CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.366/07 & O.A.No.367/07

Tuesday this the 22nd day of April 2008

C O R A M :

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

O.A.No.366/07

P.Haridas,
S/o.Sumathy,
Mate Gr.II, Fishery Survey of India, Ernakulam.
Residing at "Sree Vinyaka",
Major Road, Vyttila, Kochi – 682 009. ...Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. Union of India represented
by the Secretary to the Government of India,
Ministry of Agriculture, (Department of
Animal Husbandry, Dairying and Fisheries)
New Delhi.

2. The Director General,
Fishery Survey of India,
Botawala Chambers, Sir P.M.Road,
Mumbai – 400 001.

3. The Zonal Director,
Fishery Survey of India, Kochi. ...Respondents

(By Advocate Mr.Sunil Jose,ACGSC)

O.A.NO.367/07

C.A.Gopi,
S/o.Achuthan,
Mate Gr.II, Fishery Survey of India, Kochi.
Residing at "Deepodai", Chettikara House,
Nayarambalam P.O., Ernakulam District. ...Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. Union of India represented
by the Secretary to the Government of India,
Ministry of Agriculture, (Department of
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3. The Zonal Director,
Fishery Survey of India, Kochi. ...Respondents

(By Advocate Mr.Varghese P Thomas,ACGSC)

This applications having been heard on 22nd April 2008 the Tribunal on the same day delivered the following :-

ORDER

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

The applicants have initially filed this O.As challenging Annexure A-1 Office Order dated 15.5.2007. By the said order the applicant in O.A.No.366/07 Shri.P.Haridas, Mate, has been transferred from Kochi Base to Mormugao Base on ad hoc promotion as Mate Gr.I. Similarly the applicant in O.A.No.367/07 Shri.C.A.Gopi, Mate, has been transferred from Kochi Base to Port Blair Base on ad hoc promotion as Mate Gr.I. By Annexure A-2 letter dated 23.5.2007 Shri.P Haridas has informed the respondents that he was not prepared to accept the ad hoc promotion as Mate Gr.I for the present. Similarly Shri.C.A.Gopi by Annexure A-2 letter dated 22.5.2007 has informed the respondents that he was also not prepared to accept the ad hoc promotion as Mate Gr.I for the present. The applicants have challenged the aforesaid transfer order stating that it was arbitrary, discriminatory, contrary to law and hence unconstitutional. They have stated that they belonged to the Integrated Fisheries Project

and they were, in fact, eligible to be considered for promotion as Skipper, against the two posts transferred to FSI and still remaining vacant. The applicants' channel of promotion in the IFP was also to the post of Skipper i.e. the scale of pay of the post to which they have been granted the 2nd financial up-gradation under the ACP Scheme.

2. When these O.As came up for admission, this Tribunal by an identical order dated 8.6.2007 stayed the aforesaid order dated 10.5.2007 (Annexure A-1) in so far as the applicants were concerned. In the meanwhile, the respondents have issued Annexure A-4 order dated 22.8.2007 promoting both the applicants as Mate Gr.I (Group 'B' Non Gazetted) in the pay scale of Rs.7450-225-11500 on regular basis. Shri.C.A.Gopi was posted at Port Blair Base and Shri.P.Haridas was posted at Mormugao Base against the vacant posts. The applicants have amended their respective O.As incorporating the aforesaid Annexure A-4 order dated 22.8.2007 and challenged it.

3. Counsel for the applicant submitted that in spite of the aforesaid Annexure A-4 order they have been permitted to continue in the present post in view of the earlier order of this Tribunal dated 8.6.2007 staying the impugned Annexure A-1 order dated 10.5.2007. The contention of the counsel for the applicants in these O.As is that since the promotional post of the applicants is to the post of Skipper, they cannot be promoted to the post of Mate Gr.I which is a post lower than the post to which they have been given the 2nd financial up-gradation.

4. I have heard Mr.T.C.Govindaswamy for the applicants and Ms.Viji on behalf of Mr.Sunil Jose,ACGSC and Mr.Varghese P Thomas,ACGSC for the respondents. It is seen that the applicants have not made any representation against the Annexure A-4 order dated 22.8.2007. It is also seen that the respondents have not prevented them from declining the promotion. In this view of the matter, I do not find any merit in these O.As. I, therefore, dispose of these O.As with liberty to the applicants to make a detailed representation to the respondents with regard to their Annexure A-4 promotion order and on receipt of the same the respondents shall take necessary decision in the matter within a period of two months from the date of receipt of a copy of the representation. Till such time, status quo as on date shall be maintained by the respondents. There shall be no order as to costs.

(Dated this the 22nd day of April 2008)

GEORGE PARACKEN
JUDICIAL MEMBER

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