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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.572/05

Monday this the 26th day of June 2006

C O R A M :

**HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN
HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER**

P.M.Sadanandan,
Skipper (Rtd.), C.I.F.N.E.T.,
41/152, Elamkulam, Kaloor P.O., Cochin – 17.

...Applicant

(By Advocate Mr.C.S.G.Nair)

Versus

1. The Director,
Central Institute of Fisheries, Nautical &
Engineering Training, Fine Arts Avenue,
Ernakulam, Cochin – 682 016.
2. Union of India represented by the Secretary,
Ministry of Agriculture, Krishi Bhavan,
New Delhi – 110 001.

...Respondents

(By Advocate Mr.T.P.M.Ibrahim Khan, SCGSC)

This application having been heard on 26th June 2006 the Tribunal on the same day delivered the following :-

ORDER

HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN

This application has been filed seeking grant of financial upgradation under ACP Scheme. The applicant retired from service as Skipper from the 1st respondent's office on 31.12.2001. He was ^{initially} selected by the Union Public Service Commission as Skipper in Pelagic Fisheries Project and appointed with effect from 26.3.1973. He was transferred to C.I.F.N.E.T i.e. to the 1st respondent's office as per order dated 31.8.1979. Unfortunately the service of the applicant was terminated with immediate effect on 6.11.1983. Aggrieved by the same he has approached this Tribunal in O.A.49/87. This Tribunal had quashed the order of termination

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and directed the respondents to reinstate the applicant forth with. He has been continuing in the post since then. The ACP Scheme was introduced with effect from 9.8.1999 but unfortunately this order was not implemented in the case of the applicant till his retirement from service on 31.12.2001. He had been representing to the respondents for grant of the same. Annexure A-2 order dated 8.7.2002 was issued sanctioning the 1st financial upgradation with effect from 1.4.2000. The applicant again approached this Tribunal seeking a direction that he was entitled to the 2nd financial upgradation under the ACP Scheme with effect from 9.8.1999 in which a direction was given to the respondents to consider the representation of the applicant taking into account the service particulars of the applicant furnished in his representation. The respondents then passed Annexure A-7 impugned order rejecting the claim of the applicant on the ground that his past service in the Fisheries Project cannot be taken into account in the case of ACP Scheme and his date of appointment can be counted only from 1.10.1979.

2. The respondents have filed the reply statement stating that the applicant has been granted financial upgradation with effect from 1.4.2000 as per the recommendations of the Screening Committee and the applicant has not completed 24 years of regular service as he joined the organisation only on 1.10.1979 and that reasons for postponement of the date cannot be communicated to the applicant. They have also filed additional reply statement after the matter had come up for hearing on 1.6.2006 stating that the grant of 2nd financial upgradation under the ACP Scheme to the applicant has been taken up with the Department of Personnel & Training and they have agreed in principle for consideration of the same. They have also filed a copy of the communication from the Ministry of Agriculture

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addressed to the Director, C.I.F.N.E.T (Annexure R-2) requesting to send a proposal for grant of 2nd upgradation under ACP Scheme to the applicant dated 19.5.2006. The respondents, therefore, submitted that since the applicant's claim is under consideration, the matter has become infructuous.

3. Counsel for the applicant submitted that though the respondents have stated that the matter is being considered he would like to emphasize the point that consideration of the applicant under the ACP Scheme has to be on the basis ^{of} his date of entry into service on 26.3.1973 and not on 1.8.1979 as earlier [~]contended by the respondents. The judgment of this Tribunal in earlier OA 49/87 is very clear in this aspect that the applicant was reinstated in service and his termination was quashed and the order having become final, he is entitled to count his past service from 1973 onwards.

4. Since the respondents have now submitted that the matter of granting 2nd financial upgradation to the applicant has been accepted in principle we presume that the respondents are satisfied that he has completed 24 years of service as on the date of implementation under ACP Scheme. Therefore, we are of the view that the respondents will duly consider this aspect regarding the date of 1st appointment and completion of required period of service, while examining his case in accordance with the guidelines under the Scheme and no separate directions are required in this matter as the prayer of the applicant itself is to declare him eligible for 2nd financial upgradation under the ACP Scheme with effect from 9.8.1999. When the respondents have conceded that they are going to consider the applicant for 2nd financial upgradation we feel that at this

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stage this OA can be closed with the direction to the respondents to consider the case of the applicant for the 2nd financial upgradation under the ACP Scheme with effect from 9.8.1999 in accordance with the guidelines prescribed under the Scheme read with the clarifications issued by the Department of Personnel in subsequent O.Ms. Respondents shall also revise the retirement benefits of the applicant in accordance with the revised scales to be granted. The above directions shall be complied with within a period of three months from the date of receipt of a copy of this order. No order as to costs.

(Dated the 26th day of June 2006)



GEORGE PARACKEN
JUDICIAL MEMBER



SATHI NAIR
VICE CHAIRMAN

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