

**GOVERNMENT OF RAJASTHAN**  
**FINANCE DEPARTMENT**  
**(RULES DIVISION)**

No. F. 9(10)FD/Rules/2005

Jaipur, dated : 9 DEC 2024

**Clarification**

Sub: Clarification of Selection Grades for employees in Class-IV, Ministerial, Subordinate Services and those holding isolated posts and fixation of pay in Selection Grades.

State Government has introduced Selection Grades w.e.f. 25.01.1992 and amendments made from time to time in this regard, brief of which are listed below:-

- (A) The Finance Department, Government of Rajasthan issued an order dated 25.1.1992 prescribing selection grade for employees in Class-IV, Ministerial and Subordinate Services and those holding isolated posts and fixation of pay in selection grade.
- (B) This was followed by an order dated 21.10.1993 whereby an exception was added to Para 3 of the earlier order dated 25.1.1992.
- (C) The Finance Department, Government of Rajasthan vide its letter dated 19.5.1997 addressed to the Irrigation Department clarified that the admissibility of selection grade to the Junior Engineers, on the basis of order dated 21.10.1993, shall be on completion of 9, 18 and 27 years of continuous service on the post of Junior Engineer.
- (D) Thereafter an Order was issued on 17.2.1998 superseding all the earlier office orders and provided that service of 9, 18 and 27 years, as the case may be, shall be counted from the date of regular employment in the existing cadre/ service in accordance with Rules.
- (E) State Government issued Order dated 29.06.2009 and 20.8.2010 regulating grant of Selection Grade.


2. The issue regarding counting of period of ad-hoc service for grant of Selection Grade has been contested by the various petitioners in the RCS Appellate Tribunal, Hon'ble High Court and Hon'ble Supreme Court. The gist of the decisions / judgments are given below:-

The matter regarding grant of selection grade went upto Hon'ble Supreme Court in various cases arising out of different judgments passed by Hon'ble Rajasthan High Court at the principal seat Jodhpur and as well as bench at Jaipur. The Hon'ble Supreme Court vide its judgment dated 8.5.2009 in the case of State of Rajasthan Vs. Jagdish Narain Chaturvedi, reported in 2009 (12) SCC 49, **categorically held that for the purpose of grant of selection grade only that service can be counted which has been rendered after regular appointment.** In Para 18 of the said Judgment it has been observed by the Hon'ble Supreme Court as under:-

“18. Although the adjective “regular” was not used before the words “appointment in the existing cadre/service” in Para 3 of the G.O. dated 25.1.1992 which provided for selection pay scale, the appointment mentioned there is obviously a need for regular appointment made in accordance with the recruitment rules. What was implicit in the said paragraph of the G.O. when it refers to the appointment to a cadre/service has been made explicit by the clarification dated 3.4.1993. The same has been incorporated in Para 3 of the G.O. dated 17.2.1998.”

3. In compliance of the above judgment of the Hon'ble Supreme Court, State Government issued following Orders as under:-

(i) An order dated 29.6.2009 came to be issued by the State Government whereby it was directed that selection grade is admissible from the date of regular appointment and the period of services rendered on ad-hoc/temporary basis was not to be taken into consideration. Further, all the cases were ordered to be reviewed.

 (ii) Thereafter, representations were received that the order dated 29.6.2009 has resulted in substantial drop in emoluments of low paid employees causing financial hardships and as such, order dated 29.6.2009 was accordingly modified vide order dated 20.8.2010. The

relevant excerpt of the order dated 20.8.2010 is being reproduced hereunder:-

"Accordingly, the State Government has reconsidered the matter and in partial modification of order of even number dated 29-6-2009, the Governor is pleased to order that in cases where Government servants have been granted selection grade prior to order dated 29-06-2009 by counting period of ad-hoc service, such cases may not be reviewed. However, where additional selection grades become admissible to such employees after 29-6-2009 under the rules, this shall be granted by excluding the period of ad-hoc service as per the orders of Hon'ble Supreme Court. For example, if any employee got the advantage of first selection grade prior to 29-6-2009, on completion of service of 9 years (after inclusion of, say, three years' ad-hoc service), his next selection grade on completion of service of 18 years, on or after 29-6-2009, shall be granted only after three years of ad- hoc service is added to 18 years i.e.  $18 + 3 = 21$  years. All pending cases would be decided as per these orders".

4. The Finance Department Order dated 29.6.2009 and 20.8.2010 were considered by the Hon'ble Supreme Court and passed judgment as under:-

(i) The circulars dated 29.6.2009 and 20.8.2010 came to be referred with approval by the Hon'ble Supreme Court in the case of State of Rajasthan Vs. Surendra Mohnot reported in 2014 (14) SCC 77. The Hon'ble Supreme Court, taking note of office orders dated 29.6.2009 and 20.8.2010, reiterated the position of law as settled in the case of Jagdish Narain Chaturvedi and observed as under:-

"15. At the very outset, we may clearly state that the decision in Chandra Shekhar [Chandra Shekhar v. State of Rajasthan, Special Appeal Writ No. 377 of 1996, order dated 6-1-1998 (Raj)] pertains to grant of increments for the period prior to regularisation. It has nothing to do with the grant of selection grade. The circulars which we have reproduced hereinbefore relate to grant of selection grade. In this backdrop, it is to be seen what has been laid down by this Court in Jagdish Narain Chaturvedi [State of Rajasthan v. Jagdish Narain Chaturvedi, (2009) 12 SCC 49 : (2010) 1 SCC (L&S) 105].



In the said case, a two-Judge Bench was dealing with the issue whether ad hoc appointments or appointments on daily wages or work-charge basis could be treated as appointments made to the cadre/service in accordance with the provisions contained in the recruitment rules as contemplated by the Government Orders dated 25.1.1992 and 17.2.1998. It was contended on behalf of the State that stagnation benefits were given from the date of regularisation and for the said purpose reliance was placed on the authority in State of Haryana v. Haryana Veterinary & AHTS Assn. [(2000) 8 SCC 4 : 2000 SCC (L&S) 1043] Reference was made to the language used in the circulars which uses the words "appointments relatable to the existing cadre/service". The Court referred to the provisions of the Rajasthan Absorption of Surplus Personnel Rules, 1969 and various paragraphs from the Haryana case [(2000) 8 SCC 4 : 2000 SCC (L&S) 1043] and the decision in Ram Ganesh Tripathi v. State of U.P. [(1997) 1 SCC 621 : 1997 SCC (L&S) 186] and came to hold as follows: (Jagdish Narain Chaturvedi case [State of Rajasthan v. Jagdish Narain Chaturvedi, (2009) 12 SCC 49: (2010) 1 SCC (L&S) 105], SCC pp. 57-58, para 18)

"18. In order to become 'a member of service' a candidate must satisfy four conditions, namely,

- a. The appointment must be in a substantive capacity;
- b. to a post in the service i.e. in a substantive vacancy;
- c. made according to rules;
- d. within the quota prescribed for the source.

**Ad hoc appointment is always to a post but not to the cadre/service** and is also not made in accordance with the provisions contained in the Recruitment Rules for regular appointment. Although the adjective 'regular' was not used before the words 'appointment in the existing cadre/service' in Para 3 of FD Order dated 25.1.1992 which provided for selection pay scale the appointment mentioned there is obviously a need for regular appointment made in accordance with the Recruitment Rules. What was implicit in the said paragraph of FD Order when it refers to appointment to a cadre / service has been made explicit by the clarification dated 3.4.1993 given in respect of Point 2.

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The same has been incorporated in Para 3 of FD Order dated 17.2.1998.”

Proceeding further, the Court ultimately held thus: (Jagdish Narain Chaturvedi case [State of Rajasthan v. Jagdish Narain Chaturvedi, (2009) 12 SCC 49 : (2010) 1 SCC (L&S) 105], SCC p. 61, para 22)

“22. Apart from Haryana Veterinary case [(2000) 8 SCC 4 : 2000 SCC (L&S) 1043] the position in law as stated in State of Punjab v. Ishar Singh [(2002) 10 SCC 674] and State of Punjab v. Gurdeep Kumar Uppal [(2003) 11 SCC 732 : 2004 SCC (L&S) 444] clearly lays down that while reckoning the required length of service **the period of ad hoc service has to be excluded.**”

16. From the aforesaid enunciation of law it is quite vivid that the period for grant of selection grade has to be reckoned from the date of regularization in service and not prior to that. Thus, the aforesaid judgment of this Court pertains to the same circular and is a binding precedent from all spectrums (emphasis supplied).

30. Our preceding analysis would clearly show that the dictum in Jagdish Narain Chaturvedi [State of Rajasthan v. Jagdish Narain Chaturvedi, (2009) 12 SCC 49 : (2010) 1 SCC (L&S) 105] covers the controversy. **The respondents prior to regularisation were not members of service or a part of the cadre** and hence, the benefit of the circular pertaining to selection grade was not applicable to them. Therefore, the irresistible conclusion is that they are only entitled to the benefit of selection grade from the date of regularisation. The period of nine years, eighteen years and twenty-seven years has to be computed from that date. True it is, they may have been given the first benefit on an erroneous understanding of the circular and also prior to the decision in Jagdish Narain Chaturvedi case [State of Rajasthan v. Jagdish Narain Chaturvedi, (2009) 12 SCC 49 : (2010) 1 SCC (L&S) 105]. But that would not entitle them to assert their claim on that basis, **for that would be contrary to the law of the land as stated in Jagdish Narain**

**Chaturvedi case** [State of Rajasthan v. Jagdish Narain Chaturvedi, (2009) 12 SCC 49 : (2010) 1 SCC (L&S) 105]. Be it noted, the State, as the latter circular would indicate, has decided not to take any steps for recovery of the benefit. Therefore, we conclude and hold that the writ petition preferred by the respondents before the High Court deserves dismissal and, accordingly, the order passed by the Writ Court and the decision in the intra-court appeal are set aside and the writ petition stands dismissed.”

- (ii) In yet another case, a Full Bench of Hon'ble Rajasthan High Court in the case of State of Rajasthan Vs. Chandra Ram (D.B. Civil Special Appeal (Writ) No.589/2015) decided on 3.7.2017 held that for the purpose of grant of selection grade only services rendered after regular selection could be considered and it is not open for the High Court to distinguish the judgments of the Hon'ble Supreme Court in the case of Jagdish Narain Chaturvedi and Surendra Mohnot. The Full Bench of the Hon'ble Court in the case of Chandra Ram observed as under:-

**36.** In our considered opinion, where the rules which are pari-materia for the State of Rajasthan, the Supreme Court has held that the ad-hoc period cannot be allowed to be considered for the benefits of 9, 18 & 27 years. Therefore, para 16 of the judgment of Supreme court in the case of State of Rajasthan vs. Surendra Mohnot & Ors. (supra), **as reproduced above is binding for this Court and is required to be accepted.** Accordingly, the questions referred to us are answered thus:

### **37. QUESTION A**

For the reasons and discussions aforesaid and in view of the law declared by the Supreme Court in the case of Jagdish Narain Chaturvedi and Surendra Mohnot & Ors. (supra); **we are of the opinion that the respondent – employee would stand regularized from the date of regularization in service and not prior to that.**

#### 41. QUESTION E

In view of the observations made by the Supreme Court, as referred to above, the ad-hocism will not be considered for seniority. In that view of the matter, there will be only one date for regularization, date of regularizing ad-hoc period will not have any effect on seniority. In our considered opinion, the Division Bench of this Court in the case of State of Rajasthan &Ors. vs. Gopa Ram in DB Civil Special Appeal No.44/2016, decided on 18.04.2016 had no right to distinguish the judgment of the Supreme Court in the case of Jagdish Narayan Chaturvedi (Supra) and State of Rajasthan vs. Surendra Mohnot&Ors. (supra). **Thus, the decision of State of Rajasthan &Ors. vs. Gopa Ram (supra) did not lay down correct law. The correct law would be the law declared by the Supreme Court in the two judgments referred hereinabove."**

- (iii) That again a Division Bench of Hon'ble Rajasthan High Court at Jaipur in the case of Kamlesh Kumar Vs. State of Rajasthan (D.B. Civil Writ Petition No.6862/2005) decided on 6.7.2017 **held that benefit of ad-hoc/temporary services cannot be given for grant of selection grade even in the case of Junior Engineers.**

5. In view of the above judgments of the Hon'ble High Court and Hon'ble Supreme Court, the Advocate General of Rajasthan has opined to the State Government as under:-

Notwithstanding the judgment aforesaid certain letters were also issued conveying otherwise. The learned Advocate General vide his letter pointed out to Principal Secretary, Finance Department that the government cannot act contrary to the law declared by Hon'ble Supreme Court and therefore, all orders issued contrary to the orders of the Hon'ble Supreme Court should be withdrawn. Accordingly, the Finance Department issued an order on 20.4.2021 withdrawing the orders issued contrary to the judgment of the Hon'ble Supreme Court. It has been brought to the notice of the Finance Department by the learned Advocate General that some communications have been issued by the Water Resources Department in ignorance of the judgments of the

Hon'ble Supreme Court in the case of Jagdish Narain Chaturvedi and Surendra Mohnot and these communications are creating unnecessary litigation. Hence it has become necessary for the Finance Department to issue the clarification and accordingly it is clarified that any order/ communication issued in contravention to the judgments of the Hon'ble Supreme Court in the case of Jagdish Narain Chaturvedi (reported in 2009 (12) SCC 49) or Surendra Mohnot (reported in 2014 (14) SCC 77) **are null and void and cannot be acted upon**. It is further clarified for the purpose of grant of selection grade that services rendered after regular selection can only be counted and for this purpose, the circulars issued by the Finance Department on 29.6.2009 and 20.8.2010 in furtherance of the judgment of the Hon'ble Supreme Court in the case of Jagdish Narain Chaturvedi be acted upon.

6. Keeping in view the various judgments of Hon'ble High Court, Hon'ble Supreme Court and opinion of Advocate General referred to above, it is clarified for guidance of the all that the period of ad-hoc service shall not be countable for grant of Selection Grade, ACP and MACP.

By Order of the Governor,

  
(Debasis Prusty)

Secretary to the Government.



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**(Suresh Kumar Verma)**

Joint Secretary to the Government

**(RPS-98 1 / 2024)**