

CHAPTER - VII

COMMON CATEGORY / CADRE POSTS

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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

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|-----------------------|---------------------|
| (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

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.

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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 OTHERS⁹, 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 MEWARAM 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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