

No.6/75/95-1FPIL/10993
GOVERNMENT OF PUNJAB
DEPARTMENT OF FINANCE
(FINANCE PERSONNEL II BRANCH)

Dated: Chandigarh the 15.11.2000

To

All Heads of Departments,
Commissioners of Divisions,
Registrar, High Court of Punjab &
Haryana, District and Sessions
Judges and Deputy Commissioners
in the State.

Subject:- Protection / fixation of pay of Government employees
appointed by transfer/open selection etc. from one
service to another.

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Sir/Madam,

No.6/75/95-1FPIL/10993

GOVERNMENT OF PUNJAB

DEPARTMENT OF FINANCE

(FINANCE PERSONNEL II BRANCH)

I am directed to refer to the subject noted above and
to say that a number of references are being received from various
departments for protection of pay of employees who are already
in Government service and are appointed to another service/cadre
by way of transfer/open selection as per the service rules
applicable to such service/cadre.

2. According to existing provision below Rule 4.4(b) of
Punjab Civil Service Rules Vol. I Part I, if an employee has held
a post in the same or identical time scale in some other department
or a body whether incorporated or not which is wholly or
substantially owned by the Government, his pay on appointment in
the Government service is to be fixed at the same level. Cases are now
arising where an employee before being selected for a post under
the State Government is drawing pay in a higher pay scale/senior/
selection pay scale. Apparently, the present provisions of Pro-
viso below Rule 4.4(b) do not permit protection of pay in such
cases. However, it is felt that when a person already in service
is selected for service under the Government through proper
channel his past service should not be washed out, as far as
fixation of pay in the new post is concerned. However, such an
employee cannot count this period for seniority which disturbs
the legal right of officials already senior in the service.

3. The above position is supported by the judgement of Punjab and Haryana High Court delivered in CWP No.6923 of 1998 decided on 21.7.98 operative part of which is reproduced below:-

" It can be said that the previous service rendered in another department, on being transferred on the persons own volition may be washed out for the purpose of seniority but it cannot be said so for the purpose of experience."

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The above is also relevant as per the law laid down by the Hon'ble Supreme Court of India in its judgement dated 15.12.1998 in C.A. No.3039 of 1998—Dwijan Chandra Sarkar and another Vs. Union of India (1999—SLR Section 39). The gist of the Supreme Court decision is reproduced below:-

" The previous service of an employee appointed by transfer to another department should count for the purpose of time bound promotions but such promotions shall be as a measure personal to them. Such incumbents shall not take benefit of this time bound promotion towards seniority or for the issues related thereto, which in turn implies that such benefit shall not effect the normal seniority for those higher up".

4. Apparently, in view of existing provisions of Rule 4.4.(b) ibid and the changing scenario where multi-stage pay scales are in operation, and where appointment to premier or other services; through selection including transfer by selection is attempted and is permitted inspite of the fact that the person concerned may already be drawing pay in a higher pay scale; it is not appropriate to ignore previous service for fixation of pay in the new post or counting the same for time bound promotions. However, it is clear that counting of previous service for fixation of pay or for time bound promotions in such cases will not create any right for the employees already senior, to claim equality in pay with a junior who receives higher pay by counting his previous service in the above circumstances.

5. In view of the above it has been decided that:-

- 1) An employee who has previously held substantively or officiated in the same post, or a permanent or temporary post on the same time scale or a post having identical three/four times pay scales or in which time bound placement /grant of higher pay are provided as in the new post, in a Government department

or a body incorporated or not which is wholly or substantially owned by the Government), shall in addition to the protection of pay actually drawn in the corresponding scale as per provisions of Rule 4.4(b) of Punjab Civil Services Rules, Vol.-I, Part-I count his previous service for the purpose of time bound promotion/ grant of higher scale in the new post/ service. This protection will be as a measure personal to him. He shall not be entitled to benefit of this time bound promotion towards seniority and shall be placed lower to those already higher up in the seniority list.

ii) Where an employee is already getting senior/higher pay scale or earns a senior/ higher pay scale in the previous service where a percentage of senior/ higher scale is prescribed after he has joined the new post/ service; pay as fixed in the senior/ higher scale in the old service shall also be protected as a measure personal to him in the initial scale of the new post and he shall be placed in the senior scale when his turn comes for the same in the normal course.

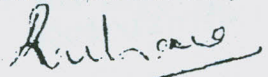
An employee shall not be entitled to take benefit of this protection towards seniority nor any official senior to him shall have any claim for re-fixation of pay on the basis of protection allowed as above.

iii) These instructions shall not apply in case of employees of various Public Sector Undertaking who are offered employment in the Government on compassionate grounds on being declared surplus or otherwise. They should be deemed to be joining service under the Government for the first time as at present.

iv) These instructions will come into effect immediately. The cases decided on or after 15.12.98 may be reviewed in consultation with the Finance Department in order to ensure uniformity.

6. Necessary amendments to Rule 4.4(b) of Punjab Civil Services Rules, Vol.-I, Part-I will be issued in due course.

Yours faithfully



(D.P. Karkara)

Officer on Special Duty(L)

Endst.No.6/75/95-1FP11/10994

Dated;Chandigarh the 15.11.2K

- i.) The Accountant General(Audit), Punjab, Chandigarh.
- ii.) The Accountant General(Accounts & Entitlement), Punjab, Chandigarh.

R. K. Singh
Officer on Special Duty(L)

Endst.No.6/75/95-1FP11/10995

Dated;Chandigarh the 15.11.2K

A copy each is forwarded to:-

- i) The Secretary to Government of Himachal Pradesh, Department of Finance, Shimla;
- ii) The Finance Secretary, Chandigarh Administration, Chandigarh;
- iii) All the Treasury Officer/District Treasury Officers in the State for information and necessary action;
- iv) The Deputy Commissioner, Delhi;
- v) The Pay and Accounts Officer, Punjab House, Copernicus Marg, New Delhi; and
- vi) The Director(E.G), Ministry of Finance Department of Expenditure, Pay Research Unit, New Delhi.

R. K. Singh
Officer on Special Duty(L)

A copy is forwarded for information to:-

- i) The Chief Secretary to Government of Punjab, Chandigarh.
- ii) All the Financial Commissioners, Principal Secretaries and the Administrative Secretaries to Government of Punjab; and
- iii) The Resident Commissioner, Punjab Bhawan, Copernicus Marg, New Delhi.

R. K. Singh
Officer on Special Duty(L)

To

- i.) The Chief Secretary to Government of Punjab,
- ii.) All the Financial Commissioners, Principal Secretaries and the Administrative Secretaries to Govt. of Punjab; and
- iii.) The Resident Commissioner, Punjab, Punjab Bhawan, Copernicus Marg, New Delhi.

I.D.No.6/75/95-1FP11/10996

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