

GOVERNMENT OF HARYANA

FINANCE DEPARTMENT

OFFICE MEMORANDUM

No. 1/83/2008-2PR(FD)

Dated 16.6.2009

**Subject:** Implementation of/giving effect to the decisions of 'Pay Anomaly Committee and advice of Finance Department that has the effect/implications of varying the 'structure of Pay and Allowances' as authorised in terms of 'Haryana Civil Services (Revised Pay) rules, 2008' and 'Haryana Civil Services (Assured Career Progression) Rules, 2008' (2008 Rules) – procedure regarding.

Sir,

I am directed to invite your attention to the subject cited above and to say that the conditions of service of persons working in connection with the affairs of the Government of Haryana is required to be regulated in terms of the provision of the Article 309 of the Constitution of India. The 2008 Rules were, accordingly, made under the proviso to the Article 309 of the Constitution of India and put the revised structures of Pay and Allowances and conditions of its regulation. Further, in terms of the Rules of Business, the competence under the proviso to the Article 309 of the Constitution of India is exercisable by the 'Council of Ministers (CMM)' alone and they (the Rules framed under the said proviso) can only be superseded either by another Rule framed under the said proviso superseding it or by a legislation enacted by the legislature of State or by a competent court of law laying down a law. The executive instructions/orders/ Notifications/regulations, etc, would, in such a scenario, cannot have the effect of 'amending the Rules so framed' save to such an extent as they are authorised in terms of the Rules/law itself.

2. After the 2008 Rules came into being, certain circumstances that were faced by the Government prompting the 'Pay Anomaly Committee' to be constituted. This Committee was a purely recommendary body and their minutes in themselves cannot have the effect of superseding the provisions of 2008 Rules. Further to it, the accepted recommendations of this Committee by the executive government were conveyed to the concerned government department through advice issued by the Finance Department. But such advices are also not good enough to be treated as having superseded the respective provisions of the 2008 Rules in the circumstances as explained above.

3. It would, therefore, be required to seek the decision of CMM on all such accepted recommendations in terms of the Rules of Business and the final decision made by the CMM on the subject alone shall have the potency of superseding the relevant provisions of the 2008 Rules. Rest all implementations would be devoid of requisite competence. The 2008 Rules fall within the domain of Finance Department and, therefore, memorandum before the CMM would be taken by the Finance Department.

4. Accordingly, all the concerned Administrative Departments are now required to immediately prepare and forward the draft of memorandum that is required to be placed before the CMM seeking its decision in terms of the 'accepted recommendation of the Pay Anomaly Committee as conveyed through advice' to the Finance Department urgently. In the event some of such 'accepted recommendation' has already been implemented, it must find a mention in the draft memorandum so prepared. Such drafts must be so sent as to reach the Finance Department in the Pay Revision Branch within 15 days counted from the date of issue of this memorandum or, as the case may be, within 15 days counted from the date on which the 'accepted recommendation' is conveyed through advice by Finance Department. Such memorandum must be prepared and forwarded in all cases where the 'conditions as laid down in terms of the 2008 Rules are proposed to be varied', but in all cases where the structure of pay, mandatory conditions, including minimum length of service, of admissibility and the pecuniary quantum of allowances are proposed to be varied, such a draft memorandum shall be a mandatory requirement. A soft copy of such a draft of memorandum must be sent invariably along with the proposal.

5. In addition, wherever required, the concerned Administrative Departments (A.D.s) should also take steps to amend the relevant Service Rules making them consistent with the conditions as laid down in the 2008 Rules and any subsequent amendment to it. Such memorandums, however, fall in the domain of the concerned A.D.s.

6. It must be borne in mind that in the absence of the authorisation of CMM in the circumstances narrated above, in all such cases where a system other than the one envisaged in terms of the 2008 Rules have been put in place, they are all purely adhoc and lacks jurisdiction. Therefore, the expected compliances in terms of this memorandum

must be delivered as quickly as it can be possible. Further to it, it would be the decision of CMM on the subject that will finally prevail in determining the lawful admissibility in exception to the import of the advice tendered by the Finance Department.

7. To ensure compliance and insulate against the attitude of complacency that may yet prevail, the Treasuries are being directed not to entertain/authorise such of the claims of 'Pay and Allowances' with effect from 1.8.2009 that are at variance to the provisions of the 2008 Rules and with reference to which, decisions of the CMM has also not been obtained in terms of these instructions.

8. These instructions should be brought to the notice of all concerned for strict compliance and taking appropriate corrective measures wherever required.

*[Signature]*  
Under Secretary Finance  
for the Financial Commissioner & Principal Secretary  
to the Govt. Haryana, Finance Department.  
*16/06/09*

To,

1. All the Financial Commissioners & Principal Secretaries/ Administrative Secretaries to Government of Haryana.
2. Registrar (General), the High Court of Punjab & Haryana.
3. All the Divisional Commissioners in Haryana.
4. All the Heads of Department, Haryana.

*[Signature]*  
Under Secretary Finance  
for the Financial Commissioner & Principal Secretary  
to the Govt. Haryana, Finance Department.

Endst. No. 1/83/2008-2PR(FD)

Dated 16.6.2009 *16/06/09*

A copy is forwarded to the following for information and necessary action at their end:

1. Accountant General (A&E/ Audit), Haryana.
2. Director, Treasury & Accounts, Haryana (with 150 spare copies) with a request to ensure compliance required in terms of para 7 of this memorandum.

*[Signature]*  
Under Secretary Finance  
for the Financial Commissioner & Principal Secretary  
to the Govt. Haryana, Finance Department.  
*16/06/09*

INTERNAL CIRCULATIONS

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