

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 552 of 2009

Monday, this the 07th day of June, 2010

CORAM:

**HON'BLE Mr. JUSTICE K. THANKAPPAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Nirmal Mathews,
S/o. Late M.V. Mathews,
Santhosh Bhawan,
Kadavanthra P.O., Kochi.
Bosun (Technical Officer) (T5),
Tuticorin, Research Centre of Central
Marine Fisheries Research Institute, Kochi.

... Applicant.

(By Advocate Mr. P.K. Madhusoodhanan)

v e r s u s

1. The Director,
Central Marine Fisheries Research Institute (CMFRI),
(Indian Council of Agricultural Research),
P.B. No. 1603, Ernakulam North P.O.,
Kochi – 682 018
2. The Director General,
Indian Council of Agricultural Research (ICAR),
Krishi Bhavan, Dr. Rajendra Prasad Road,
New Delhi – 110 001
3. Indian Council of Agricultural Research,
Represented by its Secretary, Krishi Bhavan,
New Delhi
4. Union of India, Represented by its Secretary,
Ministry of Agriculture, New Delhi – 1 ... Respondents.

(By Advocates Mr. T.P. Sajan for R1-3 and
Mr. Sunil Jacob Jose, SCGSC, for R-4)

This application having been heard on 01.06.2010, the Tribunal on 07.06.10
delivered the following:



ORDER**HON'BLE MR. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

The applicant is working as Bosun (Technical Officer) grade T-5 in category II in the Central Marine Fisheries Research Institute (CMFRI), Kochi, since 01.07.1991. He stagnated in the pay scale of Rs. 6500-10500 since July, 2009. His representation for 5 yearly assessment promotion to Grade T-6 in category III as per the then Technical Service Rules (TSR, for short) was not considered on the ground that the revision of recruitment rules for the vessel staff is under consideration. When the new recruitment rules were introduced, his request for extension of time for exercising his option for the then existing TSR or for the new TSR was turned down. His representation dated 19.09.2008 for grade T-6 from the date of his eligibility with all consequential benefits granting exemption from educational qualifications stipulated for direct recruitment has not been considered so far. Hence this O.A.

2. The applicant was appointed in the CMFRI as T-II-3 in category II with effect from 03.06.1980. His qualifications were SSLC, Fishing 2nd Hand Training Certificate, Fishing 2nd Hand Competency Certificate, Competency (Skipper) Certificate from MMD (Mercantile Marine Department). He was promoted as T-4 (Bosun) with effect from 01.01.1986. He was further promoted to grade T-5 (Bosun) on 01.07.1991. On completion of 5 years service as T-5 (Bosun) he was granted 3 advance increments in the same grade on 01.07.1996. The applicant was not possessing the requisite qualification of 3 years' Diploma/Bachelor's degree for further promotion to T-6 grade. Consequent upon the implementation of the new TSR, the applicant had an opportunity to opt for old TSR, but he did not avail of the opportunity. Therefore, he was deemed to have opted for the new



TSR. As per the new TSR also, not having the Master's degree, the applicant is not eligible for promotion to T-6 grade.

3. The applicant submits that the restriction of promotion to the incumbent in grade T-5 on the basis of their existing qualifications beyond grade T-5 is highly arbitrary and unreasonable. The applicant is not appointed to a job but to whole career having avenues of promotion. The applicant alone has been discriminated against. He has been denied reasonable opportunity of extension of time for opting either the old TSR or the new TSR. The Master's degree in the relevant field prescribed for direct recruitment to category III is not available in India. Therefore, the 3rd respondent, namely Indian Council of Agricultural Research (ICAR) should be directed to consider and pass order on merit on his representation dated 19.09.2008 and promote the applicant to T-6 grade in category III.

4. The respondents have contested the O.A. They submitted that the applicant does not possess essential qualifications for promotion to category III prescribed in the old or new TSR. However, it has been decided to consider the applicant for promotion to T-6 grade as a special case as per the revised recruitment rules for the post of Skipper grade II subject to the condition that he is found fit for promotion by the duly constituted assessment committee with effect from 19.08.2008, i.e the date of formation of revised recruitment rules for vessel staff. The respondents have initiated action to place his case before the assessment committee.

5. In the rejoinder, the applicant submits that he is a skilled staff with vast experience. No qualification was prescribed for vessel staff. Therefore, he could

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have been given assessment promotion to T-6 grade on completion of 5 years in T-5 grade. By prescribing qualification not available in India, the applicant should not be made to suffer the loss of promotion.

6. Heard the learned counsel for the parties and perused the documents.

7. It is seen that the applicant has been given maximum benefit accrued to him in commensurate with his qualifications as per the old TSR. As he does not possess minimum required qualification of 3 years' Diploma/Bachelor's degree, he is not eligible for further promotion to T-6 grade after 12 years of service as stated by the respondents. However, the respondents have now decided to consider the applicant for promotion to T-6 grade in the pay scale of Rs. 8000-275-13500 with effect from 19.08.2008 as per the revised recruitment rules. This being done as a special case in the light of the representation made by the applicant. However, the applicant prays for promotion to T-6 grade from the date of his eligibility with all consequential benefits granting exemption from educational qualification stipulated for direct recruitment. He is the sole employee working as Bosun Grade T-5 in CMFRI, Kochi, for the last 18 years without any promotion.

8. In the light of the above, we feel that this O.A. can be disposed of by directing the respondents to consider the representation of the applicant dated 19.09.2008 as a special case as he is holding an isolated post without any promotion for the last 18 years. Accordingly, the respondents are directed to consider the representation dated 19.09.2008 from the applicant with utmost sympathy within a period of three months from the date of receipt of a copy of this order.

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9. The O.A. is disposed of as above. No order as to costs.

(Dated, the 07th June, 2010)


K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER


JUSTICE K THANKAPPAN
JUDICIAL MEMBER

cvr.