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C.A.No. 6521 OF 1998  
.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp  
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ITEM No.102 COURT NO.9 SECTION IV&IVB

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

C.A.No.6521/1998

State of Punjab & Ors.

Appellant

VERSUS

Gurdeep Kumar Uppal & Ors.  
(With appln. for stay)

Respondents

WITH

CA NOS. 6535,6537,6533&6555,6528/98,3785/99,6062/2000 and  
SLP(C)Nos.1561/98,5626/99.  
(With appln. for c/d in filing SLP,for directions)  
(With prayer for interim relief)

Date :20.2.2001. This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.P. MOHAPATRA  
HON'BLE MR. JUSTICE DORAISWAMY RAJU

For Appellant (s) Mr. Anoop Chaudhary,Sr.Adv.  
Mr. Lokesh Kumar,adv.for  
Mr. R.S.Suri,adv.

Mr. Rajeev Kumar Sharma,adv.

Mr. Ashok K. Mahajan,adv.

For Respondent (s) Mr. A.S.Sohal,adv.for  
Mr. Sanjeev Malhotra,adv.

Mr. Randhir Singh Jain,adv.

Mr. Rao Ranjit,adv.(NP)

UPON hearing counsel Court made the following  
ORDER

.....L.....I.....T.....T.....T.....T.....T.....T.....T.....T.....T.....T.....J  
.SP2

Delay condoned.  
Leave granted in SLP Nos.1561/98 & 5626/99.  
Appeals are allowed.

.SP1

(Suman Wadhwa)  
PA to Addl.Regr.

(S.Malkani)  
Court Master

Signed order is placed on the file.

.PA  
IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 6521 OF 1998

State of Punjab & Ors.

& .. Appellants

Versus

Gurdeep Kumar Uppal & Ors.

& .. Respondents

WITH

Civil Appeal Nos.6535, 6537, 6533 & 6555, 6528 of 1998,  
3785/1999, 6062/2000 and C.A.No.1474 of 2001 @ SLP (C)  
No.1561/1998 and C.A.No.1475 of 2001 @ SLP (C)  
No.5626/1999

O R D E R

Leave granted in Special Leave Petition Nos.1561 of  
1998 and 5626 of 1999.

Heard Mr.Anoop Chaudhary, learned senior counsel  
for the appellants and Mr.A.S.Sohal, learned counsel for  
respondents.

The respondents are doctors serving under the  
Government of Punjab.

The main question that arises for consideration in  
these appeals is whether the period of adhoc services rendered  
by the respondents is to be included for calculating the period of  
8 or 18 years of service for giving higher scale of pay under the  
proficiency step up scheme. This question was considered by a  
three Judges Bench of this Court in the State of Haryana vs.  
Haryana Veterinary & AHTS Association and another (2000 (8)  
SCC 4) wherein this Court took the view that for calculating 8/18  
years service required for giving higher scale of pay and for  
determination of seniority only regular service rendered by the  
employee is to be counted and not adhoc service.  
Learned counsel for the respondents strenuously  
contended that the respondents who are doctors serving under  
the State of Punjab are governed by a set of Rules and circulars  
different from those which were considered in the decided case  
and therefore the ratio in that case will not be applicable in these  
cases. We have carefully considered the said contention. We  
have also considered the circular letter No.4-15-81 IPP/16047  
dated 14th December, 1981. On a plain reading of the circular it  
is clear that the instructions contained therein were based on the  
decision of the Punjab and Haryana High Court taking the view  
that adhoc service should to be taken into account for the  
purpose. This circular in our view can no longer form the basis  
of the contention in view of the recent decision by this Court in  
State of Haryana vs. Haryana Veterinary & AHTS Association &  
another(supra). Undisputedly the respondents at the time of  
their appointment were governed by the Punjab Civil Medical  
Services Class II (Recruitment and Conditions of Service) Rules,  
1943. In Clause (5) of Rule 7 of the said Rules it is provided  
that the seniority of the members, in each branch shall be  
determined by the dates of their confirmation in service. Further,  
in the orders appointing the respondents on adhoc basis, it was  
specifically stated that they will be governed by the  
aforementioned Rules. It was further stated in paragraph III of  
the appointment letter that the appointees seniority will be  
determined only by merit in which he or she is placed by Punjab  
Public Service Commission. Thus it is clear that only regular

service is to be counted towards seniority.  
We do not feel it necessary to delve further into merits of the case in view of the decision of this Court in State of Haryana vs. Haryana Veterinary AHTS Association and another(supra). We are satisfied that the ration in that case applies to the cases in hand. The resultant position that emerges is that the judgment/orders passed by the High Court holding that adhoc service is to be included in calculating the period of service for giving the higher scale of pay are unsustainable and has to be vacated. Accordingly, the appeals are allowed and the judgments/orders of the High Court under challenge are set aside.

However, we make it clear that if any of the respondents has drawn any amount on the basis of the higher scale of pay under the proficiency step up scheme granted to him by including the period of his adhoc service then the State Government shall not recover the amount already drawn by the

employee though for fixation of the cadre seniority the position as laid down in this order will govern. No costs.

& & & & .& & & & & J.  
(D.P.MOHAPATRA)

& & & ..& & & & & ..J.  
(DORAISWAMY RAJU)

New Delhi;  
February 20, 2001