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10-10-2017

**Government of Haryana  
Finance Department**

**No. 6/59/2016-1PR (FD)**

From

The Addl. Chief Secretary to Govt. Haryana  
Finance Department.

To

1. All Heads of the Departments
2. All Divisional Commissioners
3. All Deputy Commissioners
4. All Sub Divisional Officers (Civil)
5. The Registrar General Punjab & Haryana High Court.

**Dated Chandigarh the, 10-10-2017**

**Subject:- Litigation/Court Cases, where issue of withdrawal of ACP benefit(s) pursuant to Foregoing/Declining of Promotion is involved.**

Sir,

I am directed to invite your attention towards the subject noted above and to say that the issue of withdrawal of ACP benefit from an employee in the event of foregoing/declining of promotion was under consideration for some time. The following conditions have to be fulfilled to grant ACP to an employee:-

1. The employee should be fit for promotion.
2. He/she fulfill the requisite prescribed qualification.
3. He/she has to pass prescribed test for promotion, if any.

2. It is presumed that the employee is ready to get the promotion but due to lack of vacancy he cannot be promoted functionally. Therefore, if he/she foregoes promotion, the following provision under Rule 14 of HCS(ACP) Rules, 2008 is applicable:-

**"14. Ceasing of entitlement of ACP pay structure:-**

In case the Government servant chooses to forego any functional promotion on any ground whatsoever, while drawing his pay in any ACP pay structure with reference to him, he shall cease to be entitled to draw his pay in the ACP pay structure last granted to him and shall draw his pay in the pay band and grade pay he was drawing before the grant of the last ACP grade pay from the date of such foregoing of promotion."

3. During the implementation of above provision, it has been noticed that in a number of cases, recoveries have been made while withdrawing the ACP benefit from the Govt. employees who have foregone the promotion. In some cases, ACP benefit has been withdrawn from Class IV employees when they declined the promotion. In some cases Govt. employees have been granted the ACP, though they have not passed the Departmental exam/test, which is mandatory under the respective service Rules. Subsequently, when it came to the notice that ACP was granted wrongly, the said ACP has been withdrawn and the recovery has been effected.

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4. Further, vide instructions dated 12.12.2011, the condition of prescribed qualification for Group 'D' employees has been withdrawn and Group 'D' employees are being granted ACP even if they do not possess the qualification prescribed for the promotion.

5. Therefore, keeping in view the above position, it is clarified as under:-

a. In all the cases where ACP has been withdrawn from an employee in the event of foregoing/declining of promotion under relevant Rules, the re-fixation of pay in the applicable lower Scale may be done from the date of foregoing/declining of promotion on presumptive basis i.e. no recovery is made from the date of grant of ACP till the date of forego of promotion. It is, however, clarified, that recovery is admissible only w.e.f. the date of foregoing/declining of promotion onwards. Further at the time of making recovery, FD's instruction dated 20.1.2017 may also be kept in view.

If the question of recovery is presently under challenge in any of the Court Cases the curative action, as suggested above, may be brought to the notice of concerned Courts.

b. The objective of the ACP Scheme is to remove the stagnation in the absence of promotion for a certain years of service for an employee, who is otherwise fit to be promoted to a higher post in the regular hierarchy i.e. he/she is ready to shoulder responsibility of a higher post but could not be promoted on account of non-availability of promotional avenues for the time being. However, an employee is no longer entitled to enjoy the benefit of ACP Pay Scale, if he/she foregoes/declines a promotion offered to him in his regular hierarchy meaning thereby he/she is not ready to shoulder higher responsibility. **Therefore, all the pending Court cases regarding withdrawal of ACP benefit on foregoing/ declining of promotion may be defended vigorously.**

c. ACP should not be withdrawn from a Class IV employee if he/she foregoes/declines promotion, keeping in view the spirit of letter dated 12-12-2011. Therefore, such cases of Class IV employees, may be reviewed accordingly and benefit, if withdrawn, be restored. If any/some cases are presently sub-judice those may be got disposed off accordingly by taking corrective action.

d. No ACP should be granted to an employee without holding the requisite departmental exam(s)/test(s), wherever provided in the service Rules and is mandatorily to be passed in order to get hierarchical promotion. It is also suggested that such departmental exam(s)/test(s) may be held at regular intervals to avoid chances of confusion/ complication.

e. A clear and express condition should be inserted in the orders granting ACP that, "it is being granted only in lieu of promotion/non-availability of promotional avenues for the time-

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being and is liable to be withdrawn without any notice in the event of foregoing/declining of hierarchical promotion".

- f. Any adverse decisions on ACP matters (forego of promotion) from any of the Court may immediately be brought to the notice of Finance Department for further directions/ clarifications before implementing the same.
- g. All litigation cases involving issues related to withdrawal of ACP benefit due to foregoing/declining of promotion, where Written Statement/Reply has not been filed on behalf of the State, draft reply may be sent for vetting to the Finance Department immediately.

*Under*

**Chief Accounts Officer (PR)**  
for Addl. Chief Secretary to Govt. Haryana  
Finance Department

**Endst No. 6/59/2016-1PR (FD)**

**Dated 10-10-2017**

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

*Under*

**Chief Accounts Officer (PR)**  
for Addl. Chief Secretary to Govt. Haryana  
Finance Department

A copy is forwarded to:-

- 1. All the Additional Chief Secretaries/Principal Secretaries to Government Haryana for information and necessary action.
- 2. The Director, Information & Public Relation and Languages.

*Under*

**Chief Accounts Officer (PR)**  
for Addl. Chief Secretary to Govt. Haryana  
Finance Department

**U.O. No. 6/59/2016-1PR (FD)**

**Dated 10-10-2017**

**DIRECTORATE OF AGRICULTURE & FARMERS WELFARE, HARYANA, PANCHKULA**

Endst.No. 19950-966

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Dated : 18.10.2017

A copy of the above is forwarded to the following:

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| <ul style="list-style-type: none"> <li>1 All Addl. Directors/ Joint Directors</li> <li>2 Accounts Officer (HQ &amp; WB)</li> <li>3 Supdt./Dy. Supdt. Esstt.-I, II, III &amp; IV</li> </ul> | } | Directorate of Agri. & Farmers Welfare,<br>Haryana, Panchkula. |
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for information and necessary action.

*M. Puty*

Assistant Director (Admn)  
for Director, Agriculture & Farmers Welfare  
Department, Haryana

CC:- Computer Programmer for upload on the Departmental Web-site