

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00468/2015

Wednesday, this the 23rd day of January, 2019

CORAM:

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member
Hon'ble Mr. Ashish Kalia, Judicial Member

E.A. Joseph, S/o. Late Augustine, aged 60 years,
 Junior Deckhand, Fishery Survey of India (Retd.),
 Eriyangalath House, Katti Canal Road, Near Veluthullil Ferry,
 Kumblangi South, Kumblangi PO, Cochin-682 007. **Applicant**

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

V e r s u s

1. Union of India, represented by its Secretary,
 Ministry of Agriculture, Animal Husbandry,
 Dairying & Fisheries, New Delhi – 110 001.
2. Director General, Fishery Survey of India,
 Botawala Chambers, Mumbai – 400 001.
3. The Zonal Director, Fishery Survey of India,
 Kochangadi, Cochin – 682 005. **Respondents**

(By Advocate : Mr. N. Anilkumar, SCGSC)

This application having been heard on 16.01.2019 the Tribunal on
 23.01.2019 delivered the following:

ORDER

Hon'ble Mr. Ashish Kalia, Judicial Member –

The relief claimed by the applicant are as under:

- “(i) To declare that the applicant is entitled for 2nd financial upgradation w.e.f. 26.2.2006 under ACP scheme to the grade pay of Bosun and the 3rd financial upgradation under the MACP scheme w.e.f. 26.2.2012 to the grade pay of Mate.
- (ii) To direct the respondents to grant 2nd financial upgradation w.e.f. 26.2.2006 under ACP scheme to the grade pay of Bosun i.e. Rs. 4200/- and

3rd financial upgradation under MACP scheme w.e.f. 26.2.2012 to the grade of Mate i.e. Rs. 4,600/- with all consequential benefits including arrears of pay and allowances within the stipulated period.

(iii) To direct the respondents to revise the retirement benefits based on the financial upgradations and grant the arrears of pension, gratuity, leave encashment and all other consequential monetary benefits within a stipulated time.

(iv) Grant such other relief or reliefs that may be prayed for or that are found to be just and proper in the nature and circumstances of the case.

(v) Grant cost of this OA.”

2. The brief facts of the case are that the applicant retired from service on superannuation on 28.2.2015 from 3rd respondent's office as Junior Deckhand. He joined service as Net Mentor on 26.2.1982 on regular basis. Applicant was granted 1st financial upgradation under the ACP scheme w.e.f. 9.8.1999 in the pay scale of Rs. 2750-4400/-. Later he was promoted as Junior Deckhand. As the applicant had completed 24 years of regular service during February, 2006 he became eligible for 2nd financial upgradation under the ACP scheme. However, the same was not granted to him. While so MACP scheme was introduced w.e.f. 1.9.2008 and the applicant had completed 26 years of service as on 1.9.2008 and the next hierarchy in the Fishery Survey of India was that of Bosun. Thus, the applicant is entitled for 2nd financial upgradation under ACP scheme w.e.f. 26.2.2006 in the pay band Rs. 9300-34800/- with Grade Pay of Rs. 4,200/-. However, the applicant was granted 2nd financial upgradation under MACP scheme w.e.f. 1.9.2008 in pay band of Rs. 5,200-20,200/- with GP of Rs. 2,400/- and 3rd financial upgradation in pay band of Rs. 5,200-20,200/- with GP of Rs. 2,800/- w.e.f. 9.8.2012. The applicant submitted representation to the 2nd respondent dated 4.6.2014 requesting to grant him 2nd and 3rd

financial upgradations under ACP and MACP schemes respectively. However, no reply has been received from the respondents. Aggrieved the present OA.

3. Notices were issued to the respondents. They entered appearance through Shri N. Anilkumar, SCGSC who contended that the applicant was initially appointed to the post of Netmender on adhoc basis w.e.f. 26.2.1982 and regular basis w.e.f. 9.8.1982 in the pay scale of Rs. 210-270/- under the 3rd respondent. He was granted 1st financial upgradation under the ACP scheme w.e.f. 9.8.1999 in the pay scale of Rs. 2750-4400/-. The applicant was promoted to the post of Junior Deckhand and he joined the said post w.e.f. 1.12.2004. He was further granted the 2nd financial upgradation under ACP scheme on completion of 24 years of regular service in the pre-revised pay scale of Rs. 3,200-4,900/- w.e.f. 9.8.2006 being the next hierarchical promotion scale of the post of Senior Deckhand as per the Recruitment Rules of FSI. The posts of Netmender and Junior Deckhand were merged and replaced with PB-1 of Rs. 5,200-20,200/- plus GRP of Rs. 1,800/- with the introduction of VIth CPC pay bands effective from 1.1.2006. Consequent on merging of pay scales the 2nd financial upgradation granted to the applicant under the ACP scheme in the pre-revised pay scale of Rs. 3,200-4,900/- was replaced by pay band PB-1 of Rs. 5,200-20,200/- plus GP of Rs. 2,400 w.e.f. 1.9.2008 and 3rd financial upgradation was granted in the Grade Pay of Rs. 2,800/- w.e.f. 9.8.2012. The 2nd financial upgradation under ACP scheme was granted to the applicant on completion of 24 years of regular service in the pre-revised pay scale of Rs. 3,200-4,900/- w.e.f.

9.8.2006 corresponding to the Grade Pay of Rs. 2,000/- in the revised pay structure which was further replaced by GP of Rs. 2,400/- due to merger of the posts of Netmender and Junior Deckhand. The post of Bosun belongs to IFP and was transferred to Fishery Survey of India during May, 2005 along with other posts and infrastructure due to reorganization of IFP Recruitment Rules. Syrang certificate is essential qualification for promotion to the post of Bosun with three years service in the grade to the post of Bosun (Uncertified). Two financial upgradations on completion of 12 and 24 years of service in a given post without any promotion was introduced by the Government effective from 9.8.1999, provided the incumbent fulfills the promotional norms as per Recruitment Rules. Since upgradation of the incumbents under ACP scheme is similar to promotion, the fulfillment of terms and conditions under ACP are subject to the prescribed Recruitment Rules. Respondents pray for dismissing the OA.

4. Heard Shri C.S.G. Nair learned counsel appearing for the applicant and the learned counsel appearing for the respondents. Perused the records. We have also gone through the argument note filed by the applicant.

5. The applicant was granted 1st financial upgradation under the ACP scheme w.e.f. 9.8.1999 in the pay scale of Rs. 2,750-4,400/-. Later the applicant was promoted to the post of Junior Deckhand w.e.f. 1.12.2004. He was further granted 2nd financial upgradation under ACP scheme on completion of 24 years of regular service in the pre-revised pay scale of Rs. 3,200-4,900/- w.e.f. 9.8.2006 being the next hierarchical promotion scale of

the post of Senior Deckhand as per the Recruitment Rules of FSI. With the introduction of VIth CPC effective from 1.1.2006 the posts of Netmender and Junior Deckhand were merged and replaced with Pay Band-1 of Rs. 5,200-20,200/- plus Grade Pay of Rs. 1,800/-. Accordingly, the respondents due to merger of the pay scales reviewed the 2nd financial upgradation granted to the applicant under the ACP scheme in the pre-revised pay scale of Rs. 3,200-4,900/- and replaced it by Pay Band-1 of Rs. 5,200-20,200/- plus GP of Rs. 2,400 w.e.f. 1.9.2008. Applicant was granted 3rd financial upgradation in PB-1 of Rs. 5,200-20,200/- plus Grade Pay of Rs. 2,800/- w.e.f. 9.8.2012. The 2nd financial upgradation under ACP scheme was granted to the applicant on completion of 24 years of regular service in the pre-revised pay scale of Rs. 3,200-4,900/- w.e.f. 9.8.2006 corresponding to the Grade Pay of Rs. 2,000/- in the revised pay structure which was further replaced by GP of Rs. 2,400/- due to merger of the posts of Netmender and Junior Deckhand. Thus, we find no illegality in the action of the respondents.

6. Accordingly, the Original Application is dismissed being devoid of any merit. No order as to costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

“SA”

Original Application No. 180/00468/2015

APPLICANTS' ANNEXURES

- Annexure A1** - True copy of the office order No. F.8-115/2014 dt. 28.2.2015.
- Annexure A2** - True copy of the office order No. 8-032/99-Vol.III, dt. 16.8.2004.
- Annexure A3** - True copy of the office order F. No. 2-40/1999-E I dt. 9.11.2004.
- Annexure A4** - True copy of the office order No. F.8-51/2003 dt. 30.11.2004.
- Annexure A5** - True copy of the seniority list of Junior Deckhand issued as on 1.1.2011.
- Annexure A6** - True copy of the representation dt. 23.6.2009.
- Annexure A7** - True copy of the office order No. F.1-27/99-E.II, dt. 19.10.2012.
- Annexure A8** - True copy of the MACP scheme.
- Annexure A9** - True copy of the Recruitment Rule for the post of Bosun (Uncertified).
- Annexure A9(a)** - True copy of the office order No. F.1-12-2014-E.II dt. 5.12.2014.
- Annexure A10** - True copy of the judgment of the Hon'ble Supreme Court in Civil Appeal No. 3562/2007.
- Annexure A11** - True copy of the representation 4.6.2014.

RESPONDENTS' ANNEXURES

- Annexure R1(a)** - True copy of the Recruitment Rules.
- Annexure R1(b)** - True copy of the revised Recruitment Rules of Fishery Survey of India for the post of Bosun (Uncertified).