

(2) CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

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OA.No. 558/2001

New Delhi, this the 24th day of September, 2001

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN  
HON'BLE MR. M.P. SINGH, MEMBER (A)

1. Shri M.C.Katiyar  
14/370, Sector 14, Vasundhara  
Ghaziabad, U.P.
2. Shri M.K.Agarwal  
C-384, East Kidwai Nagar  
New Delhi-110 023.
3. Shri S.K.Srivastava  
Room No.572 Directorate of Sugar  
Krishi Bhavan  
New Delhi.
4. Shri Deepak Yadav  
J-1/166, DDA Flats Kalkaji  
New Delhi-110 019. .... Applicants

(By Advocate Shri V.S.R.Krishna )

V E R S U S

Union of India  
Through

1. The Secretary  
Ministry of Consumer Affairs  
Food and Public Distribution  
Govt.of India  
Krishi Bhawan  
New Delhi.
2. The Secretary  
Department of Personnel & Training  
North Block  
New Delhi. .... Respondents

(By Shri D.S. Mahendru, Advocate)

ORDER (ORAL)

Shri M.P.Singh:-

By filing this OA, the applicants have challenged the impugned order dated 29.9.2000 whereby their representation for grant of financial upgradation in the existing hierarchy in the pay scale of Rs.6500-10500/- under the Assured Career Progression Scheme has been

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rejected.

2. Applicants are working as Technical Assistants (Sugar Technology) in the scale of Rs.4500-7000. As per ACP Scheme which was introduced on the recommendations of the Fifth Central Pay Commission, they are entitled for the first financial upgradation after putting in 12 years of service. Since there was stagnation in the cadre of Technical Assistant (Sugar Technology) for long time, a Selection Grade in the revised pay scale of Rs.5500-9000 was created. The contention of the applicants is that they are entitled for the first financial upgradation to the post of Junior Technical Officer (Sugar Technical) in the grade of Rs.6500-10500 which is next promotional post in the hierarchical set up of the Department. They have, therefore, represented to the respondents to grant them first financial upgradation after putting in 12 years of service. The respondents vide order dated 29.9.2000 have rejected the representation of the applicants on the ground that the post of Technical Assistant (Sugar Technology)/Selection Grade) is one of the rungs of the hierarchy between Technical Assistant (Sugar Technology) and Junior Technical Officer and as such the first financial upgradation to the <sup>post of L</sup> Technical Assistant (Sugar Technology, SG) in the pay scale of Rs.5500-9000/- under the ACP Scheme is in order. Aggrieved by this order, the applicants have filed this OA seeking direction to quash and set aside the aforesaid order dated 29.9.2000 at Annexure A-1 and grant them the pay scale of Rs.6500-10500/- in terms of the ACP Scheme on completion

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of 12 years of service in the grade of Technical Assistant (Sugar Technology) with all consequential benefits like arrears of salary and allowances.

3. The respondents in their counter have stated that recruitment rules for the post of Technical Assistant (Sugar Technology) (Selection Grade) clearly provide that the post can only be filled up by way of promotion from the eligible Technical Assistant (Sugar Technology). Furthermore the recruitment rules for the post of Junior Technical Officer (Sugar Technical) mentions that the post can be filled up by way of promotion from eligible Technical Assistant (Selection Grade) with 8 years regular service in the grade including combined regular service in the grade of Technical Assistant (Sugar Technology) (Selection Grade). It is, therefore, clear from the provisions of the recruitment rules that a Technical Assistant (Sugar Technology) cannot be promoted to the post of Junior Technical Officer (Sugar Technical) without being promoted to the post of Technical Assistant (Sugar Technology) (Selection Grade). It is further stated by the respondents that the ACP Scheme envisages grant of financial upgradation to the next higher grade in accordance with the existing hierarchy in a cadre/category. The next higher grade in the hierarchy is from Technical Assistant (Sugar Technology) to Technical Assistant (Selection Grade) which is a Group 'B' Non-gazetted post having pay scale of Rs.5500-9000/- The post of Junior Technical Officer (Sugar Technical) which is a

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Group 'B' Gazetted post is the next higher hierarchical grade of Technical Assistant (Sugar Technology) (Selection Grade) in the pay scale of Rs.6500-10500. All the three posts are having definite recruitment rules and as such in pursuance of the DOP&T Scheme, the applicants were granted financial upgradation from the pay scale of Rs.4500-7000 to the pay scale of Rs.5500-9000.

4. We have heard the learned counsel for the contesting rival parties and perused the record.

5. During the course of the arguments, the learned counsel for the applicants stated that as per the recruitment rules, the next promotion from the post of Technical Assistant (Sugar Technology) is to the post of Junior Technical Officer. As is clear from the recruitment rules, a Technical Assistant (Sugar Technology) with 8 years of service is ~~eligible~~ <sup>eligible &</sup> ~~eligible~~ for promotion to the post of Junior Technical Officer (Sugar Technical) in the pay scale of Rs.6500-10500/-. Therefore, the applicants should be considered for the first financial upgradation as per the hierarchical structure of the organisation. On the other hand, the learned counsel for the respondents stated that the decision taken by the respondents in issuing the impugned order of 29.9.2000 has been taken in consultation with the Department of Personnel and Training which is the nodal Ministry for the purpose of granting financial upgradation to the applicants. After perusing the record placed before us, we find that the post of Junior  
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Technical Officer (Sugar Technical) is the next promotional post from the post of Technical Assistant (Sugar Technology) and the recruitment rules provide that 50% of the posts of Junior Technical Officer (Sugar Technical) shall be filled up by promotion by considering Technical Assistants (Sugar Technology) with 8 years of regular service in the grade including combined regular service in the grade of Technical Assistant (Sugar Technology) (Selection Grade). Had the post of Junior Technical Officer (Sugar Technical) been the promotional post for Technical Assistant (Sugar Technology) Selection Grade, the promotion of Technical Assistant (Sugar Technology) would not have been directly made to the post of Junior Technical Officer (Sugar Technical). The recruitment rules provide that the promotion to the post of Junior Technical Officer (Sugar Technology) is from the grade of Technical Assistant (Sugar Technology) ~~Selection Grade~~ which means that the post of Technical Assistant (Sugar Technology) (Selection Grade) is not a promotional post for Technical Assistant (Sugar Technology).

6. In view of the aforesaid, we are of the considered view that the first financial upgradation under the ACP Scheme for persons working as Technical Assistant (Sugar Technology) is to the post of Junior Technical Officer (Sugar Technical) in the pay scale of Rs.6500- 10,500/- . We accordingly allow the OA and quash and set aside the impugned order dated 29.9.2000 with a direction to the respondents to grant the pay scale of

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