

**OFFICE OF DIRECTOR SECONDARY EDUCATION HARYANA,
PANCHKULA**

Order No. 13/122-2019 PGT-II (5)

Dated, Panchkula the

Whereas Sh Umesh has filed a Civil Writ Petition No. 3596 of 2019 titled as Narender Singh Yadav & others vs State of Haryana & others in the Hon'ble High Courting for issuance of a writ in the nature of Mandamus for directing the respondents to count their military service towards pension and other retiral benefits of Civil Service under Govt. of Haryana. The writ petition came for hearing before Hon'ble High Court on 27.03.2019 and the court was pleased to dispose of the same. The operative part of order is reproduced as under:

"Learned counsel for the petitioners states that for the relief, which has been claimed in the present petition, the petitioners have made a representation dated 15.10.2018(Annexure P-8) and the petitioners will be satisfied, at this stage, in case a time bound direction issued to the respondents to decide the representation dated 15.10.2018 (Annexure P-8) by passing an appropriate speaking order.

Hence, without commenting upon the merits of the case, this petition is disposed of by giving direction to the respondents to look into the representation dated 15.10.2018(Annexure P-8) and decide the same in accordance with law, within a period of three months from date of receipt of certified copy of this order."

The representation dated 15.10.2018(Annexure P-8) of the petitioner No. 7 namely Sh. Umesh (PGT Sociology) has been examined as per rules and laws.

In the representation dated 15.10.2018, the petitioner has mentioned that the directory of equation of service trade with Civil trade, the Instructor AEC are equivalent to Higher Secondary and High school Teacher of language Teacher, which can be equated with JBT/PGT teacher of high school and claimed that his service is to be

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counted for fixation of initial pay. The petitioner has also cited the example of Ex-Combatant clerk and instruction in this regard.

It is pertinent to mention here that the petitioner had retired/ discharged from the Military Service as on 31.05.2012, thereafter he was appointed as PGT in the Education Department Haryana in the year 2014, in the respective category of Ex-service man. He had already availed the benefit of Military service by getting the relaxation in age also.

It is worthwhile to mention here that the petitioner had already received all the pensionary benefits for the period of service rendered in military by him. Moreover, the petitioner is now also getting monthly pension from the Military Department. The detail of the Pensionary benefit as provided to him is as under:-

S N	Name	Gratuity Amount (in Rs.)	Commutation amount (in Rs.)	Monthly Pension
1.	Sh. Umesh	3,86,700/-	5,84,306/-	10,750/-

Further-more, from the statement mentioned above, the petitioner is also getting Monthly military Pension. Thus, the pensionary benefits admissible have already been received by him from the Military Department. Hence, the dual benefits for the same period/ particular period cannot be granted to the petitioner at all.

It is also significant to mention here that the post of Education-Instructor and the post of Clerk are totally separate one, however, according to the instructions issued by State of Haryana, it is stated that the benefit of advance increments for the Military service period is admissible in the matter of Ex-Combatant clerk and not in the case of PGTs. Because the nature of work and duty of Ex-combatant Clerk and Clerk in Civil post are similar as well as identical.

Whereas, the nature and duties of Havildar in Military Department and PGT do not come within Category of same line &

length. Thus, the nature of duty of Havildar and a PGT is not to be equated with each other. Therefore, the claim of the petitioner is not tenable, hence the same is liable to be rejected.

It is also quite necessary to mention here that the state of Haryana has already issued instruction vide U.O No. 12/2/96-4GSII dated 27.08.1998, Chandigarh for granting the benefit of advance increments equal to the service period rendered by Ex. Combatant clerk in Military Department specifically in the category of clerk only and not for the PGT. If any specific category or class has been mentioned in any instruction regarding granting of benefit, then the category of other employee is not entitled for getting the relief. In the instant matter, the benefit of Military service period for fixation of initial pay is to be granted in the category /post of clerk and not for PGT. Hence, the claim of the petitioner is not maintainable in the eyes of law/rules.

The case of the petitioner has been duly examined as well as considered by the under-signed according to the rules and Instruction as applicable in the instant matter and it is an admitted fact that the petitioner has already received the pensionary benefits (i.e. Gratuity, commutation & Earned leave Encashment) and also getting monthly pension for the service rendered in the Military Department. Moreover, the status and category of the post of Havildar and the post of PGT is altogether different with each other. Thus, the instruction dated 27.08.1998 which is applicable to the post of combatant clerk is not maintainable/applicable to the post of PGT. Therefore, the post of PGT and the post of combatant clerk cannot be equated with each other.

Moreover, there is no such instruction to count the past service rendered in Indian Army Corps as "Havildar" to PGT Sociology.

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The pay fixation is governed by the statutory rules and the petitioner is governed by the Haryana Civil Service Rules "Pay Rules 2016", Rules 53 provide:-

- (i) below commissioned officer whole military pension shall be ignored and their pay shall be fixed equal to entry level pay of the reemployed post; and
- (ii) of commissioned officers first Rs. 4000 of military pension shall be ignored for the purpose of fixation of pay. The remaining provision of the rule 52 above shall be applicable."

Hence, in-view of the position explained above, the claim of the petitioner for granting any advance increment in lieu of rendered Military service for fixation of initial pay for PGT is not maintainable as per Rule/Instructions. As such the same is hereby rejected due to the reasons as mentioned above.

I order accordingly.


(J. Ganesan)

Director Secondary Education
Haryana, Panchkula

Regd.


Sh. Umesh, PGT Sociology,
GSSS Gaggarpur (Kaithal).

ENDST. No. Even

Dated, Panchkula, 29/7/2021

A copy is forwarded to the following for information and necessary action:-

1. District Education Officer, Kaithal.
2. Principal, GSSS Gaggarpur (Kaithal).
3. IT Cell (Head Quarter).


DY. SUPERINTENDENT PGT-II
FOR DIRECTOR SECONDARY EDUCATION
HARYANA, PANCHKULA