

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 283/2008

Dated this the 21st day of January, 2010

C O R A M

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

**C.K. Ramesh S/o C. Kuttalam Pillai
Retired Assistant Engineer (design)
Fishery Survey of India
Marine Engineering Division, Kochi-16
Residing at Uma Bhavan, 27/2914
Soyus Lane, Kadavanthra
Kochi-20**

Applicant

By Advocate Mr. T. A Rajan

Vs.

**1 Union of India represented by the Secretary
Govt. Of India, Ministry of Agriculture
Department of Animal Husbandry
Dairying & Fisheries
Krishi Bhavan, New Delhi-1**

**2 The Deputy Director General
Fishery Survey of India
Botawala Chambers, Sir PM Road
Mumbai-1**

**3 The Zonal Director
Marine Engineering Division
Cochin Base of Fishery Survey of India
Kochi-16**

..Respondents

By Advocate Mr. Subhas Syriac ACGSC

The Application having been heard on 7.1.2010 the Tribunal delivered the following:

ORDER

HON'BLE SMT. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant, a retired Assistant Engineer seeks promotion on the basis of amended Recruitment Rules.

2 The applicant was initially appointed as Assistant Engineer (Design) in the Integrated Fisheries Project, Kochi in May, 1980 and continued in the said post for more than 27 years without getting any promotion. The next promotion post is Mechanical Marine Engineer. The required qualification to the said post as per the Recruitment Rules is Degree in Mechanical Engineer. Thus the applicant who had only Diploma in Mechanical Engineering was not considered for promotion and was also not granted the Assured Career Progression Scheme benefits. The Recruitment Rules have since been amended w.e.f. 30.1.2007 according to which the applicant is eligible for consideration. The grievance of the applicant is that the respondents did not consider him for promotion despite his repeated representations, having completed 27 years of experience in the post of AE(design), they are not filling the post of Mechanical Marine Engineer from the date the amended Recruitment Rules came into force and non-consideration is discriminatory and violative of Articles 14 and 16. Hence he filed this Application to direct the respondents to consider him for promotion to the post of Mechanical Marine Engineer w.e.f. 30.1.2007 with all consequential benefits and to refix the pension and pensionary benefits accordingly.

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3 The respondents in their reply statement submitted that the applicant became eligible to be considered for promotion to the post of Mechanical Marine Engineer w.e.f. the date of amendment of the Recruitment Rules i.e. 31.01.2007. The amended Recruitment Rules were notified on 12.8.2007 (A-1) with retrospective effect from 31.1.2007. Subsequent to the amendment of the Rules one vacancy had occurred on 1.5.2007. A proposal for promotion to the said vacancy was sent to the UPSC for conducting DPC meeting. The name of the applicant is included in the list of eligible candidates. The proposal is under consideration of the UPSC and any officer who is recommended by the DPC will be promoted only with prospective effect. However, the applicant having taken voluntary retirement on 10.1.2008 and the promotion shall have prospective effect, the question of his promotion does not arise. However, they submitted that he became eligible for financial upgradations under the ACP scheme w.e.f. 30.1.2007. Accordingly first ACP was granted to the applicant vide Annexure R-1 w.e.f. 30.1.2007. As regards 2nd ACP because the grading of the applicant was below the bench mark of **Very Good**, the Committee did not recommend him.

4 We have heard the learned counsel for the parties and have gone through the pleadings.


5 We notice that the name of the applicant find a place in the list sent to the UPSC for selection to the one post of Marine Mechanical Engineer which fell vacant after the amended rules were notified on 12.8.2007. But the applicant having voluntarily retired from

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service, he cannot take charge of the promotion post. In view of Annexure R-1 dated 11.11.2008 by which he has been granted 1st ACP the grievance of the applicant has been redressed. The respondents have submitted that the 2nd ACP cannot be granted to him as his grading is below the bench mark.

6 In this view of the matter we are of the opinion that nothing survives in this Application and hence the OA is closed. No costs.

Dated 21st January, 2010.


K. NOORJEHAN
ADMINISTRATIVE MEMBER


GEORGE PARACKEN
JUDICIAL MEMBER

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