

**GOVERNMENT OF HARYANA**  
**FINANCE DEPARTMENT**

No. 8/10/2011-3PR(FD) Dated, Chandigarh the 15-12-2011

To

1. All Heads of Departments, Commissioner of Divisions, All Deputy Commissioners and Sub-Divisional Officers (Civil) in Haryana.
2. The Registrar, Punjab & Haryana High Court, Chandigarh.

**Subject: Guidelines regarding litigation policy.**

Sir/Madam,

Reference on the subject noted above.

It is observed that in the some matters the issues are already settled by the Hon'ble Supreme Court of India or by the Hon'ble High Court. Whereas, the department concern while filing reply did not mention these judgements in their reply. For example the issue with regard to non admissibility of ACP scale on forgoing the promotion has already been settled by the Hon'ble High Court, while disposing of CWP No. 14653 of 2008 - Rakesh Kumar Vs. State of Haryana decided on 05-08-2009 and CWP No. 18718 of 2002 - Sukentla Devi Vs. State of Haryana decided on 10-01-2003. In both cases, the Hon'ble Division Bench considered the relevant provisions of ACP Rules, 1998 and after considering these provisions, the writ file by the petitioners have been dismissed. It is the duty of department concern to bring these judgements in the notice of Hon'ble Court in all the cases which are pending for adjudication. In Sukentla Devi's case the petitioner was working as a Junior Mistress.

Whereas, some cases of JBT teachers have been disposed of by the Hon'ble Single Judge in terms of others judgements applicable in the case of employees of State of Punjab wherein relevant provision of ACP rules have not been considered by the Hon'ble High Court. Whereas, the provisions of ACP rules are altogether different from the provisions of Proficiency Step Up Scheme applicable in the case of State of Punjab.

The issue with regard to counting of adhoc service has already been settled by the Hon'ble Supreme Court of India while disposing of Civil Appeal filed by the State Government in the case of State of Haryana Vs. Haryana Veterinary Association & others. Whereas, some writ petitions have been allowed by the Hon'ble Punjab & Haryana High Court without considering the relevant provisions of service rules.

Some important issues have been settled by the Hon'ble Supreme Court of India or by the Hon'ble High Court. The judgements of Hon'ble Courts have been circulated vide the following instructions issued by Pay Revision Branch/Pension Branch:-

1. No. 6/84/2006-3PR(FD), dated 02-06-2008- Regarding grant of benefit of stepping up to senior employees at par with junior employees in case of ACP matters in view of the judgement of Hon'ble Supreme Court in Civil Appeal No. 3250 of 2006 - Commissioner & Secretary to Govt. of Haryana & others Vs. Ram Sarup Ganda & others and SLP No. 13940 of 2002 - Commissioner & Secretary to Govt. of Haryana Vs. K.C. Bhardwaj.
2. No. 6/83/2009-3PR(FD), dated 09-08-2010 - Regarding entitlement of Govt. employees working on Technical posts without qualification of Matric with ITI at the time of their appointment decided by Hon'ble High Court in a bunch of CWP in main CWP No. 18754 of 1991 - Gurdev Singh & others Vs. State of Haryana.
3. No. 6/48/2009-2PR(FD), dated 16-12-2010 - Regarding counting of past service rendered in Boards/Corporations/Municipal Committees who have declared surplus and subsequently appointed on transfer basis in other departments for the benefit of ACP Scales in view of the judgement of Hon'ble Supreme Court in SLP No. 11224 of 2009 - State of Haryana Vs. Ramesh Chander.

**GOVERNMENT OF HARYANA**  
**FINANCE DEPARTMENT**

4. Vide judgement dated 22-09-2006 in a bunch of SLPs in main Civil Appeal No. 6292 of 2004- State of Haryana & others Vs. Partap Singh & others the issue with regard to fixation of pay at the time of fixing the pay in ACP scale and the time of actual promotion has been settled by the Hon'ble Supreme Court of India. In this case the benefit of pay fixation under the provision of Rule-4.4 of CSR Vol.I was given to employees while fixing their pay in ACP scale. Since, the ACP scale was identical to the pay scale of promotional post, the benefit of pay fixation on actual promotion was denied by the State Government. The said action of State Government has been upheld.
5. No. 4/6/2007-2Pension, dated 17-02-2010 - Regarding qualifying service i.e.20 years benefit for the pension in view of the judgement of Hon'ble Supreme Court in SLP(Civil) No. 98 of 2007 arising out of CWP No. 8666 of 2005 Ghanshyam Dass Relhan Vs. State of Haryana & others.
6. No. 1/2(38)/99-2FRII/4Pension, dated 12-09-2007- Regarding clarification given by State Government for entitlement of Retirees, who retire prior to 01-01-1996 minimum 50% of corresponding pay scale of pre-revised pay scale in which retiree was drawing his pay at the time of him retirement in view of the judgement of Hon'ble Supreme Court in bunch of Civil Appeal in main Civil Appeal No. 3174 of 2006- Union of India & others Vs. K.S. Krishnaswamy etc.

Apart from above mentioned instructions, detailed guidelines have been issued on the following subjects:-

1. Detailed guidelines in matters involving Pay Revision and the issue of Anomalies related thereto vide No. 8/6/2011-5PR(FD), dated 20-04-2001. The word anomaly has been defined in these instructions.
2. Enunciation of the Principle of Equal Pay Scale for similarly designated posts - various judgements of the High Courts/Supreme Court vide No. 6/1/2001-1PR(FD), dated 24-01-2001.
3. Clarifications regarding (i) grant of replacement scale in the Revised Pay Scales and (ii) fixation of pay on the promotion to a post the functional pay scale of which is equal to or lower than the First or Second Higher Standard Scale in the pre-revised scales or First or Second ACP in the Revised Pay Scales vide No. 5/4/2001-5PR(FD), dated 02-03-2001.
4. Clarification regarding pension, if the pay scale of any post (on which retiree was working before his retirement) has been enhanced/improved or reduced at the time of revision of pay scale w.e.f. 01-01-1996 or 01-01-2006, the same shall not be applicable in case of those retirees who retired prior to such enhancement/improvement or reduction of pay scale w.e.f. 01-01-1996 or 01-01-2006. They are entitled to revised pension in accordance with Govt. clarification letter No. 1/2(8)98-2FR-II (Part VIII), dated 07-01-2002 and provisions of Haryana Civil Services (Revised Pension) Part-I Rules, 2009.

Even on incentive schemes introduced by the State Government (FD) clarifications have been issued from time to time.

In view of above position, it is advised to bring the previous judgements on the issue in the notice of Hon'ble Court through their written statement or at the time of final hearing.

You are requested to examine each case of your department in the light of above mentioned judgements, instructions & clarifications.

It has been further decided that all those cases shall be referred to the Finance Department for comments wherein the issue with regard to policy decision taken by Finance Department are involved before taking any final decision under provisions of State Litigation Policy.

Yours faithfully,



**Joint Secretary Finance (K)**

for Financial Commissioner & Principal Secretary to  
Government, Haryana, Finance Department

Endst. No. 8/10/2011-3PR(FD)

Dated Chandigarh the 15-12-2011

A copy is forwarded to the Accountant General, Haryana (i) (A&E), (ii) (Audit), Chandigarh for information.

*tsn*

**Joint Secretary Finance**

for Financial Commissioner & Principal Secretary to  
Government, Haryana, Finance Department

A copy is forwarded to:-

1. All the Financial Commissioners in Haryana; and
2. All the Commissioners & Administrative Secretaries to Government, Haryana for information and necessary action.

*tsn*

**Joint Secretary Finance**

for Financial Commissioner & Principal Secretary to  
Government, Haryana, Finance Department

To

1. All the Financial Commissioners in Haryana; and
2. All the Commissioners & Administrative Secretaries to Government, Haryana for information and necessary action.

U.O. No. 8/10/2011-3PR(FD)

Dated Chandigarh the

15-12-2011

A copy is forwarded to the Principal Secretary to the Chief Minister, Senior Secretaries to Ministers, Secretaries to Ministers and Private Secretaries to Ministers / Ministers of State for the information of Chief Minister, Ministers & Ministers of State.

*tsn*

**Joint Secretary Finance**

for Financial Commissioner & Principal Secretary to  
Government, Haryana, Finance Department

To

The Principal Secretary to the Chief Minister, Senior Secretaries to Ministers, Secretaries to Ministers and Private Secretaries to Ministers / Ministers of State.

U.O. No. 8/10/2011-3PR(FD)

Dated Chandigarh the

15-12-2011

**Internal Circulation:-**

1. All the Officers/ Deputy Secretaries/Under Secretaries/ Superintendents of F.D.
2. In charge, Computer Cell (FD).