

Government of Haryana
Finance Department
No. 6/16/2001-3PR(FD)
15th of March, 2002

Office Memorandum

Subject : Regarding counting of ad-hoc and work charged service toward the benefit of additional increments on completion of 8/18 years service and Higher Standard Pay Scales after 10/20 years service.

The undersigned is directed to refer to the subject mentioned above and to say that on the demands of various associations/unions of employees, the State Government introduced various schemes in order to take care of stagnation and lack of promotional avenues for employees belonging to Group 'C' and 'D' as a welfare measure from time to time.

2. The first scheme was introduced vide instructions dated 14th May, 1991. Under this scheme, it was decided to provide following benefits to employees of Group 'C' and 'D':-

- i) Provision of additional increments after 10 or 20 years service.
- ii) Grant of annual increments even after reaching the maximum of the pay scale in place of biennial increments.

3. Thereafter, this above scheme was further modified vide Govt. Instructions dated 7.8.1992. Under this scheme, it was decided to grant additional increments on completion of 8/18 years regular satisfactory service instead of 10/20 years service.

4. The State Govt. introduced another scheme vide notification dated 8.2.1994 but effective from 1.1.1994. Under this scheme, known as the Higher Standard Scales Scheme, it was decided to grant higher standard scales after completion of 10/20 years regular satisfactory service. Some clarifications were sought by various Departments regarding grant of benefits under these schemes. These points were clarified vide instructions dated 29.12.1995, wherein it was clarified that ad-hoc service and work charged service was not to be counted while calculating the required regular and satisfactory service for the purposes of grant of Higher Standard scales.

5. Judicial view on Ad-hoc Service:

- i). Some Government employees filed various writ petitions in the Hon'ble Punjab & Haryana High Court seeking therein the benefit of ad-hoc service rendered by them for calculating total length of service for the purpose of grant of benefits of Higher Standard Scales. These writ petitions were disposed off by the Hon'ble High Court in terms of full bench's judgement in the case of R.K. Singla V/s State of Haryana in CWP No. 15034 of 1993. In R.K. Singla's case, the petitioner was claiming benefit of ad-hoc service for

computing 12 years service towards the benefit of selection grade granted by the State Government to the Engineers of PWD (three wings) and Doctors vide letter dated 2.6.1989 read with clarificatory letter dated 16.5.1990.

- ii) While disposing off the case of R.K. Singla, it was held by the Hon'ble High Court that:

"Such period of adhoc service which is countable for the purpose of seniority and other service benefits in the light of the judgement of the Supreme Court in the direct recruitment case as explained in Aghore Nath's case and the full bench of this court in Chambel Singh's case shall be counted for the purpose of regular service in the context of circular dated 2.6.1989."

- iii) The State Government preferred to challenge the said orders by way of filing various SLPs in the Hon'ble Apex Court. The State Government also filed SLP against the orders of Hon'ble full bench of Punjab & Haryana High Court in the case of R.K. Singla.

- iv) All these SLPs were tagged in the Hon'ble Supreme Court of India and came up for hearing before a three judges bench of Hon'ble Supreme Court on September 19, 2000 in the main civil Appeal No. 13423 of 1996 - State of Haryana V/s Haryana Veterinary and AHTS Association. While disposing off the SLPs, it was held by the Hon'ble Apex Court that :-

"Thus the appointment of respondent Rakesh Kumar was a fresh appointment in accordance with the statutory Rules after the Public Service Commission adjudged their suitability and the regular service of the respondent Rakesh Kumar must be counted from the date he joined the post pursuant to the offer of appointment dated 29.1.1982 and the period of service rendered by him on ad-hoc basis can not be held to be regular service nor can it be tagged on to the later service for earning the benefit under the Govt. Circular dated 2nd June, 1989 as well as the clarificatory circular dated 16th May, 1990. The conclusion of the majority judgement of the High Court, therefore, is wholly erroneous and can not be sustained."

Thus, the Hon'ble Apex Court set aside the full bench judgement of Hon'ble Punjab & Haryana High Court in R.K. Singla's case. It was further held by the Hon'ble Apex Court that :-

"Since the judgement of Rakesh Kumar has been followed in all other cases which are also the subject matter of appeal before this court in the tagged on matters, following the conclusions arrived at by us in Rakesh Kumar's case, the impugned judgement and direction in all these matters are set aside and the appeals filed by the State of Haryana stand allowed."

- v) Another matter of the State of Punjab came up for hearing before a Division Bench of Hon'ble Apex Court on February 20, 2001 in the case of State of Punjab and others vs. Gurdeep Kumar Uppal and others wherein the question of counting of ad-hoc service towards the benefit of proficiency increments under **Proficiency Step-up Scheme** of Punjab Government was involved. While disposing off the said case, the Hon'ble Apex Court relied upon the judgement of three judges bench of Hon'ble Apex Court in the case of State of

Haryana and others V/s Haryana Veterinary and AHTS Association and others 2000(B).SCC 4. It was observed by the Hon'ble Apex Court that :

"This question was considered by a three judges bench of this court in the State of Haryana V/s Haryana Veterinary and AHTS Association and another 2000(B) SCC 4 wherein this court took the view that for calculating 8/18 years service required for giving higher scale of pay and for determination of seniority only regular service rendered by the employees is to be counted and not ad-hoc service."

Thus, the Hon'ble Apex Court set aside the judgement of Hon'ble Punjab and Haryana High Court in CWP No.452 of 1990 Gurdeep Kumar Uppal and others V/s State of Punjab.

6. Judicial view on Work-charged service:

- i) Some writ petitions were filed before the Hon'ble Punjab & Haryana High Court by the Haryana Government employees seeking therein the benefit of service rendered by them on work charged basis for the benefit of additional increments after completion of 8/18 years service and higher standard scales after completion of 10/20 years service. Out of these writ petitions, some writ petitions were disposed off in terms of full bench judgement of Hon'ble Punjab & Haryana High Court in R.K. Singla's case and some of the writ petitions were disposed off by the Hon'ble High court in terms of judgement of Hon'ble Punjab & Haryana High Court in CWP No. 18429 of 1996, Banta Ram & others Vs. State of Haryana.
- ii) The State Government filed various SLPs in the Hon'ble Apex Court against the judgements of Hon'ble Punjab & Haryana High Court in the cases of work charged employees. A total of 16 SLPs were tagged with the bunch matter in the main case of civil appeal No. 13423 of 1996 State of Haryana Vs. Haryana Veterinary and AHTS, Association & others. However, while disposing off the said bunch matter, these 16 civil appeals were de-linked (wherein question of counting of work charged service towards the benefit of additional increments and higher standard scales was involved) on the contentions of the respondents that the period rendered on work charged basis count for seniority, increment and pension.
- iii) The said bunch of appeals came up for hearing before a three judges bench of the Hon'ble Supreme Court on 31st October, 2000 in the main civil appeal No.5740-5741 of 97 --- *State of Haryana Vs. Ravinder Kumar and others*. These appeals were disposed off vide order dated 31.10.2000. Operative part of the judgement is reproduced as follows:-

"These batch of cases were de-linked while hearing another batch of appeals from the same state, which were disposed off by us by judgement dated 19th September, 2000. It is conceded by the learned counsel appearing for the state that in these cases we are concerned with employees who had been engaged initially on work charged basis and later on they were regularized and brought into the cadre of the service. It is also not disputed by the learned counsel appearing for the State that this period, which the employees

have rendered on work charged basis, count for the purpose of increments in the cadre as well as the qualifying service for the pension. We, therefore, see no justification in not counting their period for the purpose of giving additional increment on completion of 8 and 18 years of service as well as 10 and 20 years of service for getting higher scale as per the Government circular, which obviously are intended to avoid stagnation in a particular grade."

- iv) The State Government filed a review petition against the order of Hon'ble Apex Court in Ravinder Kumar's (Supra) case. In the said review petition, all the facts and circumstances were brought to the notice of Hon'ble Apex Court including the judgement in case of ad-hoc service. The said review petition was, however, dismissed by the Hon'ble Apex Court.
- v) Another attempt was made to place all the facts and circumstances in the matter before the Hon'ble Apex Court in SLP No. 4158 of 98 --- State of Haryana Vs. Babu Ram. However, the said SLP has also been dismissed following the judgements in Ravinder Kumar's case.
- vi) A number of Civil Writ Petitions, filed by employees having rendered service on work-charged basis, are still pending before the Hon'ble Punjab & Haryana High Court. While disposing off CWP No. 425 of 2002 --- Ram Karan Vs. State of Haryana & others, it has been observed by the Hon'ble Punjab & Haryana High Court that :-

"Government being the largest employer in this country is expected to maintain certain requisite standards of service administration so as to avoid unnecessary harassment to its employees. Once the matter is settled up to the highest court of the land, the least that is expected from the Government is to grant benefit to its employees whether they were parties to the civil appeal before the apex court or not".

7. Decisions of the Government:

Keeping in view that the State Government has exhausted all remedies available under the law and the ratio of judgements referred to above, the Government has decided to implement the orders of the Hon'ble Punjab & Haryana High Court and the Hon'ble Supreme Court of India. Accordingly, in super-session of all instructions issued in this behalf hereinbefore, all the departments are directed to take action as follows :-

- i) The ad-hoc service is not to be counted towards regular service for the purpose of calculation of prescribed length of service for the grant of additional increments on completion of 8/18 years service under the scheme introduced vide Government letter dated 7.8.1992, the Scheme introduced by the Government for Engineers of PWD (three wings) and Doctors vide Government Instructions dated 2.6.89 read with clarificatory instructions dated 16.5.90, and the higher standard scales under the scheme of Higher Standard Scales introduced for group 'C' & 'D' employees introduced vide letter dated 8.2.1994 but effective from 1.1.94

- ii) That the service rendered on work-charged basis followed by regular service which count for the purposes of increments in the cadre as well as qualifying service for pension, the same is to be taken into account for the purpose of calculation of prescribed length of service under the scheme of additional increments on completion of service of 8/18 years service implemented vide Government instructions dated 7.8.1992 and for grant of higher standard scales on completion 10/20 years service under the Scheme of Higher Standard Scales introduced by the Government vide letter dated 8.2.1994 in compliance of the orders of the Hon'ble Supreme Court of India in Ravinder Kumar's case.

Provided that the said benefits may be granted on notional basis on the relevant date(s) but the actual payment of arrears shall be confined to a period of 38 months prior to the issuance of these instructions. However, in cases where the requisite benefit has been granted by the Hon'ble Punjab & Haryana High Court, the payment of arrears be allowed to the petitioners in such cases for a period of 38 months prior to the date of filing of civil writ petitions by them or the date of introduction of relevant scheme whichever is later. Further, in case there are specific directions by the Hon'ble Court in a given case to pay arrears for more than 38 months period, then the payments be made as per specific directions only. Other terms and conditions of the schemes shall remain unchanged.

- iii) It may be please be ensured that the work charged service shall be countable towards the benefit of additional increments under the scheme introduced vide Government instructions dated 7.8.1992 and for Higher Standard Scales under the scheme introduced vide instructions dated 8.2.1994.

Balwant Singh.
(Balwant Singh)

Under Secretary (Finance)
for Financial Commissioner & 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.