

No. 6/83/2009-3 PR (FD)

From

Financial Commissioner & Principal Secretary to
Govt. Haryana, Finance Department

To

1. All Heads of departments in Haryana.
2. All Divisional Commissioners.
3. All Deputy Commissioners & Sub Divisional officers (Civil) in Haryana
4. Registrar, Punjab & Haryana High Court Chandigarh.

Dated Chandigarh, the 9th August, 2010

Subject:-

CWP No. 12020 of 1993, 12021 of 1993, 18754 of 1991, 14493 of 1991, 15439 of 1991, 15520 of 1991, 14384 of 1991 and 12751 of 1993—Revision of pay scale of Technical posts.

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While disposing of a bunch of CWP in main CWP No. 18754 of 1991, the Hon'ble High Court considered item No. 40 of instructions No. 6/23/3PR(FD)-88, dated 23.08.1990 and 26.07.1991 give observation as under:-

"From the reading of Pay Rules, 1986 Item No. 40 it appears that the revised pay scale has been prescribed for various technical posts in which the minimum educational qualification prescribed is matric with ITI, meaning thereby that any person, who is working on any technical post for which the minimum qualification prescribed is matric with ITI certificate whether he is in lower pay scale of 750-940 or various higher pay scales referred to above including Rs. 950-1500/- is to be placed in the revised pay scale of Rs. 1200-2040/-. The rule does not prescribe that only an employee working on the technical post possessing the qualification of matric with ITI is to be granted the revised pay scale. Pay scales of the posts and grades have been revised and not of the employees with higher qualifications. It is not in dispute that all the petitioners are working on one or the other technical posts and are in the different pay scales amongst five unrevised, pay scales and are working since last 20 to 30 years. The endorsement recruitment of the non-matric has been stopped, its natural corollary is that in past non-matrices have been recruited against the posts for which the qualification prescribed is matric with ITI."

So far as the claim of the person who were appointed prior to 01.05.1990 on these posts, whose qualification was not matric with ITI is concerned, the observation of Hon'ble High Court on this issue are as under:-

"There is another aspect the qualification is to be seen at the time of recruitment. A person possessing the requisite qualification at the time of recruitment cannot be denied the benefit of the pay scale, if, at any subsequent stage the qualifications are modified. Hon'ble Supreme Court in case of Chandraprakash Madhovra Dadwa Vs. Union of India repored as 1998 (4) RSJ considered the similar question and held as under:-

"47. To put it in a nutshell, the change in the essential qualification made in 1990 or 1998 or the additional functions now required to be performed by the appellants could not retrospectively affect the initial recruitment of appellants as Data Processing Assistants nor their confirmation in 1989. Recruitment qualifications could not be altered for applied with retrospective effects so as to deprive the recruitees of their right to the posts to which they were recruited nor could it affect their confirmations."

Thus, if the petitioners had the requisite qualification to hold the post at the time of their recruitment, any qualification prescribed subsequently will not effect their right to hold the post or their entitlement for the revised pay scales on the ground that they do not possess the qualification prescribed later on."

The same issue has been again considered by the Hon'ble High Court while disposing of CWP No. 10074 of 2010 and CWP No. 10276 of 2010 with the observations which are as under:-

"In view of the above, the petitioners notwithstanding the fact that they are non-matric are entitled to the pay scale of Rs. 1200-2040 w.e.f. 01.05.1990. However, the petitioners shall be entitled to only notional benefits of the aforesaid pay scale and their salary will be fixed at par with the juniors without any monetary benefits of arrears. The petitioners shall be entitled to the pay revision, if any thereafter."

In view of the above quoted judgements of Hon'ble High Court, it has been decided to grant the benefit of pay scales of Rs. 1200-2040/- notionally w.e.f. 01.05.1990 and actually from issuance of this letter to those employees whose qualification was not matric with ITI and they were appointed prior to 01.05.1990 on technical post whose qualification is matric with ITI under the provisions of service rules/draft service rules/qualification prescribed otherwise.


Superintendent (PR)

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

Endst. No. 6/83/2009-3PR(FD)

Dated Chandigarh the 9th August, 2010

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

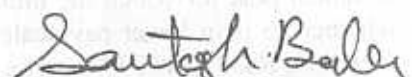

Superintendent (PR)

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

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Dated Chandigarh the 9th August, 2010

A copy is forwarded to the Home Secretary, Chandigarh for information and necessary action.


Superintendent (PR)

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

A copy is forwarded to:-

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


Superintendent (PR)

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

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

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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 Chief Parliamentary Secretary and Parliamentary Secretary for the information of Chief Minister, Ministers & Ministers of State, Chief Parliamentary Secretary and Parliamentary Secretary.


Superintendent (PR)

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, Chief Parliamentary Secretary and Parliamentary Secretary.

Endst. No. 6/83/2009-3PR(FD)

Dated Chandigarh the 9th August, 2010