



सत्यमेव जयते

REPORT

OF THE

FIRST NATIONAL JUDICIAL PAY COMMISSION

BANGALORE

ON

IMPROVEMENT OF SERVICE CONDITIONS OF

NON-JUDICIAL STAFF IN SUBORDINATE COURTS

ASSAM

2003

REPORT OF THE FIRST NATIONAL JUDICIAL PAY COMMISSION

ASSAM



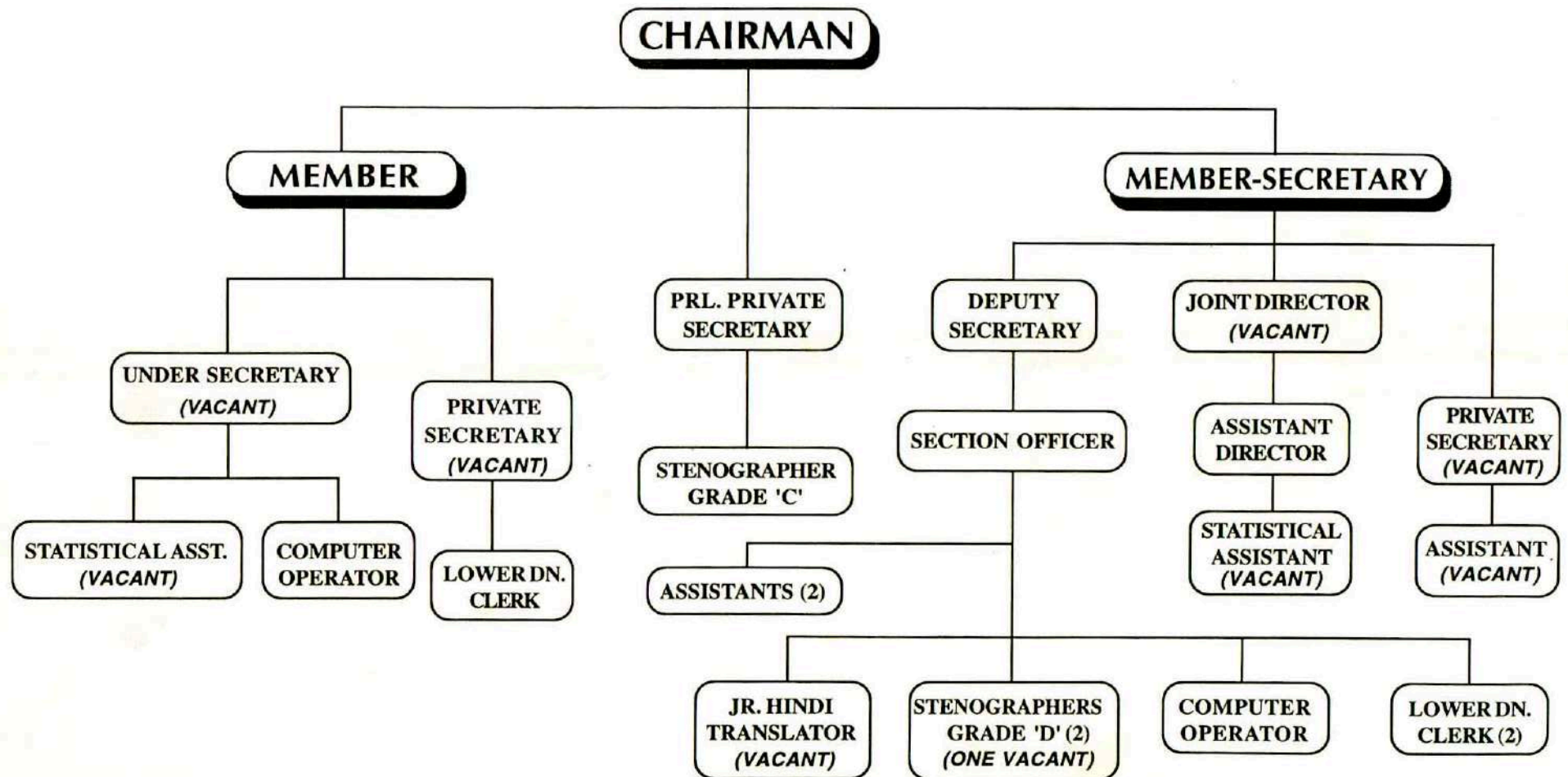
FIRST NATIONAL JUDICIAL PAY COMMISSION

Justice K. Jagannatha Shetty
Former Judge, Supreme Court of India
Chairman

Justice P.K. Bahri (Rtd.)
Judge, Delhi High Court
Member

Justice A.B. Murgod (Rtd.)
Judge, Karnataka High Court
Member-Secretary

FIRST NATIONAL JUDICIAL PAY COMMISSION



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PREFACE

We are concerned in this Report with the service conditions of the unsung heroes who work overtime but remain unnoticed and unrecognised. They are the staff who form a critical and important mass of our administration of justice in District Courts and Courts subordinate thereto.

When we refer to administration of justice, we think only of the judges of the Courts. The judge of a Court, no doubt, is indispensable to our notion of a Court. But, the judge alone cannot administer justice. The working of a Court does not depend only on the work of the Judicial Officer in taking evidence, hearing arguments and rendering judgment. These functions are necessarily to be supplemented by the staff of the Court. Their work extends to pre-trial, during trial and post-trial stages of a case. Without their contribution at all these stages, there cannot be prompt and satisfactory termination of any case.

The staff of the District Court and Courts subordinate thereto are under the direct control of the District Judge, but subject to the overall control of the High Court under Article 235 of the Constitution of India. Their service conditions are regulated by rules framed by the Government under proviso to Article 309 of the Constitution after consultation with the High Court. But the High Court cannot vary their service conditions without the concurrence of the State Government.

Over the last several years, the pendency of cases in all Courts is on the rise. But the staff strength in every Court is generally static. During this period, almost all the Government Departments have swelled to the brim with additional staff and multiple of top brass, but the Subordinate Judiciary languish with inadequate number of Courts and insufficient staff.

It is said and indeed cannot be disputed that the High Court in each State has been recommending to the State Government for more Courts, more staff and better conditions of service to the Court Staff. But the response of the Government is stated to be generally negative.

The Court staff all over the country, finding themselves without an alternative, moved the Supreme Court through their Confederation for improvement of their service conditions.

The Supreme Court by Order dated 7 January 1981 directed the Commission to examine the existing service conditions of the Court Staff in each State and Union Territory and to make a report to the Court about the steps, if any, to be taken for the improvement of such service conditions.

The Supreme Court, while making the aforesaid order, observed² that:

“..... The Service conditions of the Court Staff of the subordinate Courts is a significant factor having relevance in the functioning of the subordinate Courts. This question is, therefore, directly connected with the administration of justice and thereby with the rule of law.....”

Since there has been no scientific study of the Court management, the Commission engaged the services of the **MANAGEMENT EXPERTS** in Indian Institute of Technology, Delhi as **CONSULTANT**. The Consultant Team consisted of eminent Professors, viz., Prof. Prem Vrat, Prof. S.G. Deshmukh and Dr. Kanika T. Bhal. They were assisted by not less than 8 Research Assistants. They have made a

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1. Order dated 7 January 1981 made in I.A. filed in W.P. (Civil) No.1022 of 1989.
 2. Order dated 17 December 1997 made in I.A. filed in W.P. (Civil) No.1022 of 1989.

study of the working conditions of the Court Staff by a time tested methodology using a questionnaire-based survey. Different questionnaires for different stake-holders, viz., Staff, Judges, Lawyers and Litigants have been circulated and their views and comments were obtained. By proper analysis, the Consultant has determined the 'Employees Satisfaction Index' which was found to be 2.36, as against the average of 3 (scale of 1-5) in all States.

The questionnaires prepared by the Consultant and the analysis of the responses received from the stake-holders are set out in the **APPENDIX - I**.

The Commission on its own has also collected quite a lot of statistical information pertaining to the conditions of service of staff of Courts from all High Courts, State Governments, Staff Associations and some of the District Judges across the country.

The views of High Courts, District Courts and the Consultant may be summarised as follows:

- (i) that the Court Staff have too much work load;
- (ii) that they work overtime without any compensation;
- (iii) that there is disparity and inequality in terms of inter-alia job content; and
- (iv) that there is need to improve the service conditions and proper division in the administration.

It may be noticed that in some States, service conditions of the Court Staff are extremely poor and leave much to be desired. They suffer from either little promotional opportunity or want of adequate benefits.

These and other deficiencies seem to have affected the work culture and efficiency of the Court.

In a recent official release, the pending cases in the Supreme Court, High Courts and the District Courts etc., have been given. The figure given regarding the pendency of cases in the subordinate Courts all over the country is 2.03 crore cases, though some assert that it is nearing 3 crores. Be as it may, the fact remains that out of these cases, there are about 8.19 lakh cases of more than 10 years old.

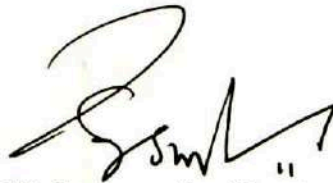
Public blame the Courts for arrears and delay in disposal of cases. Some even complain about the ineffective justice delivery system. Their complaint is not without substance. Even the superior Courts, more often, make caustic comments on the tormenting plight of the average litigants.

But, in our opinion, there is no point in blaming the Courts or the justice delivery system. The culprit for the delay in disposal of cases is neither the Court nor the system of our administration. It is the apathy of the Government.

The administration of justice seems to be not in the priority list of any Government. No Government is willing to allocate funds to establish more Courts and create infrastructure. This is evident from the annual budget allocation to Subordinate Judiciary in each State / UT which has been set out in CHAPTER-II.

Suffice to state herein that all States and Union Territories, except NCT of Delhi, have been providing less than ONE PER CENT of their budget for the Subordinate Judiciary, while providing generous budget to other Departments.

The Government seems to have not properly appreciated the judicial involvement and concern with the principles of good administration and rule of law. There may be delay in disposal of cases and there may be other deficiency in the administration of justice. In spite of all such delay and deficiency, it cannot be denied that the Court is one of the few Institutions which has kept our secular democracy with liberty and equality out of killer. The utility of the judiciary cannot be measured by market economic principles. The allotment of budget must be commensurate with the need and requirements of the Subordinate Judiciary, so that justice delivery system could come up to the expectations of the people and achieve the objectives enshrined in the Constitution.



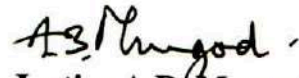
Justice K. Jagannatha Shetty

Former Judge, Supreme Court of India
Chairman



Justice P.K. Bahri (Rtd.)

Judge, Delhi High Court
Member



Justice A.B. Murgod (Rtd.)

Judge, Karnataka High Court
Member-Secretary

ACKNOWLEDGEMENT

We owe a very special debt to the Karnataka High Court and in particular to the then Chief Justice Mr. Justice S. A. Hakeem (of revered memory) for providing free office accommodation to the Commission in the premises of the City Civil Court Complex and also we are grateful to the present Chief Justice Mr. Justice N.K.Jain and his predecessor Mr. Justice P. Venkatarama Reddy who is now the Judge of the Supreme Court for sparing the services of Miss Aishwarya, a competent Stenographer to the Commission.

We are immeasurably benefitted from the responses of the High Courts, State Governments and Administrations of UTs to our questionnaire. They have given us useful suggestions apart from the factual information, which are indeed the valuable inputs to our report.

We should like to thank the Indian Institute of Technology (IIT), Delhi and Prof. Prem Vrat, Prof. S. G. Deshmukh, and Dr. Kanika T. Bhal and their Assistants who have undertaken the study of the service conditions of the Court staff in Subordinate Courts and for holding the Workshop to work out the modalities to improve the working of Courts. The workshop was attended by certain District Judges across the States, representatives of the Court staff and their study team. They have submitted the report in four volumes containing wealth of information and fruitful suggestions for improvement of the service conditions of the Court Staff and to streamline the Court administration.

The Ministry of Law and Justice, Government of India and particularly Mr. Surendranath, Additional Secretary, Mr. P.K. Agrawal, Joint Secretary, Mr. P.N. Singh and his successor, the Pay and Accounts Officer and other staff have always provided their assistance whenever we needed, in financial matters to the Commission.

Mr. K. R. Chamayya, initially the Member Secretary of the Commission, even after he left the Commission has been kind enough to associate himself with the on-going work in the Commission and has prepared the model recruitment rules for the Court staff in every State for which we are highly obliged. We should also like to thank Mr. Ramapriya, Former Joint Director (E & S) of the Commission. He was constantly assisting in preparation of the report even after he was repatriated to the Government.

We must also like to thank the All India Judicial Employees' Confederation and other Associations of different States and Union Territories which have responded to our questionnaire and also participated in our personal hearing.

We would not have accomplished this task without the active involvement of every staff member of the Commission. However, we must record with appreciation the important roles played by Mr. K.Chandrashekaraiyah, Deputy Secretary, Mr. Vittal Sheregar, PPS to Chairman, Mr. L.V. Krishna Murthy, Sheristedar, City Civil Court, Bangalore who has been continuously working in this Commission and Mr. R. Venkataraman, PA to Chairman. They have put every considerable experience and wisdom at our disposal. They have also stimulated the reconsideration of many aspects.

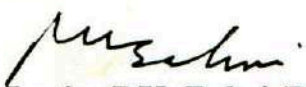
We must thank Mr. S. Krishna Murthy, Assistant Director (E & S) who has, with a meagre information, prepared the financial statements for each State / U.T. on our recommendations.

The central feature of the preparation of the report has been the in-house hard and sustained work by excellent Computer Programmes by Mr. Umesh. N, Computer Operator, Mrs. N. Subbalakshmi, Assistant and Miss Aishwarya. They have in fact worked overtime with a sense of dedication.

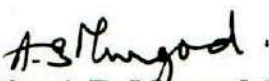
We also thank Mr. R. Panduranga, Proprietor, Five Star Impressions and Mr. K. Narayana, Proprietor, 'Span Print' for their co-ordination in bringing out the printed Report within the stipulated time-frame.



Justice K. Jagannatha Shetty
Former Judge, Supreme Court of India
Chairman



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Judge, Delhi High Court
Member



Justice A.B. Murgod (Rtd.)
Judge, Karnataka High Court
Member-Secretary

FIRST NATIONAL JUDICIAL PAY COMMISSION

BANGALORE

STAFF MEMBERS

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Assistant |
| 2. K. Chandrashekaraiah
Deputy Secretary
(w.e.f. 3-1-2000) | 13. R. Venkataraman
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| 3. R. Ramapriya
Joint Director
(Upto 31-12-1999)
Vacant from 1-1-2000 | 14. D. Ravikumar
Steno - Grade 'D'
(Upto 31-7-2000) |
| 4. K. Vittal Sheregar
PPS to Chairman | 15. C.I. Rani
Steno - Grade 'D' |
| 5. R. Ramachandra
Section Officer | 16. Shivayogi Guttal
Computer Operator
(Upto 14-11-2000) |
| 6. B. Krishna Murthy
P.S. to Member-Secretary
(From 27-4-1998 to Aug. 2000 and
From 13-2-2001 to 15-4-2002) | 17. Umesh .N
(From 11-12-2000) |
| 7. S. Krishnamurthy
Assistant Director
(w.e.f. 26-7-2000) | 18. R. Vasanth Kumar
L.D.C. |
| 8. H. Muniraju
Statistical Assistant
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L.D.C. |
| 9. Smt. N. Subbalakshmi
Assistant | |
| 10. N. Prabhakar
Assistant
(Upto 12-1-2001) | |
| 11. Smt. Abida Khatoon
Assistant
(From 1-2-2001 to 30-4-2002) | |

At Delhi Sub-Office

- | |
|--|
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P.S. to Member
(Upto 15-4-1998) |
| 2. S. Seetharam
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(Upto 31-3-2000) |
| 3. Arvind Kumar
Computer Operator |
| 4. Yog Raj Sharma
L.D.C. |

CHAPTER - I

INTRODUCTION

Administration of Justice, including constitution and organisation of all the Subordinate Courts, falls under Item 11-A List III - Concurrent List of the Seventh Schedule to the Constitution. Article 235 of the Constitution provides that complete and exclusive control over the District Courts and the Courts subordinate thereto is vested in the High Court. The control over the Ministerial personnel ("Court Staff") in the establishment of the Subordinate Courts is also vested in the High Court.

As on September 1999, there were about 12,771 District Courts and Courts subordinate thereto in the States and Union Territories. In these Courts, the supporting staff were nearly 1,50,000. Since-then, there may be marginal additions to Courts as well as to Staff.

The staff of the Courts in every State have manifold grievances. But, they cannot approach the Government directly since the High Court has complete control over them. The High Court is unable to give them any relief without approval of the State Government though their grievances are genuine and deserving. The State Governments are generally reluctant to give them any other reliefs which are not provided to the Government Servants.

Being unable to get redressal of their grievances either from the High Court or the State Government, the Court Staff have formed an Association styled as "All India Judicial Employees' Confederation" ("Confederation"). It has been registered as a society under the Societies Registration Act XXI of 1860 (as amended by Punjab

Amendment Act, 1957). The Confederation claims to be the representative body of all Staff working in the Subordinate Courts in every State and Union Territory.

When the Supreme Court was monitoring the steps taken by the States / Union Territories for implementing the judgment in “ALL INDIA JUDGES’ ASSOCIATION Vs. UNION OF INDIA & OTHERS”¹ and “ALL INDIA JUDGES’ ASSOCIATION & OTHERS etc., Vs. UNION OF INDIA AND OTHERS etc. .”², the Confederation submitted a Memorandum of demands dated 14 December 1996 to the Hon’ble Chief Justice of India, with a request to refer their demands to the First National Judicial Pay Commission (“Shetty Commission”) for consideration and report.

But the Shetty Commission was constituted with specific terms, inter-alia, to examine the service conditions of the Judicial Officers in the Subordinate Judiciary of the States and Union Territories. Under the terms, the Commission has no authority to examine and report on the service conditions of the Staff of the Courts.

In view of the limited scope of the Shetty Commission, the Supreme Court, at one stage, was of the view that it would be better to enlarge the terms of the Commission covering also the revision of pay scales and other service conditions of the Staff attached to Courts. It was felt that the exercise before the Commission should not be confined merely to examining the matter relating to Judicial Officers, but the entire functioning of the Court system would be required to be taken care of properly. It seems the Supreme Court made such observations to learned Counsel appearing for the Central Government. In response thereto, learned Additional Solicitor General added that

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1. 1992 (1) SCC 119 (AIR 1992 SC 165)
 2. 1993 (4) SCC 288 (AIR 1993 SC 2493)

the question of enlargement of the terms of reference of Shetty Commission will be considered and appropriate steps are likely to be taken shortly. This is evident from the Order of the Supreme Court dated 29 September 1997, the relevant portion of which reads as follows:

“Learned Additional Solicitor General informs us pursuant to our observations made at the last hearing, the learned Solicitor General has suggested to the Central Government that the terms of reference of the Justice Shetty Commission will be enlarged to include therein the revision of pay scales and other service conditions of the staff attached to the subordinate Courts so that the exercise before the Commission is not confined merely to examining the matter relating to the subordinate Judges alone. This is appropriate because for the proper and effective functioning of the Subordinate Courts as well, not merely the Judges of those Courts but the entire staff associated with the functioning of the Subordinate Courts, is required to be taken care of properly. Learned Additional Solicitor General added that the question of enlargement of the terms of reference of the Shetty Commission will be considered in this light and appropriate steps are likely to be taken shortly. He added that the final action taken by the Central Government would be soon reported to the Court. We appreciate this action of the Central Government at the behest of the Additional Solicitor General since enlargement of the terms of reference of the Shetty Commission to cover this aspect relating to the staff of the Subordinate Courts would reduce the area required to be examined in this matter.”

On 13 November 1997, learned Counsel for the Central Government informed the Supreme Court that the consent of the States / Union Territories would be required

for enlargement of the terms of reference of Shetty Commission and the Central Government was awaiting the responses of the States / Union Territories.

It seems that the States were not favourable to the proposal of the Central Government and opposed the move of the Central Government for enlarging the terms of reference of Shetty Commission. The Central Government, accordingly, informed the Supreme Court about their inability to enlarge the terms of Shetty Commission.

The Confederation thereafter made an Application for intervention in W.P. (Civil) No.1022/1988: ALL INDIA JUDGES' ASSOCIATION Case.

On 17 December 1997, the Supreme Court permitted the intervention of the Confederation and directed that the Application for intervention should be taken on record as a substantive application. While so directing, the Supreme Court observed:

“We have no doubt that the service conditions of the staff of the subordinate Courts is a significant factor having relevance in the functioning of the subordinate Courts. This question is, therefore, directly connected with the administration of justice and thereby with the rule of law. It being so, the matter is within the ambit of this petition and it requires examination in exercise of the power of this Court under Article 32 of the Constitution of India. If necessary, with the aid of Article 142 of the Constitution of India, this Court can issue necessary directions to the State Governments / UTs for due compliance.”
(underlining is ours)

It was added:

“We tried to avoid taking this step and to have the benefit of the Shetty Commission examining this matter in the first instance. But the stand taken by the State Governments leaves

us with no option except to adopt this procedure. We may, if necessary, at a later stage, for the purpose of having the relevant data, avail suitable expert assistance or request even the Shetty Commission to examine the matter and give its report so that this Court could formulate the necessary directions on that basis.

In view of the above, we permit intervention of All India Judicial Employees Confederation, District & Sessions Court and take this I.A. on record as a substantive application. Issue notice of the application to all State Governments / UTs. No separate notice of this application is required to be given to the States / UTs, as their Standing Counsel are present in Court and they accept the same. This is sufficient notice to each of them”

On 7 January 1998, the Supreme Court made further Order requesting Shetty Commission to examine the service conditions of the Staff of the Courts and to make a report about the steps to be taken in each State / Union Territory for improvement of the service conditions of the staff of the Courts. The Order of the Supreme Court runs as follows:

“ The response of the State Governments except the State of Sikkim remains the same as mentioned in the previous order dated 17th December 1997. Having heard learned Counsel for the States in addition to the learned amicus curiae and the learned Counsel for the Intervenor - All India Judicial Employees' Confederation District & Sessions Court, we make the order as indicated hereafter:

In order to avoid escalation of the existing discontent amongst the staff of the Subordinate Courts in the States and for the reasons indicated in the previous order, we request the Shetty

Commission to examine the matter and to make a report to this court about the steps, if any, required to be taken in each State / Union Territory for the improvement of service conditions of the supporting staff attached to the Courts and further to also suggest interim measures of relief in respect of such staff of the Subordinate Courts in particular States / Union Territories. In doing so, the Shetty Commission would take into account the facts and circumstances peculiar to any State / Union Territory placed before it by the concerned State / Union Territory. The points of distinction, if any, between the States / Union Territories which may be relevant for this purpose may also be taken note in making the report. This aspect of the matter would be considered by the Court on receipt of the report of the Shetty Commission”

From the aforesaid orders of the Supreme Court, it becomes clear that the Commission has to undertake the following:

- (i) To examine the service conditions of the Court Staff in each State / Union Territory and make a report (to the Supreme Court) about the steps, if any, required to be taken in each State / Union Territory for the improvement of their service conditions;
- (ii) To examine the facts and circumstances peculiar to any State / Union Territory placed before it by the concerned State / Union Territory;

And

- (iii) To take note of the points of distinction, if any, between the States / Union Territories which may be relevant for the purpose of making the report.

The task of the Commission is indeed difficult and complex. In fact, for the first time, such a study is undertaken without any background material.

It may be stated that there is no uniformity in the Court administration across the country. Each State / Union Territory has different staff pattern with a variety of pay scales. The grievance of the staff likewise varies from State to State. The Commission is required to examine such grievances and suggest remedial measures with due regard to the peculiar facts and circumstances in each State and Union Territory and the relevant points of distinction between the States / Union Territories.

As a preliminary to consideration of the problem, the Commission issued a Circular dated 11 March 1998 to High Courts, State Governments / Union Territories and to Staff Associations of all the States / Union Territories, requesting to furnish certain information regarding the existing service conditions of the staff of the Courts. Some replies were received, but they were fragmented and not up-to-date and hence not of much assistance. The Commission then could not pursue the matter since it was busily engaged in the preparation of the Report on the Service Conditions of the Judicial Officers.

On 9 June 1998, the Commission made a request to the Supreme Court that the matter pertaining to Staff would be taken up only after giving the Final Report regarding the Judicial Officers.

Since there has been no scientific study of the Court Management, the Commission thought that it would be better to have the assistance of the Management Experts. On 8 September 1999, the Commission appointed the Indian Institute of Technology, New Delhi (I.I.T.) - Management Division, as Consultant to make a study on the conditions of the Court Staff, and suggest measures for effective administration of the Courts.

On 11 November 1999, the Commission gave the Final Report relating to service conditions of the Judicial Officers. The Report was submitted to the Prime Minister of India.

Immediately thereafter, the Commission actively took up the matter pertaining to the Staff of the Courts.

For the purpose of finding out the genuine grievances of the Court Staff in different States / Union Territories, the Commission had several rounds of preliminary discussion with the representatives of the Court Staff at New Delhi, Hyderabad, and at one or two Cities in Karnataka, Tamil Nadu and the office-bearers of the Confederation.

The Consultant - IIT, Delhi - prepared a set of questionnaires for each stakeholder concerned with the Staff of the Courts. The Commission sent those questionnaires to the cross-section of stake-holders, viz., Staff, District Judges, Lawyers and Litigants in every State / UT. Replies received to the questionnaires were forwarded to the Consultant for consideration.

In the meantime, the Commission, taking note of the various and varied grievances of the Staff, prepared a comprehensive Questionnaire as at **APPENDIX - II**. In March 2000, the copies of the Questionnaire were sent to all High Courts, State Governments / Union Territories and Staff Associations and the Confederation, with a request to send their views and comments.

On 17 September 2000, the Consultant organised an Interim Workshop at New Delhi. It was attended, among others, by some of the District Judges and Law Secretaries of different States / UTs, Registrars of the High Courts, representatives of certain Staff Associations and Members of the Commission. The discussion in the Workshop concentrated on the information collected by the Consultant about the service conditions of the Court Staff and the need to improve their working conditions.

Taking note of the various observations and suggestions that emerged at the Interim Workshop and also after detailed discussion with the Commission, the Consultant submitted its report on 1 June 2001, at Bangalore.

For the Commission's Questionnaire, replies started trickling from the High Courts and State Governments. Out of 21 High Courts (including the three newly established High Courts), 9 High Courts viz., Calcutta, Gauhati, Himachal Pradesh, Kerala, Madras, Orissa, Patna, Punjab & Haryana and Sikkim sent their replies before December 2000. Five High Courts viz., Allahabad, Jammu & Kashmir, Karnataka, Madhya Pradesh and Rajasthan sent replies during January / February 2001. The remaining High Courts, viz., the High Court of Bombay sent their views on 28 March 2001, the Jharkhand High Court on 16 June 2001, the Andhra Pradesh High Court on 18 June 2001, the Gujarat High Court on 20 June 2001, the High Court of Uttaranchal on 23 July 2001, and Chhattisgarh High Court on 16 November 2001.

A special mention needs to be made here about the efforts made by the High Courts of Bombay and Gujarat. Both the High Courts, as they did in the case of the Judicial Officers, seem to have given their earnest consideration to every aspect of our Questionnaire. They have given certain valuable inputs for preparation of our Report.

The Delhi High Court is the only High Court which has not responded to our questionnaire in spite of repeated requests including the personal request by the Chairman of the Commission. In the communication dated 17 May 2001, the Delhi High Court has stated that it has no comments to offer on the Questionnaire.

So far as the State Governments / Administrations of Union Territories are concerned, they were lukewarm in sending their responses. Out of 28 States and 7 Union Territories, 6 States and 3 Union Territories viz., Jammu & Kashmir,

Maharashtra, Mizoram, Nagaland, Sikkim, West Bengal, Dadra & Nagar Haveli, Daman & Diu and Lakshadweep furnished replies to the Questionnaire before December 2000; 3 States and one Union Territory viz., Arunachal Pradesh, Tripura, Uttaranchal and Chandigarh sent the replies during January 2001; Goa and Rajasthan in March 2001; Himachal Pradesh and Meghalaya in April 2001; Assam, Karnataka, Punjab and Union Territory of Pondicherry in May 2001; Kerala, Madhya Pradesh, Orissa and Tamil Nadu in June 2001; Bihar, Haryana, Uttar Pradesh and Union Territory of Andaman & Nicobar Islands in July 2001; NCT of Delhi in August 2001 and Gujarat in September 2001.

The remaining 4 States, viz., Andhra Pradesh, Chhattisgarh, Jharkhand and Manipur have not responded to the Questionnaire.

The All India Judicial Employees' Confederation, which is required to assist the Commission, furnished its reply only in January 2001.

The Commission afforded an opportunity of being heard to the representatives of the Associations, High Courts and State Governments / Union Territories. The hearing commenced on 18 June 2001 and concluded on 28 August 2001. The names of those who have been heard are set out in the **APPENDIX - III**.

At the fag end of 2001, Shri K.R. Chamayya, Former Secretary to the Government of Karnataka, Law and Parliamentary Affairs Department and Former Chairman, Karnataka Administrative Tribunal was requested to prepare the Model District Court Service Rules governing the recruitment procedure for appointment of Court Staff. He submitted the draft Model Rules during June 2002, which is set out in the **APPENDIX - IV**.

From the material collected, it could be seen that there is near unanimity among the High Courts on the need to improve the service conditions of the Court Staff, particularly in the Process Establishment, the Bench Clerks / Court Officer, Stenographers and common categories of posts etc.

Chapter-VI deals with Human Resource Management. Therein, we have considered the minimum qualification for Group-D / Grade-IV / Class-IV category of posts and their promotional benefits.

In **Chapter-VII**, we have considered the common category of posts and the benefits to be given to them.

In **Chapter-VIII**, we have examined the Process Establishment which is an important section in all the Courts. In some States, there is only one cadre while others have two or three cadres. In certain States, the Process Servers are included in Group-C, but given the pay scale admissible to Group-D. The qualification prescribed for the Process Servers / Amins is the same as that of the Peons, i.e. just reading alphabets.

In **Chapter-IX**, the duties and responsibilities of Bench Clerk / Court Officer have been set out. The Bench Clerk / Court Officer is pivotal in the Court Administration. But, he has not been given the proper position or pay scale in most of the States / UTs.

In **Chapter-X**, we have considered the Stenographers who are indispensable in our system of administration. Some States have only one grade while others have two or three and even four grades. In certain States, junior Judicial Officers are not provided with Stenographer.

In **Chapter-XI** we have dealt with Chief Ministerial Officers of the Courts of CJ (Sr. Divn.) and CJ (Jr. Divn.) in the decentralised system of administration.

Chapter-XII is about the Sheristedar who is the Chief Administrative Officer of the District Administration.

There are other Chapters in which we have examined budget grant to Subordinate Judiciary, the need for Protocol Officer, Assured Career Progression, Medical Benefits and Special Pay to staff working in Record Room / Property Room etc.

In the light of the principles enunciated in the said general Chapters, we have examined the service conditions of the Court Staff in each State / UT **except in Arunachal Pradesh, Mizoram and Nagaland, where the judiciary has not been fully separated from the Executive** and suggested certain improvements, wherever it is absolutely necessary, while bearing in mind the financial burden on the Exchequer.

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CHAPTER - II

**ADMINISTRATION OF JUSTICE AND
BUDGET GRANT TO
SUBORDINATE JUDICIARY
- A BIRD'S EYE VIEW**

CHAPTER - II

ADMINISTRATION OF JUSTICE AND BUDGET GRANT TO SUBORDINATE JUDICIARY - A BIRD'S-EYE VIEW

The High Court in each State is responsible for ensuring that the system by which justice is administered is efficient, impartial and serves the interests of litigant public by rendering speedy justice. It is the failure in this regard that has been the focus of public concern. But general public do not know the real cause for the delay in disposal of cases. They blame only the Courts and the system of Administration of Justice.

The Parliamentary Standing Committee on Home Affairs, in its Report dated 19 December 2001, has referred to the Law's Delays and Delays in Disposal of cases. The statistics of pending cases in different hierarchy of Courts have been given. It is said that there are about 2.03 crore cases pending in all the Subordinate Courts, 3.5 million cases pending in the High Courts and 21,995 cases pending in the Supreme Court.

The said Committee pertinently observes as follows:

“A large number of unfilled vacancies of Judges and a low Judge - population ratio across the board have caused a formidable accumulation of arrears and shockingly inordinate delays in the disposal of cases with the result that at the zenith of its many outstanding achievements in aid of Democracy and Rule of Law, the Indian judiciary is face to face with an incipient darkness at noon and with challenges which can only be met with constructive cooperation between the three branches of the Government, the fourth estate, and we, the people of India.”

In the said Report, there is reference to the pendency of a particular case which is disturbing even to mention. The case relates to the assassination of Sri L.N.Misra, the then Union Railway Minister in 1975 by bomb blast at Samasthipur in Bihar State. It is stated that the case has been pending for the last 27 years and it has passed through 9 Judicial Officers. Out of seven accused involved in the case, the statements of only two accused have been recorded so far. It is stated that L.N.Misra's widow died vainly waiting for justice.

One critic has pointed out that if the current impasse in the judicial system continues and if the Courts were to stop registering new cases and start disposing the cases already on hand, it may take 300 years for all cases as of to-day to be disposed of!¹. It may be a bit exaggeration; the fact, however, remains that the pendency in Subordinate Courts cannot be cleared with the present judge strength and the existing infrastructure of Courts.

It is common amongst the States, that the judge strength is inadequate with insufficient infrastructure of Courts. In **CHAPTER 16**, Vol. III of our earlier Report relating to Judicial Officers, we have referred to the conditions of the Court buildings in almost all States. It would be distressing to read the the comments of some of the High Courts on the Court buildings. We may begin with our National Capital.

The High Court of Delhi states that:

“Majority of the Courts in Delhi are housed in Courts Building at Tis Hazari. There are 138 proper Court rooms and 89 Courts are in improvised rooms which were set up after converting the office rooms to meet the acute shortage of Court accommodation.

1 See: ‘The Economic Times’ dated 2 February 2002, p.3, “Courting Judicial Reforms” by N. Vittal, Central Vigilance Commissioner.

The improvised Court rooms lack basic necessities of Chamber and toilets. As a result, a group of judicial officers have to share their toilet or use public / litigants' toilets. Even the lady judicial officers do not have chamber and toilet facility in these improvised rooms. Most of the rooms are without proper light and air and are unhygienic.

Nearly one lakh of litigants, lawyers and other public visit Tis Hazari Courts every day. Tis Hazari Court building which was built in 1956, for the use of few Courts, is now grossly inadequate for the present need. As a result, public conveniences are also inadequate to meet the demand of lakhs of daily visitors creating insanitary and unhygienic conditions in the building. The problem is aggravated by poor maintenance of the building by the PWD. The demand for more accommodation for making proper Court rooms, public conveniences etc., has fallen flat on the deaf ears of the Government."

This is what the High Court of Gujarat has to state:

"The Courts at district level as well as City level are not properly maintained nor adequately furnished. The Division Bench of Gujarat High Court had to pass orders directing the State Government to immediately provide necessary funds for the furniture, stationery, maintenance of the building etc. Even after directions of Court, no satisfactory steps have been taken by the Government to maintain Court buildings or to furnish them adequately. The Government is always reluctant to part with money for the maintenance of the building, furniture, stationery etc. of the Courts. Many of the Courts do not have even the place for dias for the Presiding Officers."

The Calcutta High Court has similar problems. It has stated:

“The buildings are neither properly maintained nor adequately furnished. Most of the buildings are worn out and some of them leak waters at the time of rainy season, as for example, in Alipore Criminal Court buildings, Court rooms are insufficient and stuffy. There is very scanty seating arrangement not only for the litigants but also for the lawyers in some of the Courts. Furniture are not at all sufficient. Some of the buildings are so much dilapidated as those are unfit for using as Court rooms although Courts have to run therein. There have been incidents of falling down of plasters of the ceiling missing the head of Judge.”

The Kerala High Court has no less problems.

“The Court buildings are not properly maintained nor adequately furnished. Most of such Court buildings are very old. Proposal for construction of buildings wherever found necessary is pending. Wherever land is readily available, administrative sanction has been recommended. Enough funds are not available and unless funds to the tune of a few hundred crores are immediately available, the proposals cannot be implemented. This is a major problem which has to be dealt with seriously.

The Courts are not adequately furnished. Old rickety chairs are a common sight in all the Courts.”

The Rajasthan High Court has no different version.

“All the Courts at Tehsil and in the District are not properly maintained and adequately furnished. The Courts are not provided with adequate budget for furniture to be provided in Chamber, Court room and staff room. At many places, sufficient space for chamber, Court room and staff room is not provided.”

In some of the Courts, even under-trials are not provided proper place in the Court premises. At so many places, litigant sheds are not constructed by the State Government.”

We have been told that in other States also, the condition of the Court buildings is no better. They are equally inadequate and in bad shape.

Even after the infrastructure of Courts has been made a planned item, by which the Central Government bears one half of the expenditure, there seems to be no appreciable improvement.

It is unfortunate that the administration of justice does not seem to receive adequate attention of any Government. Rather, the Government seems to have an indifferent attitude towards the administration of justice. This is evident from the fact that in our country, the expenditure on judiciary in terms of GNP is hardly 0.2 per cent, whereas in Singapore which is a tiny country, it is 1.2 per cent; in United Kingdom, it is 4.3 per cent and in United States of America, it is 1.4 per cent.²

The Commission has obtained the budget allocation to the Subordinate Judiciary in comparison to the budget allocations to other Departments like Health, Education and Social Welfare in each State / UT. That would give us a clear picture that the Administration of justice receives a step motherly treatment in every State.

TABLE-I gives the percentage of allocation of budget to Subordinate Judiciary vis-a-vis some other Departments for the year 2000 - 2001 in which it could be seen that the budget allocation to the judiciary is practically negligible.

TABLE-II gives the budget allocation for the last 10 years by each State.

2. See: “PREFACE” to the Report of FNJPC on Judicial Officers, Vol. I, p. viii.

It may be seen that every State / Union Territory, except National Capital Territory of Delhi, has been providing less than ONE PER CENT of budget for the Subordinate Judiciary while Departments of Health, Education and Social Welfare get, on an average, 4.76 per cent; 14.40 per cent and 2.58 per cent respectively. In the National Capital Territory of Delhi, the Subordinate Judiciary gets 1.03 per cent as against 9.20 per cent for Health, 22.10 per cent for Education and 1.62 per cent for Social Welfare.

In Gujarat, Kerala, Madhya Pradesh, Orissa, Tripura and the Union Territories of Chandigarh and Pondicherry, the budget allocation to Subordinate Judiciary is less than HALF A PER CENT.

Amongst the States, Assam allocates the least to the Subordinate Judiciary. It provides just 0.23 per cent, while 4.08 per cent to Health, 21.80 per cent to Education and 0.94 per cent to Social Welfare.

It may be stated that the States collect Court fees, stamp duty and recovery of fine etc., which ordinarily works out to one half of the expenditure required by the State for Administration of Justice.

One cannot find fault with the higher allocation of budget for Health and Education Departments, but one fails to understand why Subordinate Judiciary should be treated even inferior to Social Welfare Department.

The result is neither there is adequate judge strength nor proper Court buildings with furniture and other facilities.

It is, however, heartening to note that the Supreme Court has again come to the rescue of litigant public. In the recent judgment rendered on 21 March 2002 in Writ

Petition No.1022 of 1989, while examining and approving by and large the Report of Shetty Commission, the Supreme Court has directed the States as follows:

“ XX XX XX
 XX XX XX

An independent and efficient judicial system is one of the basic structures of our Constitution. If sufficient number of Judges are not appointed, justice would not be available to the people, thereby undermining the basic structure. It is well known that justice delayed is justice denied. Time and again the inadequacy in the number of judges has adversely been commented upon. Not only have the Law Commission and Standing Committee of Parliament made observations in this regard, but even the Head of the Judiciary, namely, the Chief Justice of India has had more occasions than once to make observations in regard thereto. Under the circumstances, we feel it is our Constitutional obligation to ensure that the backlog of the cases is decreased and efforts are made to increase the disposal of cases. Apart from the steps which may be necessary for increasing the efficiency of the Judicial Officers, we are of the opinion that time has now come for protecting one of the pillars of the Constitution, namely the judicial system, by directing increase, in the first instance, in the Judge strength from the existing ratio of 10.5 or 13 per 10 lakh people to 50 Judges for 10 lakh people. We are conscious of the fact that overnight these vacancies cannot be filled. In order to have additional judges, not only will the posts have to be created but infrastructure required in the form of additional Court rooms, buildings, staff etc., would also have to be made available. We are also aware of the fact that a large number of vacancies as of today from amongst the sanctioned strength remain to be filled. We, therefore, first direct that the existing vacancies in the Subordinate Courts at all levels should be filled, if possible latest by 31st March, 2003, in all the States. The increase in the Judge strength to 50 Judges per 10 lakh people should be effected and implemented with the filling up

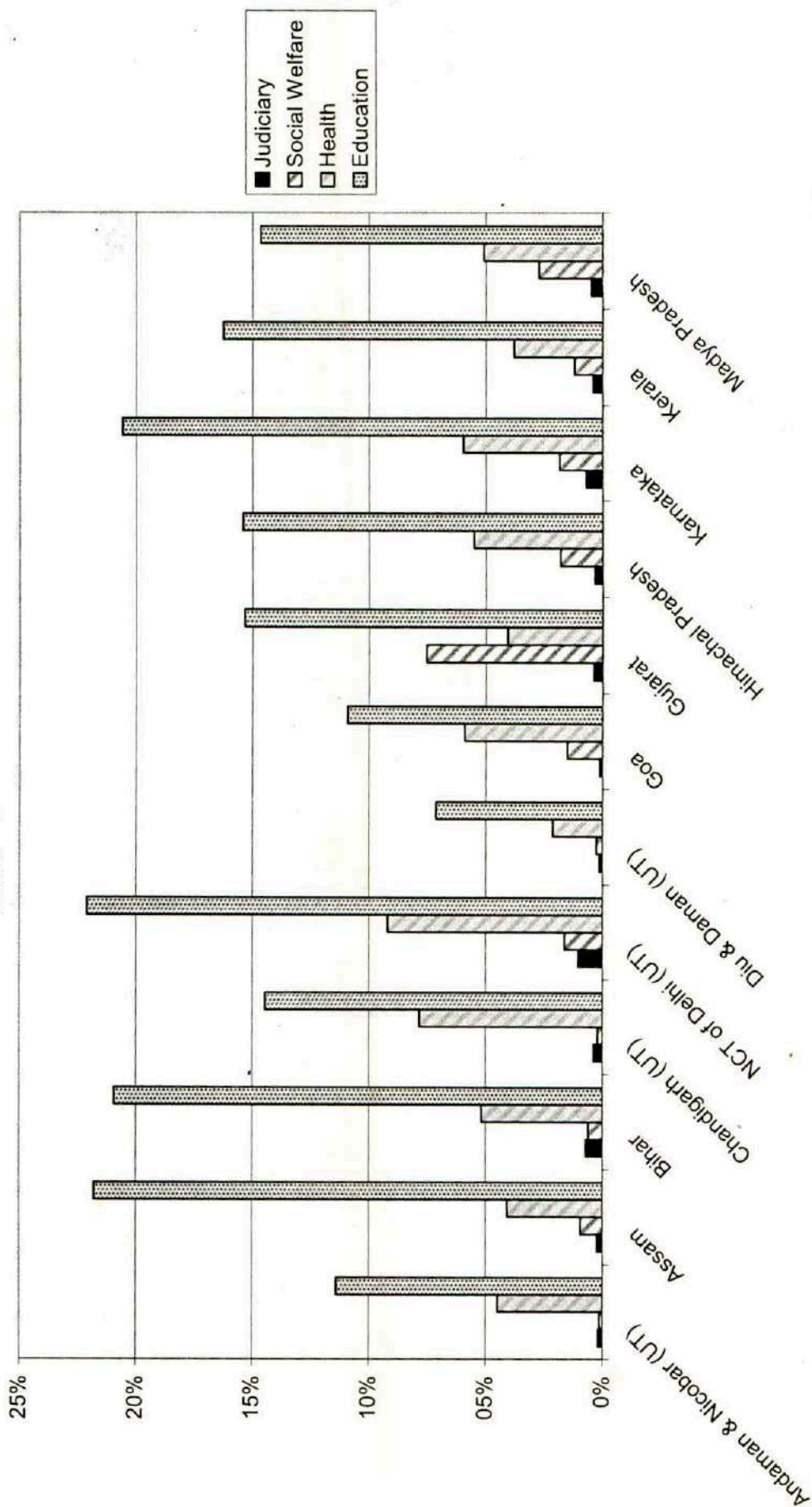
of the post in a phased manner to be determined and directed by the Union Ministry of Law, but this process should be completed and the increased vacancies and posts filled within a period of five years from today. Perhaps increasing the judge strength by 10 per 10 lakh people every year could be one of the methods which may be adopted thereby completing the first stage within five years before embarking on further increase if necessary.”

It is hoped that the first stage of expansion of judge strength with necessary staff and infrastructure would bring relief to the waiting litigants.

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Budget by percentage allocation to Subordinate Judiciary and some other Department in certain States / UTs for the year 2000-2001

Table - 1



.....contd 2

States / UTs

Budget by percentage allocation to Subordinate Judiciary and some other Departments in certain States / UTs for the year 2000-2001

Continued Table - 1

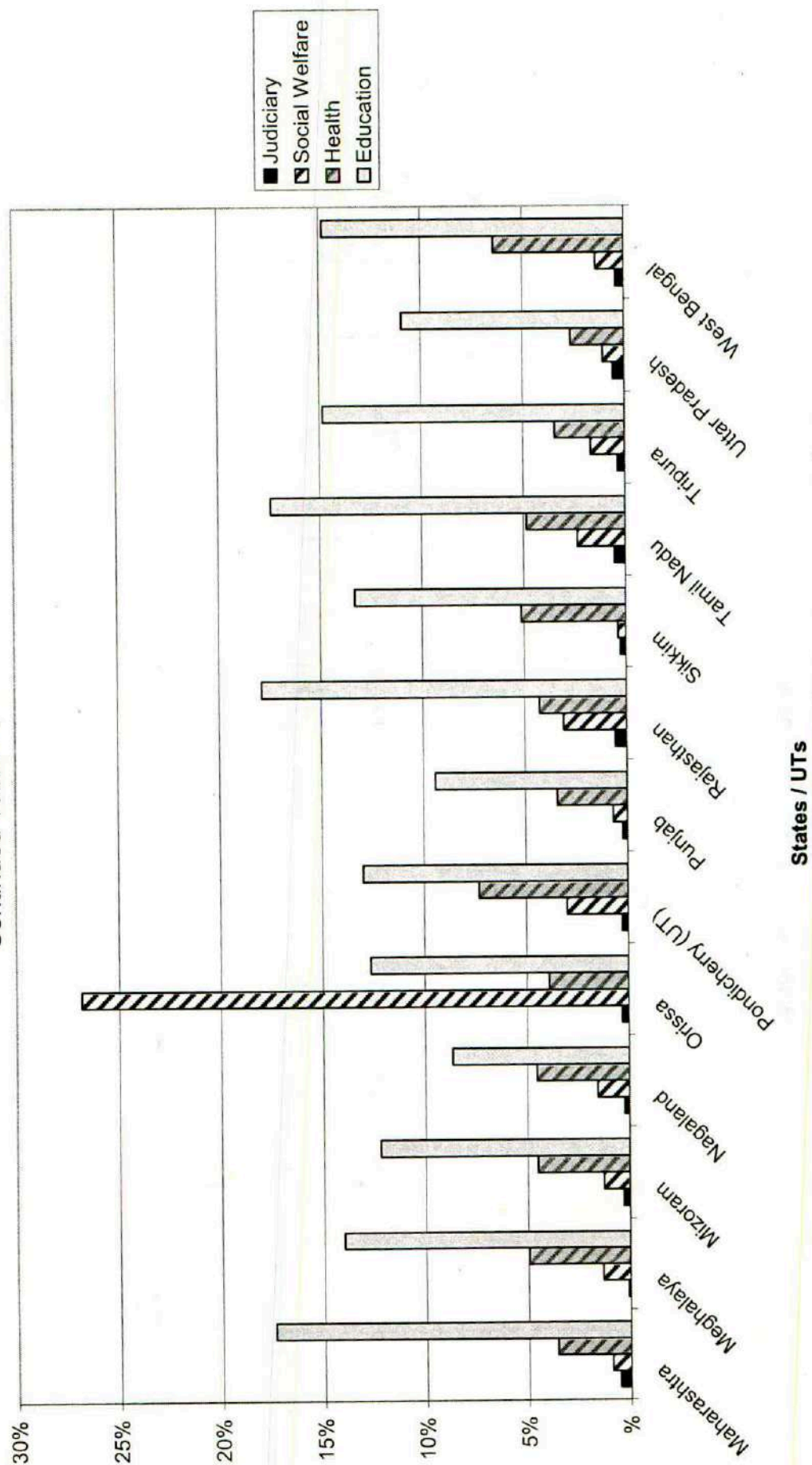


TABLE - II

Year-wise percentage allocation of Budget to Judiciary and few other major Departments in each State for the years 1991-92 to 2000-01

Assam

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.22	0.63	2.92	14.08
2	1992-93	0.27	0.73	2.93	16.20
3	1993-94	0.23	0.63	3.00	15.44
4	1994-95	0.27	0.94	3.96	16.15
5	1995-96	0.26	0.92	4.19	17.29
6	1996-97	0.27	0.73	3.65	18.29
7	1997-98	0.30	0.72	3.79	20.46
8	1998-99	0.31	0.72	4.61	22.18
9	1999-2000	0.34	0.75	4.16	23.04
10	2000-2001	0.23	0.94	4.08	21.80

Bihar

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.57	2.15	0.59	16.79
2	1992-93	0.60	2.16	3.73	15.74
3	1993-94	0.58	1.94	3.58	14.38
4	1994-95	0.58	2.26	3.52	16.03
5	1995-96	0.60	1.36	3.48	16.65
6	1996-97	0.58	2.39	3.79	20.19
7	1997-98	0.54	1.75	4.77	20.63
8	1998-99	0.74	1.61	4.87	21.30
9	1999-2000	0.71	0.65	4.86	20.10
10	2000-2001	0.71	0.60	5.18	20.93

Goa

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.00	1.58	8.23	6.99
2	1992-93	0.00	1.47	6.00	8.32
3	1993-94	0.00	1.48	6.53	8.80
4	1994-95	0.25	1.42	5.85	7.92
5	1995-96	0.13	1.14	5.64	8.48
6	1996-97	0.25	1.36	5.06	13.33
7	1997-98	0.35	1.44	5.20	10.97
8	1998-99	0.34	1.36	4.85	10.06
9	1999-2000	0.11	1.51	5.91	10.91
10	2000-2001	NF	NF	NF	NF

Gujarat

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.35	5.36	4.60	16.00
2	1992-93	0.38	5.66	4.70	14.70
3	1993-94	0.39	5.93	6.06	15.07
4	1994-95	0.39	6.17	6.51	16.47
5	1995-96	0.37	5.54	6.60	17.67
6	1996-97	0.35	5.55	5.31	17.87
7	1997-98	0.35	6.51	8.32	15.85
8	1998-99	0.45	5.27	4.67	16.27
9	1999-2000	0.37	6.98	4.33	15.45
10	2000-2001	0.37	7.54	4.07	15.35

Himachal Pradesh

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.29	1.64	6.23	16.82
2	1992-93	0.31	1.60	6.86	15.53
3	1993-94	0.30	1.56	6.63	17.76
4	1994-95	0.28	2.01	6.73	17.87
5	1995-96	0.27	1.98	5.96	15.68
6	1996-97	0.26	1.87	5.85	14.94
7	1997-98	0.26	1.96	5.61	13.79
8	1998-99	0.25	2.08	5.85	14.11
9	1999-2000	0.33	2.05	5.74	14.69
10	2000-2001	0.34	1.81	5.51	15.41

Karnataka

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.72	2.70	5.96	18.85
2	1992-93	0.68	2.86	6.44	19.07
3	1993-94	0.72	2.61	6.30	20.00
4	1994-95	0.69	2.38	6.30	19.37
5	1995-96	0.69	2.43	5.85	18.49
6	1996-97	0.64	2.16	5.15	18.16
7	1997-98	0.67	2.05	5.78	19.48
8	1998-99	0.68	2.17	5.69	20.10
9	1999-2000	0.71	1.88	5.70	19.26
10	2000-2001	0.72	1.84	5.96	20.58

Kerala

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.35	1.15	3.42	14.94
2	1992-93	0.34	1.08	3.27	14.97
3	1993-94	0.43	1.35	4.01	18.59
4	1994-95	0.52	1.56	4.87	22.14
5	1995-96	0.50	1.40	5.15	20.66
6	1996-97	0.49	1.48	4.82	20.01
7	1997-98	0.43	1.48	4.61	17.36
8	1998-99	0.39	1.27	3.88	15.27
9	1999-2000	0.41	0.99	3.77	15.32
10	2000-2001	0.41	1.20	3.79	16.27

Madhya Pradesh

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.42	1.40	5.97	18.10
2	1992-93	0.42	1.59	5.87	18.17
3	1993-94	0.43	1.36	5.65	17.05
4	1994-95	0.46	1.66	5.70	17.62
5	1995-96	0.54	1.62	5.40	16.96
6	1996-97	0.46	1.89	4.95	15.70
7	1997-98	0.49	2.20	5.64	16.08
8	1998-99	0.52	2.93	6.54	16.00
9	1999-2000	0.53	2.71	5.13	15.13
10	2000-2001	0.49	2.73	5.09	14.65

Maharashtra

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.47	0.87	3.36	13.10
2	1992-93	0.46	1.09	3.37	13.26
3	1993-94	0.49	1.06	3.38	13.77
4	1994-95	0.45	0.94	3.10	13.34
5	1995-96	0.42	0.95	3.18	14.14
6	1996-97	0.40	0.85	3.25	13.95
7	1997-98	0.42	0.76	3.31	14.52
8	1998-99	0.38	0.74	2.83	13.26
9	1999-2000	0.44	0.70	3.19	15.19
10	2000-2001	0.51	0.89	3.58	17.40

Meghalaya

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.08	0.90	4.22	12.00
2	1992-93	0.09	0.90	4.26	12.00
3	1993-94	0.07	1.00	4.35	13.00
4	1994-95	0.07	1.12	4.15	13.00
5	1995-96	0.07	1.03	3.82	13.00
6	1996-97	0.07	1.13	3.80	14.00
7	1997-98	0.08	0.97	4.19	15.00
8	1998-99	0.09	1.33	4.68	15.00
9	1999-2000	0.08	0.93	4.09	14.00
10	2000-2001	0.09	1.33	4.96	14.00

Mizoram

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.25	1.42	3.80	10.32
2	1992-93	0.28	1.34	4.10	10.36
3	1993-94	0.30	1.32	4.26	10.02
4	1994-95	0.32	1.28	4.10	9.05
5	1995-96	0.32	1.20	4.05	9.40
6	1996-97	0.48	1.22	5.19	11.41
7	1997-98	0.27	1.29	4.25	9.55
8	1998-99	0.36	1.24	4.69	10.37
9	1999-2000	0.34	1.40	4.99	11.29
10	2000-2001	0.30	1.27	4.50	12.21

Nagaland

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.16	1.71	4.22	8.24
2	1992-93	0.17	1.37	4.46	7.98
3	1993-94	0.15	1.17	3.17	7.35
4	1994-95	0.30	1.60	4.26	7.67
5	1995-96	0.30	1.37	5.13	8.99
6	1996-97	0.32	1.41	5.37	9.19
7	1997-98	0.31	1.29	5.68	9.56
8	1998-99	0.28	1.04	4.70	8.21
9	1999-2000	0.27	0.92	5.09	8.77
10	2000-2001	0.24	1.55	4.53	8.66

Orissa

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.29	25.54	1.72	12.62
2	1992-93	0.30	24.02	3.40	11.96
3	1993-94	0.30	25.51	3.57	12.62
4	1994-95	0.38	27.91	4.32	14.35
5	1995-96	0.41	31.41	4.41	15.46
6	1996-97	0.30	25.16	5.98	12.81
7	1997-98	0.29	24.18	3.26	12.66
8	1998-99	0.42	25.29	3.70	13.30
9	1999-2000	0.29	28.84	3.07	13.64
10	2000-2001	0.34	26.83	3.90	12.64

Punjab

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.20	0.78	2.80	8.71
2	1992-93	0.23	0.80	2.85	8.58
3	1993-94	0.25	0.74	2.94	9.37
4	1994-95	0.22	0.41	2.35	8.31
5	1995-96	0.18	0.31	2.29	6.05
6	1996-97	0.25	0.96	2.82	9.41
7	1997-98	0.28	0.61	2.95	10.28
8	1998-99	0.30	0.85	3.41	9.03
9	1999-2000	0.26	0.46	2.80	9.04
10	2000-2001	0.24	0.69	3.43	9.41

Rajasthan

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.39	3.33	4.44	16.88
2	1992-93	0.47	2.75	4.21	16.66
3	1993-94	0.44	2.79	4.16	15.98
4	1994-95	0.44	2.56	4.34	16.40
5	1995-96	0.42	2.70	4.35	15.67
6	1996-97	0.45	2.48	4.21	16.75
7	1997-98	0.44	2.40	4.66	17.62
8	1998-99	0.54	2.19	4.71	18.62
9	1999-2000	0.50	1.98	4.53	17.45
10	2000-2001	0.56	3.09	4.27	17.91

Sikkim

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.09	0.36	3.87	11.88
2	1992-93	0.18	0.33	3.92	11.57
3	1993-94	0.20	0.33	4.60	11.61
4	1994-95	0.22	0.29	4.98	11.60
5	1995-96	0.12	0.20	2.51	6.35
6	1996-97	0.23	0.12	4.45	12.17
7	1997-98	0.23	0.09	4.63	12.20
8	1998-99	0.29	0.41	4.72	14.16
9	1999-2000	0.27	0.36	5.21	14.83
10	2000-2001	0.27	0.39	5.13	13.31

Tamil Nadu

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.30	2.87	3.81	12.63
2	1992-93	0.39	3.44	4.70	14.47
3	1993-94	0.45	3.63	5.35	16.35
4	1994-95	0.48	4.12	5.53	16.52
5	1995-96	0.51	3.97	5.85	17.79
6	1996-97	0.50	3.49	5.30	16.56
7	1997-98	0.51	2.49	5.58	16.84
8	1998-99	0.59	2.73	5.78	19.01
9	1999-2000	0.47	2.23	4.49	16.06
10	2000-2001	0.53	2.35	4.84	17.41

Tripura

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.72	2.17	3.33	16.03
2	1992-93	0.65	2.08	3.73	16.24
3	1993-94	0.42	1.93	4.34	16.58
4	1994-95	0.52	2.03	4.07	16.27
5	1995-96	0.68	1.99	4.27	16.47
6	1996-97	0.42	2.02	4.33	14.22
7	1997-98	0.39	2.17	4.26	14.47
8	1998-99	0.44	1.97	3.87	13.42
9	1999-2000	0.42	1.90	4.22	16.34
10	2000-2001	0.36	1.68	3.44	14.83

Uttar Pradesh

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.45	1.18	3.07	12.74
2	1992-93	0.48	1.10	3.28	13.38
3	1993-94	0.50	1.03	3.42	13.85
4	1994-95	0.52	0.96	3.49	13.94
5	1995-96	0.49	1.22	3.08	13.05
6	1996-97	0.60	1.26	4.26	14.61
7	1997-98	0.57	1.41	3.49	13.90
8	1998-99	0.77	1.39	3.17	14.52
9	1999-2000	0.69	1.12	3.24	14.75
10	2000-2001	0.56	1.05	2.63	10.95

West Bengal

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.31	1.14	6.32	23.53
2	1992-93	0.31	1.21	6.57	23.22
3	1993-94	0.31	1.15	6.03	23.07
4	1994-95	0.30	1.17	5.92	22.65
5	1995-96	0.30	1.07	5.63	20.88
6	1996-97	0.31	1.12	5.64	18.54
7	1997-98	0.31	1.12	5.49	18.46
8	1998-99	0.32	1.16	5.90	17.71
9	1999-2000	0.33	1.07	5.71	21.46
10	2000-2001	0.41	1.39	6.41	14.83

Delhi

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	--	--	--	--
2	1992-93	--	--	--	--
3	1993-94	0.80	0.03	5.52	12.69
4	1994-95	1.12	0.56	7.66	20.18
5	1995-96	0.85	2.07	7.55	19.28
6	1996-97	1.11	2.12	8.36	19.91
7	1997-98	0.98	2.17	8.77	19.32
8	1998-99	1.48	2.04	8.58	19.34
9	1999-2000	1.14	1.67	9.12	22.69
10	2000-2001	1.03	1.62	9.20	22.10

Andaman & Nicobar

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.07	0.17	3.41	8.36
2	1992-93	0.08	0.08	4.90	9.13
3	1993-94	0.09	0.06	4.03	10.58
4	1994-95	0.08	0.08	4.07	10.00
5	1995-96	0.08	0.39	4.35	11.60
6	1996-97	0.12	0.17	4.89	12.02
7	1997-98	0.13	0.29	5.55	12.64
8	1998-99	0.16	0.17	5.01	12.44
9	1999-2000	0.14	0.45	4.59	10.98
10	2000-2001	0.18	0.14	4.49	11.39

Daman & Diu

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.24	0.77	4.68	16.35
2	1992-93	0.27	0.73	4.55	15.28
3	1993-94	0.22	0.56	4.41	12.97
4	1994-95	0.18	0.67	4.42	12.04
5	1995-96	0.16	0.62	3.57	13.08
6	1996-97	0.16	0.50	3.61	11.80
7	1997-98	0.14	0.41	3.06	11.29
8	1998-99	0.14	0.34	2.64	9.40
9	1999-2000	0.12	0.56	2.19	7.02
10	2000-2001	0.14	0.26	2.12	7.13

Chandigarh

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.22	0.33	4.09	15.29
2	1992-93	0.25	0.25	4.18	14.60
3	1993-94	0.28	0.25	5.23	14.48
4	1994-95	0.24	0.33	6.94	14.37
5	1995-96	0.23	0.34	7.50	14.86
6	1996-97	0.27	0.30	7.03	15.77
7	1997-98	0.29	0.27	8.23	14.12
8	1998-99	0.22	0.28	7.41	11.96
9	1999-2000	0.37	0.34	7.51	16.26
10	2000-2001	0.37	0.20	7.84	14.46

Pondicherry

Sl.No.	Year	Judiciary	Social Welfare	Health	Education
1	1991-92	0.30	1.78	6.92	14.53
2	1992-93	0.31	1.82	6.44	13.05
3	1993-94	0.29	1.87	6.38	12.00
4	1994-95	0.29	1.88	6.29	11.77
5	1995-96	0.36	2.53	7.07	11.54
6	1996-97	0.28	2.75	7.00	12.48
7	1997-98	0.30	3.33	7.08	13.13
8	1998-99	0.27	3.30	6.65	12.44
9	1999-2000	0.27	3.04	7.42	13.36
10	2000-2001	0.30	2.99	7.32	12.99

CHAPTER - III

**STRUCTURE OF
COURT ADMINISTRATION**

CHAPTER - III

STRUCTURE OF COURT ADMINISTRATION

The system of administration of the District Court and the Courts subordinate thereto in all States and Union Territories is neither same nor similar. It is of two types which are distinct and different. They may be termed as, (i) Centralised Administration and (ii) Decentralised Administration.

In States / Union Territories viz., Andaman & Nicobar Islands, Bihar, Chhattisgarh, Dadra & Nagar Haveli, Diu & Daman, Haryana, Jammu & Kashmir, Jharkhand, Lakshadweep, Madhya Pradesh, Manipur, Meghalaya, Orissa, Punjab, Rajasthan, Sikkim, Uttar Pradesh, Uttaranchal, Chandigarh and NCT of Delhi, there is 'Centralised Administration'.

In States / Union Territories viz., Andhra Pradesh, Assam, Goa, Gujarat, Himachal Pradesh, Karnataka, Kerala, Maharashtra, Tamilnadu, Tripura, West Bengal and Pondicherry, there is 'Decentralised Administration'.

CENTRALISED ADMINISTRATION :

In the Centralised Administration, as the name itself indicates, the Principal District Judge's office controls the administration of all Courts subordinate thereto. The Accounts Branch, the Administrative Branch, the Copying Branch, Nazareth or Central Process Branch of all the Courts are located in the District Judge's office.

Even the service records of all the Staff, although they work in different Courts, are maintained in the office of the District Judge. The records of the disposed of cases in all Courts are maintained in the Record Room of the District Court. If a party wants certified copy of the order or judgment made in any case disposed of by any Court, he

must approach only the Copying Branch of the District Court. The Head Copyist of the Copying Branch would secure the record and prepare and deliver the certified copy to the party.

The Principal District Judge is the appointing and disciplinary authority for Groups 'C' and 'D'. In some States, he has the power to appoint even Group-B employees. Administrative powers such as sanction of increments, grant of advances, fixation of pay of the Staff of all Courts are vested in the District Judge (Principal District Judge) of the District. The Nazareth Branch of all Courts is located in the District Judge's Office. The District Judge alone is the Drawing and Disbursing Officer of salaries to such Court staff.

The District Judge is assisted by Chief Administrative Officer / Superintendent Grade-I / Clerk of the Court / Registrar, as the case may be.

In Delhi, however, a Judicial Officer in the cadre of Civil Judge, who is styled as Administrative Civil Judge, looks after the Nazareth Branch of all the Courts.

The Court administration in the State of Bihar seems to be an exception. Here, there are two types of administration. The Districts in Bihar State consists of one or more Sub-Divisions. If the District consists of only one Sub-Division, the administration is looked after by the office of the Principal District Judge. If there is more than one Sub-Division, each Sub-Division has independent administrative set-up.

DECENTRALISED ADMINISTRATION :

In this type of administration, the District Judge, as in the Centralised Administration, is the appointing and disciplinary authority in respect of Staff in Groups 'C' and 'D' in all the Courts. In Andhra Pradesh, the District Judge has also the power to appoint Group 'B' Staff of the Court.

The Presiding Officer of each Court, unlike in the Centralised Administration, will be the administrative head of his Court. He has the power to fix pay, sanction increments or grant advances etc., to the staff working under him. He is the disciplinary authority over the Staff in respect of minor offences. He is the Drawing and Disbursing Officer also. He maintains the staff service records in his office. The Accounts Branch, Copying Branch and Record Room also form part of his Court. They are not located in the office of the District Judge.

But, where there are additional Courts and other categories of Courts located at the same centre of the Principal District Judge, the Process serving Branch of all the Courts would be only in the office of the Principal District Judge.

Generally, the Principal District Judge is assisted by the Chief Administrative Officer or Sheristedar of the District Court. In the Courts subordinate to the District Court, the Sheristedar or Superintendent is the administrative head.

ADVANTAGES / DISADVANTAGES :

It will be seen from the aforesaid that in the centralised administration, staff members of the Courts subordinate to the District Court are frequently required to visit the District Court for their service conditions like sanction of increments, fixation of pay, grant of advance etc.. No such problem would be there in the decentralised administration, since the Presiding Officer of each Court has the power to sanction increment, fix the pay, grant advances and control over the staff working in his Court.

Even the advocates and the litigant public have to more often go to the District Court in the centralised administration for their needs like certified copies of the judgments and orders and for examining the records of the disposed of cases. It would be, indeed, a hardship to the advocates and the litigant public, which will not be there in the decentralised administration.

It seems to us that in the centralised administration, the number of supporting staff of the Courts, except in the cadre of Stenographers, is relatively less than the number of those working in the decentralised system of administration. This is perhaps one of the reasons for inadequate promotional avenues to the Court staff in the centralised administration.

We are, however, not recommending uniformity in the administration of Courts in all the States / Union Territories. We are only highlighting certain negative points in the centralised administration. It would be for each High Court to follow that type of administration which is considered to be convenient and efficient.

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It seems to us that in the centralised administration, the number of supporting staff of the Courts, except in the cadre of Stenographers, is relatively less than the number of those working in the decentralised system of administration. This is perhaps one of the reasons for inadequate promotional avenues to the Court staff in the centralised administration.

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CHAPTER - IV

CLASSIFICATION OF SUPPORTING STAFF OF THE SUBORDINATE COURTS INTO GROUPS

CHAPTER-IV

CLASSIFICATION OF SUPPORTING STAFF OF THE SUBORDINATE COURTS INTO GROUPS

The need to have a proper classification of the Civil Services was engaging the attention of different Central Pay Commissions from time to time. The division of the Civil Services into four Classes viz. Class-I, Class-II, Class-III, Class-IV was first adopted on the recommendations of the First Central Pay Commission. But this classification was found to be inappropriate by the Second Central Pay Commission. A number of Employees' Associations had urged before the Second Central Pay Commission that the scheme of classification promoted a 'Class consciousness' within the service and should, therefore, be done away with. That Commission recommended that the said classification should be given up and replaced by Group 'A', Group 'B', Group 'C' and Group 'D'. But the proposal was not accepted by the Government, since it was then felt that a mere change in the name was of no practical value.

The matter was again considered by the Third Central Pay Commission by eliciting the views of the Employees' Associations and also prominent individuals in the matter. It also considered the practice followed in the Commonwealth countries for classification of services. The Commission has stated that the term 'Class' for classifying the Government Servants has acquired overtones that could, with advantage be avoided, so as to create a healthy psychological climate. The Commission recommended that the existing Classes be named as "Groups". In other words, the Commission recommended to redesignate the existing Classes I, II, III and IV as Groups 'A', 'B', 'C' and 'D', having regard to different ranges of pay scales applicable to them. The Central Government accepted that recommendation and accordingly the Government employees were redesignated as Groups.

The Fourth Central Pay Commission also examined the matter and was of opinion that such classification enabled the Government to examine and decide matters of

common interest to the Group or Groups concerned. The Commission, therefore, favoured the continuance of the system of classification of services into Groups.

It was again the turn of the Fifth Central Pay Commission to examine the above issue in the light of the systems prevalent in other countries. The Fifth Central Pay Commission has expressed the view that the existing classification of Government Servants into 'Groups' serves no practical purpose and it is better to have a true representative of futuristic working environment in the Government by inculcating a feeling among civil servants that they all belong to an integrated administrative machinery. The Commission added that any system of classification or nomenclature, which is likely to hamper the growth of such a feeling, should go, unless it serves a definite practical end which cannot be achieved adequately otherwise. It recommended the division of Civil Services into Top Executives, Senior Executives and Executives and rest of Assistants be renamed as Supporting Staff, and Attendants be called Auxiliary Staff. But the Government of India did not approve of this recommendation and the Group-wise classification still continues.

It may be stated that the Civil Services and posts under the Central Government are, at present, classified under four Groups, viz.,

- (i) A central civil post carrying a pay or scale of pay of not less than Rs.13,500/- is GROUP 'A'.
- (ii) A central civil post carrying a pay or scale of pay of Rs.9,000/- and above but less than Rs.13,500/- is GROUP 'B'.
- (iii) A central civil post carrying a pay or scale of pay of Rs.4,000/- and above but less than Rs.9,000/- is GROUP 'C'.
- (iv) A central civil post carrying a pay or scale of pay of Rs.4,000/- or less is GROUP 'D'.

We have classified the supporting staff in the Subordinate Courts into Groups 'A', 'B', 'C' and 'D' while formulating the Questionnaire on the service conditions of the Court Staff. The Questionnaire had been sent to all High Courts, State Governments /

Union Territories and Staff Associations to elicit their views. Some State Governments, and High Courts too, have stated in their replies to the Questionnaire that they have not classified the Court Staff into Groups and they continue to maintain the nomenclature of Class I, Class II, Class III and Class IV in their relevant Civil Service Rules.

Eleven States out of the 28 States, viz., Goa, Karnataka, Kerala, Meghalaya, Mizoram, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, Uttaranchal and West Bengal have categorised their Court Staff into Groups 'A', 'B', 'C' and 'D' replacing the nomenclature of Classes I, II, III and IV. Four Union Territories out of 6, Viz., Andaman & Nicobar Islands, Pondicherry, Lakshadweep and Daman & Diu and NCT of Delhi have also switched over to the new nomenclature for the Court staff as Groups 'A', 'B', 'C' and 'D'.

Fourteen States and one Union Territory still continue the old nomenclature of Classes I, II, III and IV. They are: Assam, Andhra Pradesh, Bihar, Chhattisgarh, Gujarat, Himachal Pradesh, Haryana, Jharkhand, Madhya Pradesh, Maharashtra, Manipur, Orissa, Punjab, Rajasthan and Chandigarh (U.T.).

The position of the Court Staff in Jammu & Kashmir is not clear. They are said to be still continuing with the old system of classifications i.e. Gazetted and non-gazetted. However, for purpose of regulation of TA. they have classified the staff into five classes viz., Class-I, Class-II, Class-III, Class-IV and Class-V.

In Nagaland, Arunachal Pradesh, Dadra & Nagar Haveli (U.T.), Courts are given the supporting staff on transfer from their Collectorates.

Names of the States / Union Territories where the staff have been classified as 'GROUPS' are set out in the accompanying **ANNEXURE-A** herein.

Names of the States / Union Territories where the classification of the staff of the Courts still continues as 'CLASSES' are set out in the accompanying **ANNEXURE-B** herein.

OUR RECOMMENDATIONS

In our opinion, it is necessary and also advisable to get rid of the classification of the supporting staff of the Subordinate Courts into Classes I, II, III and IV. Equally, the classification of Grades should be abandoned. These types of classifications not only bring out 'class consciousness' within the service, but are also likely to hurt the feelings of the employees in the lower category.

In service, there should not be any class consciousness. They must form a homogeneous unit in whatever cadre they serve.

We, therefore, strongly recommend that the existing Classes I, II, III and IV or the Grades be replaced by Groups 'A', 'B', 'C' and 'D' in conformity with the revised pay structure adopted by each State / Union Territory.

Change over from Classes to Groups is also necessary, since the Commission has framed the "DRAFT RULES OF RECRUITMENT" which could be commonly used by all States and Union Territories.

The classification of supporting staff in Courts into Groups should also be in conformity with the classification of civil services in the Central Government. In every State and Union Territory, the Central Government employees are classified as Groups 'A', 'B', 'C' and 'D'. They are generally working almost in the building adjacent to the premises in which the State Government employees are working. They meet and co-ordinate with each other. Indeed, it would be odd to have different classifications for Central and State Services. They are all civil servants. It is proper to have a common yardstick for their classification.

For a healthy atmosphere, we recommend to all the High Courts and States / Union Territories to redesignate their existing Classes I, II, III and IV services or other grading systems into Groups 'A', 'B', 'C' and 'D'.

* * * * *

**NAMES OF STATES / UNION TERRITORIES WHERE COURT
STAFF ARE CLASSIFIED AS GROUPS 'A', 'B', 'C' 'D'.**

In **GOA**, Supervisory cadres are classified as Group 'B'; Ministerial cadres, Stenographers, and Drivers are classified as Group 'C' and the Process Establishment and sub-staff are classified as Group 'D'.

In **KARNATAKA**, Supervisory cadre is Group 'B'; Ministerial cadres, Stenographers, Typists, Process Establishment and Drivers are Group 'C'. Sub-Staff are classified as Group 'D'.

In **KERALA**, Supervisory cadres, Ministerial cadres, Stenographers / Typists, Drivers and Process Establishment (only Amins), both in the Civil Courts as well as the Criminal Courts, are Group 'C' and Process Servers and the Sub-Staff are Group 'D'.

In **MIZORAM**, Supervisory cadre is classified as Group 'B'; the Ministerial cadres, Stenographers, Drivers and Process Establishment are Group 'C'; and the Sub-Staff are Group 'D'.

In **MEGHALAYA**, Supervisory and Ministerial cadres are classified as Group 'C' and Process Servers and Sub-staff are classified as Group 'D'.

In **SIKKIM**, Supervisory and Ministerial cadres are classified as Group 'C' and Process Servers and Sub-staff are classified as Group 'D'.

In **TAMIL NADU**, Supervisory cadres are categorised as Group 'B'. The Ministerial cadres, Stenographers / Typists / Copyists, Drivers and Process Establishment are Group 'C'. The Sub-Staff are Group 'D'.

In **TRIPURA**, Supervisory cadres have been classified as Group 'B'. Ministerial cadres, Stenographers and Drivers are Group 'C'. Process Establishment and Sub-Staff are Group 'D'.

In **UTTAR PRADESH** and **UTTARANCHAL**, Supervisory cadre is Group 'B'; the Ministerial cadres and Stenographers are classified as Group 'C'; Drivers, Process-Servers and Sub-Staff are classified as Group 'D'.

In **WEST BENGAL**, Supervisory cadres and Stenographers Grade 'A', 'B' & 'C' have been classified as Group 'A' and Group 'B'. Ministerial cadres and Drivers have been classified as Group 'C' - Process Servers and Sub-Staff have been classified as Group 'D'.

In **NCT of DELHI**, Supervisory cadres and the Senior Personal Assistant (in the cadre of Stenographers) have been classified as Group 'A' and Group 'B'. Ministerial cadres, Stenographers Grade I to Grade III and Drivers are categorised as Group 'C'. Process Servers and Sub-Staff are classified as Group 'D'.

In **PONDICHERRY (UT)**, Supervisory cadre is classified as Group 'B', the Ministerial cadres, Stenographers and Drivers are Group 'C' and Sub-Staff are Group 'D'.

In **LAKSHADWEEP (UT)**, Supervisory cadre is Group 'B'; Ministerial cadres, Stenographers and Drivers are Group 'C' and the Process Server and Sub-Staff are Group 'D'.

In **DAMAN & DIU (UT)**, Supervisory cadre is Group 'B'; Ministerial cadre is Group 'C' and Sub-Staff are Group 'D' as in Central Government.

In **ANDAMAN & NICOBAR ISLANDS**, Superintendent and Ministerial cadres are Group 'C' and Sub-Staff are Group 'D'.

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**NAMES OF STATES / UNION TERRITORIES WHERE THE
COURT STAFF ARE CLASSIFIED AS CLASS I, CLASS II,
CLASS III, CLASS IV**

- | | | |
|----|-------------------------------|---|
| 1. | Assam | Both in Civil Courts and Criminal Courts, all Ministerial cadres are Class III and Jarikarak and Sub-Staff are Class IV. |
| 2. | Andhra Pradesh | Administrative Officer is Class II, other Ministerial cadres are Class III and Process Servers and Sub-Staff are Class IV. |
| 3. | Bihar & Jharkhand | Sheristedar of District Court and Ministerial cadres are Class III and Sub-Staff are Class IV. |
| 4. | Gujarat | Stenographer Grade I is Class II. Ministerial and other cadres are Class III; and Sub-Staff are Class IV. |
| 5. | Himachal Pradesh | Superintendent, Superintendent Grade-II and Ministerial cadres are Class III; Bailiffs, Process Servers and Sub-Staff are Class IV. |
| 6. | Haryana | Superintendent to Dist. Judge is Class II; Suptd. Grade II, Ministerial and other cadres are Class III; and Process Servers and Sub-Staff are Class IV. |
| 7. | Madhya Pradesh & Chhattisgarh | Clerk of the Court and Ministerial cadres are Class III; Process Servers, Drivers and Sub-Staff are Class IV. |
| 8. | Maharashtra | In Mofussil Court, the cadre of Registrar is Class II. Ministerial and other cadres are Class III; and Sub-Staff are Class IV. |

9. Manipur Administrative Officer and Sheristedar are Class II; Ministerial staff is Class III; Bailiff, Process Server and Sub-Staff are Class IV.
10. Orissa Sheristedar of District Court and PA to District Judge are Class-II; Ministerial cadres, including Sale Amin and Driver, are Class III; and Sub-Staff are Class IV.
11. Punjab Superintendent to District & Sessions Judge is Class II, Superintendent Gr.II and other Ministerial cadres, including Process Servers and Drivers, are Class-III. Sub-Staff are Class IV.
12. Rajasthan Senior Munsarim and Ministerial cadres including Drivers are Class III and Sub-Staff are Class IV.
13. Chandigarh (U.T.) Superintendent to District & Sessions Judge is Class II. Superintendent Gr.II and other Ministerial cadres including Bailiff, are Class III. Process Servers and Sub-Staff are Class IV.

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CHAPTER - V

**CHANGE OF NOMENCLATURE OF THE
SUPPORTING STAFF OF THE
SUBORDINATE COURTS**

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CHANGE OF NOMENCLATURE OF THE SUPPORTING STAFF OF THE SUBORDINATE COURTS

In our Report on the service conditions of the Judicial Officers of the Subordinate Courts, we have in Vol. I, Chapter 5, stated that the Judicial Officers should not be called as "Subordinate Judicial Officers" or belonging to "Subordinate judicial Service", but be termed as belonging to "Judicial Service" prefixed by the name of their respective State like Delhi Judicial Service, Maharashtra Judicial Service, Karnataka Judicial Service, Andhra Pradesh Judicial Service etc.

In support of the aforesaid change of nomenclature, we have stated that the word "Subordinate" is likely to give rise to a feeling of inferiority complex, position and status and it would not create a healthy atmosphere in the judicial set-up. Since the Judicial Officers are as independent as the Judges of the High Court in performing their judicial functions, it is not proper to address them as Subordinate Judicial Officers or belonging to Subordinate Judicial Service.

The aforesaid recommendation has been widely appreciated by all the Judicial Officers of the States / Union Territories. It has been since approved by the Supreme Court also.

There is now a demand from the Ministerial Staff of the Courts that they may also be given a better name consistent with the work they perform.

Presently, the Ministerial Staff in the Subordinate Courts have been given different names in different States / Union Territories. They are as under :

<u>Names of the State/UT</u>	<u>Nomenclature of the Court Staff</u>
i. Andhra Pradesh	: Judicial Ministerial Service
ii. Assam	: District and Sessions Judges' Establishment (Ministerial) Service
iii. Bihar	: Bihar Civil Court Staff
iv. Delhi	: Delhi Courts Establishment
v. Goa }	: Subordinate Courts Group 'C'
vi. Daman and Diu }	: Non-Gazetted Ministerial posts
vii. Gujarat	: Class III and Class IV Services in Subordinate Courts
viii. Haryana	: Subordinate Courts Establishment
ix. Himachal Pradesh	: The Subordinate Courts Staff
x. Jammu and Kashmir	: Ministerial Officers of the Subordinate Courts
xi. Karnataka	: Subordinate Courts Ministerial Posts
xii. Kerala	: Judicial Ministerial Subordinate Service
xiii. Maharashtra	: Staff of Subordinate Court
xiv. Manipur	: Subordinate Civil Courts Ministerial Establishment
xv. Orissa	: District and Subordinate Courts Ministerial Services
xvi. Punjab	: Subordinate Courts Establishment
xvii. Rajasthan	: Subordinate Courts Ministerial Establishment

<u>Names of the State/UT</u>	<u>Nomenclature of the Court Staff</u>
xviii. Sikkim	: Subordinate (Ministerial and Executive) Service
xix. Uttar Pradesh	: Subordinate Civil Courts Ministerial Establishment
xx. West Bengal	: Civil Courts Clerical & Inferior Service
xxi. Chandigarh	: Subordinate Courts Establishment
xxii. Lakshadweep	: Judicial Service (Group 'C' & 'D' Posts)
xxiii. Pondicherry	: Judicial Subordinate Service
xxiv. Tamilnadu	: Judicial Ministerial Service
xxv. Andaman & Nicobar Islands	: Dist. & Sessions Judge & Subordinate Courts Clerical & Class IV Service
xxvi. Tripura	: Subordinate Civil Courts Ministerial Establishment

Some Court Staff Associations have suggested that their services may be regarded as "Court Service" to distinguish them from other Ministerial Service of the Government Departments.

We have invited the views and comments from all concerned by formulating the following question in our questionnaire:

"Some Staff Associations of the District Judiciary have suggested that they be termed as "Court Service" instead of "Ministerial Staff". Whether this nomenclature would be appropriate? If so, please give reasons in support thereof."

In response to the question, most of the High Courts and Staff Associations have agreed with the proposed nomenclature as “Court Service”. Some High Courts have suggested different names, while the State Governments have given varied views. We may briefly summarise their views hereunder :

HIGH COURTS

The High Courts of ANDHRA PRADESH, MADRAS, BOMBAY, RAJASTHAN, KERALA, PATNA, PUNJAB & HARYANA, KARNATAKA and ALLAHABAD have indicated that it is appropriate to call the Ministerial Staff of the Courts as “Court Service”. They have, inter-alia, stated that the duties and responsibilities of the Court Staff are quite different from the Ministerial Staff of the Government. The posts like Sheristedars, Nazirs, Bailiffs etc., which are in the Judicial Department, are not available in the Departments of the Government. They are not interchangeable with the Ministerial Staff of the Departments of Government. They have added that the Staff of the Court must have distinct name, since they are required to be familiar with the Laws, Rules and Regulations that are being administered by the Courts.

The following HIGH COURTS have, however, suggested different names :

- (i) GUJARAT HIGH COURT :
“Court Ministerial Service”
- (ii) HIGH COURTS OF HIMACHAL PRADESH AND UTTARANCHAL :
“Court Staff” or “Court Officials”
- (iii) GUWAHATI HIGH COURT :
“District Court Staff”

(iv) **ORISSA HIGH COURT :**

“Ministerial Staff of the Court”

(v) **MADHYA PRADESH HIGH COURT :**

The expression “Court Service” may create problems in view of the fact that there are two categories of staff in the Court (i) Staff attached to the Courts; and (ii) Staff working in the Office of the Courts. The expression “Court Service” may create many administrative problems and, therefore, they be called as “Court Staff”.

(vi) **ALLAHABAD HIGH COURT :**

High Court is commonly known as Court. If the Ministerial Staff is termed as “Court Service”, people may confuse it with the High Court Staff.

(vii) **JAMMU AND KASHMIR HIGH COURT :**

“Court Service”, for Ministerial Staff is not appropriate and being exhaustive includes the Presiding Officers of the Court.

STATE GOVERNMENTS

The State Governments of KARNATAKA, MAHARASHTRA, TAMILNADU, GOA, SIKKIM, NAGALAND, MIZORAM and the Administrations of Union Territories of LAKSHADWEEP, DAMAN & DIU, DADRA & NAGAR HAVELI and CHANDIGARH have agreed to change the nomenclature as “COURT SERVICE”.

The following States have, however, suggested different names :

(i) **Government of UTTAR PRADESH :**

“District Court Service”

(ii) Government of MADHYA PRADESH :

“Court Staff”

(iii) Government of ASSAM :

“District Court Staff”

The rest of the Governments are not in favour of any change in the existing nomenclature. It is urged that the existing name “Ministerial Staff” should remain, since the duties and responsibilities of the Ministerial Staff in the Courts are purely clerical in nature and similar to those of the Staff working in the Departments of the Government.

ASSOCIATIONS

There are innumerable Associations of the Court Staff. In some States, each category of Staff has formed an Association of its own. Without referring to them individually, we may state that most of the Associations have preferred that their service may be called “Court Service”.

The following Associations, however, have indicated different nomenclature:

- | | | |
|-------|---|-------------------------|
| (i) | Maharashtra State Judicial
Employees’ Confederation | } “Judicial
Staff” |
| (ii) | Andhra Pradesh State Judicial
Administrative Officers’ Association | |
| (iii) | Gujarat State Judicial Stenographers /
P.As Association | } “Judicial
Service” |
| | And | |
| (iv) | Tripura Government Employees’
Association, Tripura | |

OUR RECOMMENDATIONS

While giving a new nomenclature to the Court Staff, it would be useful to recall the nomenclature given by the Commission to the Subordinate Judiciary. In Chapter V of our Report relating to Judicial Officers under the heading “Rechristening the Subordinate Judiciary”, the Commission has suggested that instead of using ‘Subordinate Court Service’, it should be “Judicial Service” prefixed by the name of the concerned State.

Consistent with that nomenclature, the existing nomenclature like Subordinate Court Staff, Subordinate Court Establishment, Judicial Ministerial Subordinate Service, Staff of Subordinate Court or Judicial Service etc., should give place to a new nomenclature since the existing names are likely to belittle the Court staff. The Court staff must feel that they too belong to the integrated justice delivery system of the District.

Almost all the High Courts and most of the Staff Associations have favoured the term “COURT SERVICE”. But some High Courts have suggested that the term “COURT SERVICE” may seem to include the High Court Service also and it may create confusion. We have taken note of that caution.

In order to distinguish the staff of the High Court from the staff of the District Court, we recommend that the Court staff of the Subordinate Courts may be termed as “DISTRICT COURT SERVICE”.

We request all the High Courts, State Governments and Union Territories to amend their Rules accordingly.

* * * * *

CHAPTER - VI

HUMAN RESOURCE MANAGEMENT

CHAPTER - VI

HUMAN RESOURCE MANAGEMENT

INTRODUCTION :

The old system of management in any organisation had little consideration for human aspects of the people employed. It was wholly a bureaucratic style of functioning. This system, all over the world, is giving place to a new principle of management - styled as "HUMAN RESOURCE MANAGEMENT" (HRM). HRM concerns the management of persons in an organisation, wherein people are considered as valued assets. "The organisational culture and capabilities are derived from how people are managed". This is true even more in a service organisation like the Courts, as the entire onus of operation lies on the persons with little or no role of technology.¹

In this Chapter, we focus on the recruitment of and promotional opportunity to Group 'D' and certain categories of Group 'C' employees.

RECRUITMENT :

Group 'D'/Class IV :

STATES/U.Ts

Assam, Andhra Pradesh, Bihar, Chhattisgarh,
Delhi, Goa, Haryana, Jharkhand, Karnataka,
Kerala, Madhya Pradesh, Manipur, Orissa,
Punjab, Tamilnadu, Tripura, Uttar Pradesh,
Uttaranchal, West Bengal, Chandigarh &
Andaman and Nicobar Islands

AGENCY/AUTHORITY FOR RECRUITMENT

The Principal District
and Sessions Judge

1. Report on Restructuring of Non-Judicial Cadre by IIT, Delhi, V.I, p.109
(Chapter 6)

**Gujarat
Maharashtra**

Advisory Committee consisting of :

1. District & Sessions Judge For District
2. Assistant Judge Court
3. Civil Judge (Sr. Dn.)
1. Principle Judge For City
2. Two Senior most City Civil Civil Court
Judges
1. Chief Metropolitan Magistrate For CMM
2. Two Senior most Court
Metropolitan Magistrates

Himachal Pradesh

Selection Committee consisting of District and Sessions Judge & Two Judicial Officers

Pondicherry

Selection Committee consisting of :

1. Head of Judicial Department - Chairman
2. Deputy Secretary, Chief Administration
Department - Member
3. Deputy Secretary, Law & Labour Department
- Member
4. One Head of the Office designated by the
Head of the Department - Member

Rajasthan

Selection Committee consisting of :

1. Head of the Department.
2. District Collector.
3. District Level Officer of the District/Regional
Level Officer.

Sikkim

Selection Committee consisting of :

1. Registrar General, High Court.
2. District and Sessions Judge (East and North)
3. District and Sessions Judge (West and South)

Meghalaya

District Selection Committee - to be appointed by District Judge.

Lakshadweep

U.T. Administration.

From the aforesaid, it could be seen that in most of the States and UTs, the Principal District & Sessions Judge alone is the Recruiting Authority for Group 'D' Employees.

In Bihar, Goa, Gujarat, Himachal Pradesh, Maharashtra, Pondicherry, Sikkim, Meghalaya and Nagaland, there are Selection Committees headed by the Unit Head like District & Sessions Judge.

QUALIFICATION :

The minimum educational qualification prescribed for recruitment to Group 'D' posts varies from State to State/U.T. A couple of States have prescribed "just literate" and others have prescribed III Std., IV Std., pass in V Std., VII Std., VIII Std., or Non-Matric.

The names of the States/U.Ts and the qualification prescribed for recruitment to Group 'D' posts are as under :

States/Union Territories

Minimum Educational Qualification

Assam
Meghalaya
Daman & Diu (U.T)

Non-Matriculation

Goa
Haryana,
Jammu and Kashmir
Manipur
Punjab
Tamilnadu
Tripura
West Bengal
Chandigarh (U.T)
Dadra & Nagar Haveli (U.T)

Middle School Examination which is equivalent to pass in VIII Standard examination

Pondicherry (U.T.)		Studied up to VIII Standard
Andhra Pradesh	}	Pass in VII Standard examination
Maharashtra City Civil Courts		
Lakshadweep (U.T.)		
Himachal Pradesh	}	Pass in V Standard examination
Madhya Pradesh		
Chhattisgarh		
Rajasthan		
Andaman & Nicobar Islands(U.T.)		
Karnataka	}	Pass in IV Standard examination
Maharashtra Mofussil Courts		
Gujarat	}	Studied up to Class IV
Sikkim		Primary School
Delhi		No qualification is prescribed
Bihar	}	Literates who know reading and writing
Jharkhand		
Kerala		
Orissa		
Uttar Pradesh		
Uttaranchal		

Group 'C'/ Class III :

Selection to the entry level posts like Lower Division Clerk, Junior Assistant, Typist and Stenographer is made either by the District & Sessions Judge or Selection Committee / Advisory Committee or State Public Service Commission, as indicated below:

<u>STATES / U.Ts</u>	<u>AGENCY / AUTHORITY</u>
Assam, Chhattisgarh, Delhi, Haryana, Madhya Pradesh, Manipur, Orissa, Punjab, Rajasthan, Tripura, Uttar Pradesh, Uttaranchal, West Bengal, Chandigarh, Andaman & Nicobar Islands and Daman & Diu	District and Sessions Judge
Andhra Pradesh, Karnataka, Kerala, Tamilnadu and West Bengal (for Stenographers)	State Public Service Commission.
Bihar, Goa, Himachal Pradesh, Jharkhand, Jammu & Kashmir, Maharashtra, Sikkim, Meghalaya & Pondicherry	Selection Committee / Central Coordination Committee / Advisory Committee
Gujarat	- Advisory Committee, but the list of selection has to be approved by the High Court.

JAMMU & KASHMIR :

This is the only State, which has not given clear-cut information. In response to our Questionnaire, it is stated that the District Judge is the selecting authority for Class-III and Class IV Staff. But during the personal hearing, Mr. Kochak, Special Secretary (Law) stated that there are no rules of recruitment hitherto framed for recruitment of the Court Staff. The High Court alone makes appointment to all categories of posts in the Subordinate Courts. This is also the submission made by the Staff Association.

QUALIFICATION FOR GROUP 'C' :

Even for recruitment to entry level posts in Group 'C', different States / U.Ts have prescribed different qualifications. We have set out below in laconic details the minimum educational qualification prescribed by the different States/U.Ts:

States/Union Territories**Minimum Educational Qualification****For entry level posts**

Bihar	}	Graduate
Haryana		
Jharkhand		
Punjab		
Chandigarh		
Uttar Pradesh	}	Intermediate
Uttaranchal		
Assam	}	S.S.L.C or equivalent
Andhra Pradesh		
Chhattisgarh		
Delhi, (NCT)		
Goa		
Gujarat		
Himachal Pradesh		
Jammu and Kashmir		
Karnataka		
Kerala		
Madhya Pradesh		
Maharashtra		
Manipur		
Meghalaya		
Orissa		
Rajasthan		
Sikkim		
Tamilnadu		
West Bengal		
Andaman & Nicobar Islands (U.T.)		
Lakshadweep (U.T.)		
Pondicherry (U.T.)		
Daman and Diu (U.T.)		
Dadra & Nagar Haveli (U.T.)		
Tripura	– Pass in Madhyamik Examination/HS or Equivalent.	

In addition to the general academic qualification, Typists, Copyists and Typist-Copyists are required to acquire additional qualification in typing, as prescribed.

It may be noted that in Bihar, Jharkhand, Haryana, Punjab and Chandigarh, the minimum qualification for appointment to the posts of Lower Division Clerk, Junior Assistant, Typist and Stenographer is graduation.

In Uttar Pradesh & Uttarakhand, it is Intermediate.

In the remaining States and Union Territories, the minimum educational qualification is only S.S.L.C or equivalent, except in Tripura, where pass in Madhyamik Examination / HS or equivalent has been prescribed.

VIEWS OF THE HIGH COURTS FOR RETAINING OR CHANGING THE AUTHORITY FOR RECRUITMENT :

High Courts of ANDHRA PRADESH, KARNATAKA, KERALA and TAMIL NADU have stated that the Public Service Commission is not able to sponsor candidates for several years and it is better to empower the District Judges or Unit Heads to make direct recruitment to all categories of posts in the Courts.

The remaining High Courts are in favour of continuing the existing authority for recruitment.

BOMBAY High Court has suggested a novel method of recruitment. It has stated that, -

“Only one advertisement should be published every three years at a fixed time in daily newspapers in all districts containing a prescribed format of application. The format may provide for candidates giving options for being considered for post in various Districts in order of

preference. Candidates may be instructed to submit only one application for the post in all Districts. The application may be submitted in any District Court by registered post. The process of registration of application should be computerised and such computerised data may be ultimately centralised. Uniform method of shortlisting may be adopted. Written or typing test may be held on the same date throughout the State as per uniform test material. The evaluation of papers may, however, take place in the District Courts. Interviews may be held by one panel for the whole State so that there is uniformity in assessment. A single list according to merit/reservations may be prepared for the whole State and candidates selected, may be allotted to districts of their choice according to their merit. Final District-wise list, thus prepared, may be approved and sent to each District Judge to enable him to make appointments within the next three years.”

VIEWS OF THE STATE GOVERNMENTS :

Some State Governments have concurred with the views expressed by their respective High Courts and others have not expressed any view with regard to the authority for selection and recruitment.

The State Government of KERALA, however, is forthright in stating that there is inordinate delay in the selection of candidates by the Public Service Commission.

The KARNATAKA State Government has also stated that the Public Service Commission is not conducting separate examination for selecting FDA/SDA to work in Courts and there is inordinate delay in selection of candidates by the PSC. Therefore, it is necessary that the District & Sessions Judges may be empowered with the power of selection of candidates for FDA / SDA.

VIEWS OF THE STAFF ASSOCIATIONS :

The views expressed by the Staff Associations are various and varied, though they are unanimous in stating that the Public Service Commission should not be the recruiting agency.

Gujarat State Judicial Department (Class III) Employees' Federation has suggested that the practice of obtaining approval of the High Court for the selection made by the Advisory Committee should be discontinued.

The All India Judicial Employees' Confederation, while favouring full powers to the Dist. & Sessions Judge to recruit candidates as and when vacancies arise has, however, stated that a proper mechanism should be devised to avoid interference by higher-ups.

Some Staff Associations want us to understand that the "interference by higher-ups" means only by the High Court Judges. Some of them are candid in pointing out that the Judges of the High Court more often replace the select list prepared by the District Judge with their own candidates. It is said that the selection by the District Judge is only in the Rules of Recruitment and High Court Judges direct the District Judges to select their nominees. In this context, the U.P. Group 'D' Employees' Association remarks may be noted. It has stated thus:

"The District Judge of the District appoints the personnel of Group 'D' in U.P. The appointments in the district are strictly made under the influence and compulsion of the Hon'ble Judges of the High Court in U.P. as the Hon'ble Judges send the list of their favourites to be appointed in Group 'D' along with the favourites of some broker type of Government servants who also reap the advantage of their family members in Group 'D' in U.P. though the selection committee of the District invites the application from

the public of the District. So, this is the only drama to complete the formalities and ultimately the candidates sent by the High Court are selected. This is economic loss and betrayal of public confidence.”

Our experience also confirms the allegations made by the Staff Associations. It is, in our opinion, not only illegal but also improper for the High Court Judges to interfere with the selection and appointment of Group 'D' employees by the District Judges. To minimise such interference, we recommend a Selecting Authority of Judicial Officers as herein below.

VIEWS OF THE DISTRICT JUDGES :

In response to our Questionnaire, 309 replies have come from District & Sessions Judges. Some have, inter-alia, stated that the recruitment work has become onerous for them and they need to spend considerable time to hold interviews. They are getting thousands of applications even for a couple of posts. The processing of applications has to be done by the Court Staff in addition to their regular work which is otherwise heavy. They have suggested to provide additional staff to attend to the recruitment of staff.

VIEWS EXPRESSED BY INDIAN INSTITUTE OF TECHNOLOGY, NEW DELHI (IIT, DELHI) :

IIT, Delhi, our Consultant, has examined this matter. It has advised that the recruitment has to be done at the District level. State level recruitment would cause unnecessary delay. The recruitment process may take considerable time to get the vacancies filled up and the Court having more number of vacancies would suffer more.

For a comprehensive picture and easy reference, we have set out in the enclosed ANNEXURE, the existing Authority for recruitment in each State/U.T and the views expressed by the High Courts / State Governments / U.Ts as to its retention / modification or replacement.

OUR RECOMMENDATIONS

I. SELECTING AUTHORITY :

We are of the opinion that the powers of the Public Service Commission to recruit staff to the Subordinate Courts should be taken away and the District Recruitment Committee shall be empowered to make all such recruitments. We accordingly make the following recommendations:

(i) District Recruitment Committee

The District Recruitment Committee for the District Courts shall consist of :

- | | | | |
|------|---|------|----------|
| i) | Principal District & Sessions Judge | | Chairman |
| ii) | Senior-most Addl. District & Sessions Judge | | Member |
| iii) | Civil Judge (Sr.Dn.) / CJM / CMM | | Member |

The Recruitment Committee for Cities with City Civil Courts shall consist of :

- | | | | |
|------|--|------|----------|
| i) | Principal City Civil & Sessions Judge | | Chairman |
| ii) | Senior-most Judge in the City Civil Court /
Metropolitan City | | Member |
| iii) | Chief Metropolitan Magistrate / Chief Judge,
Small Causes Court | | Member |

- (ii) The Recruitment Committee shall make recruitment to all categories of posts, excluding the posts for which High Court is the appointing authority.

(iii) Recruitment Cell:

There shall be a Recruitment Cell established in each District Court or the City Civil Court / or in other cities for the purpose of collecting information continuously as to the vacancies arising upon retirement or promotion or resignation. This Cell shall assist the Recruitment Committee, including processing of applications received for the posts, and short-listing them as per the guidelines of the Recruitment Committee. The creation of such Cell with adequate staff has become necessary in view of the fact that applications are received in thousands even for 5 to 6 posts.

- (iv) The recruitment shall take place every year well in advance before the vacancies arise.

II. QUALIFICATION FOR GROUP 'D'

For Group 'D' post, we consider that it is necessary that the incumbent should have sufficient educational qualification and not just being a literate or III Standard or IV Standard. In these days of unemployment of a large number of educated persons, it is not advisable to appoint those who are just literate or III or IV Standard, when primary education has become compulsory in all States.

Apart from that, our experience is that even for few posts of Peons or similar posts, thousands of candidates with qualification from Matriculation to Graduation are forthcoming. Secondly, the Group 'D' employees are eligible for promotion to the posts of Process Server and Lower Division Clerk / Junior Assistant and therefore, they must have adequate knowledge of the Court procedure for which being a mere literate or having III or IV Standard is not sufficient.

OUR RECOMMENDATION

“The minimum qualification for recruitment to Group ‘D’ posts shall be VII Standard.”

If any State / U.T has already prescribed higher qualification, we recommend that such qualification may prevail.

III OUR RECOMMENDATIONS AS TO QUALIFICATION FOR DIRECT RECRUITMENT TO GROUP ‘C’

Quite naturally, for the entry level posts in Group ‘C’, it should be above VII Standard.

Having regard to the nature of the Court work, we recommend, -

“that the minimum qualification for entry level post in Group ‘C’ should be SSLC / Matriculation. In addition to the qualification, the experience / knowledge in typing should be insisted upon, as the Lower Division Clerk / Junior Assistant will also have to type since the Courts are being computerised.”

We do not propose to recommend Graduation as the minimum qualification, since it would be unfair to those who cannot afford to graduate themselves for economic reasons.

However, Bihar, Jharkhand, Haryana, Punjab and Chandigarh have prescribed graduation as minimum qualification for entry level post in Group ‘C’. We leave it to their discretion to retain it or to change it in conformity with our above recommendation.

IV. PROMOTION :

This takes us to the next aspect in human resource management, that is promotion.

There cannot be any modern management much less any career planning, manpower development, which is not related to a system of promotions.

Every management must provide realistic opportunities for promising employees to move upward. The organisation that fails to develop a satisfactory procedure for promotion is bound to pay a severe penalty in terms of administrative cost, misallocation of personnel, and low morale etc..

In RAGHUNATH PRASAD SINGH Vs. SECRETARY, HOME (POLICE) DEPARTMENT, Govt. of BIHAR & OTHERS², the Supreme Court observed:

“Reasonable promotional opportunities should be available in every wing of public service. That generates efficiency in service and fosters the appropriate attitude to grow for achieving excellence in service. In the absence of promotional prospects, the service is bound to degenerate and stagnation kills the desire to serve properly.”

In Dr. Ms. O.Z.HUSSAIN Vs. UNION OF INDIA AND OTHERS³, the Supreme Court observed:

“This Court, has on more than one occasion, pointed out that provision for promotion increases efficiency of the public service while stagnation reduces efficiency and makes the service ineffective. Promotion is thus a normal incidence of service.”

2. AIR 1988 SC 1033

3. AIR 1990 SC 311

The most important grievance of the Court Staff is that they have little promotional opportunity. That is their general complaint. It is said that most of the Court employees retire from the same post to which they entered service.

During the hearing of the representatives of the Associations, and in particular, the All India Judicial Employees' Confederation, it was pointed out that in some States, employees in the Government Departments joining service as Clerks usually become Gazetted Officers before they retire, but no such opportunity is available in the Judicial Department.

The Indian Institute of Technology, New Delhi, has examined the promotional opportunities available to the Court Staff.⁴ Their study has brought to light startling information. The study reveals that in Assam, Bihar, Haryana and Madhya Pradesh, the Court Staff in certain cadres have to serve for 40 years, 33 years, 30 years and 22½ years respectively to earn one promotion.

In States like Delhi, Uttar Pradesh and Tamilnadu, to earn promotion, minimum of 13½ years, 14 years and 10½ years respectively are required.

The position is relatively better but not attractive in the rest of the States.

IIT has suggested to improve promotional avenues in addition to providing the Assured Career Progressions (ACP) at suitable intervals.

Some of the States have stated that since the State Governments have introduced Time Bound Promotion Scheme or ACP, securing the employees 3 or 4 higher scales at reasonable intervals, there should be absolutely no ground for any discontentment among the employees.

4. IIT Report Volume I Page 59

It may be noted that the Time Bound Promotion Scheme may bring certain financial benefit to the employees. But, it does not secure them higher status or work satisfaction. What brings satisfaction to an employee is status linked with higher duty and responsibility in the eyes of the public.

We have carefully examined the promotional benefits available to Group 'D' employees in all States/U.Ts and found some States/U.Ts have one pay scale, some have two pay scales and others have three pay scales. They are as follows:

States / UTs with single Pay Scale :

<u>Name of the State/UT</u>	<u>Pay Scale</u>
1. Kerala (Criminal Court Establishment)	- Rs.2610-3680
2. Tamilnadu	- Rs.2550-3200
3. West Bengal	- Rs.2600-4175
4. Daman & Diu	- Rs.2550-3200
5. Dadra & Nagar Haveli	- Rs.2440-3200
6. Sikkim	- Rs.2850-4170

States / UTs with two Pay Scales :

<u>Name of the State/UT</u>	<u>Pay Scale</u>
1. Assam	- 1. Rs.2450-3670 2. Rs.2530-4390
2. Andhra Pradesh	- 1. Rs.2550-4550 2. Rs.2870-5470
3. Chhattisgarh	- 1. Rs.2550-3200 2. Rs.2610-3540*

* This scale is promotional scale to (1)

4.	Haryana	-	1.	Rs.2550-3200
			2.	Rs.2650-4000*
5.	Himachal Pradesh	-	1.	Rs.2520-4140
				(Minimum start at Rs.2620)
			2.	Rs.2720-4260*
6.	Kerala	-	1.	Rs.2610-3680
	(Civil Courts Establishments)		2.	Rs.2650-4150*
7.	Madhya Pradesh	-	1.	Rs.2550-3200
			2.	Rs.2610-3540*
8.	Meghalaya	-	1.	Rs.2440-3680
			2.	Rs.2650-4130*
9.	Punjab	-	1.	Rs.2520-4140
			2.	Rs.2720-4260
10	Rajasthan	-	1.	Rs.2550-3200
			2.	Rs.2610-3540
11.	Tripura	-	1.	Rs.2600-3545
			2.	Rs.2750-4925*
12.	Uttar Pradesh	-	1.	Rs.2550-3200
			2.	Rs.2610-3540*
13.	Uttaranchal	-	1.	Rs.2550-3200
			2.	Rs.2610-3540*

* This scale is promotional scale to (1)

14.	Jammu & Kashmir	-	1.	Rs.2550-3200
			2.	Rs.2610-3540
15.	Manipur	-	1.	Rs.2550-3200
			2.	Rs.2610-3540*
16.	Mizoram	-	1.	Rs.2650-4000
			2.	Rs.3050-4590]
17.	Andaman & Nicobar Islands	-	1.	Rs.2550-3200
			2.	Rs.2610-3540*
18.	Chandigarh	-	1.	Rs.2520-4140
			2.	Rs.2720-4260*
19.	Lakshadweep	-	1.	Rs.2550-3200
			2.	Rs.2650-4000*

States / UTs with three Pay Scales :

<u>Name of the State/UT</u>		<u>Pay Scale</u>	
1.	Bihar	-	1. Rs.2550-3200
			2. Rs.2610-3540
			3. Rs.2650-4000
2.	Goa	-	1. Rs.2550-3200
			2. Rs.2610-3540*
			3. Rs.2650-4000**

* This scale is promotional scale to (1)

** This scale is promotional scale to (2)

3.	Gujarat	-	1.	Rs.2550-3200
			2.	Rs.2610-3540*
			3.	Rs.2650-4000**
4.	Jharkhand	-	1.	Rs.2550-3200
			2.	Rs.2610-3540
			3.	Rs.2650-4000
5.	Karnataka	-	1.	Rs.2500-3850
			2.	Rs.2600-4350
			3.	Rs.2775-4950
6.	Maharashtra	-	1.	Rs.2550-3200
			2.	Rs.2610-4000*
			3.	Rs.2750-4400
7.	Orissa	-	1.	Rs.2550-3200
			2.	Rs.2610-3540*
			3.	Rs.2650-4000**
8.	Pondicherry	-	1.	Rs.2550-3200
			2.	Rs.2610-3540*
			3.	Rs.2650-4000**
9.	Delhi	-	1.	Rs.2550-3200
			2.	Rs.2610-3540*
			3.	Rs.2650-4000**

The Group 'D' employees in many States / U.Ts are eligible for promotion to Group 'C' post. But the percentage of such promotion varies from State to State and Union Territory to Union Territory.

* This scale is promotional scale to (i)

** This scale is promotional scale to (ii)

The States / U.Ts having different percentage of promotion from Group 'D' to Group 'C' are furnished hereunder :

<u>Name of the State / U.T</u>	<u>Percentage</u>
I. Assam, Delhi, Haryana, Manipur, Mizoram, West Bengal, Punjab, Chandigarh and Andaman & Nicobar Islands	10%
II. Tripura, Bihar & Jharkhand	20%
III. Goa	12.5%
IV. Jammu & Kashmir, Karnataka, Madhya Pradesh, Chhattisgarh, Rajasthan, Uttar Pradesh and Uttaranchal	15%
V. Himachal Pradesh	25%

In Tamilnadu and Pondicherry recruitment to the entry level posts in Group 'C' is made by promotion of Group 'D' employees and by direct recruitment in the ratio of 2 : 2 (which means 50% by promotion and 50% by direct recruitment).

We have examined the general pay scales available to Group 'D' and Group 'C' employees in respect of which we will discuss in detail when we come to the service conditions in each State / U.T.

We are proposing in separate Chapter elsewhere that the Process Servers who fall under Group 'D' in most of the States and Group 'C' in certain States must be made promotional post to Group 'D' employees and the Process Servers must be further eligible for promotion as Bailiffs.

OUR RECOMMENDATIONS

In the light of the aforesaid discussion and taking into consideration all aspects, we recommend that, -

- 1) (i) The States / UTs having only one scale of pay to Group-D / Class IV employees or if promotional posts are inadequate, must provide one more promotional scale to such of the persons who are not wholly connected with the manual work but carrying higher duties and responsibilities. For entitlement to this scale, one must have the minimum qualification of VII Standard and must have put in a minimum service of ten years.
 - (ii) The States / UTs having two pay scales out of which one is promotional scale to Group-D / Class-IV employees and to whom there is no adequate further promotion must provide one more promotional scale to such of the persons who are not wholly connected with the manual work but carrying higher duties and responsibilities. For entitlement to this scale, one must have the minimum qualification of VII Standard and must have put in a minimum service of five years in the first promotional scale.
 - (iii) The High Court may identify such Class-IV officials who may be given this promotional scale.
 - (iv) The benefit of promotional scale may not be given in case any ACP Scale is available at or about that level of service.
- 2) So far as Process Servers are concerned, if they are in Group-D / Class-IV,

they must be given the highest pay scale available for Group-D / Class-IV employees in the respective States.

- 3) There shall be reservation of 25% posts in Group 'C' for promotion to Group 'D' employees.

** ** **

ANNEXURE TO CHAPTER - VI

Sl. No.	State / U.T.	Existing Position	Views of High Court	Views of Govt.
1	2	3	4	5
1.	ANDHRA PRADESH	PSC makes recruitment to the posts of LDC, Typist and Steno-Typist. D & SJ makes recruitment to other posts.	PSC is not able to sponsor candidates for several years. Hence suggested to exclude these posts from the purview of PSC and allow DJs/ Unit Heads to make appointments to these posts.	Not yet received.
2.	ASSAM	D & SJs and CJMs are the selecting authorities of their respective establishments.	Performance of the authorities is satisfactory.	Same views as expressed by High Court.
3.	BIHAR	DJ is the selecting authority for Class IV posts. Zonal Selection Committee is the selecting authority for Class III posts in the Courts of various Districts in the zone. The District Judges of each District in the zone are members of the Committee. The senior-most District Judge is the Chairman.	No Comments	No Views
4.	CHATTISGARH	As in Madhya Pradesh	Satisfied with the performance of the Authority.	No Views
5.	DELHI	Presently, the D & SJ, Admn. Civil Judge and the Judge, SCC, Delhi, are the selecting	No Views	No Views

1	2	3	4	5
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authority for Court Staff. HC is the appointing authority for the post of Supdt. recently, Draft Rules for recruitment have been framed and it is yet to be finalised. According to the Draft Rules, selection to the categories of posts in Group 'D' and Group 'C' is made by a Selection Committee.

- | | | | | |
|----|---------|--|----------|--------------------------------|
| 6. | GOA | <p>There is a Dept. Selection Committee consisting of :</p> <p>D & SJ ... Chairman</p> <p>Sr. most Addl.
D & SJ ... Member</p> <p>Under Secy.,
Law Dept. ... Member</p> | | Satisfied with the functioning |
| 7. | GUJARAT | <p>There are separate Staff Advisory Committees for different establishments, as indicated below. These Committees make selection to Class III and Class IV posts. The selection made by these Committees have to be approved by the High Court.</p> <p>1. <u>Advisory Committee for Dists.</u> :</p> <p>a) Dist. Judge -Chairman</p> <p>b) Asst. Judge - Member</p> <p>c) Civil Judge - Member (SD)</p> | No Views | No Views |

1	2	3	4	5
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2. Advisory Committee for
City Civil Court,
Ahmedabad :

- a) Prl. Judge -Chairman No Views No Views
b) Sr. most
Judges (Two)- Members

3. Advisory Committee for
Small Causes Court,
Ahmedabad :

- a) Chief Judge-Chairman
b) Sr. most
Judges (Two)- Members

4. Advisory Committee for
Chief Metropolitan
Magistrate Courts,
Ahmedabad :

- a) CMM -Chairman
b) Sr. most
Metropolitan
Magistrates
(Two) - Members

- | | | | |
|---------------------|---|-----------------------------------|---|
| 8. HARYANA | Recruitment to the post of Supdt. is made by HC on the recommendations of the respective D & SJs. For all other posts, D & SJ is the selecting authority. He invites applications in consultation with CJ or the nominated Judge. | Performance is satisfactory. | Suggested to constitute District Selection Committee which should include a representative of State Govt. |
| 9. HIMACHAL PRADESH | D & SJ is the appointing authority. Selection is made on the basis of the | System is working satisfactorily. | Suggested to constitute a Selection |

1	2	3	4	5
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		recommendation of the Selection Committee which is constituted by D & SJ. Selection Committee consists of minimum two Judicial Officers posted in the District.		Board to bring about objective and transparent selection.
10.	JAMMU & KASHMIR	D & SJ is the Recruiting Authority. But there are no rules of recruitment hitherto framed. The High Court only appoints persons for all categories of posts.	Recruitment is done under the supervision of High Court.	No comments
11.	JHARKHAND	As in Bihar.	No comments	Views not furnished
12.	KARNATAKA	Prl. D & SJ / Prl. City Civil & Sessions Judge is the selecting authority for the posts of Stenographer, Typist, Typist-Copyist, Process Server, Attender and Peons. PSC makes selection to the posts of FDA & SDA.	Selection by PSC takes time. Hence suggested that the Prl. D & SJs may also be empowered to make recruitment to the posts of FDA & SDA also.	KPSC is not conducting separate examination for selecting FDA/SDA to work in Courts and there is inordinate delay in the selection of candidates. Hence, D & SJ may be delegated with powers to make selection to FDAs/SDAs also.

1	2	3	4	5
13.	KERALA	PSC is the selecting authority for Group-C posts and the D & S Judge is the Selecting Authority for Group-D posts.	Performance is satisfactory, except that the process of selection is slow and takes time.	Performance is satisfactory, except that the process of selection is very slow and even takes years.
14.	MADHYA PRADESH	D & SJ is the selecting authority for Court Staff.	H.C is satisfied with the performance of the authority.	The arrangement is working satisfactorily. There is no need for any alternative authority.
15.	MAHARASHTRA	There are separate Advisory Committees for different establishments as indicated below: 1. <u>For Districts :</u> a) Dist. Judge -Chairman b) Asst.Judge - Member c) CJ (SD) - Member 2. <u>For City Civil Court, Mumbai :</u> a) Prl. Judge -Chairman b) Two Sr. most Judges - Members 3. <u>For Small Causes Court, Mumbai :</u> a) Chief Judge-Chairman b) Two Sr. most Judges - Members	Suggested constitution of a Panel at the State level which will make selection after holding interview.	Same view as given by the High Court.

1	2	3	4	5
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4. For CMM Court,

Mumbai:

- a) CMM -Chairman
- b) Two Sr. most
Metropolitan
Magistrates - Members

- | | | | |
|-----------------|---|---|---|
| 16. ORISSA | DJ is the selecting authority | Performance of the authority is satisfactory. However, to simplify the process, some amendments are being considered. | Same view as given by the High Court. |
| 17. PUNJAB | High Court is the selecting authority for Superintendent, (Admn.), and District & Sessions Judge is the selecting authority for other posts. | Performance is satisfactory. | Suggested to constitute District Selection Committee which should include a representative of Govt. |
| 18. CHANDIGARH | - do - | | No Suggestion |
| 19. PONDICHERRY | There is a selection Committee with the following :
a) Head of Judl. Dept.
(Chief Judge) -Chairman
b) Dy. Secy., General Admn.
Dept. - Member | | No Suggestion |

1	2	3	4	5
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c) Dy. Secy., Law &
Labour Dept. - Member

d) One Head of Office
of Judl. Dept. - Member

20. RAJASTHAN D & SJ is the Selecting Authority for all Class-III posts. Recruitment is made by holding competitive examination. There is a Selection Committee which makes recruitment to Class-IV posts. It consists of the following:
1. Head of the Dept.,
 2. Dist. Collector & Dist. Level Officer of the Dept., / Reg. Level Officer.
- Satisfied with the existing system. However, suggested to constitute a Cell under the High Court.
- Performance is satisfactory. No change or other alternative is required.
21. SIKKIM There is a selection committee headed by Registrar General of High Court. The other Members of the Committee are: D & SJ (E & N) and D & SJ (S & W).
- No Comments
- Selecting authority is functioning effectively.
22. TAMILNADU TNPSC is the Selecting authority for Jr.Asst., Asst. Nazir, Jr. Supdt. of Copyists, Steno-Typist and Typist.
- Dist. & Sessions Judge / CJM is the selecting authority for Asst. Supdt. of
- Though there is delay in the allotment of candidates, the overall performance is satisfactory.
- For entry level common post TNPSC is the recruiting authority. The overall performance of the authority

1	2	3	4	5
		Copyists, Examiners, Readers, Amins and Copyists.		is satisfactory. For other entry level posts like Process Server, Bailiff, Reader,
23.	UTTAR PRADESH	DJ is the selecting authority	No change is called for.	No change is required.
24.	WEST BENGAL	DJ is the selecting authority, except for Stenographers. PSC is the selecting authority for Stenographers.	Satisfied with the performance.	No change is required.
25.	MEGHALAYA	District Selection Committee		
26.	MANIPUR	D & SJ is the selecting authority.		
27.	MIZORAM	DC makes selection through DPC / SC. (No separate Court Staff)		
28.	NAGALAND	District Selection Committee		
29.	ANDAMAN & NICOBAR ISLANDS	Committee constituted by D & SJ makes selection.		
30.	UTTARANCHAL	District & Sessions Judge is the selecting authority.	No comments	No comments
31.	TRIPURA	Dist. & Sessions Judge is the selecting authority.		
32.	LAKSHADWEEP	U.T. Administration is Selecting Authority for Group-C and Group-D.		

CHAPTER - VII

COMMON CATEGORY / CADRE POSTS

CHAPTER-VII

COMMON CATEGORY / CADRE POSTS

In this Chapter, we are concerned with the claim of the Court Staff who are occupying what is termed as common category posts. They are demanding higher pay scale than that of their counterparts in the Government. The State Governments are vociferously opposing the claim on the ground that if higher pay scale is given to the Court Staff, it would be obligatory for the Government to give the same pay scale to their counterparts in other Departments. The Court Staff, however, urge that their duties, responsibilities and the workload are quite different and they are entitled to be adequately compensated.

Since the matter is of general importance, the Commission formulated the following questions in the general questionnaire seeking the views of all the High Courts, State Governments and Staff Associations.

Question No.7 :

“The common objection of all the State Governments is that there should not be hike in the pay scale of the Ministerial Staff in the District Judiciary since they are of common cadre posts in the Government Departments. Please set out such common cadre posts with their pay scales as on 1-1-2000 in the proforma enclosed as ANNEXURE-VI.”

Question No. 8 :

“For common cadre posts in the District Judiciary, how do you justify higher pay scales? What are the compelling reasons for upward revision of pay scales or for any other benefits? Please amplify your reasons.”

We have received a good response from all the concerned. The views and comments received will be presently analysed, but before that, it may be useful to understand as to what constitutes the common category posts. And what are those posts existing in the Subordinate Courts.

There are certain functionaries, which are common in the service cadre of most of the departments. They generally share common attributes like designation, qualification, nature of work and promotional avenues. Their positions in the hierarchy of posts and level of responsibility are comparatively similar. They are, therefore, given the same scale of pay. Such posts are conveniently termed as “**Common Category Posts**”.

It follows, as a corollary, that the posts having different workload and higher level of responsibility, though termed as Common Category, are entitled to different pay scales or additional benefits.

From the replies received from the High Courts and Governments, it could be seen that the Common Category posts are not similar in all States, as seen hereunder:

- (a) The CALCUTTA High Court in the reply has classified all grades of Stenographers as common category and all other posts as non-common category;
- (b) The SIKKIM High Court has included the post of Head Peon under non-common category;
- (c) The GAUHATI High Court has grouped the post of Head Assistant both in common and non-common categories;
- (d) The High Court of ORISSA has categorised Bench Clerk and Process Server under Common Category and the post of Sheristedar under non-common category;
- (e) The High Court of HIMACHAL PRADESH has classified Ahlmad (Pending Clerk), Execution Clerk and Clerk-cum-Typist under non-common Category;
- (f) The High Court of PATNA has included Sheristedar, Head Clerk, Accountant, Cashier, Typist-cum-Clerk etc., under non-common categories;

- (g) The High Court of JAMMU & KASHMIR has included the Process Server under both the category;
- (h) The High Court of MADHYA PRADESH has classified the Process Server as common category post but ANDHRA PRADESH High Court has included it in the common category as well as in non-common category;
- (i) The KARNATAKA High Court has classified Sheristedar, Typist, Typist-Copyist under the non-common category and the remaining posts as common category.

To steer clear, we may broadly identify the following posts as common category posts in the Subordinate Courts.

Group-D / Class IV Posts

In all States/UTs, those who are occupying the lower rung in the hierarchical ladder are the Group-D / Class IV employees. They may carry different nomenclature from State to State, like Peon, Sweeper, Gardener, Watchman, Cleaner, Water man, Attender, Book Binder, Daftry, Farrash etc. Their functions generally veer around a narrow range of activities with emphasis on rendering physical assistance to their superiors. They may be termed as Common Category posts since similar / or identical posts are also in the Government Departments.

Assistant / Sheristedar / Superintendent / Stenographer etc.

The posts which are in clerical cadre like Lower Division Clerk / Second Division Assistants, First Division Clerk / Upper Division Clerk / First Division Assistants, Clerk-cum-Typist/ Typist-cum-Clerks, also fall into the Common Category. Likewise, Sheristedar / Dy.Sheristedars, Superintendent / Dy. Superintendent, Librarian and Stenographer do find their counterparts in the Government Departments and hence they could be termed as Common Category.

These are only illustrative, not exhaustive. There may be other posts in some States, which are in the Common Category, which will be considered when we take up the staff structure in each State/UT.

This takes us to the responses received to aforesaid Question No.8

ANALYSIS OF THE VIEWS RECEIVED TO QUESTION NO. 8

VIEWS OF THE HIGH COURTS :

All High Courts have responded to the aforesaid question. Out of the Governments of Twenty-Eight States and Seven UTs, Twenty States and Six UTs have given their comments. Added to that, about 309 District Judges across the country and as many as 55 Staff Associations have furnished their views in the matter.

The following High Courts have favoured higher pay scales or more emoluments to the Common Category of posts in the Subordinate Courts.

HIGH COURTS

- | | |
|-----------------------|---------------------|
| (i) Andhra Pradesh | (x) Madhya Pradesh |
| (ii) Gauhati | (xi) Orissa |
| (iii) Patna | (xii) Rajasthan |
| (iv) Gujarat | (xiii) Sikkim |
| (v) Punjab & Haryana | (xiv) Allahabad |
| (vi) Himachal Pradesh | (xv) Calcutta |
| (vii) Jammu & Kashmir | (xvi) Uttranchal |
| (viii) Karnataka | (xvii) Chhattisgarh |
| (ix) Kerala | |

It is the common case of all these High Courts that the duties and responsibilities of the common category posts in the Subordinate Courts are not

comparable with their counterparts in the Government. They are required to familiarise themselves with all the Acts, Rules and Regulations of the Central and State Governments. They have back-breaking workload in view of the ever increasing pendency in Courts. They have a higher responsibility to implement faithfully the judicial orders of Courts. They have to keep the Courts functioning on time bound basis for which they are often forced to work beyond office hours and sometimes even on Holidays.

To be more specific, we may set out the reasons as stated by some of the High Courts:

High Court of RAJASTHAN :

Having regard to the complicated nature of work, duties and responsibilities performed by the Subordinate Court staff, there must be upward revision of their pay scales on par with the pay scales in RAJASTHAN High Court, State Government Secretariat, State Assembly Secretariat, Governor's Secretariat, Lok Ayukta Secretariat.

High Court of UTTARANCHAL :

The nature of job of Group 'C' and 'D' is absolutely different. It not only requires knowledge of administrative and procedural rules but also basic knowledge of Law as well. Working hours are irregular. Working late in the night is almost regular in the Courts and hence higher pay scales than their counterparts in the other Departments are needed.

High Court of BOMBAY :

The BOMBAY High Court has recommended higher pay scale only to Personal Assistant / Stenographer and Sheristedar in the District Court. For the remaining posts, the High Court says, higher pay scale is not called for.

High Court of ALLAHABAD :

“The District Judiciary is distinctive in the eyes of common people. When people suffer from the hands of the officials working in different Government Deptt. or other organisation, they come to judiciary for redressal of their grievances. The ministerial staff has to remain detached from other organisations and Govt. Deptts. They have to maintain top secrecy and have to be of a very high standard in intellectual and moral fields. Some times they have to work much beyond working hours to complete day's work as every application-case is fixed for a date and the work has to be completed on that particular date. For doing this sort of specialised working there has to be a different and higher pay scale for the ministerial staff of the District Judiciary.”

High Court of ANDHRA PRADESH :

“Even though the posts in District Judiciary are on common cadre with the posts in Government Departments / Secretariat, they are not comparable with each other. The duties and responsibilities undertaken by the Judicial employees are onerous and quite different compared to similar posts in other departments. The employees working in other departments are required to be conversant only with their departmental Code and Rules. But the Court employees besides being conversant with departmental Rules, are also required to be thorough with all Central and State Acts and Rules. The staff working in Judicial Department will deal with valuable documents and files, since the public impose confidence on the system for the proper maintenance of valuable documents. The staff in judiciary are compelled to work throughout the day, some times late in the night and one hour early to get ready on the Bench to enable them to complete the work for that day. The staff of the Courts play major part in implementation of the Judicial proceedings / orders passed by the Courts in its true nature. So far as Bench Clerks are concerned they are required to assist the Judges on the Bench in recording evidence, marking

exhibits, drafting of decrees, custody of records and preparation of inspection notes etc. The Stenographers in the Departments undertake still more onerous duties. They have to attend Judge's Bungalow even on Sundays and other public holidays."

High Court of KARNATAKA :

"The duties and responsibilities of the Court staff are onerous when compared to their counterparts in other Departments. They are required to do work beyond the Court hours. During Court hours, they rarely get sufficient break."

High Court of GUJARAT :

The High Court has stated that the Judicial Institution, unlike other organisations, or even the other Government Departments possesses a unique feature, where not only the Judicial Officer, but also the ministerial cadre, practically at every stage is required to know the provisions of law. The staff of the Judiciary have to carry out greater responsibilities i.e. to examine complaints, chargesheets, to administer oath to the deponent, to receive and handle muddemal, to draw decrees etc. The staff members have to pass the departmental examinations etc. Thus, looking to the duties carried out by each person in different cadres in the Judicial Department, these members are carrying out higher responsibility than those carried out by the employees of other Departments of the Government. Therefore, the pay scales of the employees of the Judicial Department should be higher than those of the employees of other Departments of the Government.

VIEWS OF THE STATE GOVERNMENTS :

When we turn to the replies of the State Governments, we find surprisingly that as many as six State Governments / UT have come to the rescue of Court Staff by suggesting higher pay scales to the common category of posts. They are (i) Goa, (ii) Jammu & Kashmir, (iii) Karnataka, (iv) Nagaland, (v) Sikkim and (vi) UT of

Chandigarh. These Governments agree that the work performed by the Court Staff is specialised and time bound, and it is altogether different from the work of their counterparts in Government departments. It is conceded that the Court Staff have to work beyond office hours.

But the other State Governments/UTs are against any higher pay scale to the Court employees. The main ground for their opposition is, that if higher pay scales are given to the Court employees, the persons in similar cadres in other departments would agitate for parity and it would not be possible to meet such demand in view of the difficult financial conditions.

VIEWS OF THE DISTRICT AND SESSIONS JUDGES :

As earlier stated, the Commission has received about 309 replies from the District Judges from different States/UTs. Almost all of them agree that the Court Staff, even of Common Category, deserve higher emoluments. If we may say so, the District Judges are the best eye-witnesses to certify the work load of their staff. The staff work under the watchful eyes of the District Judges or other Presiding Officers of the Courts. They have uniformly stated that the Court Staff has higher responsibility, they work beyond office hours almost every day and they have additional responsibility to maintain Muddemal Properties (Material Objects), and original documents of the case.

VIEWS OF STAFF ASSOCIATIONS :

About 55 Associations of the Court Staff have replied to the aforesaid question demanding higher scale of pay. The relevant reasons given by them may be summarised as follows:

- (i) They have to be familiar with the procedural laws, Civil/ Criminal Rules of practice, Limitation Act, Registration Act etc.

- (ii) Court work is time bound and no work could be postponed even to the next day.
- (iii) Staff who are the custodian of records and valuable case properties, have to preserve them with great care and caution.
- (iv) The accountability attached to the Court employees is far greater than that of their counterparts in other departments.
- (v) They have to pass departmental tests prescribed by the High Courts in addition to the departmental tests prescribed for the common cadre posts. These departmental tests are there only in some States.
- (vi) The promotional avenues available to them are wholly inadequate, as a result, they stagnate sometimes in the entry level cadre itself.

THE INDIAN INSTITUTE OF TECHNOLOGY, NEW DELHI :

IIT, Delhi, who is our Consultant, has collected a lot of material on the working conditions of the Court Staff. The Consultant Team consisted of eminent Professors, viz., Prof. Prem Vrat, Prof. S.G.Deshmukh and Dr.Kanika T.Bhal. They were assisted by not less than 8 Research Assistants, viz., Mr.Suchit Ramteke, Mr.S.B.Patra, Mr.V.Lenin Babu, Mr. G.Natarajan, Mr.Rupesh Gaur, Mr.C.S.Bhartiya, Mr.Amit Tak and Mr.Ashutosh.

These Research Assistants have gone to almost every Court in Delhi to study the workload and working conditions of the Court Staff.

IIT had developed a Questionnaire based on scientific design for eliciting response from (i) Court Staff, (ii) Judges, (iii) Lawyers and (iv) Litigants. The Questionnaire was mailed across the country by the Commission and the responses received thereto, were studied and analysed by IIT.

IIT, by using the recognised management tools, has analysed the material received and reached the conclusion that the effectiveness and efficiency of the legal system

does not depend entirely on Judicial Officers but also depends on the manner in which the system is allowed to operate and how Judges are supported. The role of the Court Staff is not perceived in totality, nor it is given due importance, which it deserves. The service conditions of the Court Staff are deplorable and they have to work under strained conditions in a poor infrastructure and with no motivation.

In sum, IIT has concluded that improving the service conditions of the Court Staff is not in the interest of the staff alone, but in the interest of the sound and efficient administration of justice as well. This ultimately would not only benefit all the stakeholders in the process, but also the society at large.

The IIT in the Report has emphasised the following :

(a) Non judicial cadre (NJC) is an integral part of Judicial System. It helps to perform the judicial process efficiently and effectively. NJC plays an important role in the process of delivering justice. The work of NJC can be broadly classified into three categories viz., Pre-hearing process, during the hearing process and Post-hearing process.¹

(b) It is generally perceived that the work of the NJC in the Courts is a routine type of work and the productive work is only by the Judicial Officers. But some of the duties of the NJC are “Productive” in content, in the sense that they are to be discharged in due time, at proper stages of the litigation and with due application of mind. They affect the productivity of the presiding Judicial Officer, e.g. examination of Plaint by the Clerk of the Court. If the Clerk of the Court does not examine the Plaint with due attention, the omission ultimately extends the life of the litigation.

1 IIT Report on Restructuring of Non-Judicial Cadre, Vol. 1, Chapter 1, Page 4, Para 1.2

Court activity being absolutely labour intensive and service oriented, the NJC forms a critical and important mass of the judicial system.²

(c) There is an extensive involvement of NJC in supporting various Court processes. NJC is more or less involved in every step of the Court proceedings, which could be broadly classified as Application Process, Court Proceedings, Adjournments, Record Room, Retrieval and maintenance of old files, Process Serving, Decree Branch, Copying Branch etc.³

(d) These and other such activities are interconnected with each other which could be visualised as a supply chain with the flow of information and documents at various levels while interacting with various stakeholders in the judicial process. For effective functioning, each link in the supply chain must work effectively.⁴

(e) It can be said that ineffective support by NJC may result in delays. These delays can cost (may be in intangible terms) various stakeholders including the individuals, society and nation at large.⁵

(f) A number of sets of accounts are required to be maintained in each Court unlike in the Government departments: for instance, accounts of Govt. money, accounts on civil side / criminal side, accounts required to be maintained under Special Acts etc. Several registers are prescribed

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2. IIT Report on Restructuring of Non-Judicial Cadre, Vol. 1 Chapter 1 Page 5 Para 1.2
 3. IIT Report on Restructuring of Non-Judicial Cadre, Vol. 1, Chapter 1, Page 9
 4. IIT Report on Restructuring of Non-Judicial Cadre, Vol. 1 Chapter 1 Page 10 Para 1.3
 5. IIT Report on Restructuring of Non-Judicial Cadre, Vol. 1, Chapter 1, Page 11, Para 1.4

for each set of account and additional duties are cast on the persons maintaining the accounts.⁶

(g) NJC's entry into the services may be in equivalence to the minimum prescribed qualifications as in other departments, but the functioning differs substantially. As raw entrants, they are unaware about the Law or its implications. However, their services and the experiences they encounter not only make them abreast with the various legal provisions and procedures to be followed, but adherence to them while serving, remains a necessity. The specialisation, which the judicial employees inherit, is not properly appreciated and they are compared with staff of other Government departments. Considering the expertise they gain, the stress they undertake, the upkeep they gather, the concentration they require, the hick-ups they suffer, all require to be aptly recognised and compensated for.⁷

From the aforesaid, it is clear that almost all the High Courts and even some State Governments are for giving higher pay scale to the Court Staff including those who are in the Common Category. They have stated that the quality and quantity of work performed by them with the accountability attached are quite higher and different from those of their counterparts in the Government Departments. It is undeniable that the Court Staff are compelled to work throughout the day, sometimes till night and they come one hour early everyday to get ready for the Bench to begin work.

The Indian Institute of Technology, New Delhi, has strongly recommended that the Court Staff should be adequately compensated in the shape of better pay structure and other incentives.

6. IIT Report on Restructuring of Non-Judicial Cadre, Vol. 1, Chapter 1, Page 33, Para 2.5.2

7. IIT Report on Restructuring of Non-Judicial Cadre, Vol. 1, Chapter 1, Page 73, Para 4.1.(2)

We cannot brush aside or ignore the views of such High Authorities, like the High Courts, IIT Delhi, and District Judges across the country.

The State Governments/UTs have not justified their assertion that the Common Category of posts have similar duties and responsibilities wherever they are working.

However, the Commission wrote to all the Chief Secretaries of the States and Administrators of the UTs. to furnish the job charts of the posts in the Departments of : (i) Revenue (ii) Agriculture (iii) Health (iv) Education (v) Public Works and (vi) Commercial Taxes, particularly with reference to the post of Superintendent / Sheristedar, Assistant Superintendent / Dy. Sheristedar, Senior Assistant, Manager, Assistant Manager, UDC / Senior Assistant, LDC / Junior Assistant, Translator, Stenographer and Typist.

The following State Governments / UTs have responded to our request, but not with relevant material:

GOVERNMENT OF ASSAM has sent the extract of the manual of the Office procedure in the Secretariat stating that there is no specific job chart in their State.

GOVERNMENT OF CHHATTISGARH has forwarded the job chart of certain posts in the Stamps and Registration Department.

GOVERNMENT OF HIMACHAL PRADESH : The Director of Agriculture of HIMACHAL PRADESH State has sent a copy of the Office Manual containing the duties and functions entrusted to the ministerial staff of the Agricultural Department.

GOVERNMENT OF KARNATAKA : Dy. Commissioners of Bangalore Rural District and Urban District, Bangalore, have furnished information regarding the distribution of work amongst the staff members working in the District Offices.

GOVERNMENT OF MEGHALAYA has sent the general information regarding the Department of Taxation, Agriculture and Public Works Department and in particular the duties of the posts of the Superintendent, UD Assistant / LD Assistant, Typist and Peons.

GOVERNMENT OF TAMILNADU : Additional Director of Agriculture, Govt. of TAMILNADU has forwarded the job chart of the Ministerial posts in the Agriculture Department.

GOVERNMENT OF TRIPURA : Deputy Secretary, Public Works Department, Govt. of TRIPURA, has sent the extract of Manual of Office Procedure containing the duties of certain posts in the Department.

NCT OF DELHI has given us the job chart of the members of the Staff of Directorate of Education.

GOVERNMENT OF PONDICHERRY has sent the duties and responsibilities entrusted to the staff members of Public Works Department.

At the time of the personal hearing, the Commission asked Staff Associations to secure the job charts of their counterparts in the Government Departments and submit the same with comparative charts.

The following Associations have responded to our request.

ANDHRA PRADESH JUDICIAL EMPLOYEES' ASSOCIATION has furnished a statement showing the duties of the common cadre posts in the Judicial Department and other Departments with the additional duties of the Court Staff.

THE KARNATAKA STATE JUDICIAL DEPARTMENT EMPLOYEES' ASSOCIATION appears to have made a detailed study. They have made available to us the Manual of Co-operative Department, extract of the Manual of Revenue Department, extract of Karnataka Commercial Taxes Manual containing the job description of the various categories of posts as against the handbook on administration and inspection of Civil and Criminal Courts in the Judicial Department and the comparative work chart of certain posts vis-à-vis the corresponding Court Staff.

ORISSA JUDICIAL EMPLOYEES' ASSOCIATION has submitted a circular issued by the General Administration Department to all Departments.

THE WEST BENGAL COURTS EMPLOYEES' ASSOCIATION has submitted the duties and responsibilities of only the post of Superintendent in the Collectorate.

It is the case of the State Governments that the principle of equal pay for equal work would be applicable in respect of the common category posts in the Subordinate Judiciary, since they are having similar duties and responsibilities as their counterparts in Government Departments. But the material furnished by the Governments are of little use to evaluate the duties and responsibilities of common category posts between the Court Staff and in the Departments of the Government.

DOCTRINE OF EQUAL PAY FOR EQUAL WORK :

The doctrine of equal pay for equal work would be applicable where employees are equal in every respect performing same or similar functions or having same or similar duties and responsibilities. But if certain officials of the common category perform dissimilar functions and are having varying responsibilities, the doctrine of equal pay for equal work cannot be called into aid. (See: SAVITHA & OTHERS VS. UNION OF INDIA & OTHERS)⁸.

8. AIR 1985 SC 1124 at 1127, para 12

In *FEDERATION OF ALL INDIA CUSTOMS AND CENTRAL EXCISE STENOGRAPHERS (RECOGISED) AND OTHERS Vs. UNION OF INDIA AND OTHERS*⁹, the Supreme Court observed as follows :

“7. Equal pay for equal work is a fundamental right. But equal pay must depend upon the nature of the work done, it cannot be judged by the mere volume of work, there may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. One cannot deny that often the difference is a matter of degree and that there is an element of value judgment by those who are charged with the administration in fixing the scales of pay and other conditions of service. So long as such value judgment is made bona fide, reasonably on an intelligible criterion which has a rational nexus with the object of differentiation, such differentiation will not amount to discrimination. It is important to emphasise that equal pay for equal work is a concomitant of Article 14 of the Constitution. But it follows naturally that equal pay for unequal work will be a negation of that right.”

It was also observed at para 11, p.1300B :

“11. The same amount of physical work may entail different quality of work, some more sensitive, some requiring more tact, some less - it varies from nature and culture of employment. The problem about equal pay cannot always be translated into a mathematical formula. If it has a rational nexus with the object to be sought for, as reiterated before a certain amount of value judgment of the administrative authorities who are charged with fixing the pay scale has to be left with them and it cannot be interfered with by the Court unless it is demonstrated that either it is irrational or based on no basis or arrived at mala fide either in law or in fact.”

9. AIR 1988 SC 1291 at 1297, para 7

In MEWAR RAM KANOJIA Vs. ALL INDIA INSTITUTE OF MEDICAL SCIENCE AND OTHERS¹⁰, it was observed :

“5. While considering the question of application of principle of ‘Equal Pay for Equal Work’ it has to be borne in mind that it is open to the State to classify employees on the basis of qualifications, duties and responsibilities of the posts concerned. If the classification has reasonable nexus with the objective sought to be achieved, efficiency in the administration, the State would be justified in prescribing different pay scale but if the classification does not stand the test of reasonable nexus and the classification is founded on unreal, and unreasonable basis it would be violative of Arts. 14 and 16 of the Constitution. Equality must be among the equals. Unequals cannot claim equality.

In STATE OF U.P AND OTHERS Vs. J.P. CHAURASIA AND OTHERS¹¹, the Supreme Court observed :

“17. The first question regarding entitlement to the pay scale admissible to Section Officers should not detain us longer. The answer to the question depends upon several factors. It does not just depend upon either the nature of work or volume of work done by Bench Secretaries. Primarily it requires among others, evaluation of duties and responsibilities of the respective posts. More often functions of two posts may appear to be the same or similar, but there may be difference in degrees in the performance. The quantity of work may be the same, but quality may be different...”

10. AIR 1989 SC 1256 at 1259 para 5

11. AIR 1989 SC 19 at 25, para 17

Some of the Staff Associations have produced comparative job charts of the common category posts in the Subordinate Judiciary and in the Government Departments. We have carefully perused the said job charts. They are not supported by acceptable documents. The acceptance of the job charts prepared by the Staff Associations may be open to a lot of flak. We, therefore, reject the material produced by the Staff Associations.

Some of the Staff Associations have indicated their choice of pay scales. The All India Judicial Employees' Confederation has suggested uniform pay scales for Court employees in all States / UTs. The Confederation is relying upon the principle which we have adopted in the case of the Judicial Officers in our earlier Report. The Confederation, in the alternative, has suggested a minimum pay of Rs.3,100/- and a maximum pay of Rs.16,350/- for the Court employees. The Karnataka State Judicial Department Employees' Association and the Rajasthan Judicial Employees' Association have also suggested evolving separate pay scales for the Court employees.

We do not agree with the suggestions made by the Confederation or Associations. We certainly cannot evolve uniform pay scales for the Court employees in all States / UTs. It is neither possible nor desirable. Each State has a different pattern of staff structure and pay scales. Within such staff structure and pay scales, we have to consider whether any injustice has been done to the Court Staff and any relief could be given on any accepted principle.

Turning to the common category posts and to their claim for higher pay scale, the views and comments from the High Courts and District Judges, coupled with the views of IIT, Delhi, are relevant for consideration. All of them have stated that holders of the common category posts in the Courts perform arduous work and have greater responsibility than their counterparts in Government.

The High Courts know the performance of the staff in the Subordinate Courts. The District Judges are directly in touch with the day-to-day work of Court Staff. We cannot doubt or discard their views merely on the ground that they are common category posts as contended by the State Governments.

There is also one additional factor in their favour.

In our report relating to judicial officers, we have made the following recommendations with a view to bring down the pendency of cases:

- i) that in all States there shall be a minimum 36 hours of judicial work per week;
- ii) that the number of declared holidays for Courts should not exceed 12 in a year; and
- iii) that till such period the arrears are brought down to manageable limits, the Court vacation period should be cut down by 15 days in a year.

The Supreme Court in the judgment dated 21st March, 2002 in W.P(C)No.1022 of 1989, inter alia, has observed that subject to the various modifications in the judgment, all other recommendations of the Shetty Commission are accepted. It has directed the State Governments to submit their compliance report by 30 September, 2002.

Needless to State that the aforesaid recommendations have to be implemented by all States and some States have already implemented them. The increased judicial work will necessarily add more work to the staff who inevitably have to shoulder higher burden and work still longer hours.

OUR RECOMMENDATIONS

The common category posts are mostly found in Group-D / Class-IV employees and Group-C / Class-III employees. The first type of common categories are found in

Group-D / Class-IV, generally in the cadre of Peons, Orderlies, Process Servers, Bailiffs etc.

In other Chapters, we have already considered their service conditions and recommended certain reliefs like promotional benefits, Time-Bound Promotion, Assured Career Progression, medical allowance etc..

The second type of common categories are in the ministerial cadres.

In view of the fact that they perform arduous work and take greater responsibility than their counterparts in the Government, they deserve certain reliefs.

I Taking into consideration the aforesaid views of the High Courts, District Judges and IIT, Delhi, we make the following recommendations :

- (a) All ministerial staff, other than those to whom we have recommended higher pay scales elsewhere, be granted one increment at the initial rate of the existing pay scale admissible to the respective post and / or time bound promotion pay scale, if any.
- (b) The new entrants shall be started at one stage above the minimum of the pay scale admissible to the post.
- (c) Those employees who have reached stagnation shall be granted similar benefit i.e. one increment at the initial rate of the pay scale admissible to the post he / she is holding, even though it is outside the upper limit of the pay scale.

II Grant of one increment at the initial rate of the existing pay scale to Stenographers whose pay scale has not been revised :

In the succeeding Chapter we have made recommendations regarding grant of higher pay scale to Stenographers and creation of more grades to improve promotional

avenues. But in some States, we have not recommended higher pay scale to certain grades of Stenographers.

We have examined whether such category of Stenographers, to whom the existing pay scale is retained, should be given the benefit of one increment at the initial rate, as has been given to other common category staff.

The Stenographers are similar to the ministerial staff and whatever we have said above must apply to Stenographers whose pay scale has not been revised.

As mentioned elsewhere, the Stenographers are the primary work force of the Judges. It is undisputed that they have to work at the beck and call of judges. Now a days, there would be increase of judicial working hours per week and may be reduction of holidays. Even otherwise, they generally work even after judges leave the Court.

In view of these considerations, we recommend that in States/UTs where we have retained the existing pay scale to Stenographers, such Stenographers shall be granted one increment at the initial rate of the pay scale admissible to them.

III. Grant of Special Allowance of Rs.150/- to Drivers :

In almost all States / UTs., drivers have been given the pay scale admissible to SDA / SDC, with the exception of one or two States / UTs.

In Karnataka, it is understood that Drivers are eligible for promotion as Senior Drivers. But this has not made any impact, especially in the Judicial Department, as there could be only one senior post for every 5 posts of Drivers.

The representatives of Delhi Drivers' Association who appeared before us, requested to create four grades as per OM No.F43019 / 54 / 96 / EST (D) dated 15/2/01 of the Ministry of Personnel and Public Grievances, Government of India. They also

requested for grant of overtime allowance, medical allowance, risk allowance and enhancement of travelling allowance. They also urged that accidental insurance scheme should be extended to them.

We do not think that it is possible for all States to accept those suggestions even if we recommend. Hence, we reject them.

But there are no two opinions that Court Drivers are subjected to severe strain. Apart from being punctual, they should be highly disciplined. The Drivers of the pool cars / vehicles have much more work to do.

These Drivers have to invariably come quite early in the day and stay until they are relieved by the Judges. Sometimes, they are retained for longer hours.

We, therefore, consider that the Drivers of Judges / Courts should be given some compensation for their arduous nature of work. Accordingly, we recommend that the Drivers shall be paid not less than Rs.150/- per month as Special Allowance.

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CHAPTER - VIII

PROCESS ESTABLISHMENT

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PROCESS ESTABLISHMENT

The Process Establishment in the Court is indispensable to our justice delivery system. The Process Servers and Bailiffs generally belong to this Establishment. But both these names do not figure in the Code of Civil procedure. The Civil procedure Code refers only to the "Proper Officer" of the Court to whom the process is entrusted for service or execution. These two words are, however, used in the Rules of practice framed by certain High Courts and also in the rules of recruitment.

Normally, summons and notices issued by the Court are served by officers who are termed as Process Servers, that is, one who serves the Court orders. The delivery warrant, attachment warrant, and sale proclamation are required to be executed. They are also called "Process" of the Court, but they need to be executed. The Officers who execute such process are called Bailiffs. But this nomenclature is not conclusive. Different States / UTs have different names to such posts.

In some States, there is only one cadre of posts in the Process Establishment. The incumbents in such posts perform the duties of both the Process Server and Bailiff. They are either called as "Process Servers" or "Bailiffs". The duties of the Process Server and the duties of the Bailiff are rolled into one.

There are States having two cadres in the Process Establishment; (i) Process Server; and (ii) Bailiff.

There are three States viz., Rajasthan, Uttar Pradesh and Uttaranchal having three cadres in the Process Establishment.

We will now examine the service conditions of the Process Servers in those States/U.Ts where there are two cadres or three cadres in the Process Establishment.

PROCESS SERVERS :

This cadre of Process Servers are distinct and different from the Bailiffs. They are only entrusted with the Court notices and summons for service to the parties and witnesses. They are not required to perform the duties of the Bailiffs.

Different States have got different names.

In Assam, the Process Servers are called as Jarikaraks. In Tamilnadu, they are called as Junior Bailiffs.

In West Bengal in the City Civil Court, the Process Server is termed as Bailiff. In Small Causes Court, he is termed as Summons Bailiff; and in Mofussil Court, he is called as Process Server. But as per the recent judgment of the Calcutta High Court, which will be presently considered, the Process Server in Mofussil Court not only serves notice and summons, but also executes warrants issued in execution of decrees and orders and all other work which the Bailiff is required to do.

In Lakshadweep, Attendant does the work of Process Server.

In the rest of the States / UTs viz., Andhra Pradesh, Chhattisgarh Delhi, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Manipur, Orissa, Punjab, Rajasthan, Tripura, Uttar Pradesh, Uttaranchal and Chadigarh, they are called as Process Servers.

CLASSIFICATION

The nomenclature and classification of the Process Servers vary from State to State/U.T. For immediate reference, it is set out in the following chart :

Sl. No.	Name of the State	Designation	Classification
1.	Assam	Jarikarak	Class IV
2.	Andhra Pradesh, Chhattisgarh, Delhi, Haryana, Himachal Pradesh, Kerala, Madhya Pradesh, Rajasthan, Uttar Pradesh, Uttaranchal, Chandigarh, Manipur and Tripura	Process Server	Group 'D' / Class IV
3.	Karnataka and Punjab	Process Server	Group 'C' / Class III /
4.	Orissa	Process Server / Peon	Class IV
5.	Lakshadweep	Process Server/ Attendant	Group 'D'
6.	Tamil Nadu	Junior Bailiff	Group 'C'
7.	West Bengal		
	(i) City Civil Court	Bailiff	Group 'D'
	(ii) Small Causes Court	Summon Bailiff	Group 'C'

QUALIFICATION:

The minimum qualification prescribed for direct recruitment of Process Servers also varies from State to State/U.T. It is from V Standard, VI Standard, middle Standard / VIII Standard, Non-Matric to Matriculation. In a couple of States like Orissa and Bihar, being a literate is sufficient.

PAY SCALE :

The pay scale of the Process Servers and similar other posts like Jarikarak and Junior Bailiff also varies from State to State.

In Assam, Jarikarak gets the pay scale of Rs.2490-4120, with non-matric as the minimum qualification. This appears to be the lowest pay scale admissible to the Process Servers amongst the States. The highest pay scale to this post of Process Server is in Tripura, with Rs. 2750-4925, with VIII Standard as the minimum qualification for direct recruitment.

The State-wise pay scales of the posts of Process Server / Jarikarak / Junior Bailiff, in different States / U.T are set out in the following chart :-

Sl. No.	Name of the State	Name of the Post	Pay Scale assigned	Qualification prescribed
1.	Assam	Jarikarak	2490-4120	Non-Matric
2.	Andhra Pradesh	Process Server	2550-4550	Pass in VII Std.
3.	Chhattisgarh	- do -	2550-3200 (Plus Rs.150 Spl. Pay)	V Std. Pass
4.	Delhi	- do -	2550-3200	Lower Middle Std. equivalent to VI Std.
5.	Haryana	- do -	2650-4000	Matriculation
6.	Himachal Pradesh	- do -	2720-4260	Middle Std.
7.	Karnataka	- do -	2600-4350	VII Std.
8.	Kerala	- do -	2650-4150	SSLC
9.	Madhya Pradesh	- do -	2550-3200 (Plus Rs.150 Spl. Pay)	V Std. Pass
10.	Manipur	- do -	2610-3540	VIII Std.
11.	Orissa	- do -	2550-3200	Literate

Sl. No.	Name of the State	Name of the Post	Pay Scale assigned	Qualification prescribed
12.	Punjab	- do -	2720-4260	Matriculation
13.	Rajasthan	- do -	2550-3200	V Std.
14.	Tamil Nadu	Junior Bailiff	2650-4000	VIII Std.
15.	Tripura	Process Server	2750-4925	- do -
16.	Uttar Pradesh	- do -	2550-3200	- do -
17.	Uttaranchal	- do -	2550-3200	- do -
18.	West Bengal			
	1. City Civil Court	Bailiff	Basic Grade 2600-4175 Grade-I 2700-4400	VIII Std.
	2. Small Causes Court	Summon Bailiff	2850-4680	VIII Std.
19.	Chandigarh	Process Server	2720-4260	Matriculation
20.	Lakshadweep	Process Server / Attendant	2650-4000	VII Std.

RECRUITMENT :

In Assam, Andhra Pradesh, Delhi, Rajasthan, Sikkim, Uttar Pradesh, Uttaranchal and Jammu & Kashmir, the Process Servers are directly recruited.

In Haryana, Himachal Pradesh, Karnataka, Punjab and Chandigarh, there is direct recruitment as well as promotion. Recruitment to 50% of the posts of Process Servers is made by direct recruitment and remaining 50% by promotion from Peons / Orderly etc.

In Tamil Nadu, Kerala, Madhya Pradesh, Chhattisgarh, Tripura and Lakshadweep, there is no specific percentage reserved either for direct recruitment or promotion.

PROMOTIONAL BENEFITS :

In Assam, Andhra Pradesh, Delhi, Haryana, Himachal Pradesh, Karnataka, Madhya Pradesh, Chhattisgarh, Manipur, Punjab, Tamilnadu, West Bengal and Chandigarh, the Process Servers are promoted to the cadre of Bailiffs or similar posts to the extent of 100% in the promotional cadre.

In Orissa, there are two cadres in the Process Establishment: (i) Process Server and (ii) Sale Amin. The Process Server is not eligible for promotion to the cadre of Sale Amin. The Process Server, however, would be eligible for promotion to the clerical cadre if he possesses the qualification prescribed for the clerical cadre.

In Rajasthan, the Process Establishment consists of three cadres: (i) Process Server, (ii) Asst. Nazir in the rank of LDC and (iii) Sale Amin in the rank of UDC. The Process Servers are not promoted to the cadre of Asst. Nazir or as Sale Amin. However, they would be eligible for promotion to the clerical cadre if they possess the prescribed qualification for the clerical cadre.

In Uttar Pradesh and Uttaranchal also, there are three cadres: (i) Process Server, (ii) Amin Gr. II and (iii) Amin Gr. I. Here also, the Process Servers are not directly promoted to the cadre of Amin Gr. II or Amin Gr. I. Amin Gr. II and Amin Gr. I are directly recruited or promoted from lower cadres. The Process Servers are promoted to the clerical cadre if they possess the qualification prescribed for clerical cadre.

VIEWS OF THE HIGH COURTS, STATE GOVERNMENTS AND ASSOCIATIONS : HIGH COURTS :

The High Courts of Kerala, Patna, Jharkhand, Andhra Pradesh, Rajasthan, Karnataka, Gauhati, Shillong Bench, Punjab and Haryana have stated that the Process Servers may be given the pay scale of the Constables.

But, High Courts of Allahabad, Madhya Pradesh, Chhattisgarh, Uttaranchal, Himachal Pradesh, Sikkim and Gauhati are not in favour of providing such pay scale to the Process Servers.

STATE GOVERNMENTS :

The State Governments of Goa, Karnataka, Nagaland, Mizoram, Daman & Diu, Dadra and Nagar Haveli, Chandigarh and Andaman & Nicobar Islands are in favour of allowing the pay scale of Constables to the Process Servers. But the other States are against such benefit.

In Tamilnadu, the Process Server is classified as Group 'C', with the pay scale of Rs.2650-4000. It is a Group 'C' pay scale in that State as per the recent classification of posts based on pay scales as per the G.O.Ms NO.280 dated 28.11.1998.

In Karnataka also, the Process Server is in Group 'C'. But it is only for mental satisfaction. The post is not given the pay scale of Group 'C'. It carries the pay scale of Rs. 2600-4350 admissible to the Group 'D' employees.

ASSOCIATIONS :

The Staff Associations of all States/UTs have pleaded for granting a higher pay scale to Process Servers if not that of the Police Constable, having regard to their onerous duties and responsibilities.

DUTIES AND RESPONSIBILITIES OF THE PROCESS SERVERS :

The duties and Responsibilities of the Process Servers or of similar posts, among others, are to serve summons and notice issued by Courts. It is provided under Order V Rules 10 to 20 of the Code of Civil Procedure and by the Rules, if any, made by the High Courts.

The Service of Summons shall be made by delivering or tendering a copy thereof signed by the Judge or such officer as he appoints in this behalf and sealed with the seal of the Court (Rule 10). Where there are more Defendants than one, service of summons shall be made on each defendant (Rule 11).

Wherever it is practicable, service shall be made on the defendant in person, unless he has an agent to accept service, in which case, service has to be effected on such agent (Rule 12).

In a suit relating to any business or work against a person who does not reside within the local limits of the jurisdiction of the Court, service of process has to be effected on any manager or agent, who, at the time of service, personally carries on such business or works for such persons within such limit (Rule 13).

In a suit to obtain relief respecting, or compensation for wrong to, immovable property, where service cannot be made on the defendant in person, it may be made on any agent of the defendant in charge of the property (Rule 14).

If the defendant is absent from his residence at the time when the service of summons is sought to be effected on him at his residence and there is no likelihood of his being found at the residence within a reasonable time and he has no agent empowered to accept service of summons on his behalf, service may be made on any adult member of the family, whether male or female, who is residing with him (Rule 15).

The Process Server who delivers or tenders a copy of the summons to the defendant personally, or to an agent or other person on his behalf, shall obtain the signature of the person to whom the copy is so delivered to an acknowledgement of service endorsed on the original summons (Rule 16).

Where the defendant or his agent or such other person on his behalf, refuses to sign the acknowledgement, or where the Process Server, after using all due and reasonable diligence, cannot find the defendant, shall affix a copy of the summons on the outer door or some other conspicuous part of the house in which the defendant ordinarily resides or carries on business or works for gain, and shall return the original to the Court from which it was issued, with a report endorsed thereon or annexed thereto stating that he has so affixed the copy, the circumstances under which he did so, and the name and address of the person (if any) by whom the house was identified and in whose presence the copy was affixed (Rule 17).

The Process Server shall, in all cases in which the summons have been served personally, endorse or annex, or cause to be endorsed or annexed, on or to the original summons, a return stating the time when and the manner in which the summons was served, and the name and address of the person (if any) identifying the person served and witnessing the delivery or tender of the summons (Rule 18).

Substituted Service : If Court orders for substituted service of summons, the Process Server shall affix a copy of summons in some conspicuous place in the Court-house, and also upon some conspicuous part of the house (if any) in which the defendant is known to have last resided or carried on business or personally worked for gain, or in such other manner as the Court directs (Rule 20).

Process Servers have to effect the service of orders of Temporary Injunction and Prohibitory orders on Defendants/Respondents/Garnishee.

OUR RECOMMENDATIONS

In certain States, the Process Servers are included in Group 'C' or Class III. In some States, they have been classified as Group 'D' or Class IV. We do not want to recommend that those who are entrusted with the duties of serving the notice and

summons should be uniformly classified as Group 'C' / Class III or Group 'D' / Class IV. The existing classification in the States may continue since each State has different yardstick for classification of the posts.

However, with regard to minimum qualification, pay scale, method of recruitment, and promotional benefits, we recommend as follows :

1. *Qualification*

Having regard to the nature of the duties required to be performed by the Process Servers, it must be stated that they must be fairly familiar with the State language and English. They have to record the manner of service and sufficiency of service in English, when the notice is issued by the High Court or Supreme Court. We, therefore, recommend that the minimum qualification to Process Servers and others, who are required to serve only Court notice and summons **should be VIII Standard or equivalent qualification.**

2. *Pay Scale*

We have carefully considered the various views and comments offered by different High Courts. In our opinion, it is not possible to give the pay scale of the Constables to the Process Servers where there is a separate cadre of Bailiffs. The Constables are trained not only to serve the summons and execute the warrants, but also to maintain law and order and to assist investigation, which the Process Servers are not required to do.

Elsewhere, we have suggested that the Process Servers should be made eligible for promotion to the cadre of Bailiffs. We have also suggested that the pay scale of the Bailiffs should be the same as that of the LDC / LDA. Therefore, the pay scale of the Process Server should be lower than that of the Bailiffs.

Taking all the facts and circumstances of the case, we consider that the pay scale of the Process Server in each State where there is a separate cadre of Bailiffs **should be the highest pay scale available for Group 'D' / Class-IV / Grade IV employees in the respective State or the scale which is immediately below the pay scale of LDC/ LDA.**

3. *Method of Recruitment*

To afford an opportunity for promotion to the cadre of Peons etc., we suggest that the Process Servers cadre should be a mixed cadre. It should be a promotional cadre for Peons and like posts with certain minimum years of experience. We recommend that appointment to 50% of the posts of Process Servers be made by Direct Recruitment and 50% by promotion from Peons, Orderlies etc., having the minimum qualification of VIII Std.

4. *Promotional Benefits*

(i) In the earlier chapter dealing with the "Human Resource Management", we have recommended that there shall be reservation of 25% posts in Group 'C', clerical cadre for promotion of Group 'D' employees. Consistent with that principle, we recommend that the Process Servers who fall under the Group 'D' / Class IV be considered for promotion along with the other categories of posts in Group 'D' / Class IV, to the extent of 25% posts in the clerical cadre in the ratio of 1:2. It is left to each State and Union Territory to prescribe the minimum service in Group 'D' for eligibility for consideration for such promotion.

(ii) In Karnataka, Tamilnadu and Punjab, the Process Servers are in Group 'C' / Class III. But their pay scale is very much lower than the pay scale of clerical cadres who are ordinarily in Group 'C' / Class III. Particularly in Karnataka, the Process Servers are

included in Group 'C' without the entitlement of the pay scale provided to the Group 'C' employees. They are, in fact, getting the pay scale of the Group 'D'.

In these three States, we recommend that to the extent of 25% posts in the Clerical cadre, the Process Servers be considered for promotion along with the other Group 'D' / Class IV employees **in the ratio of 1:2.**

(iii) We further recommend that in each State/UT, there should be at least TWO CADRES in the Process Establishment: (i) cadre of "Process Servers" and (ii) cadre of "Bailiffs".

Thus, the Process Servers may be provided with two-fold promotional avenues.

- (i) to the clerical cadre of Group 'C'/Class III
- AND
- (ii) to the cadre of Bailiffs.

BAILIFFS :

We have examined the service conditions of the "Process Server" in the Process Establishment in the Courts where there are two or three cadres like Process Servers and Bailiffs/Amins etc. We now proceed to consider the service conditions of the Officer commonly known as "Bailiff" or "Amin".

The word "**Bailiff**" is not used in the Code of Civil Procedure.

The meaning of the word "**Bailiff**", as given in the Concise Oxford Dictionary, is as follows :

"A sheriff's Officer who executes writs and processes and carries out distrains and arrests."

In the Encyclopaedia (BRITANNICA, VOL. 2, p.1047), the following meaning of the word "Bailiff" is found :

"BAILIFF AND BAILIE" - A Bailiff is usually a minor Court official with police authority to protect the Court and with the power to serve and execute legal process. In earlier times it was a title of more dignity and power. The vestiges of the earlier meaning may be found in the use of the word in England to mean the Chief Magistrate of a village and in Scotland to denote an Official appointed to exercise a local delegated jurisdiction, civil or criminal ("Bailie"). In France, the word "bailli" once had the same meaning as seneschal, the primary representative of the feudal lord, who often exercised judicial functions."

THE DUTIES OF BAILIFF/AMIN AS PROVIDED UNDER ORDER XXI & ORDER XXXVIII OF CPC

Where the property to be attached is movable property, other than agricultural produce, in the possession of the judgment debtor, the Serving Officer has to execute the warrant of attachment by actual seizure and shall keep the property in his own custody or in the custody of one of his subordinates, and shall be responsible for the due custody thereof, provided that when the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, the attaching officer may sell it at once.(Order XXI Rule 43)

Where the property to be attached is agricultural produce, Serving Officer shall affix a copy of attachment warrant -

- (a) on the land on which such crop is grown or
 - (b) on the threshing floor or place for treading out grain.
- (Order XXI Rule 44)

Where the property to be attached is immovable property, Serving Officer shall take necessary steps to proclaim at some place on or adjacent to such property by beat of drum or other customary mode and a copy of the order shall be affixed on a conspicuous part of the property and then upon a conspicuous part of the Court-house, and also in the office of the Collector of the District.(Order XXI Rule 54)

Proclamation for sale of immovable property shall be made in the same manner of attachment of immovable property. (Order XXI Rule 67)

While executing the delivery warrants ordered by the Court, if there are movables in the house to which the Decree holder has no claim and judgement Debtor is absent or if present does not immediately remove the same, the Serving Officer shall make an inventory of the articles so found with their probable value in the presence of respectable persons on the spot and attested by them and leaving the articles in the custody of Decree Holder after taking a bond from him for keeping the articles in safe custody pending order of the Court (Order XXI Rule 95).

Attachment before judgment of property under Order XXXVIII has to be effected in the manner provided for attachment of property in execution of a decree. (Order XXXVIII Rule 7)

It will be seen from the aforesaid that the Bailiff has relatively higher duties and responsibilities with more powers than that of the Process Server simplicitor. The Bailiff has the powers to attach property, publish proclamations thereto, execute delivery warrants, making inventory of the articles and entrusting of the articles for safe custody etc.

The following chart gives the State-wise nomenclature, minimum qualification for recruitment, method of recruitment and the pay scale of the “BAILIFF”, where the Process Establishment consists of two cadres; (i) Process Servers and (ii) Bailiffs / Amins.

Sl. No.	Name of the State	Name of the Post	Pay Scale assigned	Qualification prescribed	Method of Recruitment
1	2	3	4	5	6
1.	Assam	Head Jarikarak	2610-4840	Non-Matric	By promotion from Jarikaraks
2.	Andhra Pradesh	Amin / Bailiff	3130-6150	VIII Std., (SSC for D.R.)	By Promotion from P.S. / Peon / Attender or by D.R. or by Transfer.
3.	Chhattisgarh	Sale Amin	3050-4590 (Plus Rs.150 Spl.Pay)	Higher Secondary	By D.R. or promotion. (% not fixed)
4.	Delhi	Bailiff	2650-4000	VIII Class Pass	By promotion from Process Servers
5.	Haryana	Bailiff	2650-4000 Spl. Pay Rs.40/-	Matriculation	By promotion from Process Servers
6.	Himachal Pradesh	- do -	3120-5160	Middle Std.	By promotion from Process Servers
7.	Karnataka	- do -	3000-5450	VII Std.	By promotion from Process Servers
8.	Kerala	Amin	3050-5230	SSLC	By promotion from Attenders or by transfer from Kerala Last Grade Service/or by DR.
9.	Maharashtra	Bailiff / Head Bailiff	3050-4590	Pass in VII Std. for D.R. (In Court of Small Causes - SCC for D.R.)	By D.R. or promotion. (% not fixed)

1	2	3	4	5	6
10.	Madhya Pradesh	Sale Amin (Plus Rs.150 Spl.Pay)	3050-4590	Higher Secondary	By D.R. or promotion. (% not fixed)
11.	Manipur	Bailiff	2750-4400	VIII Std.	By promotion from Process Servers.
12.	Orissa	Salaried Amin	3200-4900	Matriculation with Revenue Inspector's Training.	By D.R.
13.	Punjab	Bailiff	3120-5160	Matriculation	By Promotion from Jr.Bailiff.
14.	Rajasthan	Asst. Nazir (in the Rank of LDC)	3050-4590	Pass in Secondary Examination	
		Sale Amin (in the Rank of UDC)	4000-6000	- do -	
15.	Tamil Nadu	Sr.Bailiff	3200-4900	Matriculation	By promotion. from Lower cadres or by D.R. or by Transfer.
16.	Tripura	LD Clerk attends to the duties of Bailiffs			
17.	Uttar Pradesh	Amin Gr.II	3050-4590	Knowledge of Urdu, Hindi, Arithmetic, Land Surveying	By promotion from Lower Cadres or by D.R.
18.	Uttaranchal				
		Adin Gr.I	4000-6000	- do -	- do -
19.	West Bengal				
	1. City Civil Court	Seal Bailiff	3350-6325	Matriculation	By Transfer from LD Asst.
	2. Small Causes Court	Seal Bailiff	3350-6325	Matriculation	- do -
	3. *Mofussil Court	Process Server	3350-6325	VIII Std.	By Promotion from Group 'D'

1	2	3	4	5	6
20.	Chandigarh	Bailiff	3120-5160	Matriculation	By Promotion from Process Servers
21.	Lakshadweep	Services of Amins of Revenue Department are utilised.			

* In view of the judgment in Writ Petition No.Civil Rule 5139(w) of 1981 dt. 24.9.1986 passed by the High Court of Calcutta, Process Servers working in Mofussil Courts of West Bengal are entitled to the same pay scale as applicable to the Seal Bailiffs of City Civil Court, Calcutta and Presidency Small Causes Court, Calcutta.

It will be seen from the aforesaid Chart that the minimum qualification prescribed for the post of the Bailiff / Amin / Head Jarikarak / Sale Amin / Seal Bailiff varies from VII Standard, VIII Standard, Middle Standard, Non-Matric to Matriculation and Higher Secondary.

It may also be seen that the pay scale varies from State to State.

So far as the posts of Bailiffs are concerned, as seen from the Chart elsewhere set out, they are fully promotional cadre from the cadre of Process Servers, in as many as nine States, viz., (1) Assam; (2) Delhi; (3) Haryana; (4) Himachal Pradesh (5) Karnataka; (6) Kerala; (7) Manipur; (8) Punjab and (9) Chandigarh.

In the remaining States viz., Andhra Pradesh, Madhya Pradesh, Chhattisgarh, Rajasthan, Tamilnadu, Uttar Pradesh, Uttaranchal and West Bengal, there is direct recruitment as well as promotion. It is by different percentage.

In Orissa, the post of Sale-Amin is filled only by direct recruitment.

The Process Establishment in States which are having only one cadre of posts.

There are eleven such States / UTs having only one cadre in the Process Establishment. They carry different nomenclatures, different pay scales and different modes of recruitment.

They are set out in the following Table :

Sl. No.	Name of the State	Name of the Post	Pay Scale assigned	Qualification prescribed	Method of Recruitment
1.	Bihar	Process Server / Attendant	2550-3200	Literate	By D.R
2.	Goa	Bailiff	2650-4000	Middle Class or VIII Std.	50% by D.R. 50% by promotion from Peon/Havildar
3.	Gujarat	Bailiff	3050-4590	VII Std.	25% by D.R. 75% by promotion from Group 'D'
4.	Jharkhand	Process Server	2550-3200	Literate	By D.R.
5.	Jammu & Kashmir	Process Server	3050-4910	Middle Pass	By D.R
6.	Meghalaya	Process Server	2440-3680	Non-Matric	By DR (Preference given to Peons)
7.	Sikkim	Process Server	2850-4170	IV Std.	By D.R
8.	West Bengal (Mofussil Court)	Process Server	Basic Gr. 2700 -4400 Grade I 3350 -6325	Pass in School Final or Equivalent exam	By Promotion from Group-D
9.	Pondicherry	Amin	2650-4000	VIII Std.	By promotion from Peons.
10.	Daman & Diu	Bailiff	2650-4000	Non-SSC	-
11.	Dadra & Nagar Haveli	- do -	2650-4000	VII Std.	-

It will be seen from the aforesaid that the pay scale of the above categories of posts ranges from Rs.2440-3680 to Rs.3050-4910.

In Gujarat, Maharashtra and Jammu & Kashmir, the post carries the pay scale which is admissible to the Lower Division Assistant in those States. In other States, the pay scale given to the post is very much lower than the pay scale of the Lower Division Assistant in those States.

We have received lot of representations from the Staff Associations requesting to recommend the creation of two cadres in the Process Establishment with higher pay scales, more promotional avenues and more travel expenses.

We have ascertained the views of all the High Courts and State Governments in this regard. They are as under:

KERALA High Court has stated that the demand of the Bailiffs (Amins) in the State is genuine. Creation of more posts is also essential to execute the Court orders. Travelling Allowance provided to them is not at all sufficient. Due to the increase in the transportation expenses, it is desirable to pay them actual travelling allowance or Rs.500/- p.m. whichever is less.

CALCUTTA High Court has Stated that higher pay scale should be introduced for Senior Bailiffs / Process Servers and they should be provided with more promotional benefits. Travelling Allowance also should be enhanced.

PATNA High Court has stated that they do not have any post of Bailiff. Nevertheless, adequate posts of Senior and Junior Bailiffs in each Court should be there. They should be given promotional benefits with higher pay scale as their duties and responsibilities are very important. They may also be allowed more Travelling Allowance keeping in view the expenses on travelling.

High Court of JHARKHAND has agreed with the views of Patna High Court with a rider that the demand of the Bailiffs for creation of adequate posts of Senior Bailiffs with higher pay scale is justified.

ALLAHABAD High Court has stated that creation of more posts of Senior Bailiff may not be of much help, but they should, however, be paid more Travelling Allowance to meet the higher travelling expenses.

High Court of UTTARANCHAL has stated that there are no posts of Bailiffs in the Districts of that State, but it is essential to provide adequate posts of Bailiffs and also adequate posts of Senior Bailiffs with higher pay scale. The High Court is also of the view that higher TA and DA should be provided.

ANDHRA PRADESH High Court is also of the view that it is desirable to have a Senior Bailiff in the cadre of Junior Assistant for each Court. It has further stated that the TA paid to the Amins and Process Servers is low and needs upward revision, in view of the abnormal increase in the bus fares.

BOMBAY High Court has stated that there are posts of Senior Bailiffs / Head Bailiffs in the State which are considered to be the promotional posts. But in the revision of pay scales by the V Pay Commission, both the posts, i.e., Bailiff and Head Bailiff have been given one and the same scale of Rs.3050-4590 and the Head Bailiff is given a special pay of Rs.150/-. High Court suggests that this special pay of Rs.150/- may be added to the basic pay of the Head Bailiff to enable him to get other corresponding allowances and the consequential pensionary benefits. With regard to Travelling Allowance, the High Court has stated that the Bailiffs are getting TA as per usual rate which is adequate.

High Court of RAJASTHAN has stated that the work of the Bailiff is performed by Lower Division Clerk rank officially designated as Assistant Nazir (in outline Courts)

and Sale Amin (of UDC Cadre) at the District Judge head quarters. They have got enough promotional avenues. But general revision of the travelling allowance shall meet the grievance of the Bailiffs.

ORISSA High Court has stated that the nature of duties of the Process Servers does not justify any post of Senior Process Server. But the demand for more Travelling Allowance to meet the higher travelling expenses may be considered favourably.

High Court of GUJARAT is not in favour of creating the cadre of Senior Bailiffs.

High Court of HIMACHAL PRADESH has stated that since Assured Career Progression Scheme is also applicable to the Bailiffs, there is no need for creation of Senior Bailiff posts. However, they could be paid more Travelling Allowance.

KARNATAKA High Court is also not in favour of creating the post of Senior Bailiff. However, it has agreed that enhancing the Travelling Allowance to meet the higher travelling expenses deserves consideration. It has suggested to step up the TA upto Rs.250/- subject to periodical revision.

GAUHATI High Court is of the view that the post of Senior Bailiff with higher pay scale may be created at selected places where the workload demands. TA may be paid to them at the same rate as given to other employees.

PUNJAB & HARYANA High Court has stated that under the Rules, the Bailiffs are shown in Group 'C' but they are being paid the pay scale of Group 'D' like Process Servers. The duties of Bailiffs are very important and are responsible in nature as they have to execute the warrant of attachment, warrant of possession etc. They may, therefore, be given a higher pay scale keeping in view the nature of their duties and responsibilities.

MADRAS High Court has stated that the Bailiffs are considered for promotion to the posts of Copyists, Examiners and Readers in addition to the post of Senior Bailiff and creation of more number of posts of Senior Bailiff should be in relation to the workload. The High Court, however, has no objection to enhance the Travelling Allowance.

As regards the views of the State Governments, it may be stated that some State Governments are agreeable with the views expressed by their respective High Courts, but many State Governments are against creation of the cadre of Senior Bailiff.

In 16 States, the Process Establishment in Subordinate Courts consists of two cadres: (i) Process Servers and (ii) Bailiffs. The different States have different nomenclature like Amin / Head Jarikarak / Sale Amin.

The method of Recruitment to the cadre of Bailiffs where the Process Establishment consists of two cadres; [Process Servers + Baliffs] :

Appointment to the cadre of Bailiffs is made either by promotion or by direct recruitment. The promotion is from the cadre of Process Servers or Process Server / Attender / Peon.

In some States, there is direct recruitment to such cadre of Bailiffs. The percentage for direct recruitment and promotion has not been specified except in the State of Rajasthan, where Assistant Nazir in the rank of LDC is a promotional post to the extent of 15% from Class IV and 85% direct recruitment. In West Bengal, the Seal Bailiff is appointed by transfer from Lower Division Assistant.

Recruitment to the cadre of Bailiffs where the Process Establishment consists of only one cadre is as follows :

In Bihar, Jharkhand, Jammu & Kashmir and Sikkim, they are directly recruited. In Meghalaya also, it is by direct recruitment, but preference is given to Peons.

In Goa, 50% by promotion from Peon/Havildar and 50% by direct recruitment.

In Gujarat, it is 25% by direct recruitment and 75% by promotion from Group 'D' employees.

In Pondicherry, it is by promotion from Peons.

The next promotional avenues to such Bailiffs are as follows :

In Bihar, Jharkhand, Goa and Maharashtra, they are eligible for promotion to the cadre of Junior Assistant / LDC if they possess the qualification prescribed for the post of Junior Assistant / LDC.

As regards Gujarat, Jammu & Kashmir, West Bengal, Pondicherry, Daman & Diu and Dadra & Nagar Haveli, we have no correct information regarding the further promotional avenues available to the cadre of Bailiffs or Process Servers or Sale Amins.

OUR RECOMMENDATIONS

- A. THE CADRE OF BAILIFF WHERE THE PROCESS ESTABLISHMENT CONSISTS OF TWO CADRES;
viz: PROCESS SERVERS AND BAILIFFS

(i) ***Recruitment***

While dealing with the case of the Process Servers, we have indicated that the Process Servers should be a mixed cadre, i.e., 50% by direct recruitment and 50% by promotion, with the minimum qualification of VIII Standard.

Bailiff is an important Officer of the Court. The post carries considerable powers and responsibilities. The exercise of the power, if not just and reasonable, would prejudicially affect the rights of third parties. The qualification to be prescribed to this post must be commensurate with the powers and duties of the post.

It seems to us that it is proper that the cadre of Bailiffs instead of purely a promotional cadre or by direct recruitment or transfer (as found in West Bengal) be made a mixed cadre. The percentage for direct recruitment and promotion to the post of Bailiff is left to the discretion of the respective High Courts / States / UTs.

(ii) ***Qualification***

We have earlier seen that the Bailiffs have higher duties and responsibilities. They must be familiar with the procedural laws as well. They must, therefore, be familiar with the local language and English.

We, therefore, recommend that the minimum qualification should not be less than Matriculation for direct recruitment. Even for promotion to this cadre from lower cadre, persons having Matriculation qualification alone should be considered.

(iii) Pay Scale

We recommend that the same pay scales which are admissible to the Assistant / LDC in the respective States / UTs be given to the cadre of Bailiffs / Amins / Head Bailiffs / Sale Amin.

B. RECOMMENDATION FOR THE PROCESS ESTABLISHMENT CONSISTING OF ONLY ONE CADRE :

As stated earlier, there are 11 States where the Process Establishment consists of only one cadre.

In Bihar, Jharkhand, Jammu & Kashmir, Maharashtra, Meghalaya, Sikkim and West Bengal, there is direct recruitment to the cadre.

In Goa, it is 50% by direct recruitment and 50% by promotion from Peon/Havildar.

In Gujarat, it is 25% by direct recruitment and 75% by promotion from Group 'D'.

The grievance of the Staff Associations is that there is no adequate promotional opportunity in this cadre. They have pleaded for creating a senior cadre of Bailiffs. Some High Courts have agreed for creation of more posts of Bailiffs on par with the Junior Assistants or for creating a senior cadre of Bailiffs.

In certain States, this cadre of Bailiffs is in the pay scale of the Lower Division Assistant. If we recommend for creation of senior cadre of Bailiffs, then it must get the pay scale higher than that of the Lower Division Assistant, which in our opinion, may not fit into the set up of the staff structure in most of the States.

Instead, we recommend that the existing cadre in the Process Establishment, where there is only one cadre, should be suitably restructured into two cadres, having regard to the needs and requirements of each Court. The two cadres are: (i) Process Servers of a lower cadre who are required to do generally serving processes and summons etc., and (ii) Bailiffs / Amins or whatever nomenclature they are having in the respective States, who are required generally to execute the warrants in execution of the decrees and orders.

The pay scale and method of recruitment for Process Servers and Bailiffs would be as hereinabove mentioned.

C. RECOMMENDATION FOR THE PROCESS ESTABLISHMENT CONSISTING OF THREE CADRES :

Rajasthan, Uttar Pradesh and Uttaranchal are the only three States having three cadres in the Process Establishment.

RAJASTHAN :

- (i) Cadre of Process Server, (ii) Cadre of Assistant Nazir and (iii) Cadre of Sale Amin.

The Process Servers are not eligible to be promoted as Assistant Nazir. Recruitment to the post of Assistant Nazir is made up by direct recruitment to the extent of 85% and by promotion from Class IV employees to the extent of 15%. The post of Sale Amin is in UDC cadre. Appointment to the post is made up by promotion from Asst. Nazir.

UTTAR PRADESH :

In Uttar Pradesh, there are three cadres, viz., (i) Process Servers; (ii) Amin Grade II; and (iii) Amin Grade I. Here again, the Process Servers are not eligible to be promoted as Amin Grade II. Like Asst. Nazirs in Rajasthan, recruitment to the posts of

Amins Grade II in Uttar Pradesh is also made by direct recruitment to the extent of 85% and by promotion from Group 'D' employees to the extent of 15%. Appointment to the post of the Amin Grade-I is made either by promotion or by direct recruitment. The percentage, however, is not fixed.

We recommend that the Process Servers in Rajasthan should be made eligible for promotion to the post of Asst. Nazir to the extent of 50% and the other 50% may be by direct recruitment. Likewise, in Uttar Pradesh the Process Servers should be made eligible for promotion to the cadre of Amin Grade II to the extent of 50%.

UTTARANCHAL :

The above recommendation in respect of Uttar Pradesh will also apply to Uttaranchal.

In Rajasthan, Uttar Pradesh and Uttaranchal the posts of Asst. Nazir and Amin Grade II are already in the pay scale of Rs.3050-4590, which is the pay scale of the Lower Division Assistant in the respective States. Hence no higher pay scale is called for.

TRAVELLING ALLOWANCE :

The Officials in the Process Establishment have to travel long distances for serving process of the Court. The process of the Court includes not only summons and notice, but also warrants for execution of a decree, attachments etc. The main grievance of the staff in the Process Establishment is that the Travelling Allowance paid to them is woefully inadequate.

We have been able to ascertain the travelling allowance being paid to the Process Servers and Bailiffs in certain States/UTs. It is as follows :

I.	ANDHRA PRADESH	Rs.18 per day for a maximum of 20 days in a month.
II.	HIMACHAL PRADESH	Rs.25 per month
III.	BIHAR, JHARKHAND HARYANA & PUNJAB	Rs.30 per month
IV.	GOA	Rs.35 per month
V.	ORISSA	Rs.40 per month
VI.	KERALA	Rs.600 per annum for Process Servers and Rs.720 per annum for Amins.
VII.	KARNATAKA	Rs.125 per month
VIII.	MADHYA PRADESH	Rs.150 per month
IX.	TAMILNADU	Rs.140 per month to Jr.Bailiff Rs.150 per month to Sr.Bailiff
X.	WEST BENGAL	Rs.80 per month to Seal Bailiff Rs.49 per month to Bailiff
XI.	ASSAM GUJARAT MAHARASHTRA & RAJASTHAN	Actual T.A

At the time of personal hearing the representatives of some High Courts, State Governments and Staff / Bailiffs Associations have orally submitted as follows :

High Court of
ANDHRA PRADESH

Amins / Bailiffs travel nearly 100 KMs in a day in towns and accordingly Rs.25/- per day is fixed as Travelling Allowance.

High Court of
KARNATAKA

Process Servers / Bailiffs travel about 20 km per day in Bangalore and 5 to 10 km. a day in other places.

State Govt. of
ASSAM

They travel 400 KMs in a month

The Staff Associations/
Bailiffs

The Process Servers / Bailiffs generally cover a distance of 400 KMs in a month in States like Bihar, Orissa, West Bengal, Rajasthan, Jharkhand, Karnataka, Tamilnadu and Tripura

And 1000 KMs to 2,500 KMs in States like Assam, Gujarat and Punjab.

The All India Judicial Employees' Confederation has submitted that the Process Server / Bailiff has to travel 5 - 80 KMs per day for service of notice / summons and for execution of warrants and they are required to work for 20 days in a month.

We have earlier set out the views and comments of the High Courts and State Governments on the demand of the Staff Associations for enhanced TA/DA. To recall the same for the immediate reference, the views are as follows:

High Courts of ANDHRA PRADESH, ALLAHABAD, CALCUTTA, JHARKHAND, KARNATAKA, KERALA, MADRAS, ORISSA, PATNA AND WEST BENGAL, have favoured enhancement of T.A to the Bailiffs. KARNATAKA High Court has suggested Rs.250/- per month subject to periodical review. KERALA High Court has suggested actual T.A or Rs.500/- per month, whichever is less. The High Court of JHARKHAND has favoured the payment of Rs.100/- per month. High Courts of BOMBAY and GUJARAT have not agreed for payment of higher T.A and they have stated that the T.A is paid as per Rules and that is sufficient.

GAUHATI High Court has stated that T.A may be paid to Bailiffs as paid to other employees, while High Court of HIMACHAL PRADESH has stated that actual T.A may

be paid if the Bailiffs travel beyond 8 KMs. from the Headquarters. RAJASTHAN High Court is of the opinion that general revision and enhancement of T.A would meet the grievance of the Bailiffs.

Other High Courts have not expressed any views.

The Governments of GOA, KARNATAKA, NAGALAND, ORISSA, WEST BENGAL, DADRA & NAGAR HAVELI (UT), DAMAN AND DIU (UT) AND DELHI (NCT) have also favoured enhancement of T.A to the Bailiffs.

The KARNATAKA Government has stated that T.A at Rs.25/- for each working day may be paid. The NAGALAND Government has stated that All India T.A may be worked out, The ASSAM Government has stated that T.A may be given at the same rate as given to other employees of similar categories.

The Governments of GUJARAT and MAHARASHTRA are not in favour of giving enhanced T.A to Bailiffs.

The KERALA Government has stated that revision of T.A would be examined at the time of general revision of allowance.

The other State Governments have not given their reaction or comments.

OUR RECOMMENDATIONS

The nature of duties of Process Servers and Bailiffs involve extensive travelling. There is escalation in the cost of transportation. After carefully considering the views expressed by various High Courts and State Governments, we recommend for grant of Fixed Travelling Allowance of not less than Rs. 200/- per month.

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CHAPTER - IX

**BENCH CLERK / READER /
BENCH ASSISTANT / PESHKAR**

CHAPTER - IX

BENCH CLERK / READER / BENCH ASSISTANT / PESHKAR

In this Chapter, the word “Bench Clerk”, means and includes Reader, Bench Assistant and Peshkar etc., as known in their respective States / UTs.

In our system of administration of justice, the Presiding Officer of the Court sits on the Dais (Bench), which is about four feet above the ground level. He is assisted by an official who is generally called as “Bench Clerk”. In a few States, he is styled either as Reader, Bench Assistant or Peshkar*. He either sits below the Dais or on the side of the Dais.

The following table shows different designations of such officers in different States :

States/UTs	Designation
Andhra Pradesh, Assam, Bihar, Goa, Jharkhand, Kerala, Karnataka, Maharashtra, Manipur, Orissa, Tamil Nadu, Tripura, West Bengal And in all the Union Territories (except Delhi and Chandigarh)	Bench Clerk
Delhi, Chandigarh, Haryana, Chattisgarh, Himachal Pradesh, Jammu & Kashmir, Madhya Pradesh, Punjab, Rajasthan, Uttaranchal, Uttar Pradesh	Reader
Meghalaya	Bench Assistant
Sikkim	Peshkar

* A Manager/a native officer in Court whose duty is to lay all the necessary papers before the Court, also called Reader(See *A Concise Law Dictionary*, Eng.-Urdu Urdu-Eng., 1955, p.155).

In the State of Gujarat, the work of the Bench Clerk (now Sheristedar) is entrusted to the Superintendent. Unlike in the other States, he sits on the dais, to prepare Roznama of each matter and is also expected to assist the Judge, in the functioning of the Court. He supervises the work of Junior Clerk working in the same Court, in regard to issuance of process, witness summons etc.,

The designation, pay scales, mode of recruitment and qualification prescribed for the post of "Bench Clerk" in different States / UTs. are furnished in the **ANNEXURE** to this Chapter.

DUTIES AND RESPONSIBILITIES

The position of the Bench Clerk is pivotal. Around him revolves the entire proceedings of the Court. His vital role in day to day conduct of the Court Proceedings cannot be over-emphasised.

He could be properly termed as a Court Master / Court Officer. In fact, the corresponding Officer in some High Courts and Supreme Court is called as Court Master / Court Officer.

We may briefly set out the duties and responsibilities stemming from and incidental to the nature of work of the Bench Clerk. The following may be considered as more important:

APPEARANCE

Court manners of the Bench Clerk should be impeccable. He should dress neatly with the prescribed dress. He should be smart, polite, courteous and show utmost respect to the Bench.

DECORUM OF COURT

(i) Whenever the Court assembles or rises, the Bench Clerk should rise from his seat and bow to the Court. He should ensure that every one in the Court hall also rises from his seat, when the Judge enters or rises.

(ii) He should maintain the dignity and decorum of the Court. He should not indulge in unnecessary conversation, either with the advocates or parties. He should not permit them to do things, which are not permitted by Rules. His only concern should be the proper conduct of Court work.

(iii) He should always try to maintain a pleasant and congenial atmosphere in the Court. The Court atmosphere and its surroundings should be quiet and peaceful and if there is any disturbance, he should issue necessary instructions for the elimination of such disturbance.

(iv) He should see that strangers and outsiders are not allowed to idle away, sleep or to do such other acts in the Court, not conducive to the dignity of the Court.

PUNCTUALITY

i) The Bench Clerk should be very punctual and work according to a regular time schedule. He should be in Court well before the Court timings every day, i.e., at least half an hour prior to the commencement of Court work.

ii) He should not leave the Court premises before the closing time of the Office.

iii) He should not leave the Court while the Court is in session, without the permission of the Presiding Officer. Whenever he goes out of the Court at any time, he should instruct the Court Orderly to keep a watch over the Court.

iv) Before leaving the Court after office hours, he should instruct the watchman to lock the Court hall securely.

PREREQUISITE TO COMMENCEMENT OF COURT WORK

(i) The Bench Clerk shall be responsible for the cleanliness and tidiness of the premises of the Court hall.

(ii) The Bench Clerk should check the wall and desk calendars and wall clock timings, etc.,

(iii) It is necessary that the Bench Clerk should glance through the admission and hearing cases, preferably a day earlier and note down the Acts and Rules that are required therein and secure them from Library if the same are not available in Court Hall.

(iv) As soon as entering the Court hall, the Bench Clerk should see whether the Judge's dais is properly arranged with necessary stationery, pen stand, desk calendar etc., The book shelves should be kept with Acts and commentaries in common and current use. Books required for day to day reference, depending upon the requirements of the Court from time to time, should be of easy and quick availability.

(v) If the Court Orderly does not come to duty before the Court timings, immediately a substitute should be sought from the concerned branch.

(vi) If the Stenographer / Judgment Writer is not present in the Court hall 10-15 minutes earlier, the Bench Clerk should intimate the concerned branch and ensure the availability of a substitute.

(vii) He should obtain boxes containing records submitted to the Judge's residence the previous day.

(viii) If there is any sudden change of work, due to cancellation or change of Judge sittings, immediate steps should be taken to adjust the work of the Court as per the modified notification.

(ix) After checking the cause lists to find out any possible mistakes, the same should be kept ready on the dais and in the same way another set should be kept ready for his use. The records of orders, admission, preliminary hearing and hearing cases should be arranged serially according to the cause list. If any records are not traced, immediate efforts should be made to get them. If advocates desire to have a look at the records, time permitting, the same may be spared for reference in the Court hall only. The records should never be allowed to be taken outside the Court hall by the advocates or parties.

(x) Stationery and other forms should be kept ready in the Court hall by obtaining the same from the concerned branches.

(xi) Any notifications issued concerning the Court should be displayed on the notice board of the Court hall.

(xii) The Calendar issued by the High Court should be kept near the dais for ready reference.

Above all,—

(i) He should enter the results of the cases called out in 'A' diary (Court Diary) for information of Advocates and litigant public.

(ii) He should assist the Presiding Officer in marking of documents exhibited in Civil cases and material objects produced in Criminal / Sessions Cases.

(iii) He should maintain 'Further Diary' for convenience of Presiding Officer to give adjournment dates.

(iv) He should arrange the records posted for Judgment or Order and to send the same to the Home Office of the Presiding Officer.

(v) He should write the proceedings in the order sheets of cases.

(vi) He should prepare statements regarding disposal of cases, number of witnesses examined etc.

(vii) He has to maintain Statistics Register regarding the disposal, pending for judgment etc.

In certain States / U.Ts, particularly in Jammu & Kashmir and Rajasthan, where there is centralised administration, Bench Clerk working in out-line Court is also Chief Ministerial Officer of the Court. In addition to his own duties, he has to look after administration of the Court.

Having regard to the importance of the post of the Bench Clerk in the Court Administration and the need to develop a properly trained cadre for assistance to the Presiding Officers, the Commission, *prima facie*, thought that it would be desirable to have at least three cadres of Bench Clerks corresponding to the three levels of Courts viz., (i) Civil Judge (Jr. Dn.) / Magistrate; (ii) Civil Judge (Sr. Dn.) / CJM; (iii) District Judge / Sessions Judge / CMM etc. For the purpose of ascertaining the views of the High Courts and others in that respect, the Commission circulated the following question:

Ques. No.24 : In Bihar and Delhi, there are four grades of Bench Clerks with different designations. In Tripura there are three grades. In Himachal Pradesh, Punjab, Rajasthan and Uttar Pradesh, there are two grades of Bench Clerks. In other States also, there are just two grades which are either in the cadre of LDC or UDC.

The Commission is of *prima facie* opinion that it is desirable to have at least three cadres of Bench Clerks to the three grades of Courts

viz., (i) Civil Judge (Jr. Dn.) / Magistrate; (ii) Civil Judge (Sr. Dn.) / CJM; (iii) District Judge / Sessions Judge / CMM.

Please offer your valuable views in this regard. Please suggest the pay scales for these three cadres.

The replies received to the Question will be presently referred to, but before that, we may examine the existing Cadres in the States / UTs:

CADRES :

The statement below indicates the number of cadres of Bench Clerks existing in different States / UTs.

States / UTs	Cadres
Andhra Pradesh (Mofussil Courts), Bihar, Chattisgarh, Gujarat (Mofussil Court), Himachal Pradesh, Jharkhand, Jammu & Kashmir, Kerala, Madhya Pradesh, Manipur, Orissa, West Bengal (City Civil and Sessions Court)	One Cadre
Haryana, Punjab, Rajasthan, Sikkim, Uttaranchal, Uttar Pradesh, West Bengal (Presidency Small Causes Court for Mofussil Courts)	Two Cadres
Delhi	Four Cadres

In Assam, Karnataka, Maharashtra, Goa, Tamilnadu, Tripura and UTs (except Delhi), there is no separate cadre of Bench Clerk. There, either LDC or UDC is posted to perform the duties of the Bench Clerk.

Against this backdrop, the views and comments expressed by the High Courts, State Governments / UTs and Associations on the matter may now be considered .

VIEWS OF HIGH COURTS

All High Courts, except High Courts of GUJARAT and HIMACHAL PRADESH, have agreed to the suggestion of the Commission to have at least three cadres of Bench Clerks corresponding to the three levels of Courts i.e.,

- i) Civil Judge (Jr. Divn.) / Magistrate
- ii) Civil Judge (Sr.Divn.) / CJM
- iii) District Judge / Sessions Judge / CMM

The High Court of GUJARAT has stated thus :

“In the State of Gujarat, the work of Bench Clerk (now Sheristedar) is entrusted to the Superintendent, as designated now, that is Senior Clerk, having passed Lower as well as Higher Departmental Examinations. He has to sit on dais, to prepare Roznama of each matter conducted on dais and is also expected to assist the Presiding Officer, in the functioning of the Court. He has to supervise the work of Junior Clerk working in the same Court, eg. for issuance of the process, witness summons etc. The work is the same in all the Courts, irrespective of the cadre of the Presiding Officer and therefore, there does not appear to be any necessity to have three cadres of Bench Clerks.”

But Mr. S.J.Gaikwad, Registrar of the High Court during the personal hearing agreed with the Commission that the work performed by the Bench Clerk in all Courts is not the same; higher the Court, higher the responsibility and more work to the Bench Clerks.

In HIMACHAL PRADESH, there is only one Cadre of Bench Clerk (i.e. Reader) in the pay scale of Rs.5800-9200. The post is filled up by promotion from Clerical Cadre and in turn he is eligible for promotion to Superintendent Grade-II Cadre carrying the pay scale of Rs.6400-10640. The High Court does not want any change in this regard.

But during the personal hearing, Mr. Ramalal Sharma, Additional Registrar agreed with the suggestion of the Commission.

The High Court of RAJASTHAN has favoured two cadres of Bench Clerks. But, the High Court of PUNJAB & HARYANA has not expressed any view on the subject.

For a proper consideration of the matter, we may read some of the replies given by the High Courts to Question No.24 :

High Court of ALLAHABAD

“It is definitely desirable to have at least three cadres of Bench Clerks to the three grades of Courts. Bench Clerk provided to:

1. CIVIL JUDGE (Jr. Dn.) / MAGISTRATE - 4500-6500
2. CIVIL JUDGE (Sr. Dn.) / CHIEF JUDICIAL MAGISTRATE - 5000-8000
3. DISTRICT JUDGE / SESSIONS JUDGE - 6000-9500 ”

High Court of ANDHRA PRADESH

“It is suggested that there shall be three categories of Bench Clerks to the three grades of Courts, viz;

- a) Bench Clerk of District Court
- b) Bench Clerk of Senior Civil Judge’s Court; and
- c) Bench Clerk of Junior Civil Judge’s Court

In so far as pay scale for the three categories of Bench Clerks is concerned, it is open to the Commission for fixing the same.”

High Court of BOMBAY

“The Commission’s suggestion for having 3 cadres of Bench Clerks is appropriate and it is suggested that Bench Clerk for the District Judges should be of the rank of Superintendent, those for Civil Judges S.D. of the rank of Assistant Superintendent and those for Civil Judges J.D. of the rank of Senior Clerk. The reason for having Bench Clerk of higher grades is that the job of Bench Clerk is specialised in nature. He is expected to know the various stages in judicial proceedings and legal procedure. An inexperienced Bench Clerk is likely to be a burden for the Presiding Officer rather than providing assistance. Pay scales suggested are :

Post	Pay scale as on 1-1-2000	Suggested pay scale
Bench Clerk / Supdt.	5500-175-9000	6500-200-10500
Bench Clerk / Asst. Supdt.	5000-150-8000	5500-175-9000
Bench Clerk / Sr.Clerk	4000-100-6000	5000-150-8000 ”

High Court of CALCUTTA

“The Court agrees with the view of the Commission to the effect that at least three cadres of B.Cs. to the three grades of Courts, as mentioned therein, should be created.

Regarding the fixation of pay scales for these cadres of B.Cs. the Court leaves the matter to the discretion of the Commission.”

High Court of GAUHATI

“Creation of three grades of Bench Clerks is justified. The Bench Clerk to the District & Sessions Judge & Addl. District & Sessions Judge may be given the pay scale

of selection grade U.D.A. The scale of UDA may be given to the Bench Clerk of the Court of CJM, Addl. CJM and Civil Judge Senior Division. The scale of LDA may be given to the Bench Clerk of SDJM, Civil Judge Junior Division, Judicial Magistrate First Class and Second Class.”

High Court of JAMMU & KASHMIR

“There is no post of Bench Clerk in the District Judiciary. However, there are posts of Readers, which are in the grade of Rs.4000-6000 and there is no objection if 3 grades of Bench Clerks / Readers are provided in the Rules.”

High Court of KARNATAKA

“The proposal of the High Court to create the post of Bench Assistant in between the cadre of Sheristedars and First Division Assistants may be considered.”

High Court of KERALA

“In Kerala there are Bench Clerks in all District Courts and Additional District Courts. The post is now equated to the post of Head Clerk in the common category, i.e. Rs.4600-7125. Bench Clerks of Chief Judicial Magistrate Courts are also in the same scale of pay. In other Courts viz. Subordinate Judges Court, Munsiff’s Court, and Magistrate Court there is no post of Bench Clerk. A Clerk (LD/UD) who is more conversant with the Judicial work is posted as Bench Clerk. A monthly Special Allowance of Rs.30/- is allowed to them in addition to the pay and allowances of LDC/UDC, as the case may be. Since competent hands are necessary to handle the case papers, it is desirable to have option left to the Judicial Officers from the category of LD/UD and it may be considered whether the allowance payable may be reasonably enhanced. High Court agrees that there shall be a post of Bench Clerk in every Court which can be filled up from the corresponding Clerical cadre by transfer by the Presiding Officer himself.”

High Court of MADHYA PRADESH

“In the State of Madhya Pradesh, the Bench Clerks / Readers are of the cadre of Assistant Grade-II (UDC). It is desirable to have at least three cadres of Bench Clerks / Readers to the three grades of posts viz. Civil Judge Class-II (Jr. Dn.), Civil Judge Class-I & CJM, ACJM (Sr.Dn.) and Additional District Judge and District Judge.”

High Court of MADRAS

“It is desirable to have 3 grades of Bench Clerks to the Courts in the following scales of pay.

Court of Civil Judge (Jr.Dn.)	- Rs.4000-100-6000
Court of Civil Judge (Sr.Dn.)	- Rs.5000-150-8000
Court of District Judge / Sessions Judge	- Rs.5500-175-9000.”

High Court of ORISSA

“In view of the fact that the responsibility of the Bench Clerk varies from the Court of Judicial Magistrate to that of a District Judge, their cadre should also be equally different as proposed.”

High Court of PATNA

“There are no (four) grades of Bench Clerks, with different designation in this state. Class-III employees placed in Group ‘C’ Cadre in this State are classified as Assistant : (i) Bench Clerk (ii) Office Clerk (iii) Stenographers (iv) Copyist-Typist.

Bench Clerk deals with the record of Ijlas. Office Clerk is the custodian of records and he complies with the direction and order passed by the Court in respect of different matters.”

High Court of SIKKIM

“In our State we have two Grades of Bench Clerks carrying the pay scale of Rs.4300-125-6800 and Rs.4000-100-6000 at par with Head Assistant and Upper Division Clerk respectively. It is desirable if the Commission recommends for three grades of Bench Clerks for each of the Courts of Civil Judge-cum-Judicial Magistrate, Chief Judicial Magistrate / Civil Judge and District and Sessions Judge carrying separate pay scale.”

High Court of UTTARANCHAL

“It is desirable to have at least three cadres of Bench Clerks / Readers viz.

(i)	Civil Judge (Jr. Dn.) / Magistrate	ordinary scale	-	Rs.4000-6000
		time scale		<u>4500-7000</u>
(ii)	Civil Judge (Sr. Dn.) / Chief Judl. Magistrate	ordinary scale	-	Rs.4500-7000
		time scale		<u>5500-9000</u>
(iii)	Addl. District Judge / District Judge	ordinary scale	-	Rs.4500-7000
		time scale		<u>6500-10500 ”</u>

High Court of HIMACHAL PRADESH

“Existing grades of Bench Clerks do not call for any change either of pay scale or number of posts.”

(It needs to be stated that there is only one Cadre of Bench Clerk / Reader in the pay scale of Rs.5800-9200 in Himachal Pradesh.)

High Court of RAJASTHAN

“The Bench Readers (Bench Clerks) posted with the Civil Judge (Jr. Dn.)/ Magistrate must be given the pay scale of Rs.5000-8000 and the Bench Readers posted with the Civil Judge (Sr.Divn.) / CJM must be given the pay scale of Rs.5500-9000 and

the Bench Readers posted with the Addl. District Judges / District Judges must be provided the pay scale of Rs.6500-10500.”

High Court of PUNJAB & HARYANA

“There are two types of Bench Clerks. First is Sr. Gr. Readers who are in the scale of Rs.5800-9200 and attached to the Dist. Judge / Addl. Distt. Judge / Civil Judge (S.D.) / Addl. Civil Judge (S.D.) and CJM. Second is Jr. Gr. Readers who are in the scale of Rs.3120-5160 and attached to Civil Judge (J.D.). As regards the State of Haryana, Sr. Gr. Readers are in the scale of Rs.5000-7850 and Jr. Gr. Readers are in the scale of Rs.3050-4590.

Note : The scale of Readers attached to the Dist. / Addl. Dist. Judge in the State of Punjab is likely to be upgraded from 5800-9200 to 6400-10640 and the scale Jr. Gr. Readers is likely to be upgraded from 3120-5160 to 5800-9200.

Similarly in the State of Haryana the Readers attached to the District Judge / Addl. District Judge is likely to be upgraded from 5000-7850 to 5500-9000 and the scale Jr. Grade Readers is likely to be upgraded from 3050-4590 to 5000-7850.”

VIEWS OF STATE GOVERNMENTS

Governments of ASSAM, GOA, JAMMU & KASHMIR, KARNATAKA, MIZORAM, NAGALAND, ORISSA, SIKKIM, UTTAR PRADESH, WEST BENGAL, LAKSHADWEEP, DAMAN & DIU, DADRA & NAGAR HAVELI and ANDAMAN & NICOBAR ISLANDS have agreed with the Commission to create three separate cadres of Bench Clerks in Subordinate Courts.

Governments of GUJARAT, HIMACHAL PRADESH, MADHYA PRADESH, MAHARASHTRA, MEGHALAYA, PUNJAB, RAJASTHAN, TAMILNADU, TRIPURA, CHANDIGARH and PONDICHERRY are not in favour of separate cadres of Bench Clerks as proposed by the Commission.

VIEWS OF THE DISTRICT JUDGES

Almost all the District Judges have endorsed the views of the Commission suggesting three tiers of posts of Bench Clerks, corresponding to the three levels of Courts. They have, in substance, stated that the duties of Bench Clerks / Readers are more responsible and the Presiding Officers need the assistance of experienced officials as Bench Clerks.

VIEWS OF STAFF ASSOCIATIONS

All the Staff Associations, except the Association of Bihar Court employees and Association of Tamilnadu Court employees, have agreed with the Commission to create three separate cadres of Bench Clerks in the Subordinate Courts.

To make the picture complete, we may set out herein the result of discussion during the personal hearing :

VIEWS EXPRESSED DURING THE PERSONAL HEARING REGARDING THREE GRADES OF BENCH CLERKS FOR THREE CATEGORIES OF COURTS :

During the personal hearing, the Commission has specifically discussed with the Representatives of the High Courts and State Governments as to the need to create three grades of Bench Clerks corresponding to the three tiers of Courts. It was agreed from all sides that the nature and volume of work of the Bench Clerk differ from Court to

Court and the Bench Clerk of the Civil Judge (Jr. Divn.) should be of the cadre of Senior Assistant / Upper Division Clerk; the Bench Clerk of the Civil Judge (Sr. Dn.) should be of the next higher grade to the UDC and the official still in the next higher grade should be the Bench Clerk of the Dist. Court.

Mr. Vijai Varma, Joint Registrar, representing the High Court of Allahabad and Mr. N.K. Mehrotra, Principal Secretary (Judicial), representing the Uttar Pradesh Government have agreed to the suggestion of the Commission that the three categories of Courts should have three different grades of Bench Clerks, as the nature and volume of work differ from Court to Court.

Mr. B.K. Majumdar, Special Secretary, Finance Department of the West Bengal Government has stated that there are already two grades of Bench Clerks in the pay scale of Rs.3350-6350 and Rs.4000-8850 and that the State Government is in favour of creation of another grade. He has also stated that instead of LDC to hold the post of Bench Clerk, UDC / Sr. Assistant could be the Bench Clerk of Civil Judge (Jr. Divn.) and next in higher grades should be the Bench Clerks for Civil Judge (Sr. Divn.) and District Judge.

Mr. A.H. Khochak, Special Secretary, Law & Parliamentary Affairs, Jammu & Kashmir Government has agreed to the proposal of the Commission to have three grades of Bench Clerks in the Subordinate Courts.

Mr. Rajendra Prasad, Law Secretary, representing Government of Bihar, Mr. K.G. Shankar, Secretary, Department of Law, Government of Andhra Pradesh, Mr. M.P. Dixit, OSD, Finance Department representing Government of Rajasthan and Mr. Dilip Kumar Sahu, Addl. L.R., to Government of Orissa, have stated that they have no objection to the

proposal of the Commission to create three grades of Bench Clerks for three levels of Courts.

Mr. Ram Lal Sharma, Addl. Registrar (Admn. and Establishment) of the Himachal Pradesh High Court, had considerable discussion on the desirability of creating three grades of Bench Clerks in the Subordinate Courts. Finally, he was convinced that it would be better to have three grades.

So far as Gujarat is concerned, it may be noted that the High Court in their reply, was not in favour of creating three grades of Bench Clerks in the Subordinate Courts. But, during the personal hearing, Mr. S.J. Gaikwad, Registrar of Gujarat High Court agreed with the Commission that the work performed by the Bench Clerk in all the Courts is not the same and the higher Courts definitely have more important and larger volume of work for Bench Clerk and it would be better to have three grades of Bench Clerks corresponding to the three categories of Courts.

In Kerala State, as seen earlier, the system seems to be quite different. Mr. P. Sankaran Unni, Joint Registrar, High Court of Kerala, has stated that there are Bench Clerks in all District Courts and Additional District Courts in Kerala, but in other Courts, there is no post of Bench Clerk. Only a LDC or UDC is posted in the Court as Bench Clerk and when so posted, he is paid special pay of Rs.30/-. The Joint Registrar has stated that the High Court has agreed to the proposal of the Commission to create three grades of Bench Clerks.

OUR RECOMMENDATIONS

We have carefully examined the matter with due regard to the views and comments of the High Courts and Governments of States and Union Territories on the importance of the Bench Clerks in the Court administration. In our system of administration of justice, the Bench Clerk is really the master of the Court. He has to assist the Presiding Officer of the Court and also to interact with the advocates and the litigant public, while at the same time keeping in touch with the various branches of the Court. He is required to know the various stages of the cases that are posted for orders or disposal for the day. He must also be familiar with the relevant Acts, Rules and Notifications that are required by the Presiding Officer of the Court. Indeed, an experienced Bench Clerk is an asset to the Court. But “an inexperienced Bench Clerk”, as the High Court of Bombay has commented, “is likely to be a burden to the Presiding Officer rather than providing assistance”.

Taking all these factors into consideration, we recommend -

that there shall be three grades of Bench Clerks corresponding to three levels of Courts, namely,

- (i) Bench Clerk Grade III - Civil Judge (Jr.Dn.) / Magistrate Court.
- (ii) Bench Clerk Grade II - Civil Judge (Sr.Dn.) / C.J.M / CMM
- (iii) Bench Clerk Grade I - District Court / Sessions Court and such like Court.

Bench Clerk Grade-III

The Court of Civil Judge (Jr.Dn.) / Magistrate Court is always a heavy Court. It is the Court where the litigants feel the keen edge of law. It is in this Court where both clients and advocates crowd together. The Bench Clerk of this Court should be capable of managing the Court and assisting the Presiding Officer. In some States, we find that the Bench Clerk in this Court is a Second Division Assistant / Lower Division Clerk. It may be pointed out that the experience of the employees with the qualification, which is generally found at Matriculation or 10th Std. in this cadre, may not be of much use to the Presiding Officer.

We, therefore recommend that generally -

- (i) The Bench Clerk Grade III shall be in the cadre of Assistants / First Division Assistants / U.D.Cs.
- (ii) The Bench Clerk Grade II shall be in the cadre which is promotional to the cadre of Assistants / First Division Assistants / U.D.Cs.
- (iii) The Bench Clerk Grade I in turn, shall be in the next promotional cadre of posts for Bench Clerk grade II.

We have advisedly suggested three cadres of Bench Clerks corresponding to three levels of Courts, not only having regard to the work-load of such Courts, but also to provide more promotional opportunity to the existing staff who are suffering from want of promotion. The High Court and State / UT may appropriately create more number of such posts to meet the requirements of enough number of Bench Clerks in all Courts.

In States / UTs where there are more cadres of Bench Clerks, we recommend for suitable restructuring of such cadres on Court-wise basis on the lines suggested as above.

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ANNEXURE TO CHAPTER - IX

Sl.No.	Cadre	Pay Scale	Appointing Authority	Mode of Recruitment & Qualification
1.	ANDHRA PRADESH (Mofussil Courts)			
	U.D. Bench Clerk	4190-120-4550-150-5300-170-6150-200-7150-250-8400-300-8700	District Judge	By Promotion from lower category of posts. SSC and pass in Civil Judicial Test and Accounts Test for Subordinate Officers Part-I.
2.	BIHAR			
	Bench Clerk	4000-100-6000	Coordination Committee appointed by the High Court, or, the Appointment Committee comprising of DJ and two senior-most Addl. DJs.	20% by Promotion on the basis of merit-cum-seniority from Class-IV employees with 3 years' experience; 80% by Direct Recruitment from amongst Graduates on the basis of written examination and interview.
3.	DELHI			
	Reader-I	5500-175-9000	District & Sessions Judge	By Promotion from lower cadre.
	Reader-II	5000-150-8000	- do -	- do -
	Reader-III	4000-100-6000	- do -	- do -
	Reader-IV	3050-75-3950-80-4590	- do -	90% by Direct Recruitment; 5% by Promotion from amongst Ushers and Court Attendants with 5 years' service, on the basis of written examination and Typing test; and 5% by Promotion from amongst Ushers and Court Attendants with 15 years' service on the basis of seniority-cum-fitness.

Sl.No.	Cadre	Pay Scale	Appointing Authority	Mode of Recruitment & Qualification
				For DR: Matriculation or equivalent and English Typewriting with a speed of 30 wpm.
4.	GUJARAT (Mofussil Court)			
	Senior Clerk	4000-100-6000	District & Sessions Judge	By Promotion on the basis of seniority-cum-merit from the cadre of Junior Clerks.
5.	HARYANA			
	Reader to Dist. & Sessions Judge / Addl. Dist. & Sessions Judge	5500-175-8300- EB-175-9000	District & Sessions Judge	By Promotion from amongst Assistants with 3 years' experience on the basis of seniority-cum-merit.
	Reader in the Court of Civil Judge (Sr. Div.) / CJM / Civil Judge (Jr. Div.)	5000-150-7100- EB-150-7850	-do-	By Promotion from amongst the Graduate Clerks and the Clerks already in service (before coming into force of 1997 Rules) having 5 years' experience, on the basis of seniority-cum-merit.
Note: The Pay scale of Reader to Civil Judge (Jr. Div.) has been notified vide Gazette Notification dt.17-11-98 in the pay scale of Rs.5000-7850, but has not been released so far (Pre-revised pay scale is Rs.3050-4590).				
6.	HIMACHAL PRADESH			
	Reader	5800-200-7000- 220-8100-275- 9200	District & Sessions Judge	By Promotion from amongst the Court employees of the Division in the scale of Rs.3120-5160, except Steno-Typist and Bailiffs.
7.	JAMMU & KASHMIR			
	Reader	4000-100-6000	District & Sessions Judge (Selection by the Committee of the High Court)	By Promotion on the basis of merit-cum-seniority from amongst Junior Assistants.

Sl.No.	Cadre	Pay Scale	Appointing Authority	Mode of Recruitment & Qualification
8.	KERALA			
	(i) Civil Courts			
	Bench Clerk of Dist. Court and MACT	4600-100-5000-125-7125 + Spl. Allowance of Rs.30/- p.m.	District & Sessions Judge	By Promotion / Transfer / Direct Recruitment (i) Promotion – from UDCs and Deputy Nazirs (Civil wing) or Kannada Translators (Civil wing). (ii) In the absence of qualified and suitable candidates under item(i) above, by promotion from LDCs (Civil wing). (iii) In the absence of qualified and suitable candidates under items (i) & (ii) above, by DR. <u>For Promotion or Transfer:</u> (i) Sheristedar's Test or Head Clerk's Test or Civil Judicial Test. (ii) Accounts Test (Lower), or Accounts Test for Subordinate Officers Part-I (Madras). <u>For DR:</u> B.A., B.Sc., or B.Com., and a degree in Law from a recognised University.
	(ii) Criminal Courts			
	Bench Clerk	4600-100-5000-125-7125 + Spl. Allowance of Rs.30/- p.m.	CJM	By Promotion / Transfer / Direct Recruitment (i) By Promotion from category of UDCs (Criminal wing). (ii) In the absence of qualified and suitable candidates available under item(i) above, from LDCs / Clerk-Typists (Criminal wing),

Sl.No.	Cadre	Pay Scale	Appointing Authority	Mode of Recruitment & Qualification
				(iii) In the absence of qualified and suitable candidates under items (i) & (ii) above, by Transfer from any other service, OR by DR. <u>For Promotion or Transfer:</u> (i) Sheristedar's Test or Head Clerk's Test, Judicial Test or Criminal Judicial Test (except Medical Jurisprudence). (ii) Accounts Test (Lower), or Accounts Test for Subordinate Officers Part-I (Madras). <u>For DR:</u> B.A., B.Sc., or B.Com., and a degree in Law from a recognised University.
9.	MADHYA PRADESH after bifurcation of the State			
	Reader to Dist. Judge	4000-100-6000	District & Sessions Judge	<i>Recruitment Rules are pending consideration of Government.</i>
	Reader to Addl. Dist. Judge	4000-100-6000	- do -	- do -
	Reader to Civil Judge	4000-100-6000	- do -	- do -
10.	MANIPUR			
	Bench Clerk / Reader	4000-100-6000	District & Sessions Judge	By Promotion from LDCs.
11.	MEGHALAYA (i) Civil Courts			
	Bench Asst.	3975-100-4575- EB-110-5455- 120-6655	District Judge	By Promotion from LDAs.

Sl.No.	Cadre	Pay Scale	Appointing Authority	Mode of Recruitment & Qualification
(ii) Criminal Courts				
	Bench Asst.	3100-70-3520- EB-80-4160-90- 5060 Extended Scale: 3900-95-5325	CJM	By Promotion – preference being given to the Grade-IV having requisite qualification, or by Direct Recruitment from the merit list of the District Selection Committee. Qualification: SSLC or equivalent.
12.	ORISSA			
	Bench clerk (Senior Clerk)	5000-150-8000	District Judge	By Promotion from amongst Senior Clerks (Jr. Br.) on the basis of merit-cum-seniority subject to passing Accounts Training.
	Bench Clerk (Sr. Clerk (Jr. Branch))	4000-100-6000	- do -	By Promotion from amongst Junior Clerks on the basis of merit-cum-seniority subject to passing prescribed Dept. examination.
	Bench Clerk (Jr. Clerk)	3050-4590	- do -	By Direct Recruitment by holding Competitive examination – pass in Matriculation or equivalent examination.
13.	PUNJAB			
	Reader to Dist. Judge / Addl. Dist. Judge	6400-200-7000- 220-8100-275- 10300-340-10640	District & Sessions Judge	By promotion from Assistants with 3 years experience on the basis of seniority-cum-merit.
	Reader to Civil Judge (Sr. Dn.) / Addl. Civil Judge (Sr. Dn.) / CJM / Civil Judge (Jr. Dn.)	5800-200-7000- 220-8100-275- 9200	- do -	By Promotion from amongst the Graduate Clerks and the Clerks already in service (before coming into force of 1997 Rules) having 5 years' experience, on the basis of seniority-cum-merit.

Sl.No.	Cadre	Pay Scale	Appointing Authority	Mode of Recruitment & Qualification
14.	RAJASTHAN			
	Senior Reader	5000-150-8000	District & Sessions Judge	By Promotion by selection on the basis of merit from UDC / Reader of the Courts other than District & Sessions Judge and Additional District & Sessions Judge.
	Reader	4000-100-6000	- do -	By Promotion from LDCs on the basis of seniority-cum-merit, after passing prescribed Departmental Examination.
15.	SIKKIM			
	Peshkar (Bench Clerk-I)	4300-125-6800	Recruitment Committee with Registrar, H.C. as Chairman and D & S Judge (East & North) and D & S Judge, (South & West) as Members.	By promotion of Peshkars in the Court of Civil Judge-cum-Judicial Magistrate / Nazir / Upper Division Asst.
	Peshkar (Bench Clerk-II)	4000-100-6000	- do -	50% by Promotion from amongst Group-D employees with 4 years experience in that grade. 50% by Direct Recruitment from candidates who have passed Class-XII examination.
16.	UTTAR PRADESH (after bifurcation)			
	Reader to Dist. Judge	4500-125-7000	District Judge	By Promotion by selection from amongst Clerical Cadre with pay scale of Rs.4000-100-6000 on the basis of seniority-cum-merit.

Sl.No.	Cadre	Pay Scale	Appointing Authority	Mode of Recruitment & Qualification
	Reader to Civil Judge (Sr. Dn.) and (Jr. Dn), Addl. Civil Judge (Sr. Dn.) and (Jr. Dn.), JSCC & Addl. JSCC	4000-100-6000	District Judge	By Promotion by selection from amongst Clerical cadre with pay scale of Rs.3050-4590, on the basis of seniority-cum-merit.
17.	UTTARANCHAL			
	Reader to Dist. Judge & Addl. Dist. Judge / Reader to CJM	4500-125-7000	District Judge	By Promotion by selection from amongst Clerical Cadre with pay scale of Rs.4000-100-6000 on the basis of seniority-cum-merit.
	Reader to ACJM / Civil Judge (Sr. Dn.) / Civil Judge (Jr. Dn.)	4000-100-6000	- do -	By Promotion by selection from amongst Clerical cadre with pay scale of Rs.3050-4590, on the basis of seniority-cum-merit.
18.	WEST BENGAL			
	(i) City Civil & Sessions Court, Calcutta			
	Bench Clerk	4000-125-4250-150-5300-175-7050-200-8850	Principal Judge	By Promotion from amongst LD Assistants.
	(ii) Court of Small Causes, Calcutta			
	Chief Bench Clerk	4500-150-5250-175-7000-200-8800-225-9700	Chief Judge	By Promotion from amongst senior most UD Assistants.
	Bench Clerk	4000-125-4250-150-5300-175-7050-200-8850	- do -	By Promotion from amongst LD Assistants according to seniority.