

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2852/2001

Wednesday, this the 17th day of October, 2001

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

1. Shri Kumar Bajaj S/o Late Shri Paman
Dass Bajaj,
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
2. Shri Ravinder Kumar S/o Late Shri PD Malik
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
3. Shri R.D. Vashist S/o Late Shri Hans Raj
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
4. Shri Jai Bagwan S/o Late Shri Dwarka
Prasad,
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
5. Shri SK Bhasin S/o Late Shri Shadi Lal
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
6. Shri M.L.Kharbanda S/o Late Sh Kishan Chand
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
7. Shri Vikrmajit Sharma S/o Late Shri Prem Nath
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
8. Shri Prem Raj S/o Late Shri Sheo Singh
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
9. Shri Ashok Khullar S/o Late Sh Balwant Rai
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
10. Shri AK Nayyar S/o Late Shri DD Nayyar
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
11. Shri JK Bhanot S/o Late Sh Kundan Lal
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
12. Shri S.K. Luthra S/o Late Sh. Harnam Dass
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
13. Shri Parkash Chand S/o Late Sh. Mala Ram
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008

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14. Shri Sohan Lal Arora S/o Shri Hans Raj Arora
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
15. Sh. MS Jaganathan S/o Sh. Sundaresan
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
16. Shri Gian Singh S/o Sh. Gurdev Singh
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
17. Shri Lokman Singh S/o Late Sh. Chiranji Lal
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
18. Shri Ved Parkash S/o Shri Khushi Ram
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
19. Shri Jeet Singh S/o Shri Jai Mal Singh
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
20. Shri RK Choudhry S/o Sh. Sadhu Ram
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
21. Shri Raj Kumar S/o Shri Gurbux Lal
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
22. Shri A.K.Suri S/o Late Shri S.R. Suri
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
23. Shri Bir Singh Saini S/o Sh. Sadhu Ram
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
24. Shri VD Sharma S/o Sh. Harparsad
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
25. Shri Rajesh Kumar S/o Late Sh. V.N. Bahel
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008
26. Shri S.N. Srivastava S/o Late Shri BS Balbadra
C/o Delhi Milk Scheme, West Patel
Nagar, New Delhi-110008

..Applicant

(By Advocate: Shri S.C. Bhasin)

Versus

1. Union of India
Through Secretary Ministry of Agriculture
Department of A.H. & Dairying
Krishi Bhavan, New Delhi
2. General Manager
Delhi Milk Scheme

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West Patel Nagar,
New Delhi - 110 008

..Respondents

O R D E R (ORAL)

By Hon'ble Shri S.A.T. Rizvi, AM:-

The applicants, who are Cash Clerks/Assistant Cashiers in the Office of General Manager, Delhi Milk Scheme, are eligible for the grant of financial upgradation in accordance with the scheme prescribed by the Government on 9th August, 1999. Accordingly, they have been given the first financial upgradation after 12 years of service. The second financial upgradation which is normally granted after 24 years of service has not been given to any of the applicants though some of them have been in service as long as 30 years.

2. The learned counsel appearing on behalf of the applicants submits that all the applicants have made a representation in the matter, which has not been replied to so far. However, the respondent-authority has issued an order on 22.2.2001 by which the conditions for grant of ACP have been clarified. Insofar as the grant of second financial upgradation is concerned, the aforesaid order provides as follows:

"IInd A.C.P. - Rs.6500-10500 (Attached to the post of Milk Distribution Officer in the hierarchy subject to the condition that Cash Clerks who possess the essential educational qualifications of Degree from a recognised University as per Recruitment Rules will be considered"

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3. The learned counsel has disputed the aforesaid provision made in the order dated 22.2.2001. According to the learned counsel, the applicants are entitled to the second financial upgradation in accordance with the condition No.1 laid down in Annexure-1 to the DOP&T's OM dated 9th August, 1999 by which the ACP Scheme has been notified. The aforesaid condition No.1 provides as follows:

"1. The ACP Scheme envisages merely placement in the higher pay scale/grant of financial benefits (through financial upgradation) only to the Government servant concerned on personal basis and shall, therefore, neither amount to functional/regular promotion nor would require creation of new posts for the purpose."

According to him, in view of the aforesaid provision, financial upgradation whether the first upgradation or the second upgradation both should be provided automatically.

4. We have considered the matter and find that condition No.6 laid down in the aforesaid Annexure 1, which provides as follows

"6. Fulfilment of promotion norms (benchmark, departmental examination, seniority-cum-fitness in the case of Group 'D' employees, etc.) for grant of financial upgradations, performance of such duties as are entrusted to the employees together with retention of old designations, financial upgradations as personal to the incumbent for the stated purposes and restrictions of the ACP Scheme for financial and certain other benefits (House Building Advance, allotment of Government accommodation, advances etc.) only without conferring any privileges related to higher status

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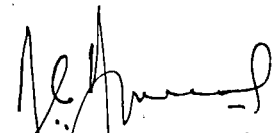
(5)

(e.g., invitation to ceremonial functions, deputation to higher posts, etc.) shall be ensured for grant of benefits under the ACP Scheme. "(emphasis supplied).

clearly states that fulfilment of normal promotion norms at the time of grant of financial upgradation shall have to be ensured. According to the respondent-authority, educational qualification of a degree from a recognised University is a pre-requisite for promotion to the post of Milk Distribution Officer in the pay grade of Rs.6500-10500/- and this is in accordance with the relevant Recruitment Rules. Viewed thus, the applicants can be considered for the second financial upgradation only if they satisfy the above mentioned condition of holding a degree from a recognised University. The learned counsel submits that none of the applicants is a graduate from a recognised University. They cannot, therefore, in our view, be considered for grant of second financial upgradation in accordance with the aforesaid condition No.6.

5. For the reasons stated above, the present OA is found to be devoid of merit and is accordingly dismissed in limine.


(S.A.T. RIZVI)
MEMBER (A)


(ASHOK AGARWAL)
CHAIRMAN

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