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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH.

(1) OA No. 605/2000 With (2) OA No. 2080/2000

New Delhi: this the 3<sup>rd</sup> day of November, 2000

HON<sup>BLE</sup> MR. S. R. ADIGE, VICE CHAIRMAN (A)

HON<sup>BLE</sup> DR. A. VEDAVALLI MEMBER (J)

1. Mohan Lal,  
S/o Late Shri Malkiat Singh,  
R/o H-17/228, Sector 7, Rohini,  
Delhi

2. Rakeshwar Verma,  
S/o Late Shri B.K. Verma,  
R/o G-70, Sitapuri,  
New Delhi

3. Surendra pal,  
S/o Shri Shyam Lal,  
R/o 527, Krishi Kunj,  
New Delhi

4. Om Prakash Singh,  
S/o Shri Raj Kumar Singh,  
R/o 735, Krishi Kunj,  
New Delhi

5. Shish pal Singh,  
S/o Late Shri Khub Chand,  
R/o 729, Krishi Kunj,  
New Delhi

All employed as Technical Officers  
in IARI, New Delhi

(By Advocate: Shri B.S. Rawal)

.....Applicants

Versus

1. Indian Council of Agricultural Research,  
through its Director General,  
Krishi Bhawan,  
New Delhi-1

2. The Director,  
Indian Agricultural Research Institute,  
Pusa,  
New Delhi-12

.....Respondents

(By Advocate: Shri Vijay Chaudhary)

(2) DA No. 2080/2000

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1. Dr. Jasvir Singh,  
S/o Sh. Jai Lal Singh,  
R/o - 674, Krishi Kunj,  
IARI,  
New Delhi-12.
2. S/Shri S.P. Tyagi,  
S/o R.N. Tyagi,  
R/o E-31, IARI,  
Pusa,  
New Delhi-12.
3. Sh. Diwakar Bahukhandi,  
S/o Sh. D. Prasad,  
R/o 672, Krishi Kunj,  
IARI,  
New Delhi.
4. Sh. Ashok Kumar Tyagi,  
S/o Sh. S.L. Tyagi,  
R/o 615 Krishi Kunj, IARI,  
New Delhi-12.
5. Sh. R.P. Sharma,  
S/o Vidyanand Sharma,  
R/o 709, Krishi Kunj,  
IARI,  
New Delhi-12.
6. Dr. Chanderpal,  
S/o Sh. Ram Singh,  
R/o 728, Krishi Kunj,  
IARI,  
New Delhi-12.
7. Dr. Birendra Kumar,  
S/o Sh. Kishan Singh,  
730, Krishi Kunj,  
IARI,  
New Delhi-12.
8. Dr. D.P. Singh,  
S/o Sh. Ganesh Singh,  
R/o 722, Krishi Kunj,  
IARI,  
New Delhi-12.
9. Dr. Chander Bhan Singh,  
S/o Sh. Jagdish Prasad,  
R/o 679 Krishi Kunj, IARI,  
New Delhi-12.

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(1) DA No. 605/2000

ORDER

M. S. R. Adige, VC(A)

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Applicants who are all M.Sc/Ph.D impugn respondents' Circular dated 3.2.2000 (Annexure-A) notifying modifications in the ICAR Tech. Service Rules and seek a direction to respondents to consider them for merit assessment promotion from T-5 to T6 grade on uniform five years' assessment rather than dividing them into sub-classifications of B.Sc and M.Sc which applicants allege are artificial and impermissible.

2. Heard both sides and perused the pleadings.

3. Applicants themselves assert that by respondents' Circular dated 4.8.195 (Annexure-A3) technical personnel who possessed the minimum qualifications for Category III (3 years Diploma/Bachelor's Degree in the relevant field with 5 years working experience in the relevant field) were eligible for merit assessment promotion from T5 to T6 grade provided they had put in not less than 12 years of service in T-5 grade.

4. By impugned Circular dated 3.2.2000, minimum qualifications for direct recruitment to Category III has been made a Master's degree in the relevant field or equivalent qualifications from a recognised university. Those possessing Master's degree, become eligible for merit assessment from T5 to T6 grade upon completing 5 years' service in T5 grade, while those such as applicants who possess a Bachelor's degree become eligible for merit assessment from T5 to T6 grade upon completion of 10 years service

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in T5 grade. Furthermore, such of those personnel in T5 grade, who do not even possess the educational qualification of a Bachelor's degree in the relevant field or equivalent qualifications from a recognised university are by impugned circular dated 3.2.2000 no longer eligible for further merit assessment promotion to Category III.

5. The question for adjudication is whether such provisions which deny eligibility for promotion to a higher post to an employee possessing lesser qualifications, or require longer experience for those possessing lesser qualifications, is illegal, arbitrary, malafide or violative of Articles 14 and 16 of the Constitution.

6. Para 9 of the Hon'ble Supreme Court's decision in RSEB Accts. Association, Jaipur Vs. RSEB & another JT 1997(2) SC 342 in our view provides a complete answer to his question and is extracted below:

"As per the decision of this Court, the position is well settled that educational qualifications can be made the basis of or classification of employees in State services in the matter of pay scales, promotions etc... Similarly in the matter of promotions, classification on the basis of educational qualifications so as to deny eligibility for promotions to a higher post to an employee possessing lesser qualifications or require longer experience for <sup>those</sup> possessing lesser qualifications has been upheld as valid by this court."

7. Applicants' counsel has also contended that as per applicants' knowledge, Govt. approval which was mandatory, was not obtained before the impugned circular dated 3.2.2000 notifying modifications in the ICAR Tech. Service Rules issued, and the

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aforesaid modifications are not in the form of a proper notification but only in the form of a letter.

8. In so far as the format of the modification is concerned, we note that respondents' circular dated 4.8.95 relied upon by applicants themselves was also in letter form. Hence the challenge to the impugned circular dated 3.2.2000 on this ground is rejected.

9. As regards obtaining of approvals of the competent authority before notifying the modifications, respondents in their reply have stated that the impugned circular dated 3.2.2000 was issued after obtaining specific approval of Ministry of Finance. The impugned circular dated 3.2.2000 itself states that it is based upon the decision of the Governing Body and the approval of the competent authority has been obtained to effect the modification concerned therein. In the absence of any materials to the contrary furnished by applicants we have no reason to doubt the correctness of the same.

10. The OA therefore warrants no interference and is dismissed. No costs.

OA NO. 2080/2000

11. In this OA applicants are seeking revocation of impugned order dated 19.9.2000 (Annexure-A1) in OA No 605/2000 passed by the Tribunal and seek a direction to respondents to announce the results of OPC and give promotions subject to outcome of OA No. 605/2000.

12. As OA No. 605/2000 is itself being dismissed by the aforesaid order and the interim order

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dated 19.9.2000 in that OA stands merged with the  
aforesaid final order, respondents are no longer  
restrained from taking appropriate action on the  
DPC's recommendations in accordance with law.

13. The OA No. 2080/2000 is disposed of in terms  
of para 12 above. No costs.

14. Let a copy of this order be placed on both  
OA records.

( DR. A. VEDAVALI )  
MEMBER (J)

( S. R. ADIGE )  
VICE CHAIRMAN (A)

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