

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 322/2003

.....Wednesday.....this the 1st day of March, 2006

CORAM

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

T.A. Sajeev,
Chief Engineer Grade II
Integrated Fisheries Project,
Kochi-16.Applicant

(By Advocate Ms. K. Indu)

V.

- 1 Union of India, represented by its
Secretary, Ministry of Agriculture,
Department of Animal Husbandary
and Dairying, Krishi Bhavan,
New Delhi.
- 2 The Director,
Integrated Fisheries Project,
Kochi.16.Respondents

(By Advocate Mr. TPM Ibrahim Khan, SCGSC)

The application having been heard on 17.2.2006, the
Tribunal on 1.3.2006 delivered the following:

ORDER


HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

The applicant's case is that granting him the benefits
of First Assured Career Progression Scheme (ACP Scheme
for short) in the scale of pay of Rs.7500-12000 is incorrect
and arbitrary but he is entitled to get the scale of pay of Rs.
10000-15200.




2 The brief facts of the case are that the applicant was appointed as Chief Engineer Grade II with effect from 7.3.86 in the Fishery Survey of India, Mumbai. Thereafter, the applicant was posted on ad hoc basis as Chief Engineer Grade I in the scale of pay of Rs. 10000-15200 for ten years. The applicant was then appointed as Chief Engineer Grade II under the Respondent No.2 ie., Integrated Fisheries Project, Kochi on the recommendation of the Union Public Service Commission w.e.f 6.11.1997 in scale of pay of Rs. 7450-11500. Vide Annexure.A1 letter dated 5.3.99, two posts of Chief Engineer Grade II had been upgraded as Chief Engineer Grade I in the Integrated Fisheries Project.

3 Meanwhile, on the recommendation of the 5th Central Pay Commission the Department of Personnel & Training vide OM dated 9.8.99 has introduced ACP Scheme for the Central Government Civilian employees. According to the said scheme, the first ACP is granted to the employees on completion of 12 years and the second ACP is granted on completion of 24 years of regular service subject to fulfillment of certain other conditions. According to the applicant, he is entitled for the first ACP in the scale of pay of Rs. 10000-152000 (Chief Engineer Grade I) when he had completed 12 years of regular service. However, the respondents have issued Annexure.A5 Office Order dated 18.8.2000 granting



him the first ACP in the scale of pay of Rs. 7500-12000 w.e.f. 9.8.99. The basis of the applicant's claim is that the scale of pay of Rs. 10000-152000 is the scale attached to the promotional post of Chief Engineer Grade I in Fishery Survey of India and other subordinate organizations under the Respondents No.1 Ministry of Agriculture, Department of Animal Husbandry and Dairying.


4 The respondents in their reply has submitted that the Annexure.A1 order dated 5.3.99 upgrading two posts of Chief Engineer Grade II to Chief Engineer Grade I was based on the recommendations of the Internal Work Study Unit. There was also direction from this Tribunal in OA 1154/98 filed by Shri K.V.Asokan, Chief Engineer Grade II praying for the implementation of the aforesaid recommendation of the Internal Work Study Unit. The newly created post of Chief Engineer Grade I was not filled up on regular basis, since there was no Recruitment Rules framed for the purpose. In compliance of the directions of the Hon'ble High Court in OP 35400/01 the posts of Chief Engineer Grade I was filled up purely on adhoc basis with effect from 25.9.02 pending finalization of the notification of the Recruitment Rules. The Recruitment Rules have since been notified in the gazette in October, 2002. However, due to certain discrepancies found



in the Rules, further clarifications have been sought from the first respondent and the same are awaited.

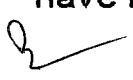
5 The Respondents have further submitted that according to the ACP Scheme contained in OM dated 9.8.99, the financial up-gradation is not automatic but it can be granted only on fulfillment of certain prescribed conditions. The Government of India, Department of Personnel also issued further clarificatory orders on the Scheme vide OM No.35034/1/97-Estt(D) Vol.IV dated 10.2.02. As per condition No.7 contained in Annexure.1 of the scheme, financial up-gradation shall be given to the next higher grade in accordance with the existing hierarchy in a cadre/category of posts. However, in the case of isolated posts, in the absence of defined hierarchical grades, financial up-gradation shall be given in the immediately next higher (standard/common) pay scale as indicated in Annexure.2 of the scheme. According to the said Annexure.2 the next higher pay scale of Rs.7450-11500 is Rs. 7500-12000 and accordingly the said higher pay scale has been granted to the applicant. The applicant had completed 12 years combined regular service in the Grade of Chief Engineer Grade II in FSI and IFP without any promotion and hence his case was taken up on 4.2.2000 for grant of ACP by the Group B Departmental Screening Committee which observed

that the applicant had been appointed as a direct recruit in IFP in the present post with effect from 6.11.97 and as such he did not complete 12 years of service. Subsequently the Government has issued clarification regarding ACP scheme vide OM dated 10.2.2000 and as per Sl. Nos. 4,5 & 6, if a Government servant has been appointed to another post in the same scale as a direct recruit, it should not make any difference for the purpose of ACP so long as he is in the same scale of pay. Therefore, the case of the applicant was again taken up on 5.8.2000 by the Screening Committee which observed that no hierarchical grade of Chief Engineer Grade I in the scale of Rs.10000-15200 has not so far been created and the Recruitment Rules for the said post have also not been approved and notified. As such the Screening Committee proceeded on the premises that no defined hierarchical grade in the case of Chief Engineer Grade II is available as on date. Therefore, the Committee has recommended to grant him the financial up-gradation in the immediate next scale (standard/common) of Rs. 7500-250-12500 with effect from 9.8.99. Accordingly the applicant was granted the first ACP in the said scale of Rs. 7500-250-12000 vide Annexure.A5 letter dated 18.8.2000. The respondents have submitted that the applicant's representation dated 5.9.2000 praying for grant of first ACP




in the scale of Rs. 10000-15200 was considered by the first respondent but it was rejected informing him that clarification given against SI.No.32 of the OM dated 10.2.2000 referred to above stipulates that the pay scale of hierarchy available in the Ministry/Department or any other subordinate office may be considered if the cadre/hierarchy of the post is limited 2 grades only. However, in the present case the cadre/hierarchy has got four grades and hence the applicant cannot be covered under the said clarification, so long as the Recruitment Rules for the post of Chief Engineer Grade I in the IFP are not finalized. The respondents have submitted that once Recruitment Rules are finalized, the case of the applicant would be reviewed by the Screening Committee and appropriate decision will be taken as per the Recruitment Rules.

6 We have gone through the entire documents made available on record and heard Shri TPM Ibrahim Khan, SCGSC on behalf of the Respondents. We have also considered the arguments notes submitted by the applicant through counsel Ms.Indu. It is an undisputed fact that two posts of Chief Engineer Grade I was available with the Respondent No.2 as on 5.3.1999. The ACP Scheme was introduced only with effect from 9.8.99. The Respondents have not denied that the post of chief Engineer Grade I is the



promotion post of Chief Engineer Grade II in the hierarchy and both the posts carry the respective scale of Rs. 7450-11500 and Rs. 10000-15200. The reasons stated by the Respondents in not recommending the hierarchical grade of Rs. 10000-15200 to the Applicant by the Screening Committee which met on 5.8.2000 is that though the said hierarchical grade of Chief Engineer Grade I has been created, the Recruitment Rules for the said post have not been notified. According to the Respondents the relevant Recruitment Rules have been notified in the Gazette of India in October, 2002 but it has not been made operational as certain discrepancies concerning age, essential qualifications, method of recruitment have been noticed later and it is pending for necessary rectification. The Respondents themselves have agreed to get the case of the Applicant for grant of ACP scale reviewed by the Screening Committee on finalization of the notification of the Recruitment Rules for the post of Chief Engineer Grade I. According to the respondents, the requisite review could not be undertaken so far because the discrepancies found in the Recruitment Rules after its notification which have been brought to the notice of the Respondent No.1 on 20.3.2003 have not been rectified. In this view of the matter, we dispose of this OA with the direction to the Respondents to



review the 1st ACP granted to the Applicant within three months from the date of receipt of this order and pass appropriate orders within one month thereafter. There is no order as to costs. However, we are constrained to observe with concern that the Annexure.R.3 reference dated 20.3.2003 made by the 2nd Respondent to the 1st Respondent has not been decided even after nearly three years. Such avoidable inordinate delay in taking decisions on the part of the concerned authorities is one of the contributing factors for the increasing dissatisfaction among the employees, which ultimately results in unnecessary litigations.

Dated this the 1st day of March, 2006


GEORGE PARACKEN
JUDICIAL MEMBER


SATHI NAIR
VICE CHAIRMAN

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