

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 475 of 2002

Tuesday, this the 15th day of March, 2005

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

1. C.K. Ramesh,
S/o Kuttalam Pillai,
Assistant Engineer (Design),
Integrated Fisheries Project, Kochi - 16
Residing at Quarters No. 8,
Integrated Fisheries Project Quarters,
Kochi - 16

.... Applicant

[By Advocate Shri T.A. Rajan]

Versus

1. Union of India represented by the
Secretary to Government of India,
Ministry of Agriculture, Department of
Animal Husbandary & Dairying,
Krishi Bhavan, New Delhi.
2. The Secretary,
Ministry of Personnel, Public Grievances
& Pension, Department of Personnel & Training,
New Delhi.
3. The Director in Charge,
Integrated Fisheries Project,
Kochi - 16

.... Respondents


[By Advocate Shri T.P.M. Ibrahim Khan, SCGSC]

The application having been heard on 15-3-2005, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN


The applicant, who initially joined the Integrated Fisheries Project as Superintendent (Planning, Scheduling & Control) with effect from 10-5-1978, being successful in a recruitment process by the Union Public Service Commission was appointed as Assistant Engineer (Design) in May, 1980. The qualification prescribed for the post of Assistant Engineer (Design) was a Degree in Mechanical Engineering with one year experience in the design department of a recognized Marine Engineering Workshop or Diploma in Mechanical Engineering with three years experience. The applicant possessed Diploma in Mechanical Engineering with three years experience. The next post in the hierarchy is Mechanical Marine Engineer for which a Degree in Mechanical Engineering is the essential qualification. The applicant, who does not possess that qualification, did not get the promotion and he is continuing in the entry grade ever since. His case for placement in the higher scale under the ACP Scheme was placed before the Screening Committee and the Screening Committee finding that the applicant did not possess the essential qualification for promotion to the next higher post in



the hierarchy suggested placement of the applicant in the next higher general scale of Rs.7450-11500. However, the benefit of ACP Scheme was not given to him and to his repeated representations he was told by the impugned order Annexure A5 dated 5-1-2002 that though the matter was referred to the Ministry, the Ministry disagreed to grant him financial upgradation because he did not fulfill the essential qualification for promotion to the next higher post. Aggrieved, the applicant has filed this application seeking to set aside the impugned Annexure A5 order and for a direction to the respondents to grant the first financial upgradation in the grade of Rs.10000-15200 with effect from 9-8-1999 and the consequential benefits etc. or in the alternative to grant the first financial upgradation to the scale of Rs.7450-11500 with effect from 9-8-1999. It has been alleged in the application that since the applicant does not possess the essential qualification for promotion to the next higher post, the post of Assistant Engineer (Design) held by him should be treated as an isolated post for want of adequate promotional avenues.

2. The application is resisted by the respondents by filing a detailed reply statement.


3. Learned counsel of the applicant with considerable tenacity argued that since the applicant admittedly does not have the essential qualification



for promotion to the next higher post of Mechanical Marine Engineer, the applicant should be deemed to be holding an isolated post and the benefit of ACP Scheme in terms of paragraph 7 of Annexure A1 could have been granted to the applicant if the next higher grade in the hierarchy, i.e. Rs.10000-15200 cannot be granted to the applicant. Counsel also referred to Annexure A7 and A8 orders by which stagnation increment has been granted to the applicant recognizing the fact that he has no promotional opportunity.

4. Learned counsel of the respondents argued that since there is a post of Mechanical Marine Engineer in the hierarchy of service about Assistant Engineer (Design), the post of the applicant cannot be treated as an isolated post and, therefore, in terms of paragraph 6 of Annexure A1 to the Scheme of ACP, the applicant is not entitled to the financial upgradation.

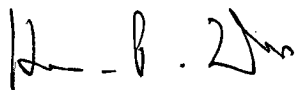
5. We find considerable force in the arguments of the learned counsel of the applicant while we do not find any such force in the arguments of the learned counsel of the respondents. Since the possession of Degree in Engineering is a condition precedent for promotion to the post of Mechanical Marine Engineer and as the applicant does not have that qualification, he does not have adequate avenues of promotion and in effect he is holding an isolated post. No departmental examination for promotion



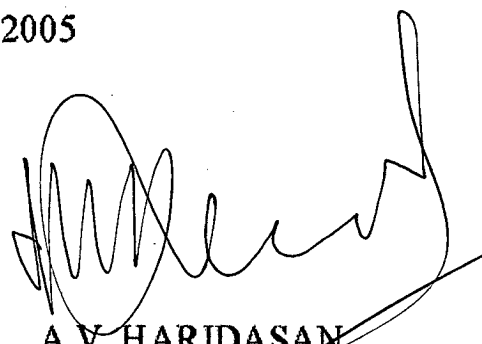
to the post of Mechanical Marine Engineer also is prescribed in the Recruitment Rules. Under these circumstances, it should be deemed that the applicant is holding an isolated post and his case should have been considered in terms of paragraph 7 of Annexure A1 to the ACP Scheme and granted the financial upgradation to the next higher grade of Rs.7450-11500 personal to him.

6. In the result, the Original Application is allowed in part. Respondents are directed to consider the case of the applicant for placement in the scale of Rs.7450-11500 with effect from 9-8-1999 and issue resultant orders and if the same is granted, arrears resulting therefrom shall also be made available to the applicant within a period of two months from the date of receipt of a copy of this order. No order as to costs.

Tuesday, this the 15th day of March, 2005



H.P. DAS
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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