

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.

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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

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 Uttarakhand having three cadres in the Process Establishment.

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.

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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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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VIEWS OF GOVERNMENTS :

The Governments of ANDHRA PRADESH, BIHAR, HARYANA, KERALA, MANIPUR, MAHARASHTRA, PUNJAB, SIKKIM, WEST BENGAL and CHANDIGARH are not in favour of creating the post of Personal Assistant to the District and Sessions Judge.

Governments of KARNATAKA, GOA, NAGALAND, RAJASTHAN, ANDAMAN & NICOBAR ISLANDS, DAMAN & DIU, DADRA & NAGAR HAVELI, LAKSHADWEEP and PONDICHERRY have favoured change of designation of the existing Stenographer as Personal Assistant.

OUR RECOMMENDATIONS

Grades :

While recommending the number of grades in the cadre of Stenographers, it is necessary to bear in mind the nature of work in Courts. In the Trial Courts, after preliminary hearing, the Presiding Officers are invariably engaged in recording evidence. It is represented to us that in many States the Stenographers alone are used for recording evidence in the open Court.

Order 18 Rule 5 CPC provides that in appealable cases, the evidence of each witness shall be taken down in the language of the Court by the Judge himself or under his personal direction and superintendence. Generally, the Judge dictates the evidence given by the witness to the Stenographer / Typist, who then and there types it and it is read over to the witness by the Presiding Officer and certified as to its authenticity.

The Presiding Officers are not expected to dictate judgment in the open Court. Order XX Rule 3 of the Code of Civil Procedure provides that there cannot be open

Court dictation of judgment by Presiding Officers unless they are specially empowered by the High Court. That means the Stenographers have to take down the judgment after the Court hours. He either works in the chambers or Home Office of the Judge.

Having regard to the nature of the work of the Stenographers and the views of the High Courts, State Governments and Associations, **we recommend,-**

- (a) that in order to afford adequate promotional opportunities to Stenographers and also to provide experienced Stenographers to higher Courts, there must be minimum THREE grades of Stenographers in Subordinate Courts in all the States/U.Ts. corresponding to the three tier hierarchy of Courts, viz., (i) Civil Judge (Jr.Div.); (ii) Civil Judge (Sr. Div); and (iii) District and Sessions Judge and similar cadres;

The States/U.Ts. having more than three cadres are, however, allowed to continue the same.

- (b) We leave it to the wisdom of the High Court to decide about the qualification, mode of recruitment and promotion to these three cadres.

Number of Stenographers in each Court :

Civil Judge (Junior Division)

It may not be necessary to provide two Stenographers in each Court. The Civil Judge (Junior Division) who is located in Tahsil or Taluka place normally writes the orders in his own hand. Of course, he dictates judgments. He may be given one Stenographer, in the cadre of Grade-III, in addition to the Typist, he is otherwise entitled to.

Civil Judge (Senior Division) / CJM / CMM

It may be noted that the Civil Judge(Senior Div.) Court is a Court of unlimited jurisdiction in Mofussil where there is no original jurisdiction for the High Court. It is indeed a heavy Court with a lot of trial work. The Court of Chief Judicial Magistrate is also a busy Court with powers to impose punishment upto seven years.

We, therefore, recommend that the Civil Judge (Sr. Div.) / Chief Judicial Magistrate be provided with one Stenographer Grade-II, in addition to a Typist.

District & Sessions Court / Addl. District & Sessions Court

The District Court has got variety of jurisdictions, both appellate and original on civil side. The District Judge who is also in charge of the Sessions Division is primarily concerned with sessions cases in which lot of evidence is recorded from both the Prosecution and Defence sides. The judgment more often runs into hundreds of pages.

In the premise, we recommend, -

- i) that the District Judge / Addl. District Judge, be provided with one Stenographer Grade-I, in addition to a Typist.
- ii) that the Principal District & Sessions Judge / Principal City Civil Court Judge, be provided with one Grade-I Stenographer and one Executive Assistant.

In City Civil Courts and in District Headquarters where there is cluster of Courts, each Judge be provided with one Stenographer. But there should be a pool of Stenographers at the disposal of the judges to meet requirements of any Court for additional work..

OUR RECOMMENDATIONS

We have examined the views of the High Courts, State Govts., and Associations in the light of the special nature of duties of Stenographers, like the need to work in the Home Office of the judicial officers. They are required to come to home office well before the Court hours and remain working beyond Court hours besides working on holidays. The Judges are required to work more in the Home Office, particularly at the weekend and during holidays.

At present, in Karnataka State, the Stenographers who attend the home office of the Judicial Officers are getting Rs.200/- p.m. and the Judgment Writers - Rs.250/- p.m. In Kerala, the Confidential Assistants working in the Subordinate Courts get Rs.60/- p.m. and in the District Court Rs.350/- p.m.

In our opinion, in Mofussil, particularly in Tahsil / Taluka / District Headquarters, the distance to be covered by the Stenographers is not much; but in cities, they have to travel long distance.

Taking all these factors into consideration, we **recommend** payment of Travelling Allowance / Compensatory Allowance / Special Allowance as under :

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|---|---|-----------------------------|
| (i) Stenographers working in Taluk / Tahsil and District Headquarters | - | Not less than Rs.100/- p.m. |
| (ii) Stenographers working in Cities | - | Not less than Rs.150/- p.m. |
| (iii) Personal Assts. / Executive Asst. to the Principal District & Sessions Judge / Principal City Civil Court Judge | - | Not less than Rs.200/- p.m. |

The aforesaid Allowance is payable to Stenographers at (i) and (ii) subject to production of a certificate issued by the Presiding Officer to the effect that the Stenographer attached to him / her attended the Home Office during the month.

Wherever, the Travelling Allowance / Compensatory Allowance / Special Allowance paid to the Stenographer is higher than what we have recommended, the existing payment will continue.

Before we part with this matter, we may add a word more. As we write this report, we have come across metamorphic change in the computer field. Now we have voice recorder which instantaneously prints the spoken words. This is being extensively used in the developed countries in all fields. In our country too, it has made its debut. A day may not be far off when judges in our country may prefer the voice recorder to Stenographer, leading to a situation of Stenographer becoming a luxury personnel.

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It is said that the word 'Sheristedar' is originated from the Parsi word 'Sarishtadar'. As per the Marathi-English Dictionary, the meaning of 'Sheristedar' is Head Clerk or Bench Clerk in a Court of Law. By usage, the Head of the Ministerial Staff in Courts came to be termed as 'Sheristedar' in some States. (See **Mysore Gazette - Epigraphy Karnataka . Mysore Archaeology Series**).

In our opinion, the designation of 'Sheristedar' seems to be more dignified than the other designations.

We, therefore, recommend that the Chief Ministerial Officer of Civil Judge(Jr.Div.) may be termed as **Sheristedar** and his counterpart in the Court of Civil Judge(Sr.Div.) **may be** styled as **Senior Sheristedar**.

PAY SCALE AND CLASSIFICATION OF THE POST :

We have examined the demands of the Officers and the comments offered by the High Courts and State Governments. It seems to us that it is not possible to have uniform classification of the post as Group-B or Group-A, since such classification turns on the pay scale adopted by each State.

As to the pay scale of the post, it needs to be stated that the holder of the post should command respect and obedience from all the staff, since he is the Chief Ministerial Officer. The post, therefore, must necessarily carry the pay scale higher than that of the other Staff.

In **Chapter-IX**, we have suggested that the Bench Clerk of the Court of Civil Judge(Jr.Div.) / Magistrate should be in the cadre of the Sr. Assistant or First Division Clerk and the Bench Clerk of the Court of Civil Judge (Sr.Div.) / CJM Court should be of the promotional cadre to the Senior Assistant or First Division Clerk.

Needless to state that the Sheristedar and Senior Sheristedar of the Courts of Civil Judge (Jr.Div.) and Civil Judge (Sr.Div.) must get pay scale above that of the Bench Clerk and the Stenographer of the respective Courts. This may be worked out having regard to the set up and the pay scale available in each State / UT.

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- (ii) Supervision of the work turned out by the staff of District Court.
- (iii) To draw and disburse pay and allowances to the staff of District Court. (only in certain States)
- (iv) To grant leave of all kinds to the staff of District Court (only in certain States)
- (v) To sign the letters and orders approved by the District Judge.
- (vi) To sanction non-recurring contingent expenditure.
- (vii) To put up notes for transfer of officials working under the control of District Judge.
- (viii) To assist the District Judge in recruitment of staff in all the Courts of the District.
- (ix) To receive complaints, petitions etc., on the judicial side and to put up order sheets.
- (x) To assist the District Judge in the overall supervision of Subordinate Courts in the District.
- (xi) To assist the District Judge in inspection of Subordinate Courts.

It may be stated that the CAO in the decentralized administrative set-up is also having similar duties and responsibilities.

OUR RECOMMENDATIONS

- (i) Since this Officer, whether in Centralised or Decentralised System of Administration, looks after the entire administrative functions of all the Subordinate Courts in the District, it is appropriate that he be designated as **Chief Administrative Officer**.
- (ii) The post of Chief Administrative Officer be included in Group 'A' / Class-I. The pay scale of the post, as far as possible, may be the lowest pay scale admissible to that Group / Class.

- (iii) We, however, make it clear that the pay scale of CAO should be higher than the pay scale of all other staff working in the District Courts Administration. This has to be maintained to have smooth and effective administration, since CAO is the head of the Office Administration of the Courts.

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OUR RECOMMENDATION

Having considered the suggestions made by most of the High Courts and some State Governments and Administration of Union Territories, we recommend that each High Court may identify the Courts where a post of Protocol Officer needs to be created and further determine the proper pay scale and necessary staff and other facilities to be provided.

Needless to say that whenever the Protocol Officer and his staff has no protocol work, they shall attend to such other duties as may be assigned by the District Judge, from time to time.

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minimal. Added to that, there will be dampness with stinking smell of the dust laden files and / or properties.

It cannot also be denied that the staff in the Record Room / Property Room are isolated from the other staff. They have no interaction of any kind, as the public have no access to these places. Indeed, it is more a punishment and the stay in such places is oppressive in every sense of the word.

OUR RECOMMENDATIONS

With due consideration of all the facts and circumstances, we recommend the following:

1. Each of the staff posted to Record Room / Property Room shall be paid Compensatory Allowance at the rate of Rs.100/- per month.
2. We further recommend :
 - i) These rooms should be fitted with exhaust fans.
 - ii) There should be adequate lighting arrangement.
 - iii) Every week, disinfectants should be sprayed.
 - iv) The staff should be supplied with Dettol, Soap and other washing ingredients.
 - v) Staff should be given apron.
 - vi) Sufficient number of racks should be provided. No record should be put on the ground.

- vii) Dusting should be done regularly. Every Record Room / Property Room should have vacuum cleaner.

AND

- viii) The staff shall have compulsory medical check-up once in six months.

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The High Courts of Allahabad, Andhra Pradesh, Calcutta, Himachal Pradesh, Punjab and Haryana and Rajasthan have suggested that certain percentage of Government Quarters in the general pool may be exclusively reserved for the employees of the Judicial Department.

In some States, the Court staff like other Government employees are allotted quarters out of the general pool as per entitlement prescribed in the Rules of allotment. But, that is too many persons chasing too few. They are however, getting the House Rent Allowance as admissible to other Government servants.

Karnataka Government has suggested payment of House Rent Allowance at 30% of the basic pay.

Government of Uttar Pradesh has requested for recommending matching grant of 50% by Central Government for construction of quarters for Court employees, as is given for construction of Courts and Staff quarters for Judicial Officers.

OUR RECOMMENDATIONS :

- 1) Bearing in mind the constraints of the State Governments, we recommend that in places where there are no quarters earmarked exclusively for Court staff, not less than 15% of the Government quarters in the general pool may be set apart for Court employees.
- 2) The quarters so earmarked shall be placed at the disposal of Principal District and Sessions Judge or the Senior-most Judicial Officer at the place for making allotment to the employees.
- 3) As in the case of Judicial Officers, the construction of adequate number of quarters / houses with necessary facilities should be given the top priority, being the primary requirement of employees.
- 4) Necessary suitable site near about the Court premises may be acquired for construction of quarters to the non-judicial employees and construction thereon be taken up on priority basis.

2.2 Basic Amenities in Court Building :

It is distressing to note that in many Court buildings in most of the States, basic amenities such as room for taking lunch and separate toilets for men and women employees are lacking. The employees are taking lunch either at working table or at places outside the Court premises and using common toilets, except in District Courts and newly constructed Court buildings.

The State Government of Tamilnadu has stated that the PWD which maintains the Court buildings has been asked to provide a place for taking lunch and separate toilets for ladies.

OUR RECOMMENDATION :

In the Court buildings where such basic amenities are lacking, the State Government should take immediate steps to provide those facilities.

Where new Court buildings are to be constructed, sufficient provision should be made for adequate number of toilets for men and women employees as also separate lunch-cum-recreation rooms.

2.3 Uniform / Uniform Allowance to Group-C and Group-D Employees :

In almost all the States, Group-D / Class-IV employees and the Drivers in Group-C / Class-III have been provided with uniform.

But, certain categories of Group-C / Class-III employees have also demanded uniforms and / or Uniform Allowance.

The Commission framed a question in that regard and solicited the views of the High Courts, State Governments and the Staff Associations.

The High Courts of Gauhati, Orissa, Sikkim and Meghalaya Bench of Gauhati High Court are not in favour of providing uniform and / or Uniform Allowance to Group-C / Class-III employees working in the Courts. High Court of Madhya Pradesh has stated that there is no demand from Group-C employees for Uniform Allowance.

The State Governments have opposed providing uniform or Uniform Allowance to Group-C / Class-III employees, except Drivers. However, the States of Haryana and Punjab have stated that some technical categories in Group-C are also provided with uniform and the same may continue.

But, all the State Governments have stated that there is justification in providing uniform and / or Uniform Allowance to Group-D employees.

OUR RECOMMENDATIONS :

In order to inculcate discipline, certain categories of staff members are required to wear uniform during working hours.

- (i) We suggest that all Group-D / Class-IV employees including the Drivers be provided with uniform (livery).
- (ii) It is also appropriate that the Process Servers and the Bailiffs who are mostly attending to service of summons and execution of warrants be provided with uniforms.
- (iii) Bench Clerks and Stenographers who have to maintain dignity and decorum must wear uniforms prescribed by the High Court.
- (iv) The State must provide uniform at its cost at least once in two or three years.

2.4 Need of a Co-operative Society for the Court Staff :

Various Staff Associations have stressed the need to have a co-operative society for the Court staff in the District Headquarters, as a welfare measure.

The Commission invited the views of the High Courts, State Governments and the Staff Associations in this behalf.

In some States, such co-operative societies are functioning at some District Headquarters.

All the High Courts, except the High Courts of Jammu and Kashmir, Orissa and Sikkim, have favoured the proposal regarding the need of a Co-operative Society for the Court staff in the District Headquarters.

All the State Governments, except Gujarat, Jammu and Kashmir, Meghalaya, Mizoram and Sikkim, have also welcomed the proposal.

The High Courts of Allahabad, Andhra Pradesh, Gauhati, Bombay, Jharkhand, Madras, Patna and Rajasthan have stated that accommodation for such Co-operative Society may be provided in the Court premises itself.

The State Governments of Goa, Haryana, Karnataka, Punjab, Tripura and West Bengal have stated that there is dearth of accommodation in the Court premises for this purpose.

OUR RECOMMENDATION :

Since the promotion of the Co-operative movement is one of the directive principles of State policy and since all the High Courts and State Governments have favoured the need to have a co-operative society for the Court staff in the District Headquarters, we recommend that the High Courts and State Governments shall encourage

the Court employees to form co-operative societies for their welfare and must provide suitable accommodation for that purpose.

2.5 Remuneration / compensation for deputation to Lok Adalats :

The Court staff are deputed to Lok Adalat work on week days or general holidays. They are paid some Allowance or given Compensatory Leave in certain States.

The High Courts of Punjab and Haryana and Sikkim have informed that the Court Staff deputed to work in Lok Adalats are not paid any remuneration, but have suggested that they may be paid reasonable extra Allowance.

The High Courts of Andhra Pradesh, Calcutta and Rajasthan have stated that at present Court staff are not deputed to work in Lok Adalats, since separate staff have been provided to Legal Services Authority.

The High Court of Allahabad has stated that the Court staff deputed to work in Lok Adalats during holidays are given leave in lieu of work done on holidays.

The High Court of Bombay has informed that two days D.A is allowed to the employees for attending Lok Adalat work on holidays.

The High Court of Gujarat has stated that staff are paid T.A / D.A., whenever they work in Lok Adalats.

The High Court of Himachal Pradesh has stated that Class-III staff are paid honorarium at Rs.150/- per day and Class-IV employees are paid honorarium at Rs.100/- per day for working in Lok Adalats.

The High Court of Karnataka has suggested to pay minimum of 10% of the basic pay of the staff who attend Lok Adalats work and compensatory off to such employees who work on holidays.

The High Court of Kerala has informed that Court staff deputed to work in Lok Adalats are paid remuneration on the basis of their grade as shown below :

	Holidays	Working days
Junior Superintendent	Rs.200/-	Rs.50/-
L.D.Clerk	Rs.150/-	Rs.50/-
Peon	Rs.120/-	Rs.30/-

The High Court of Orissa has informed that employees are paid only T.A and D.A for attending Lok Adalat work.

Almost all the State / UT Governments have favoured payment of some incentive to the staff who attend to Lok Adalat work.

OUR RECOMMENDATION :

Considering the above views, we recommend that until separate staff are provided to the establishment of Legal Services Authority in each State and U.T., the Court staff who are deputed to attend Lok Adalat work should be paid compensatory allowance at the rate of 5% of their basic pay and if the officials are deputed during general holidays, they may be granted compensatory leave for the holidays forgone.

2.6 LTC / HTC Benefits to the Court Staff :

In most of the States, Court employees like other Government servants are entitled to Home Travel Concession and Leave Travel Concession.

However, in Kerala, Madhya Pradesh, Rajasthan & Sikkim, State employees are denied these facilities. We could only request these Governments to provide such concessions to all employees.

The State Governments have also given similar views specifying the period of training at the entry-level and refresher course.

OUR RECOMMENDATION :

Considering the importance of training to the Court employees for effective discharge of their duties and in the light of the views expressed by the High Courts and State / UT Governments indicating desirability of training, it is recommended as follows:

In our Report on the service conditions of the Judicial Officers, we have suggested that State-wise or Region-wise, Judicial Training Institutes may be set up for imparting training to Judicial Officers. Such an Institute can also be training institute for Court staff. There should be training for new recruits as well as for in-service employees as refresher course.

There should be a regular training for Court employees for a period of not less than 6 weeks at entry-level and for 2 weeks of refresher course from time to time to in-service personnel.

We leave it to the discretion of the High Court to select the Subject/ Syllabus for training both at entry-level and for refresher course.

2.8 Cleanliness in the Court :

The saying "Cleanliness is next to Godliness" high lights the importance to clean surroundings and environment. Court is considered as temple of justice, but the atmosphere in the Court generally does not give that impression. It pains us to note that the Court premises and surroundings are not kept clean and tidy. It is regrettable that house keeping standards are extremely poor. Somewhere along the line, we seem to have relaxed our maintenance standards generously from generation.

It seems to us that the State Government is not correct in stating that 25% of the posts are reserved for Group-D employees. No such provision is found under the Rules, nor it is supported by the views of the High Court.

For reasons stated in **Chapter-VI**, we recommend that the existing reservation of 15% available to Group-D employees for promotion to the Clerical Cadres, i.e., Copyist (Civil & Police case diaries) / Asst. Accounts Clerk / Addl. Clerk / Court Clerk / Administration Clerk / Writer and Runner / Typist etc., **be raised to 25%**. That means, 25% of the posts in Group-C (Clerical Cadre) shall be reserved for Group-D employees other than those Process Servers who possess the requisite qualification, in the ratio of 1:2 for Process Servers and other Group-D employees.

(iv) **Reservation in the cadre of Process Servers :**

We further recommend that for reasons stated in **Chapter-VIII**, 50% of the posts of Process Servers shall be reserved for promotion of qualified Group-D staff.

work. The benefit of this higher pay scale would be given provided there is no ACP Scale at or about the said period of 10 years of service. The High Court may identify such employees.

the pay scale of Rs.4500-6000 to Bench Clerk of the Court of Civil Judge (Jr. Div.) / Magistrate, Rs.5000-8000 to Bench Clerk of the Court of Civil Judge (Sr. Div.) / Chief Judicial Magistrate and Rs.6000-9500 to the Bench Clerk of the District Court.

The State Government has merely stated that the pay scale of the Bench Clerk (Munsarim) should be commensurate with the hierarchy of the Court.

The Staff Associations have welcomed the proposal of the Commission.

C. OUR RECOMMENDATIONS :

Taking into consideration the above views of the High Court and the State Government and for reasons stated in **Chapter-IX**, we make the following recommendations :

- (a) There will be three grades of Readers for the three levels of Courts namely :
 - (i) Reader Grade-III, Court of Civil Judge (Jr. Div.) / Magistrate.
 - (ii) Reader Grade-II, Court of Civil Judge (Sr. Div.) / CJM / CMM.
 - (iii) Reader Grade-I, District Court / Additional District Judge Court.
- (b) Pay Scales :
 - (i) Reader Grade-III - Rs.4000-100-6000
[existing pay scale of Reader i.e.,
Sl.No.7 of the General Pay Scales]

An experienced Bench Clerk is an asset and an inexperienced Bench Clerk is a burden to the Presiding Officer. Almost all High Courts, save Gujarat and Himachal Pradesh (during the hearing, they have also agreed) have agreed to have three tiers of Bench Clerks corresponding to three levels of Courts. Even Governments of Assam, J & K, Karnataka, Uttar Pradesh, West Bengal and U.Ts. (except Chandigarh and Pondicherry) have agreed to have three cadres of Bench Clerks.

- (ii) Reader Grade-II - Rs.4500-125-7000
[next promotional pay scale i.e., Sl.No.8 of the General Pay Scales]
- (iii) Reader Grade-I - Rs.5500-175-9000
[next promotional pay scale i.e., Sl.No.11 of the General Pay Scales]
[There are no cadre posts in the Court Service having pay scale at Sl.No.9 & 10 of the General Pay Scales and hence not assigned]

(c) Mode of Recruitment :

[**NOTE:** These are to be appointed from the respective cadres in the service and not by restrictive channel of promotion from Reader Grade-III to Reader Grade-II and from Reader Grade-II to Reader Grade-I. If necessary, additional posts be created.]

- (i) Reader Grade -III: Appointment from the cadre of officials in the pay scale of Rs.4000-100-6000 (Deputy Nazirs / Record Keepers (Crl.) / Suits Clerks / Misc. Clerks / Execution Clerks / Decree Writers etc.)

We have suggested that the Bench Clerk Grade - III must be in the cadre of UDCs / Senior Ahlmads / Senior Assistants etc., and Grade-II and Grade-I Bench Clerks must be in the corresponding higher cadres.

These three cadres have been advisedly recommended for 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 / State Government / U.T may appropriately increase more number of such posts to meet the requirements of Bench Clerks in all Courts.

- (ii) Reader Grade-II : Appointment from the cadre of officials in the pay scale of Rs.4500-125-7000. (Central Nazirs / Record Keepers (Civil)/ II Clerks / Head Copyists etc.)
- (iii) Reader Grade-I : Appointment from the cadre of officials in the pay scale of Rs.5500-175-9000. (Sadar Munsarims)

During the Personal hearing, the Association representatives pointed out that out of 70 District Judges, only 22 have been provided with Personal Assistants in the pay scale of Rs.6500-10500. These P.As are promoted from the cadre of P.As in the pay scale of Rs.5500-9000, whose strength is 675. The promotional avenue in terms of percentage works out to roughly about 3. The representatives, therefore, wanted that all the District Judges who are having more than 25 Presiding Officers under each of them must be given a Personal Assistant in addition to a Stenographer.

The High Court in its reply has stated that two promotional scales are available to Stenographers, which may be increased to three. The State Govt. has just indicated the existing position.

We, therefore, recommend that the existing three grades may be restructured and re-designated to fall in line with the three-tier system suggested by us with the pay scale as under :

Three grades of Stenographers :

GRADE-III

- a) the existing cadre of Stenographer carrying the pay scale of Rs.4000-6000 may be re-designated as Stenographer Grade-III.

GRADE-II

- b) the existing Personal Assistant to the District & Sessions Judge / Additional D&SJ and Special Judge carrying the pay scale of Rs.5500-9000 may be re-designated as Stenographer Grade-II.

the High Court. That means the Stenographers have to take down the judgment after the Court hours. Thus the Stenographer is over burdened with heavy load of work. There is need to reward this cadre with better pay scale and more promotional avenues.

There shall be three grades of Stenographers corresponding to three levels of Courts, but States having more than three grades will remain undisturbed.

GRADE-I

- c) the existing Personal Assistant to the District & Sessions Judge carrying the pay scale of Rs.6500-10500 may be re-designated as Stenographer Grade-I and assigned the pay scale of Rs.7450-225-11500.

The three grades suggested by us are corresponding to the three levels of Courts. We are confident that these three grades secure adequate promotional avenues to Stenographers.

The restructuring may require either upgradation of posts or creation of more posts. While constituting the new cadres, care may be taken to see that the strength of each grade of Stenographers shall not be less than the strength of Judges to whom they are to be attached, as **indicated above**.

No. of Stenographers to be given to each Judge :*

- | | | |
|-----|--|---|
| (a) | Civil Judge (Jr. Div.) / Magistrate | - One Grade-III Stenographer |
| (b) | Civil Judge (Sr. Div.) / CJM / CMM | - One Grade-II Stenographer |
| (c) | District Judge / Additional District Judge | - One Grade-I Stenographer |
| (d) | Principal District and Sessions Judge | - One Grade-I Stenographer and one Executive Assistant. |

Executive Assistant : **

It may also be ensured that the Principal District & Sessions Judge gets an Executive Assistant in addition to one Grade-I Stenographer. The

* See, Chapter - X.

The Civil Judge (Jr. Div.) generally writes orders / judgments. The Court of Civil Judge (Sr. Div.) is a Court of unlimited jurisdiction where High Court is not having original side cases. CMM Court and District Courts have variety of jurisdictions, besides supervisory work. Hence, different grades of Stenographers for different Courts are recommended.

** See, Chapter - X.

The Principal District & Sessions Judge being the head of the District Judiciary and the Principal Judge of the City Civil Court, being head of City Civil Court, have lot of administrative work besides

incumbent of this post will be the choice of the Principal District Judge from amongst Stenographers Grade-I. The Executive Assistant would be entitled to a Special Allowance of Rs.200/- p.m. which is inclusive of Travelling and Compensatory Allowance.

Our other recommendations in respect of Stenographers are as follows :

(i) Pool of Stenographers :

In District Headquarters, where there is cluster of Courts, each Judge is to be provided with a Stenographer and there may be a pool of Stenographers to be determined by the High Court to meet the requirements.

(ii) Permission to switch over to Ministerial / Supervisory Cadre :*

May be permitted after completion of a minimum period of service (to be determined by High Court).

(iii) Travelling Allowance / Compensatory Allowance / Special Allowance :**

At present, in Uttar Pradesh, Stenographers who attend the Home Office of the Judicial Officers are not paid any conveyance allowance.

usual judicial work. They need the assistance of a Personal Assistant, who is recommended a Special Allowance of Rs.200/- per month, which is inclusive of Travelling and Compensatory Allowance.

*** See, Chapter - X - A.**

It is not desirable to treat the Stenographer like "once a mortgage always a mortgage". His valuable experience could be fully utilised in other branches of administration as well. Hence, Stenographers may be permitted to switch over to ministerial / supervisory cadre after completion of a certain minimum period of service as determined by the High Court, subject to the condition that the option once exercised shall not be revoked.

**** See, Chapter - X - B.**

Stenographers have to attend the Home Office of Judges and work even on holidays. They

The State Government while replying to Question No.25 of our Questionnaire has stated that since pay scales recommended by the Fifth Pay Commission have been made available to the Civil Court Staff also, the State Government does not support any other pay structure.

The Uttar Pradesh Civil Court Ministerial Services Association has suggested to upgrade the post of Munsarim with higher pay scale.

C. OUR RECOMMENDATIONS :

We understand that Uttar Pradesh is having Centralised system of administration. Under this system, all administrative matters of all Courts in the District are handled by the office of the Principal District Judge. We do not have the full information about the impact of upgradation of this post in the Centralised Administration. In the absence of such information, we are unable to take any view in respect of this post. We leave the matter to the wisdom of the High Court to take appropriate decision, keeping in view our recommendations in respect of other cadres.

For smooth working of the Court and to avoid friction among the officials, it is recommended that the post shall carry a pay scale higher than that of the Bench Clerk and Stenographer of the Court.

The existing supervisory arrangements in Courts having centralised administration may, however, continue with such modification as the High Court in the respective State / UT may consider necessary.

C. OUR RECOMMENDATIONS :

Presently, the Senior Administrative Officer gets the pay scale of Rs.6500-10500 which is admissible to the Personal Assistant to the District & Sessions Judge. We have raised that pay scale to Rs.7450-225-11500. The Senior Administrative Officer must get the highest pay scale in the hierarchy. In view of this and for reasons stated in **Chapter-XII**, the lowest pay scale in Group-A / Class-I is recommended.

Recommended pay scale : Rs. 8000-275-13500 which is the lowest pay scale in Group-A as per the general pay scales.

The Chief Administrative Officer assists the District Judge in all administrative matters. He also exercises general supervision over the staff of the District Court and other Courts in the District. There is no further promotion to this incumbent. It is a responsible post, which is required to be manned by an able person with considerable experience, proven efficiency and merit. Due to the lower pay scale, the senior and experienced persons decline to accept the post, as they have to go out of their native district on promotion. The post of Chief Administrative Officer be included in Group-A / Class-I and assigned the lowest pay scale admissible to that Group / Class. It is, however, made clear that the pay scale of Chief Administrative Officer should be higher than the pay scale of any other staff working in the District Administration.

Even the Indian Institute of Technology, Delhi, (Consultant of the Commission) has favoured giving higher pay scale having regard to the innumerable duties and responsibilities of the post.

VII. COMMON CATEGORY POSTS :¹³

A. EXISTING POSITION :

The Common Category posts in the Subordinate Judiciary carry the pay scale of their counterparts in other departments of the State Government.

B. VIEWS OF HIGH COURT, STATE GOVERNMENT AND STAFF ASSOCIATIONS :

The High Court has stated that the work-load is excessive due to inadequacy of staff which can be overcome by recruiting more staff as per the norms recommended by the K.L. Sharma Committee.

The State Government has stated that the staff of the Civil Courts have been given the pay scales as recommended by the Pay Committee, which are also available to the staff of the Collectorate.

The Staff Associations have requested for grant of higher pay scales on the ground that the duties and responsibilities of the Court staff are different and arduous.

C. OUR RECOMMENDATIONS :

For reasons stated in **Chapter - VII**, we recommend the following:

- (i) Holders of the following common category posts in the Ministerial cadres, other than to whom we have recommended higher pay scales in other Chapters, be given **one increment** at the initial rate of the pay scale admissible to them :

¹³ See, **Chapter-VII**.

The duties and responsibilities of the common category posts in the Subordinate Courts are not comparable with those of their counterparts in the Government. The judicial employees have enormous and quite different nature of work. They are compelled to work beyond the working hours to complete the day's work. There is no question of postponement to next day. They hardly get sufficient break during lunch time. Their work is specialised and time bound. They are required to familiarise themselves with all the Acts, Rules and Regulations of the Central and State Governments.

1.	Sadar Munsarim PA to Dist. Judge / Addl. Dist. Judge / Spl. Judge	[80] / [675]	Rs.5500-175-9000
2.	Central Nazir / Record Keeper (Civil) / Second Clerk / Head Copyist / Munsarim, JSCC & Addl.JSCC / Munsarim-cum-Reader	[1319]	Rs.4500-125-7000
3.	Deputy Nazir / Record Keeper (Crl.) / Suits Clerk / Misc. Clerk / Execution Clerk / Decree Writer / Clerk to CMM, CJM, JM Courts / Librarian / Head Copyist (Civil & Criminal) etc. / Reader / Munsarim, Civil Judge (Sr. Div. & Jr. Div.) / Addl. Civil Judge (Sr. Div. & Jr. Div.) and Stenographer		Rs.4000-100-6000

They have backbreaking 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.

Almost all High Courts are in favour of providing adequate compensation for the arduous work done by the Court Staff. Even certain State Governments and Union Territories have come to the rescue of the Court Staff by suggesting higher pay scales to the common category posts.

Almost all District Judges of States / Union Territories agree that the Court Staff, even of common category, deserve higher emoluments. In fact, the District Judges are the best eye-witness to certify the work-load of their staff, since the staff work under their watchful eyes. It is also their version that the staff shoulder higher responsibility and work beyond office hours almost every day with an added duty to maintain Muddemal properties and original documents.

5. Copyists (Civil & Police case diaries) /
Asst. Account Clerk / Addl. Clerk /
Court Clerk / Admn. Clerk / Writer &
Runner / Typist etc. } Rs.3050-4590

[NOTE: The aforesaid posts are indicative and not exhaustive. If there are any other common category posts in the Ministerial Cadres, the incumbents thereof are also entitled to the benefit of our recommendation.]

(ii) This benefit of **one increment** at the initial rate may also be provided to :

(a) New entrants to the service

And

(b) Employees who have reached stagnation.

(iii) **Special Allowance to Drivers :**

It is recommended that Drivers working in the Subordinate Courts shall be granted a Special Allowance of not less than Rs.150/- p.m.

The Indian Institute of Technology (Consultant of the Commission) has also supported grant of higher pay to Court staff, since they form an integral part of judicial system. They help to perform the judicial process efficiently and effectively. Court's activity being absolutely labour intensive and service oriented, the Court staff forms a critical and important mass of the judicial system.

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 undergo, the hick-ups they suffer, all require to be aptly recognised and compensated for.

* * * * *