

रजिस्टर्ड
कोर्ट केस / तत्काल /
अतिआवश्यक
प्रेषक

महानिदेशक, खजाना तथा लेखा विभाग,
हरियाणा, चंडीगढ़ ।

सेवा में

1. जिला शिक्षा अधिकारी, करनाल ।
2. सहायक प्रबन्धक निदेशक, एच0एस0आई0डी0सी0 सैक्टर 3 करनाल ।
3. कार्यकारी अभियन्ता, हुड्डा डिविजन करनाल ।
4. अधीक्षक अभियन्ता, पब्लिक हेल्थ सर्विस, करनाल ।
5. सिविल सर्जन पानीपत ।
6. सिविल सर्जन, करनाल ।
7. महा प्रबन्धक, हरियाणा रोड़वेज, पानीपत ।
8. मुख्य कार्यकारी अधिकारी, सिंचाई विभाग, हरियाणा पंचकूला ।
9. मुख्य कार्यकारी अभियन्ता, जिला परिषद्, करनाल ।
10. महा प्रबन्धक, हरियाणा रोड़वेज, करनाल ।
11. सी0ई0ओ0 जिला परिषद्, करनाल ।
12. सिविल सर्जन, करनाल

यादी क्रमांक 12796 टीए-हर(4टी)18/3132-43

दिनांक 20/4/18

विषय: Execution Petition : Madan Lal Chanana versus the F.C. & Principal
Secretary to Govt. Haryana, Chandigarh & others.

उपरोक्त विषय के संदर्भ में ।

2. परिवहन आयुक्त, हरियाणा, चंडीगढ़ के पत्र क्रमांक 30347/एटी-5-1/एस0टी0-1 दिनांक 04.9.13 (प्रति सलग्न) करते हुये सूचित किया जाता है कि उपरोक्त पत्र में वर्णित अवधियों जोकि उनके कार्यालय से सम्बन्धित हैं । उक्त पीरियड के दौरान श्री एल0एल0चानना, वरिष्ठ लेखाधिकारी (अब सेवानिवृत्त) कार्यरत रहे हैं, उस पीरियड के एरियर की अदायगी 9 प्रतिशत ब्याज सहित दिनांक 22.4.2018 तक करने का कष्ट करें । क्योंकि श्री एम0एल0चानना, वरिष्ठ लेखाधिकारी द्वारा सिविल जज (जूनियर डिविजन) करनाल की अदालत में सिविल सूट दायर की गई थी जिसका निर्णय दिनांक 11.4.2014 को हुआ है । इन आदेशों की पालना में आपसे अनुरोध है कि परिवहन आयुक्त, हरियाणा चंडीगढ़ के उपरोक्त पत्र दिनांक 04.9.13 अनुसार किये गये वेतन नियतन अनुसार एरियर की अदायगी 9 प्रतिशत ब्याज सहित दिनांक 22.4.2018 तक भुगतान करके इस विभाग को सूचित करने का कष्ट करें । क्योंकि उपरोक्त कोर्ट केस के निर्णय के विरुद्ध अधिकारी द्वारा Execution दायर की हुई है । Execution (प्रति सलग्न) की अगली तिथि 03.5.2018 निश्चित है । कृपया इसे परम अग्रता प्रदान करें । अन्यथा देरी के लिये आपका कार्यालय जिम्मेवार होगा ।

संयुक्त निदेशक
कृते: महानिदेशक, खजाना तथा लेखा विभाग,
हरियाणा चंडीगढ़ ।
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पृ० क्रमांक 12796टीए-हर(4टी)18/3144-56 दिनांक 20/4/18

इसकी एक प्रति निम्नलिखित आदान तथा सवितरण अधिकारियों को अदायगी निम्न प्रकार से करने हेतु सूचनार्थ/आवश्यक कार्यवाही हेतु भेजी है:-

1. आदान तथा सवितरण अधिकारी, जिला शिक्षा अधिकारी, करनाल ।
(01.1.1996 से 12.2.1996)
2. आदान तथा सवितरण अधिकारी, सहायक प्रबन्धक निदेशक, एच०एस०आई०डी०सी०
सैक्टर 3, करनाल । (13.2.96 से 14.7.1996)
3. आदान तथा सवितरण अधिकारी, कार्यकारी अभियन्ता, हुड्डा डिविजन करनाल ।
(15.7.1996 से 14.7.1996)
4. आदान तथा सवितरण अधिकारी, अधीक्षक अभियन्ता, पी०~~ए~~^एसी०, करनाल ।
(16.5.97 से 1.12.97)
5. आदान तथा सवितरण अधिकारी, सिविल सर्जन पानीपत ।
(03.12.1997 से 7.5.1998)
6. आदान तथा सवितरण अधिकारी, सिविल सर्जन, करनाल ।
(8.5.1998 से 6.01.1999)
7. आदान तथा सवितरण अधिकारी, महा प्रबन्धक, हरियाणा रोड़वेज, पानीपत ।
(7.01.99 से 9.2.99)
8. आदान तथा सवितरण अधिकारी, मुख्य कार्यकारी अधिकारी, सिंचाई विभाग, हरियाणा
पंचकूला । (10.2.99 से 18.9.02)
9. आदान तथा सवितरण अधिकारी, मुख्य कार्यकारी अभियन्ता, जिला परिषद, करनाल
(19.9.02 से 6.2.03)
10. आदान तथा सवितरण अधिकारी, महा प्रबन्धक, हरियाणा रोड़वेज, करनाल ।
(7.2.03 से 8.9.03)
11. आदान तथा सवितरण अधिकारी, सी०ई०ओ० जिला परिषद, करनाल ।
(9.9.03 से 26.6.06)
12. सिविल सर्जन, करनाल (27.6.06 से 9.2.07)

संयुक्त निदेशक
कृते: महानिदेशक, खजाना तथा लेखा विभाग,
हरियाणा चंडीगढ़ ।
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ORDER

No. /AT-5-1/ST-I Dated:

Consequent upon the grant of 1st ACP to Sh. M.L.Chanana as Section Officer in the pay scale of ₹ 6500-200-EB-8500-10500 w.e.f. 1.1.96 vide Director Treasury & Accounts Department, Haryana, Chandigarh order Endst. No. TA-HR(4T)2013/4589-99 dated 28.5.2013 and in continuation of this office order Endst. No. 28753-61/AT-5/ST-I dated 8.8.2013, the pay of Sh. M.L.Chanana, Section Officer now Sr. Accounts Officer (Retd) is hereby re-fixed as under:-

Date	Pre-revised scale of S.O	ACP scale of S.O	Pre-revised scale of A.O	Revised scale of A.O	Revised scale of Senior A.O	Remarks
	6500-200-9900	6500-200-10500	6500-200-10500	9300-34800+5400 GP	9300-34800+6000 GP	
1.1.1996	7500+100 SP	7700+100	---	---	---	
1.5.1996	7700+100 SP	7900+100	---	---	---	
1.5.1997	7900+100 SP	8100+100	---	---	---	
4.12.1997	---	---	8300	---	---	Promoted as AO. Special pay merged and pay fixed at next stage. Rule 4.4 (C) of CSR Vol-I
1.5.1998	---	---	8500	---	---	
1.5.1999	---	---	8700	---	---	
1.5.2000	---	---	8900	---	---	
1.5.2001	---	---	9100	---	---	
1.5.2002	---	---	9300	---	---	
1.5.2003	---	---	9500	---	---	
1.5.2004	---	---	9700	---	---	
1.5.2005	---	---	9900	---	---	
1.5.2006	---	---	(10100)	---	---	
1.1.2006	---	---	---	18790+5400	---	In reference to FD letter dated 16.4.2012
1.7.2006	---	---	---	19520+5400	---	
19.7.2007	---	---	---	---	19520+6000	Promoted as Senior AO & granted Grade Pay only as per option
1.7.2007	---	---	---	---	20270+6000	Annual increment
1.7.2007	---	---	---	---	21040+6000	Increment on promotion as Senior AO

Dated, Chandigarh, the 4.9.2013

A.S.Mann
Addl. Transport Commissioner-II,
Haryana.

P.T.O

1. Accountant General (A&E), Haryana, Chandigarh.
2. Treasury Officer, Haryana, Chandigarh/Karnal/Panchkula.
3. District Education Officer, Karnal (1.1.1996 to 12.2.1996).
4. Assistant General Manager, HUDA, Sector-3, Karnal (13.2.1996 to 14.7.1996).
5. Executive Engineer, HUDA Division, Karnal (15.7.1996 to 15.5.1997).
6. Superintendenting Engineer, Public Health Circle, Karnal (16.5.1997 to 1.12.1997).
7. Civil Surgeon, Panipat I.T. 2 to 3.12.1997 to 7.5.1998.
8. Civil Surgeon, Karnal (8.5.1998 to 6.1.1999).
9. GM HR Panipat (7.1.1999 to 9.2.1999).
10. Engineer-in-Chief-Irrigation Department, Haryana, Panchkula (10.2.1999 to 18.9.2002).
11. Chief Executive Officer, Zila Panchayat, Karnal (19.9.2002 to 6.2.2003).
12. GM Haryana Roadways, Karnal (7.2.2003 to 8.9.2003).
13. CEO Zila Panchayat, Karnal from 9.9.2003 to 26.6.2006.
14. Civil Surgeon, Karnal from 27.6.2006 to 9.2.2007.
15. Sr. Accounts Officer (Accounts) HQ.
16. Sp. M.L. Chhanassa, Sr. Accounts Officer (Retd), House No. 342, Sector 7, Urban Estate, Karnal.
17. Order/P. file.

for Transport Commissioner,
Haryana, Chandigarh.

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

Endsl. No. 30347244 /AT-5-1/ST-1 Dated 4-9-13

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ORDER

U.7
28/5/13
28/5/13

Sh. M.L. Chanana, Sr., A.O. (Retd.) is hereby granted Ist ACP(Assured Carrier Progression) as S.O. in the pay scale of 6500-200-EB-8500-10500 w.e.f. 1-1-96 as per advice of Govt. vide their letter No. 29/23/2012-IFA dated 21-5-2013.

Dated Chandigarh the 2-8-5-13

Joint Director
For Director, Treasuries and Accounts
Deptt., Haryana Chandigarh
Endst. No. TA-HR(4T)2013/4589-98 Dated: 28/5/13

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

1. Executive Engineer HUDA Div., Karnal
2. Chief Executive Officer Zila Parishad Karnal. (sewa pak evam)
3. Dist. Health Officer, Civil Surgeon Panipat.
4. Superintending Engineer Electrical Circle PWD B&R Karnal.
5. Dist. Medical Officer, Karnal.
6. Irrigation Deptt. Haryana, Chandigarh.
7. Haryana Roadways Panipat.
8. Transport Commissioner, Hr., Chd.
9. Civil Judge (Junior Division) Karnal for kind information please.
10. Sh. M.L. Chanana Retd. Sr., A.O. House No. 347 Sector 7 Urban Estate Karnal.
11. T/18 T in T&A Deptt., for information and necessary action.

Joint Director
For Director, Treasuries and Accounts
Deptt., Haryana Chandigarh

12/4/14
Examiner of Court
S. J. J. - cum - J. M. C., KARNAL

ATTESTED

The plaintiff has filed the present suit that a decree for declaration to the effect that the plaintiff is entitled to first ACP scale of Rs. 6500-10500 as on 01.01.1996 as he was appointed in the said cadre of

Copy of JUDGMENT :

Present: Shri Jagdish Thakral, counsel for the plaintiff.
Shri Narendra Pal, G.P for defendants.

SUIT FOR DECLARATION WITH CONSEQUENTIAL RELIEF OF MANDATORY INJUNCTION.

.....Defendants.

1. The Financial Commissioner and Principal Secretary to Govt. Haryana, Finance Department, Haryana, Chandigarh.
2. The Director, Treasury and Accounts, Finance Department 30 Bays Building, Sector-17, Chandigarh.
3. The State Transport Controller, Haryana 30 Bays Building Sector-17, Chandigarh.
4. State of Haryana through Collector Karnal.



VERSUS

.....Plaintiff.

Madan Lal Chanaana, resident of House No.347, Sector-7, Urban Estate, Karnal.

CIVIL SUIT NO. 57499 of 2013.
DATE OF INSTITUTION: 25.08.2012.
DATE OF DECISION: 11.04.2014.

IN THE COURT OF VINBET SAPRA, CIVIL JUDGE (JUNIOR DIVISION), KARNAL.

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Madan Lal Chanana Versus The Financial Commissioner and others

S.A on 22.03.1982 and had completed more than ten years regular satisfactory service with consequential relief of mandatory injunction directing the defendants to regulate the pay of the plaintiff from 01.01.1996 to the date of his retirement along with revised pensionary benefits under the revised rules 2008 and 2009 along with interest @ 18% p.a. on the arrears from the due date to the date of actual payment be passed in favour of the plaintiff and against the defendants.

2. The brief facts of the case of the plaintiff are that the plaintiff was initially appointed on 10.09.1971 on the post of Clerk in Agricultural Engineer Department Haryana, Chandigarh and thereafter, he was promoted on the post of Accountant on 20.06.1978 and remained as such in the department upto 21.03.1982. The Finance Department Haryana had invited the applications for eligible Haryana Government employees for appearing in the Haryana State Subordinate Accounts Services Examination and the plaintiff was eligible for appearing for the same examination and as such he was recommended for appearing in the said examination and he qualified the state S.A.S examination Part-II (OB) and the result of which was declared by the Commissioner and Secretary Government of Haryana Finance Department defendant no.1 vide its letter dated 02.02.1982 wherein the name of the plaintiff was at serial No.20 and subsequently he was appointed in the cadre of S.A.S on the post of Senior Auditor vide letter No.3888-TA-HR-3(405-4T)-82/1915-18 dated 03.03.1982 and as such the plaintiff joined on the said post of



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ATTESTED

Examiner of Court

J.J.L. cum J.M.C, Karnal

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Senior Auditor on 22.03.1982 in the office of Haryana Roadways, Sonapat. Thereafter, he was promoted as Accounts Officer on 04.12.1997 in the office of Civil Surgeon, Panipat and further promoted as Senior Accounts office on 10.02.2007 in the office of State Transport Controller, Chandigarh from he was retired on 31.05.2008.

3. It has been been pleaded that the post of Senior Auditor (now called as Section Officer). The Section Officer would be by way of appointment, though after qualifying the S.A.S Examination Part-I and Part-II. It is also hot disputed that either of the employees working in the hierarchy of clerk can appear in the said examination of S.A.S meaning thereby clerk/Assistant/Accountant/Deputy Superintendent. The Government of Haryana has also clarified vide its letter dated 06.11.2002 that in such circumstances the latter post shall be termed as initially recruited meaning thereby "Direct recruited fresh entrance" into Govt. service while clarifying they have given example of the tracers working in the department who applied for the post of Draftsman to the Commissioner or Board would be treated as first entry into Government service it they are selected on the post of Draftsman. Similar case is of the plaintiff who has qualified the written competitive examination of S.A.S and is required to be treated as first entry into Govt. Service for the purpose of ACP scales. It has also been pleaded that the Haryana Govt. has launched a Scheme of ACP Rules, 1988 vide its letter dated 07.01.1988 whereas as per rules 5 of the Haryana Civil Service (Assured



Verdict

ATTESTED

Examiner of Court
J.J.J. - cum - J.M.C, Karnal
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Career Progression) Rules 1998, every Government Servant, who has completed ten years regular satisfactory service and not got any financial up gradation in terms of grant of pay scale higher than the functional pay scale prescribed as on 31.12.1995 on which date he was recruited as a direct recruited fresh entrance:-

- a) Either as a consequence of his functional promotion in the hierarch of
- b) As a consequence of the revision of pay scale for the same post or
- c) As a consequence of any other event through which the functional pay scale of the post has been upgrated with respect of the functional pay scale prescribed for the post as on 31.12.1995 for the purpose of drawal of pay will be eligible for placement into the first ACP sclae with reference to him as per detail in schedule I, Part-II of the A.C.P Rules.

4. The explanation 'below Rules 5 clearly states that the Haryana Civil Services (Assured Career Progression) Rules, 1998 scale up gradation will come into play only if due to functional promotion or up gradation of scale on the same post as specified above, the Government Servant has not got the benefit of at least on pay scale up gradation within the prescribed period of ten years or any other prescribed period for the grant of first Haryana Civil Services (Assured Career Progression) Rules, 1998 scale or two such functional up gradation within a period of 20 years or within the period RSA No.3413 of 2014 otherwise specified for the grant of Second Haryana Civil

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ATTESTED

Examiner of Court
J. K. Singh, J.M.C. Karnal
16/12/14

(b)

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Services (Assured Career Progression) Rules 1998 Scale. If within ten years of service or within the prescribed period of service for the grant of first Haryana Civil Services (Assured Career Progression) Rules 1998, the employee has already got at least one financial up-gradation or within twenty years or service as the case may be or otherwise prescribed of service for the grant of second Haryana Civil Service (Assured Career Progression) Rule 1998 Scale, the Government servant has already got at least two financial up-gradation.

5. It has been further pleaded that the plaintiff was appointed in the said cadre of SAS on 22.03.1982 and he has completed ten years regular satisfactory service on 21.03.1992 and therefore, the plaintiff is fully entitled for the grant of Ist ACP with effect from 01.01.1996 in the scale of Rs.6500-10500. The plaintiff has submitted an application to the Director, Treasury and Accounts, Haryana , Chandigarh which was forwarded by his office i.e. Chief Executive Officer, Zila Parishad Karnal vide his letter dated 08.02.2006 but the same was rejected vide Director Treasury and Accounts Haryana letter dated 14.07.2006. As per rules of SAS Cadre, 1982, it would be clear that any Govt. Employee of clerical cadre may qualify the SAS examination in the hietarchy as noted above but there is a condition that only Govt. Employee can apply for appearing the examination but there is no mode of direct appointment on the post of Section Officer through the Commission of Board. Thus, the appointment of the plaintiff on the post of Senior Auditor/Section Officer in the SAS



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Cadre is not promotional post as is evident from the appointment order issued by Commissioner and Secretary to Govt. of Haryana, Finance Department, Haryana Chandigarh vdated 03.03.1982 wherein the government has started the version of the orders as :-

"The following appointments as officiating SAS Senior Auditors in the pay scale of Rs.700-30-850/900-40-1100-EB-50-1250 and transfers in the cadre of SAS Senior Auditors are ordered with immediate effect in the public interest".

6. In view of said facts, the benefit of ACP Scales under revised ACP rules 1988 should have been given in view of rule 5 of ACP Rules, 1988 provided the plaintiff has completed ten years or more regular satisfactory service in the cadre and has not got any financial up-gradation in terms of grant of pay scales higher than the functional pay scale. The plaintiff was appointed as clerk in the hierarchy and his promotion could only be that of Assistant/ Deputy Superintendent and Superintendent etc. Therefore, the joining of the plaintiff is as on direct post of SAS for all intent and purposes and not for promotional post. Thus, it is clear that grant of benefit of the ACP scale is against any government instructions and rules. Therefore, the plaintiff is entitled to be granted the first ACP scale of Rs.6500-10500 with effect from 01.01.2006 and his pay may be regulated accordingly and also its consequential benefits. It has also been pleaded that after the expiry of the statutory period of 60 days the plaintiff again approached the

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defendants with a request to grant him first ACP scales as per rules but they flatly refused to admit the claim of the plaintiff and were adamant in refusal. Hence, the present suit. The suit of the plaintiff may be decreed as prayed for.

7. Notice of the suit was given to the defendants. Defendants No.1 and 2 appeared and filed their joint written statement wherein it has been pleaded that one Shri Balbir Singh filed a similar civil suit and the same was dismissed. The said Balbir Singh challenged the said judgment and decree in first appeal before the District Judge, Rohtak who accepted the appeal and reverted the judgment of the Trial Court and accepted the civil suit of Balbir Singh. The State of Haryana filed a regular Second Appeal before the Hon'ble High Court but it was dismissed and the judgment of First Appellate Court was upheld by the Hon'ble High Court. The State of Haryana accepted the judgment and it was decided by Government of Haryana as per the State Litigation policy to impletment this judgment in all similar situated cases. The defendant no.1 conveyed his decision in this regard, to the defendant no.2 vide letter dated 30.01.2013. Thus, it was prayed that suit be dismissed.

8. Defendants No.3 and 4 also appeared and filed their joint written statement wherein it has been pleaded that the plaintiff has filed the present suit for declaration with consequential relief of mandatory injunction regarding grant of first ACP scale of Rs.6500-10500 as on

ATTESTED

Examiner of Court

J.J.K. - cum - J.M.C., Karnal

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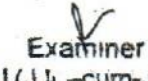
01.01.1996 as he was appointed in the cadre of SA on 22.03.1982. The plaintiff has joined the office of defendant no.3 on 19.02.2007 as Senior Accounts Officer and was retired from the service on superannuation on 31.05.2008. The work of the plaintiff was satisfactory, but the matter regarding grant of 1st ACP of the plaintiff will be decided by the Director, Treasury and Accounts, Haryana Chandigarh i.e. defendant no.2. However, no relief has been sought from the defendants no.3 and 4 by the plaintiff. Denying other averments dismissal of the suit was prayed for on behalf of defendants No.3 and 4.

9. Replication to the written statement was not filed by the plaintiff. From the pleadings of the parties, the following issues in the present case were framed by this court vide order dated 30.05.2013 :-

1. Whether the plaintiff is entitled to a decree for declaration as prayed for?OPP.
2. If issue no.1 is proved, whether the plaintiff is entitled to the relief of mandatory injunction as prayed for?OPD
3. Whether the suit of the plaintiff is not maintainable in its present form?OPD.
4. Relief.

10. In order to prove his case, the plaintiff has examined one witness in all. Plaintiff Madan Lal Chanana himself appeared into the witness box as PW-1 and he has tendered his affidavit Ex.PW1/A in his statement and reiterated the averments made in the plaint.

- ATTESTED -


 Examiner of Court
 JJ/JJ -cum- JMIC, Karnal
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11. Thereafter, the plaintiff has closed his evidence vide his separate statement recorded on 13.01.2014.
12. In order to rebut the evidence of plaintiff, the learned G.P. for the defendants NO.1 and 2 has examined one witness in all. Ranjit Singh, Section Officer office of Director Treasuries and Accounts Department Haryana Chandigarh appeared into the witness box as DW-1 and he has tendered his affidavit as Ex.DW1/A in his evidence and reiterated the averments mentioned in the written statement. He has also tendered some documents i.e. copy of order of Hon'ble High Court as Ex.D-1, letter dated 30.01.2013 as Ex.D-2, letter dated 21.05.2013 as Ex.D-3, order dated 28.05.2013 as Ex.D-4, letter dated 03.06.2013 as Ex.D-5 and letter dated 12.08.2013 as Ex.D-6.
13. Thereafter, Ranjit Singh, Section Officer office of Director Treasuries and Accounts Department Haryana Chandigarh has closed the evidence of the defendants No.1 and 2 vide his statement recorded on 29.01.2014.
14. In order to rebut the evidence of plaintiff, the learned G.P. for the defendants No.3 and 4 has also examined one witness in all. Manish Kumar, Clerk office of Transport Commissioner, Haryana Chandigarh appeared into the witness box as DW-2 and he has tendered his affidavit as Ex.DW2/A in his evidence and reiterated the averments

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mentioned in the written statement. He has also tendered some documents i.e. copy of order dated 22.11.2013 as Ex.D-7 and order dated 02.12.2013 as Ex.D-8.

15. Thereafter, Manish Kumar, Clerk office of Transport Commissioner, Haryana Chandigarh has closed the evidence of the defendants No.3 and 4 vide his statement recorded on 20.02.104.

16. No witness was examined in rebuttal evidence and the same was closed by the court order vide order of even date.

17. I have heard learned counsel for the plaintiff as well as learned G.P. for defendants and have perused the case file very carefully. My issue-wise findings with reasons thereof are as under :

ISSUES NO.1 and 2

18. Since both these issues are inter-linked, therefore, they are being taken up together. The onus to prove these issues was upon the plaintiff. The learned counsel for the plaintiff has contended that the plaintiff was working in the pay Scale of Rs.2000-3200+Rs.100 as Spl. Pay and as per serial No.14 of Schedule I Part-II, he was to be placed in the scale of Rs.6500-10500 shown in Col. No.3 in the aforesaid Schedule. The competent authority during the pendency of the case, sanctioned the Ist ACP Scale vide order of Director, Treasuries and Accounts, Haryana, Chandigarh vide endorsement No.4589-99 dated 28.05.2013.

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Accordingly, the pay was to be fixed by the Transport Department under whom the plaintiff was working at the time of retirement dated 31.05.2008. Accordingly, the Transport Department fixed the Pay of the plaintiff on 08.08.2013 wherein the transport authority inadvertently fixed pay at Rs.7700/- on 01.01.1996 by not accounting for the Spl. Pay of Rs.100/-. The plaintiff represented to the authority for rectification of pay and fixing at Rs.7700+Rs.100/- Spl. Pay on 01.01.1996 and accordingly the same was corrected on 04.09.2013. This pay Fixation was correct in all respects from 01.01.1996 to 01.07.2007 showing Rs.21,0140/-+ Rs.6000/- Grade Pay under Revised Pay Rules, 2008.

19. It has been further argued that The Transport Department at their own level refixed the pay of the plaintiff on 22.11.2013 showing Rs.22640+Rs.6000/-G.P. On 01.07.2007 and this pay fixation was again refixed by the Transport Department on 02.12.2013 showing Rs.8100+Rs.100/P.P. On 04.12.1997 which is the date of promotion of plaintiff as Accounts Officer. In this connection , it is brought to the notice of court that no such provision for converting the special pay into personal pay exists in any statute or under any rule. However, there are instructions of the Haryana Government which inter-alia states the procedure for accounting for the special pay issued on 04.05.1982, 20.01.1983, 03.03.1983 and 16.08.2012. The perusal of instructions dated 04.05.1982 would show that the special pay is to be merged at the time of fixation of pay on promotion. It has been further argued that moreover,

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before re-fixation at III and IVth time on 22.11.2013 and 02.12.2013, it was incumbent upon the authorities to have issued show cause notice before reduction of pay i.e. conversion of special pay into the personal pay and ultimately there is recurring financial loss from 01.05.1998 till retirement because Rs.100/-SP was eliminated and moreover, the authority has no power to review their own order without observing the principle of natural justice and further giving recurring financial loss. Thus, it was prayed that the suit of the plaintiff be decreed.

20. On the other hand, the learned G.P. for the defendants has contended that the plaintiff has filed the present suit on false and frivolous grounds and the order of re-fixation of the plaintiff has been rightly passed. It has been further argued that relief sought by the plaintiff will be granted to him after he was found eligible as per the ACP Scale applicable to him. Thus, it was prayed that the suit of the plaintiff be dismissed.

21. In the present case, Manish Kumar Clerk, office of Transport Commissioner, Haryana Chandigarh while stepping into witness box as DW-2 has deposed in his cross-examination that the pay of the plaintiff was fixed on 08.08.2013 but later on it was again refixed on 22.11.2013. He has also stated that on 02.12.1997, the plaintiff was promoted to the post of Accounts Officer and earlier he was drawing the salary in the pay of scale of 8100+Rs.100/- Spl. and after promotion the same scale was

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granted. It is established fact that post of Accounts Officer is having higher responsibilities in comparison to the post of Section Officer. The plaintiff was promoted on 04.12.1997 from the post of Section Officer to the post of Accounts Officer in the same pay scale of Rs.6500-10500 in which, he was working as Section Officer functionally in the 1st ACP Scale of Rs.6500-10500. The authorities have not given benefit of one increment on the date of promotion as Accounts Officer because the Pay Scale of the Section Officer in 1st ACP Scale and Accounts Officer are the identical pay scale. The Haryana Govt. while notifying the Pay Scales on 07.01.1998 has made very much clear below example 4 given under the ACP Rules, 1998 that wherever no such identical stage is found in the revised scale, the pay shall be fixed at the next above stage. The Transport Authorities have not kept in view of spirit of Rules in any of the Pay Fixation Sheet issued on 08.08.2013, 22.11.2013 and 02.12.2013. However, the Pay Fixation statement issued/revised on the representation of my client on 04.09.2013 is correct. In this regard, I draw my support from the case law cited in "Swaran Singh and others Versus State of Haryana and others, 2002(2)RSJ(P&B), 91", in which it has been held that promotion to the post of Head Teacher from the post of J.B.T Teacher. Fixation of pay by grant of benefit of one increment, while fixing the pay scale due to revision of pay scale the benefit of one increment already granted to the petitioner ignored. It has also been held that the petitioner were actually promoted and granted on increment at the Head Teachers post carry higher responsibilities. The benefit granted

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RELIEF.

24. In view of the findings given on issues no.1 &2, the suit of the plaintiff succeeds and the same is hereby decreed with no order as to costs. A decree for declaration to the effect that the plaintiff is entitled to first ACP scale of Rs.6500-10500 as on 01.01.1996 as he was appointed in the said cadre of S.A on 22.03.1982 and had completed more than ten years regular satisfactory service with consequential relief of mandatory injunction directing the defendants to regulate the pay of the plaintiff from 01.01.1996 to the date of his retirement along with revised pensionary benefits under the revised rules 2008 and 2009 along with interest @ 9% p.a. on the arrears from the due date to the date of actual payment is passed in favour of the plaintiff and against the defendants. The defendants no.1 to 4 are directed to release the amount in favour of the plaintiff within two months from today. Decree-sheet be prepared accordingly and file be consigned to record room after due compliance.

Pronounced in open Court :
11.04.2014.

(Signature) 11/04/2014
(Vineet Sapra),
Civil Judge (Junior Division),
Karnal.

Certified that all the fifteen pages of this judgment have been checked and signed by me.

(Signature) 11/04/2014
(Vineet Sapra)
Civil Judge (Junior Division),
Karnal, 11.04.2014.

no. of application 811
Date of application 11-4-14
Name of Copyist A.H. Gani
No. of Pages 15
Completed & Attested on 12-4-14
Cost of Copy ₹ 2
Jurat fee ₹ 2
Total ₹ 4
Signature of Copyist A.H. Gani
15/4/14

Certified to be true Copy

(Signature) 12/4/14
Examiner of Court
CJ(JD)-cum-JMIC Karnal
(authorised by Section 76 of
Indian Evidence Act 1908)

(Signature)
12/4/14

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Copy of Decree-sheet

Value of the suit for the purpose of court fee Rs.25/-
Value of the suit for the purpose of jurisdiction fee is Rs.200/-.

IN THE COURT OF VINEET SAPRA, CIVIL JUDGE (JUNIOR DIVISION), KARNAL.

CIVIL SUIT NO.57499 of 2013.
DATE OF INSTITUTION: 25.08.2012.
DATE OF DECISION: 11.04.2014.

Maqan Lal Chanana, resident of House No.347, Sector-7, Urban Estate, Karnal.

.....Plaintiff.

VERSUS

1. The Financial Commissioner and Principal Secretary to Govt. Haryana, Finance Department, Haryana, Chandigarh.
2. The Director, Treasury and Accounts, Finance Department 30 Bays Building, Sector-17, Chandigarh.
3. The State Transport Controller, Haryana 30 Bays Building Sector-17, Chandigarh.
4. State of Haryana through Collector Karnal.

.....Defendants.

SUIT FOR DECLARATION WITH CONSEQUENTIAL RELIEF OF MANDATORY INJUNCTION.

Claim: It is, therefore, prayed that a decree for declaration to the effect that the plaintiff is entitled to first ACP scale of Rs.6500-10500 as on 01.01.1996 as he was appointed in the said cadre of S.A on 22.03.1982 and had completed more than ten years regular satisfactory service be passed in favour of a plaintiff and against the defendants with a consequential relief of mandatory injunction directing the defendants to regulate the pay of the plaintiff from 01.01.1996 to the date of his retirement along with revised pensionary benefits under the revised rules 2008 and 2009 along with interest @ 18% p.a. on the

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arrears from the due date to the date of actual payment be passed in favour of the plaintiff.

Plaint presented on 25.08.2012.

This suit is coming on this day for final disposal before me (Vineet Sapra, CJ/JD/Karnal) in the presence of Shri Jagdish Thakral, counsel for the plaintiff and Shri Narender Pal, G.P for defendants.

It is ordered that the suit of the plaintiff succeeds and the same is hereby decreed with no order as to costs. A decree for declaration to the effect that the plaintiff is entitled to first ACP scale of Rs.6500-10500 as on 01.01.1996 as he was appointed in the said cadre of S.A on 22.03.1982 and had completed more than ten years regular satisfactory service with consequential relief of mandatory injunction directing the defendants to regulate the pay of the plaintiff from 01.01.1996 to the date of his retirement along with revised pensionary benefits under the revised rules 2008 and 2009 along with interest @ 9% p.a. on the arrears from the due date to the date of actual payment is passed in favour of the plaintiff and against the defendants. The defendants no.1 to 4 are directed to release the amount in favour of the plaintiff within two months from today.

Memo of costs

	Plaintiff	Defendants
1. Stamp of plaint	25-00	00-00
2. Stamp for powers	02-00	00-00
3. Pleader's fee	50-00	550-00
4. Process fee	550-00	00-00
5. Sub. of witnesses	00-00	00-00
6. Misc.	00-00	00-00
Total	627-00	550-00

Given under my hand and the seal of the court on this 11th day of April, 2014.

(Signature)
(Vineet Sapra)
Civil Judge (Junior Division)
Karnal/11.04.2014.

No. of application 811
 Date of application 12-4-14
 Name of Copyist AHS Geni
 No. of Pages 2
 Completed & Attested on 12-4-14
 Cost of Copy 700
 Urgent fee 0
 Total 700
 Signature of Copyist AHS Geni
15/4/14

Certified to be true copy
(Signature)
 Examiner of Court
 CJ(JD)-cum-JMIC Karnal
 (authorised by Section 76 of
 Indian Evidence Act 1908)
AHS Geni
12/4/14

-273-

1929
26/2/18

through registered post

From District Attorney,
Karnal.

To 1. The Financial Commissioner & Principal Secretary to Govt. Haryana,
Finance Department, Haryana, Chandigarh.

2. The Director, Treasury & Accounts,
Finance Department, 30 Bays Building,
Sector-17, Chandigarh.

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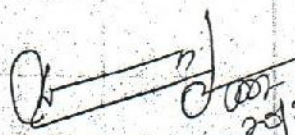
Memo No. 627/DAK/2018, dated 20.02.18.

Sub.: Execution Petition : Madan Lal Chanana versus the F.C. & Principal Secretary to Govt. Haryana, Chandigarh & others.

Memo.

Above noted Execution Petition is pending in the Court of Sh. Rajat Verma, Learned Civil Judge (Junior Division), Karnal and was fixed for 20.02.2018 for compliance of decree in favour of decree holder namely Madan Lal Chanana. In this case, JD No. 3 i.e. Transport Commissioner, Haryana, 30 Bays Building, Sector-17, Chandigarh had complied with the decree to the extent of his 1/3rd share. But on the behalf of JD Nos. 1 and 2 i.e. The Financial Commissioner & Principal Secretary to Govt. Haryana, Finance Department, Haryana, Chandigarh and The Director, Treasury & Accounts, Finance Department, 30 Bays Building, Sector-17, Chandigarh, nothing has been done so as to comply with the decree. The Learned Executing Court has taken a serious view in this regard and also ordered for payment of their respective share to the DH in compliance of the decree, otherwise property of the JDs will be attached. In case of non compliance, if any adverse order is passed by the Hon'ble Court, then concerned department will be sole responsible for the same. Now, the case has been adjourned for 01.03.2018.

Treat it most urgent.


Asstt. District Attorney,
Karnal.

to them could not be withdrawn to their disadvantage because the pay scales were revised and the impugned order liable to be quashed.

22. Thus, from the abovesaid discussion, it is clear that after the promotion, the plaintiff was drawing the same salary as earlier and the pay fixation made on 04.09.2013 was correct. The department has re-fixed the pay of the plaintiff vide order dated 22.11.2011 w.e.f. 04.12.1997 in the revised pay scale of Rs.8100+Rs.100/- personal pay but it should have been fixed at the revised scale of Rs.8300/- which was earlier fixed vide order dated 04.09.2013. Thus, the order dated -4.09.2013 was correct and accordingly the same is to be implemented and further, the pensionary benefits are required to be calculated and the plaintiff is entitled to receive the arrears along with interest. Hence, this court is of the considered opinion that the plaintiff is entitled to a decree for declaration with consequential relief of mandatory injunction as prayed for. Accordingly, these issues are decided in favour of the plaintiff and against the defendants.

ISSUE NO. 3.

23. The onus to prove this issue was upon the defendants. However, in view of my findings given on issues no.1 &2, the suit of the plaintiff is maintainable in its present form. Hence, this issue is decided in favour of the plaintiff.

ATTESTED

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