

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

**Original Application No.503/2008
Dated the 18th day of June, 2009**

CORAM :

**HON'BLE Mr GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE Ms K.NOORJEHAN, ADMINISTRATIVE MEMBER**

K R Kuttappan,
Assistant Foreman,
Fishery Survey of India, Kochi-682 016.
residing at Kallukalayil House,
Vachirakara, Kaduthuruthy P.O.,
Kottayam.

... Applicant

By Advocate Mr P A Kumaran

V/s

- 1 Union of India, represented by the Secretary,
Ministry of Agriculture,
Department of Animal Husbandry and Dairying,
New Delhi.
- 2 The Director General,
Fishery Survey of India,
Mumbai.
- 3 Regional Director,
Fishery Survey of India,
Kochangadi, Kochi-682 005. ... Respondents

By Advocate Mr TPM Ibrahim Khan SCGSC

This application having been heard on 18.06.2009 the Tribunal on the same day delivered the following common

(ORDER)

HON'BLE MR GEORGE PARACKEN, JUDICIAL MEMBER

The grievance of the applicant is that he has not been granted

2nd ACP w.e.f. 28.8.2007.



2 The brief facts of the case are that the applicant was initially recruited as Blacksmith in Integrated Fisheries Project w.e.f. 3.9.1979. Thereafter, he got appointment as Assistant Foreman on direct recruit basis. The Government of India has introduced the Assured Career Progress Scheme (ACP scheme for short) w.e.f. 9.8.1999. According to the said scheme, the 1st ACP is admissible to a Government Servant on completion of 12 years service and the 2nd ACP on completion of 24 years. The applicant was granted the 1st ACP w.e.f the date from which the ACP scheme has come into force. Thereafter, on re-organisation of the Integrated Fisheries Project w.e.f. 19.5.2005, the applicant was transferred to Fishery Survey of India, Kochi in same capacity. On completion of 24 years of service as Assistant Foreman on 27.8.2007, the applicant made the Annexure A-5 representation dated 14.1.2008 requesting the respondents to grant him 2nd ACP in the scale of Rs.6500-105000. As the respondents have not given any reply to the same, the applicant has approached this Tribunal.

3 The objection raised by the respondents in the reply statement to grant the 2nd ACP to the applicant is that there is no separate Recruitment Rules for 31 categories of posts transferred from Integrated Fisheries Project to Fishery Survey of India including the post of Assistant Foreman held by the applicant. According to them in the absence of fresh Recruitment Rules or without amending the existing recruitment rules the applicant cannot be granted ACP.

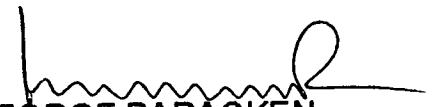
4 We have heard Advocate Mr P A Kumaran, learned counsel

for applicant and Advocate Ms Jisha for Mr TPM Ibrahim Khan Senior Central Government Standing Counsel, learned counsel for respondents. In our considered view the stand taken by the respondents is absolutely incorrect and irrational. The applicant was transferred from the Integrated Fisheries Project to Fishery Survey of India in the same capacity of Assistant Foreman and with the same payscale. The general principle is that when a person is transferred from one department to another, he can carry the same seniority in the previous department, unless otherwise specified. Framing of fresh rules for the very same post in the transferred department is not relevant as far as granting of ACP is concerned. The respondents were expected to count the entire service rendered by the applicant as Assistant Foreman from 27.8.1983 for reckoning the date for granting him 2nd ACP.

5 We, therefore, direct the 2nd respondent to grant the Applicant the 2nd financial upgradation in terms of the ACP scheme taking into consideration his total service as Assistant Foreman w.e.f. 27.8.1983. The respondents shall issue the necessary orders in this regard to the applicant within a period of two months from the date of receipt of copy of this order and the consequent arrears of pay and allowances shall also be paid to him within a period of one month thereafter.

8 With the aforesaid direction, the OA is allowed. There shall be no orders as to costs.


K NOORJEHAN
ADMINISTRATIVE MEMBER


GEORGE PARACKEN
JUDICIAL MEMBER

abp