the VI pay commission for pay scale revision of Crane Operator. It is for the Pay Commission or any anomaly Committee that may be operating or for that matter the Government to



consider the same in its proper perspective. No vested existing right of the applicant has been hampered. What the applicant claims is creation of a new right. It is purely for the government to consider. That the respondents have not responded to the representations cannot be agitated now, since, by their reply and additional reply, these stand responded to, thought in negative tone. However, the solace is that the Respondents have recommended higher pay scale and also have stated that the question of ACP would be considered on the finalization of amendment to the Recruitment Rules. These actions on the part of the respondents should be satisfactory to the applicant, as these are without any provocation from the applicant and are the suo-motu action by the respondents. The wind appears to be in the favourable direction of the applicant.

10. The applicant may have to wait till the government considers revision of pay scale for the post of Crane Operator in FSI and arrives at a decision. It is hoped that an early decision would be taken in this regard. Similarly ACP benefits too could be granted on finalization of amendment to the Recruitment Rules, as already proposed by them.

11. Under the circumstances, no case has been made out by the applicant. Hence, the OA is dismissed. No cost.

Dated, the 3rd October, 2008.



K.NOORJEHAN
ADMINISTRATIVE MEMBER



Dr.K.B.S.RAJAN
JUDICIAL MEMBER

vs