

GOVERNMENT OF HARYANA**Finance Department****No. 6/83/2008-4PR (FD) Dated 03rd December, 2013****Office Memorandum****Subject:- Regarding counting of adhoc/work charged service towards ACP Scale in the cadre.**

In continuation to earlier office memorandum No. 6/83/2008-4PR (FD) dated 17-12-2012 (Copy attached).

I am directed to invite your attention on the subject noted above and to say that a bunch of civil appeal in main Civil Appeal no. 5411-5430 of 2009-State of Haryana & others V/s Sita Ram & others came up for hearing before the Division Bench of Supreme Court of India on 29th October, 2013. After considering the provisions of rule 5 (1) & (2) of HCS (ACP) Rules, 1998 and other relevant rules of ACP Rules, 1998, it was held by the Hon'ble Apex Court that work charged service cannot be considered as regular satisfactory service for grant of ACP scale. While disposing of the bunch of civil appeal the Hon'ble Supreme Court considered all the previous judgments on this subject, the relevant part of the judgement is reproduced as under:-

“17. We reiterate that even though Ravinder Kumar's case was de-linked from the batch of matters decided vide judgment in State of Haryana v. Haryana veterinary and AHTS Association (supra) and was independently decided, the same cannot be relied upon for grant of benefit of ACP scales under the 1998 rules or time bound promotional scales or additional increments by counting work charge or adhoc service where the rules/scheme provide that the employee must have rendered regular service for a particular period.

18. On the basis of the above discussion, we hold that the Division Benches of the High Court committed an error by directing the appellants to treat work charge service of the respondents as part of regular service for the purpose of Rule 5(1) and (2) of the 1998 Rules.

19. In the result, the appeals are allowed, the impugned orders are set aside and the writ petitions filed by the respondents are dismissed.”

SECTION 17
CHANDIGARH
Dy No. 834
Date 18/12/13

fr

You are requested to bring the above mentioned instructions/judgments of Supreme Court of India to the notice of Courts in all those cases of your department which are still pending for adjudication.

The copy of complete judgment in Civil Appeal No. 5411-5430 of 2009 is available at FD's website (<http://finhry.gov.in>).

fm
Joint Secretary, Finance (PR)
for Addl. Chief Secretary to Govt. Haryana,
Finance Department. *fm*
3.11.13

A copy is forwarded to all the Administrative Secretaries to Govt. of Haryana in all the Departments.

fm
Joint Secretary, Finance (PR)
for Addl. Chief Secretary to Govt. Haryana,
Finance Department. *fm*
3.11.13

U.O. No. 6/83/2008-4PR (FD) Dated 03rd December, 2013

Endst.No. 6/83/2008-4PR (FD) Dated 03rd December, 2013

A copy is forwarded to all Head of Departments/ Divisional Commissioners/Dy. Commissioners/ SDO (Civil)

fm
Joint Secretary, Finance (PR)
for Addl. Chief Secretary to Govt. Haryana,
Finance Department. *fm*
3.11.13

Endst. No. 6/83/2008-4PR (FD) Dated 03rd December, 2013

A copy is forwarded to the Registrar, Punjab & Haryana, High Court, Chandigarh and Principal Accountant General (A&E/Audit), Haryana, Chandigarh.

fm
Joint Secretary, Finance (PR)
for Addl. Chief Secretary to Govt. Haryana,
Finance Department. *fm*
3.11.13

GOVERNMENT OF HARYANA

Finance Department

No. 6/83/2008-4PR(FD), dated 17th December, 2012

Office Memorandum

Subject: Regarding counting of adhoc service towards seniority and ACP scale in the cadre.

I am directed to invite your attention to the subject cited above and to say that on the issue of counting of adhoc service and work charged service towards seniority and the benefit of additional increments on completion of 8/18 years service higher standard pay scale after 10 & 20 years service and for the purpose of ACP scale, the following memorandum/instructions have been issued:-

1. Office Memorandum No. 6/16/2001-3PR(FD), dated 15-03-2002
2. Office Memorandum No. 6/16/2001-3PR(FD), dated 27-06-2002
3. Office Instruction No. 1/35/2002-1PR(FD), dated 23-04-2003
4. Office instruction No. 6/83/2008-4PR(FD), dated 10/12-06-2009
5. Office instruction No. Spl.-1/2009-2PR(FD), dated 12-06-2009

The above mentioned office memorandum instructions have been issued keeping in view the observations of the Supreme Court and Punjab & Haryana High Court in the following cases:-

- (i) Civil Appeal No. 13423 of 1996 State of Haryana Vs. Haryana Veterinary & AHTH Association (decided by the Hon'ble Supreme Court of India vide order dated Sept., 19, 2000).
- (ii) Civil Appeal No. 5740-5741 of 1997 State of Haryana Vs. Ravinder Kumar & others (decided by the Hon'ble Supreme Court of India vide order dated 31-10-2000).
- (iii) Jaswant Singh Vs. Union of India, 1979 (4) SCC 440 (judgement of Supreme Court).
- (iv) State of Rajasthan Vs. Punji Ramkarn, 1997 (2) SCC 517 (judgement of Supreme Court).
- (v) CWP No. 15555/2003 - Sheela Devi & others Vs. State of Haryana and CWP No. 15055 of 2003 - Badal Singh Vs. State of Haryana.
- (vi) CWP No. 7862 of 2008 - Hanumant Singh & others Vs. State of Haryana (decided by the Hon'ble Punjab & Haryana High Court vide order dated 04-07-2008).

Vide instruction No. Spl.-1/2009-2PR(FD), dated 12-06-2009, all the Head of the Departments were requested to file review applications in their cases which were disposed of by the Punjab & Haryana High Court in terms of the judgement in Hanumant Singh's case.



It is also pointed out that a bunch of SLPs in main SLP No. 13368/2009 State of Haryana & others Vs. Rajinder Kumar & others is pending for the adjudication before the Hon'ble Supreme Court of India. All these cases were disposed of by the Punjab and Haryana High Court in terms of Hanumant Singh's case.

petitioners were claiming the benefit of adhoc service for the purpose of the seniority in the cadre. These writ petitions were disposed of by Punjab & Haryana High Court in terms of the judgment of Hanumant Singh's case. Against the judgement dated 18-12-2008 in CWP No. 2409 of 2008, SLP No. 29874 of 2009 was filed. The said appeal has been allowed by the Supreme Court vide order dated August 22, 2012. It is necessary to point here that while disposing of above mentioned case, the Supreme Court has set aside the order dated 18-12-2008 passed by High Court in a bunch of Civil Writ Petition in main CWP No. 2409 of 2008. The Supreme Court considered the various previous judgement on the issue and the contention raised by party while disposing of SLP No. 29874 of 2009. The operative part of the judgement (para no. 24 and 25) is reproduced as under:-

"24. None of the aforesaid judgements can be read as laying down a proposition of law that a person who is appointed on purely adhoc basis for a fixed period by an authority other than the one who is competent to make regular appointment to the service and such appointment is not made by the specified recruiting agency is entitled to have his adhoc service counted for the purpose of fixation of seniority. **Therefore, the respondents, who were appointed as Masters in different subjects, physical Training Instructor and Hindi Teacher on purely adhoc basis without following the procedure prescribed under the 1955 Rules are not entitled to have their seniority fixed on the basis of total length of service.** As a corollary to this, we hold that the direction given by the High Court for re-fixation of the respondents' seniority by counting that adhoc service cannot be approved.

25. In the result, the appeal is allowed, the impugned order is set aside and the writ petition filed by the respondents is dismissed. The parties are left to bear their own costs".

You are requested to bring the above mentioned instructions/judgments of Supreme Court of India and Punjab and Haryana High Court to the the notice of Courts in all those cases of your department which are still pending for adjudication.


Under Secretary Finance (PR)
for Principal Secretary to Government of Haryana,
Finance Department 

To

All the Administrative Secretaries to Government of Haryana in various Departments /Heads of Departments/Divisional Commissioners/ Deputy Commissioners/ SDOs (Civil) in Haryana/Registrar, Punjab & Haryana High Court at Chandigarh/Accountant General(A&E) Haryana/ and the Accountant General (Audit) Haryana, with five spare copies in each case for use in the offices.