

No.13/1(1)/2020-5FR(FD)/7319

From

The Additional Chief Secretary to Govt. Haryana  
Finance Department

To

1. The Chief Secretary to Govt. Haryana (Establishment-I/II).
2. All the Administrative Secretaries to Govt. Haryana.
3. All Head of Departments in Haryana.
4. Commissioners of Divisions-Hisar, Ambala, Karnal, Faridabad, Rohtak, Gurugram.
5. All Deputy Commissioners in Haryana.
6. The Registrar (General), Punjab and Haryana High Court, Chandigarh.
7. All Sub Divisional Officers (Civil) in Haryana.

Dated : 25.06.2020

**Subject :** Instructions regarding preparing reply to the legal notices & court cases related to grant of House Rent Allowance w.e.f. 1.1.2016 instead of 1.8.2019.

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Reference on the subject noted above.

As aware, instructions have been issued by the Finance Department vide No.4/2/2017-5FR(FD) dated 30.7.2019 for grant of House Rent Allowance (HRA) under 7<sup>th</sup> Pay Structure w.e.f. 01.08.2019, as amended vide even number dated 14.08.2019 and 22.08.2019.

Many employees/retirees are filing legal notices and Civil Writ Petitions for grant of HRA w.e.f. 01.01.2016 instead of 01.08.2019. Cases are received in the Finance Department for vetting of draft reply to be filed in the Hon'ble High Court in different CWPs. Therefore to maintain uniformity in such cases, please find enclosed herewith a draft copy of "Preliminary Submissions" on the matter in question.

It is advised to prepare detailed reply/written statement to the legal notices/CWPs as per facts of each case individually and file the same in the Hon'ble High Court after getting it vetted from O/o Ld. Advocate General, Haryana under intimation to the Finance Department.

Copy of this communication may be downloaded from the official website of the Finance Department i.e. [www.finhry.gov.in](http://www.finhry.gov.in) also.

DA: As above.

  
**Under Secretary Finance (FR)**  
for Additional Chief Secretary to Government, Haryana  
Finance Department 

Endst. No. 13/1(1)/2020-5FR(FD)/7319

Dated: 25.06.2020

A copy is forwarded to the Learned Advocate General, Haryana, Chandigarh for information and necessary action with the request to mark court cases related to grant of HRA w.e.f. 1.1.2016 instead of 1.8.2019 to a dedicated Law Officer to maintain uniformity of the reply to be vetted by his office.

  
**Under Secretary Finance (FR)**  
for Additional Chief Secretary to Government, Haryana  
Finance Department 

**Preliminary Submissions:-**

1. That the relief claimed in the Civil Writ Petition and the grounds for claiming such relief are altogether false, concocted, beyond the permissible scope of law, against the Government Policies and Instructions, and the petitioner is not entitled to the claimed relief, inter-alia, on the following grounds:-
  - {A} That amongst various allowances and benefits admissible to the employees of the Haryana Government, the allowance named '**House Rent Allowance**' (H.R.A.) was revised by the Finance Department Government of Haryana vide Letter bearing No.10/46/2004-2F1CW dated 27.01.2009 (**Annexure R/1**) w.e.f. 01.01.2009 as per the recommendations of 6th Pay Commission. This revision in H.R.A. was done on the basis of **revised emoluments** {as defined in clause (r) of Revised Pay Rules, 2008 issued vide Notification No.GSR-3/Const./Art. 309/08, dated 30.12.2008 made applicable w.e.f. 01.01.2006} consisting of Pay in the Pay Band + Grade Pay + MSP + NSP, if any. As per Haryana Civil Services (Revised Pay) Rules, 2008, "**revised emoluments**" means basic pay of a Government servant in the revised functional pay structure for the post held by the Government servant and includes the revised non practicing allowance, if any, admissible to him in addition to the pay in the revised functional pay structure.
  - {B} That it goes without saying that the further instructions of Haryana Government with regard to House Rent Allowance issued vide No.10/46/2004-2F1CW dated 21.07.2009 (**Annexure R/2**) followed by the Instructions issued vide No.10/46/2004-2F1CW dated 29.07.2009 were only clarificatory and supplementary to the instructions dated 27.01.2009 and as such, the applicability and rates of House Rent Allowance admissible to a Haryana Government Employee is governed by the instructions dated 27.01.2009.
  - {C} That later on, the Finance Department, Government of Haryana, vide Notification No.1/20/2016 (RP)-5PR(FD) dated 28.10.2016 (**Annexure R/3**) (7<sup>th</sup> Pay Commission) which was applicable w.e.f. 01.01.2016 (hereinafter called 'Revised Pay Rules, 2016'), had notified under clause (t) of Rule-3 that "**revised pay structure**" in relation to the post would mean revised level in pay matrix corresponding to the existing Pay Band and Grade Pay or existing pay structure of the post unless a different revised level is notified separately for that post.
  - {D} That the Revised Pay Rules, 2016 are based on the recommendations of 7<sup>th</sup> Pay Commission. In these rules, no instructions regarding revision of rates or date of House Rent Allowance to be paid by taking into account the pay in the pay matrix (7<sup>th</sup> Pay Commission). All the entitled Haryana Government employees are being paid House Rent Allowances on the existing pay in the Pay Band + Grade Pay (as per 6<sup>th</sup> Pay Commission) at the rate applicable to them viz. 10%, 20%, 30% in terms of the Finance Department, Government of Haryana Letter No.10/46/2004-2F1CW dated 27.01.2009 w.e.f. 01.01.2009.
  - {E} That the petitioner, in the present case, has placed reliance on the Notification bearing No.2/10/2013-4FR/1669 dated 19.07.2016 (Annexure P-1) on the ground that the department has allegedly committed violation of the said rules in respect of House Rent Allowances being paid to the petitioner. In fact, the notification dated 19.07.2016, referred to by the petitioner, is known as Haryana Civil Services (Allowances to Government Employees) Rules, 2016 notified vide No.2/10/2013-4FR/1669 w.e.f. 19.07.2016 and if the definition of 'emoluments' as defined

in these rules under Rule 8(4)(c) is perused between the lines, it has the same definition and meaning as already defined in the Haryana Civil Services (Revised Pay) Rules, 2008 on the basis of which the Finance Department, Government of Haryana issued a letter No.1/83/2008-1PR(FD) dated 07.01.2009 (Annexure R/4) followed by its corrigendum issued on 27.01.2009. Only and only the Dearness Allowances have been revised on the basis of 7<sup>th</sup> Pay Commission alongwith the revision of pay scales. No revision of any other allowances including House Rent Allowance has been made at all till 30.07.2019. In Rule 8 of the Haryana Civil Services (Allowances to Govt. employees) Rules, 2016, the term 'emoluments' for the purpose of various allowances have been defined including the term 'emoluments' for the purpose of House Rent Allowance, which is reproduced below:-

Rule 8(a) (4) "emoluments" for the purpose of -

**(a) conveyance allowance** to differently abled employees means-

- (i) basic pay in pay scale; and
- (ii) any other amount specially classed as emoluments for the purpose by the competent authority.

**(b) Dearness allowance** means-

- (i) basic pay in pay scale;
- (ii) non-practicing allowance admissible to Doctors and Veterinary Surgeons subject to pay plus non-practicing allowance not exceeding Rs.85,000/- or as prescribed from time to time by the competent authority;
- (iii) conveyance allowance to differently abled employees; and
- (iv) any other amount specially classed as emoluments for the purpose by the competent authority;.

**(c) House Rent Allowance** means -

- (i) basic pay in pay scale; and
- (ii) non-practicing allowance admissible to Doctors and Veterinary surgeons subject to pay plus non-practicing allowance not exceeding Rs.79,000/- or as prescribed from time to time by the competent authority;
- (iii) any other amount specially classed as emoluments for the purpose by the competent authority;

From clause (c) of sub-rule (4) of Rule 8, it is clarified that House Rent Allowance is admissible on the basic pay plus Non-Practicing Allowance admissible to Doctors etc. not exceeding Rs.79000/-. The maximum emoluments Rs.79000/- was the maximum figure of the highest pay structure of the State Govt. employees revised from 1st January, 2006. The House Rent Allowance was admissible prior to revision from 1st August, 2019, @ 10%, 20% & 30% of emoluments upto Rs.79000/- which has already been paid to the petitioners. On the pay scales of 7th CPC the House Rent Allowance has been revised w.e.f. 1st August, 2019 @ 8%, 16% and 24% in place of 10%, 20% & 30% on the maximum emoluments of Rs.224550/- instead of Rs.79000/-.

Therefore, the claim of the petitioner seeking the revision of his House Rent Allowance @ 10% of the basic pay fixed in terms of 7<sup>th</sup> Pay Commission is not endurable or tenable in the eyes of law.

{F} That even otherwise, under Rule 15 of the Revised Pay Rules, 2016, it has been clearly mentioned that the provision of Civil Services Rules or any other rules made in this regard shall not, save as otherwise provided in these rules, apply to cases where

pay is regulated under these rules to the extent they are inconsistent with these rules and having said so, the claim of the petitioners under Rule 14 (3) of the Pay Revision Rules, 2016 is not endurable.

{G} That the Government of Haryana vide Order No.4/2/2017-5FR(D) dated 30.07.2019, have revised the existing rates of House Rent Allowance of eligible Haryana Government employees in terms of Rule 14(3) of the HCS (Allowances to Government Employees) Rules, 2016 pursuant to revision of pay scales as per recommendations of 7<sup>th</sup> Pay Commission with effect from 01.08.2019. A copy of the said order is annexed as (**Annexure R/5**). Therefore, House Rent Allowance of the petitioner shall be revised as per the order dated 30.07.2019. Therefore, the claim of the petitioner for 10% of House Rent Allowance on the pay which he is drawing in Pay Matrix (as per 7<sup>th</sup> Pay Commission) w.e.f. 01.01.2016, is not maintainable. The Civil Writ Petition, thus, deserves to be dismissed.

{H} That the Government of Haryana vide Order No.4/2/2017-5FR (FD) dated 14.08.2019 (**Annexure R/6**) has clarified that:-

- i. The respective amount of HRA drawn by the existing Government employees for the period from 01.01.2016 to 27.10.2016 shall remain same as already drawn under existing (pre-revised) Pay Structure.
- ii. The respective amount of HRA being drawn by existing Government employees as on 27.10.2016 shall remain payable invariably for the period between 28.10.2016 to 31.07.2019 i.e. HRA will be drawn on the pre-revised pay scales.
- iii. The employees who have joined the Government Service as fresh recruits/at the first instance on or after 01.01.2016 to 31.07.2016 shall be entitled to the HRA to be calculated at the entry level pay of the pre-revised pay structure as per HCS (Pay) Rules, 2008) of their respective post.
- iv. Regarding admissibility of rate of HRA to the Government employees the ceiling of emoluments i.e. Basic Pay + NPA be read as Rs.2,24,550/- instead of Rs.2,24,100/-.

{I} That the Government of Haryana vide order No.4/2/2017-5FR(FD) dated 22.08.2019 (**Annexure R/6**), has clarified that the term 'Emoluments' in the revised pay structure means the pay drawn in the prescribed pay levels in the pay matrix and does not include Non-Practicing Allowance (NPA) or any other type of pay like Special Pay etc. for the purpose of calculation HRA payable to the Government employees.