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Central Administrative Tribunal  
Principal Bench

O.A. No. 923 of 2001

New Delhi, dated this the 23<sup>rd</sup> April, 2002.

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE MR. SHANKER RAJU, MEMBER (J)

1. Sh. R.C. Bajpayee  
S/o Sh. D.D. Bajpayee  
R/o C5D/68-C, Janakpuri,  
New Delhi-110058.  
Retired as Section Manager  
in Delhi Milk Scheme,  
West Patel Nagar,  
New Delhi-110008.
  2. Sh. Hari Singh,  
S/o Sh. Ram Dayal  
R/o WZ-51, Block-G,  
School Road,  
Uttam Nagar,  
New Delhi-110059. ... Applicants.  
(By Advocate: Shri J. Butler alongwith Mrs.  
Geeta Kalra)
- Vs.

1. Union of India  
Through The Secretary,  
Ministry of Agriculture,  
(Department of Animal Husbandary  
& Dairing,  
Krishi Bhawan,  
New Delhi-110001.
2. The General Manager,  
Delhi Milk Scheme,  
West Patel Nagar,  
New Delhi-110008.
3. Sh. Y.R. Singh,  
Section Manager,  
Delhi Milk Scheme  
New Delhi-110008.

( To be served through Respondent No.2)  
... Respondents.  
( By Advocate: Shri Mohar Singh)

ORDER

S.R. ADIGE, VC (A)

Applicants impugn respondents' order dated  
17.2.2001 (Annexure 'A') granting them 2nd Financial  
Upgradation in the scale of Rs.7450-11500/- w.e.f.  
9.8.99 and claim this upgradation in the scale of

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Rs.10,000-15,200 w.e.f. that date as given to their counterparts vide order dated 16.2.2001 (Annexure A-2).

2. Heard.

3. Admittedly applicants were in the scale of Rs.6500-10500 and were due for 2nd financial upgradation under ACP Schemes. Respondents state that the aforesaid ACP Scheme introduced by DoPT vide OM dated 9.8.99 read with subsequent clarification dated 10.2.2000 envisages that grant of financial upgradation under ACP Schemes will inter alia be subject to fulfilment of normal promotion norms (benchmark, departmental exam., seniority-cum-fitness in the case of Group 'D' employees etc.). Furthermore as per the Scheme (condition No.6) all promotion norms have to be satisfied.

4. Respondents state that as per RRs Section Managers (Rs.6500-10500) to which category applicant belong are required to possess the following educational qualifications for promotion to the post of Shift Manager (Rs.10000-15200).

Essential Qualification

(A) (i) Degree in Dairying  
Science/Dairy Technology from a  
recognised University/ Institute  
equivalent.

OR

(B) (i) Diploma in Dairying/  
Dairy Science/Dairy Technology from a  
recognised University/ Institute or  
equivalent.

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It is stated that applicants are B.Sc.(Agri) and are not eligible for promotion as Shift Managers (10000-15200) as per RRs and hence have not been granted 2nd financial upgradation on the aforesaid scale of Rs.10000-15200), but the DPC after taking into consideration their long years of service, granted them the financial upgradation in the standard pay scale of Rs.7450-11500/-.

5. The fact that applicants possess a degree qualification of B.Sc. (Agri) and not the essential qualification prescribed in the RRs is not denied by them. However, in para 4.15 of the OA they have referred to the case of one Shri S.M.Tripathi who had educational qualification of B.Sc.(Agri) but he was granted relaxation in educational qualification and promoted as Shift Manager. Applicants contended that if in Shri Tripathi's case the rules could be relaxed, similar relaxation could be acceded to them also.

6. Respondents in their reply to the corresponding para of the OA do not deny that there was relaxation of Rule applicants' case. However, it is stated that in Shri Tripathi's case necessary relaxation was given in view of the exceptional circumstances and the candidate being found suitable otherwise, but these circumstances do not prevail in the present case.

7. What the exceptional circumstances in the case of Shri Tripathi were, and whether the claims of applicants for grant of the scale of Rs.10000-15200

admissible to Shift Manager under 2nd Financial Upgradation, was examined in the background of the facts and circumstances leading to the promotion as Shift Manager granted to Shri S.M.Tripathi, who also holds only a degree in B.Sc.(Agri) and not the essential academic qualification prescribed in the RRs is not clear, from the pleadings.

8. Under the circumstances, the OA is disposed of with a direction to respondents to examine the claims of applicants for fitment in the scale of Rs.10000-15200 admissible for the post of Shift Manager under 2nd Financial Upgradation, w.e.f. 9.8.99 in the background of the promotion to the post of Shift Manager granted to Shri S.M.Tripathi, who like applicants holds only a degree of B.Sc. (Agri), and to take a final decision in this regard, by means of a detailed, speaking and reasoned order under intimation to applicant within three months from the date of receipt of a copy of this order.

9. The OA is disposed of in terms of para 8 above. No costs.

S. Raju  
(Shanker Raju)  
Member (J)

S.R. Adige  
(S.R. Adige)  
Vice Chairman (A)