

Document No.:- DR1619-110621

Subject: Regarding non grant of ACP to ex-servicemen employees while counting their military service (other than emergency military service counted towards seniority) for the purpose of ACP as per advice dated

OFFICE OF COMPTROLLER, LUVAS, HISAR
(BUDGET BRANCH)

Endst No. LUVAS/CVU/B-1(54)/2021/1676-1726

Dated: 10.06.2021

The Worthy Vice-Chancellor has approved the adoption and circulation of the clarification issued by the State Government vide memo no.6/82/2020-3PR(FD)/10853 dated 17.05.2021 (copy attached) regarding grant of ACP to ex-servicemen employees in LUVAS, Hisar. A copy of the same is forwarded to the following for information and necessary action:-

1. All Deans/Directors/Officers/HODs (Including Outstations), LUVAS, Hisar
2. Secretary to Vice-Chancellor for kind information of Worthy Vice-Chancellor, LUVAS, Hisar
3. SPS to Vice-Chancellor, LUVAS, Hisar
4. DDO, O/o Comptroller, LUVAS, Hisar
5. The J.D, Local Audit, Haryana, LUVAS, Hisar
6. RSA and Auditor (Internal Audit), O/o Comptroller, LUVAS, Hisar
7. Adoption of instructions File (Internal)
8. Dr. Neelesh, Incharge, E-Gov. Cell, LUVAS, Hisar for uploading the same on the Website of University.

Sd/-

Comptroller

APPROVED

Surender Kumar
Deputy Comptroller, Comptroller
Office of Comptroller
Jun 11 2021 8:41AM



No. 6/82/2020-3PR(FD)/ 10853

From

Additional Chief Secretary to Government Haryana,
Finance Department

To

1. All the Administrative Secretaries in Haryana State.
2. All the Head of Departments in Haryana State.
3. All the Divisional Commissioners in Haryana State.
4. All the Deputy Commissioners in Haryana State.
5. All the SDOs (Civil) in Haryana State.

Dated 17.05.2021

Subject: Regarding non grant of ACP to ex-servicemen employees while counting their military service (other than emergency military service counted towards seniority) for the purpose of ACP as per advice dated 29.05.2009 - Clarification regarding.

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Sir,

I am directed to invite your kind attention towards Finance Department's letter No. 10/108/94-4PR(FD), dated 29.12.1995 on the subject cited above and to say that vide para 1 (ii) of the above instructions, the matter regarding emergency military service was further considered and on reconsideration, the following decision had been taken:-

(ii) "Regular Satisfactory Service" also includes military service rendered during the emergency for which benefit has been given to an employee for the purpose of seniority, fixation of pay etc. through separate instructions. Para 6 of the FD letter dated 08.02.1994 shall be considered to have been modified to this extent.

2. Further in the above said instructions, on the issue of emergency military service the necessary clarification was issued as under:-

	Points Raised	Clarification
4	(i) Whether the benefit of military service, which has been counted towards seniority as well, is to be counted for the grant of Higher Standard Pay Scales or not?	4 (i) Yes, military service rendered before joining Government service counted for granting seniority/ Pay fixation shall also be counted as regular satisfactory service for the purpose of grant of additional increments and Higher Standard Pay Scales as per decision contained in, Para 1 (ii) above.

3. The above said clarification was issued for the purpose of grant of additional increments and Higher Standard Pay Scales to the ex-servicemen employees who have rendered military service during the emergency period.

4. The State Government implemented the recommendations of 5th pay commission w.e.f 01.01.1996 issued vide notification dated 07.01.1998,



wherein new ACP scheme was introduced instead of Additional increments/ Higher Standard Pay Scales for the welfare of the employees. Accordingly advice/clarification was sought from the Finance Department whether the same will be applicable to the ex-servicemen employees towards ACP who have rendered military service during the emergency period.

The clarification sought by the MDU, Rohtak and the advice tendered by the Finance Department is as under:-

Clarification sought by the Maharishi Dayanand University, Rohtak vide letter No. En-12/08/P-588/1936, dated 20.02.2008.	Advice tendered by the Finance Department vide U.O. No. 1/2/2009-4PR(FD) dated 29.05.2009 to AD (Education Department)
<p>Kindly refer to letter no. 10/108/94-04 PR(FD), dated 29.12.1995, vide which certain clarifications with regard to grant of additional increments and Higher Standard Pay Scale to group C&D employees were issued under point 4 (i) if the said benefit of military service which has been counted towards seniority and pay fixation shall also be counted as regular satisfactory service for the purpose of Higher Standard Pay Scale. In the ACP rules as notified vide Haryana Gazette notification (extra) dated 07.01.1998, it is not clear whether the benefit of the military service which has been counted towards pay fixation and seniority is also countable or otherwise. You are therefore, requested to kindly arrange to send a clarification in this regard at the earliest, since the Local Audit has not accepted the clarification given in the case of Higher Standard Pay Scale toward ACP scale.</p>	<p>Finance Department observes that military service rendered before joining Government service counted for granting seniority/pay fixation shall also be counted as regular satisfactory service for the purpose of grant of A.C.P Scale.</p>

5. The aforesaid advice was tendered keeping in view the provision of point no. 4 (i) of letter dated 29.12.1995 in a particular case keeping in view the conditions of that case. Any advice given in particular case cannot be made applicable in any other case, unless it is examined as per facts of that case along-with relevant rules and instructions.

6. Further, the relevant rules/instructions w.r.t grant of ACP are as under:-

- (i) Note below Rule 5 of ACP Rules, 1998 and note below Rule 7 of ACP Rules, 2008 provides as under:-

“For the purpose of these rules, “regular satisfactory service” would mean continuous service counting towards seniority under Haryana Government, including continuous service in Punjab Government before re-organization, commencing from the date on which the Government servant joined his service after being recruited through the prescribed procedures or rules etc. for



regular recruitment, in the cadre in which he is working at the time of being considered his eligibility for grant of ACP scales under these rules and further fulfilling all the requirements prescribed for determining the suitability grant of ACP scales.

- (ii) As per provisions in Rule 7 of HCS (ACP) Rules, 2016 Regular satisfactory service however, does not include Military service (other than emergency military service counted towards seniority) rendered by an ex-serviceman before his re-employment in civil service.

7. The provisions of counting regular satisfactory service are very clear in the above said ACP Rules. Further, it has been noticed that some of the ex-servicemen employees have knocked the door of the Hon'ble Court(s) with the prayer to count their military service (other than emergency military service counted towards seniority) for the purpose of ACP as per advice dated 29.05.2009. The Hon'ble Court (s) are allowing their prayer keeping in view the advice dated 29.05.2009.

8. In one of such case (i.e. CWP No. 18917 of 2014-Man Singh Vs. State of Haryana), Hon'ble Court had allowed the prayer of the petitioner keeping in view the advice dated 29.05.2009. The expert legal opinion of Ld. Advocate General, Haryana was obtained. On the advice of Advocate General, Haryana, School Education Department had filed an LPA No. 121 of 2021, wherein Hon'ble High Court in its interim orders dated 17.02.2021 has observed as under:-

*"Notice in the application for delay as well as in the main appeal to the respondents for 26.04.2021.
Learned contempt court is requested to adjourn the contempt proceedings beyond the aforesaid date fixed."*

9. In this context it is again made clear that advice dated 29.05.2009 was given in a particular case keeping in view the facts of that case. Hence, any advice given in particular case cannot be made applicable in any other case, unless it is examined as per facts of that case along-with relevant rules and instructions. Whereas the ACP Rules, 1998, 2008 and 2016 are very much clear that only regular satisfactory service countable towards seniority is countable towards ACP. Hence, if any of the ex-servicemen employee(s) has/had been granted wrong ACP benefit due to implementation of advice dated 29.05.2009 then his case shall be re-examined as per provisions of ACP Rules with the consultation of officers of SAS Cadre posted in the Department.

10. It is, further requested to direct all the Departments under your kind control to defend such cases of ex-servicemen in the Court of law in view of the facts and rules mentioned above in consultation with Attorney cadre officers posted in the Departments.

Wor



11. These instructions may be brought to the notice of all concerned under your kind control for strict compliance and any violation will be viewed seriously by the Government. These instructions are available on FD's website i.e. finhry.gov.in.

Yours faithfully,

Uman
Chief Accounts Officer (Pay Revision)
for Additional Chief Secretary to Government Haryana,
Finance Department

Endst. No. 6/82/2020-3PR(FD), 10853

Dated 17.05.2021

A copy is forwarded to the Advocate General Haryana, Chandigarh for information and necessary action.

/
Chief Accounts Officer (Pay Revision)
for Additional Chief Secretary to Government Haryana,
Finance Department