

# **SECOND NATIONAL JUDICIAL PAY COMMISSION**

First Floor, Vigyan Bhawan Annexe

New Delhi-110 011.

Phone : 011-23022358; Fax No. 011-23022343

## **CONSULTATION PAPER**

**Justice R. Basant**  
**Former Judge**  
**High Court of Kerala**  
**Member**

**Justice P. V. Reddi**  
**Former Judge of Supreme Court**  
**Chairman**

**Vinay Kumar Gupta**  
**DHJS**  
**Member Secretary**

**July 2018**

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#### **1. INTRODUCTORY:**

**1.1** The Supreme Court of India, by the order dated 09.05.2017 in W.P.(C) No.643 of 2015 filed by All India Judges Association under Article 32 of the Constitution, appointed this Commission. The terms of reference to the Commission, which have been agreed upon by all concerned including the Government of India, which is the 1<sup>st</sup> respondent in the said Writ Petition, have been set out in the order of Supreme Court. They are as follows:

- (1) To evolve the principles governing the pay structure and emoluments of Judicial Officers belonging to the Subordinate Judiciary all over the country.
- (2) To examine the present structure of emoluments and conditions of services of Judicial Officers in the States and Union Territories and to make suitable recommendations including post-retirement benefits such as pension, having regard among other relevant factors to the existing relativities in the pay structure between the Officers of Subordinate Judiciary and other civil servants.
- (3) To examine the work methods and work environment and the various allowances and benefits in kind that are available to the Judicial Officers in addition to pay and to suggest rationalization and simplification thereof with a view to promoting efficiency in judicial administration and to remove anomalies (if any) created in implementation of earlier recommendations.

(4) To consider and recommend such interim relief as the Commission considers just and proper to all categories of Judicial Officers.

(5) To make recommendations regarding setting up of a permanent mechanism to review the pay and service conditions of members of Subordinate Judiciary periodically by an independent Commission.

The Supreme Court observed that the Commission may consider, if necessary, sending reports on any of the matters as and when recommendations are finalised. The Commission has been empowered to devise its own procedure and formulate the modalities necessary for accomplishing the task.

**1.2** The Commission at its first meeting held on 07.06.2017 decided to designate the Commission as All India Judicial Officers Pay Commission. The Government of India, Ministry of Law & Justice, Department of Justice issued notification no. 19018/01/2017 dated 16.11.2017 and named the Commission as Second National Judicial Pay Commission. Accordingly the name Second National Judicial Pay Commission was adopted.

The Secretary of the Commission, an officer of the rank of District Judge (STS) deputed by High Court of Delhi, assumed office on 16.08.2017.

The Commission addressed letters to the High Courts in August 2017 seeking information/data concerning the aspects relating to pay, allowances and pensionary benefits followed by supplementary questionnaire on some points. Information was also sought from the State Governments regarding the prevalent pay scales and allowances of State Government officials, the periodicity of revisions etc.

**1.3** After the revision of pay of High Court Judges, the Commission felt that it would be appropriate to submit a Report on interim relief. Accordingly, the same was submitted to the Supreme Court on 14.03.2018. The Hon'ble Supreme Court by order dated 27.03.2018 accepted the recommendation regarding interim relief (at 30% of the basic pay w.e.f. from 01.01.2016) and directed implementation of the orders in respect of Judicial Officers, as well as pensioners by 30.06.2018.

**1.4** With a view to prepare and submit a final report confined to the first two terms of reference, i.e. regarding pay structure/emoluments including allowances and pensionary benefits, this **Consultation Paper** is being released to elicit the views and suggestions of all the stakeholders including the State Governments/U.T. administration.

## **2. 1<sup>st</sup> NJPC CONSTITUTED IN 1996 AND THE JP COMMISSION (2009):**

**2.1** The 1<sup>st</sup> National Judicial Pay Commission headed by Hon'ble Justice K. Jagannatha Shetty, former Judge of the Supreme Court, was constituted in the year 1996, pursuant to the order of the Supreme Court of India in *All India Judges Association* case [1992 (1) SCC 119] and the further order in the review petition (reported in *AIR 1993 SC 2493*). It will be hereafter referred to as 1<sup>st</sup> NJPC or Justice Shetty Commission. The said Commission has given a comprehensive report in the year 1999, covering not merely the pay structure, allowances and conditions of service of Judicial Officers, but also various other aspects concerning the Courts and judicial administration.

**2.2** Thereafter, a Commission for the revision of scales of pay of members of Subordinate Judiciary was constituted by the Supreme Court of India by the order dated 28.04.2009 in I.A.No244 in W.P.(C) No.1022 of 1989. Justice (retd.) E.Padmanabhan headed the Commission. It will be hereafter referred to as JP Commission. The said I.A. was in the Writ Petition originally filed by All India Judges Association, which led to the constitution of the 1<sup>st</sup> NJPC. The Supreme Court of India observed in the said order dated 28.04.2009 that the salary of the High Court Judges having been revised by passing an Ordinance in January, 2009 (as a sequel to 6<sup>th</sup> Central Pay Commission's Report), the pay scales of Judicial Officers also required upward revision. For the said purpose, appropriate scales of pay were to be fixed having due regard to the recommendations of Justice Shetty Commission. Keeping in view the recommendations made by 1<sup>st</sup> NJPC (Justice Shetty Commission) in respect of the pay scales and allowances of the Judicial Officers, Justice Padmanabhan Commission arrived at the new pay scales together with the increments and submitted the report on 17.07.2009. Recommendations were made regarding various allowances/perquisites also. The Commission's report was accepted by Hon'ble Supreme Court by various orders passed between July and September 2010 and all the Governments were required to give effect to the recommendations of the Commission.

**2.3** All the States and Union Territories have accordingly given effect to the revised pay scales proposed by Justice Padmanabhan Commission which are presently in force (together with the interim relief extended recently by virtue of the order of Hon'ble Supreme Court dt. 27.03.2018 in W.P. (C) 643/2015).

**2.4** The recommendations of 1<sup>st</sup> NJPC in regard to revision of pay scales of Judicial Officers were given retrospective effect from 01.01.1996 and the allowances recommended by the Commission were made effective from 01.11.1999. The pay scales and allowances in accordance with the recommendations of Justice Padmanabhan Commission were given effect to from 01.01.2006. By the time Justice Shetty Commission submitted its report, the V CPC scales were in force for the All India Service officers and other Central Government officials and by the time Justice Padmanabhan Commission gave its report, the pay structure recommended by the VI CPC was in force. Now, we have the 7<sup>th</sup> CPC pay structure.

### **3. SUBORDINATE JUDICIARY – ITS PIVOTAL ROLE IN JUSTICE SYSTEM :**

The Subordinate Judiciary is the backbone of the Judicial system. Most of the common people, especially those living in the rural and *mofussil* areas, know of the Courts at the lowest level in Judicial hierarchy, i.e., the Courts located in *taluka* or *mandal* areas. The “dynamics of judicial processes” are witnessed by the public mostly in these Courts. The Subordinate Courts and the Districts are the eyes and ears of the Judiciary. The image of Judiciary depends much on their efficient functioning and the capacity to dispense justice to the best of their ability. The Subordinate Courts play a prominent role in preserving law and order in the society. It is the public confidence in the Judicial system that sustains the credibility of the Judiciary. In generating and fostering the public confidence, the role of the District and Subordinate Judiciary is therefore significant. Ensuring adequate emoluments and

proper working conditions for the Judges constituting subordinate Judiciary promotes judicial independence which is a basic feature of our Constitution.

#### **4. CADRE STRENGTH AND WORKING STRENGTH:**

The sanctioned strength of Judicial Officers constituting the Subordinate Judiciary within the jurisdiction of various High Courts as per the information received in September, 2017 is 22297. However, the working strength is only 16609. Thus, the deficit between the sanctioned strength and working strength is about 5700. The overall deficit comes to about 25%. The Second Class Magistrates/Special Metropolitan Magistrates and Special Judicial Magistrates (appointed on consolidated salary on reemployment under the 13<sup>th</sup> Finance Commission Scheme) and Judges of temporary Fast Track Courts are not included in the figures given above regarding sanctioned and working strength.

In all the States, the designations of officers are almost the same as suggested by 1<sup>st</sup> NJPC. However, in Kerala, old designations are still adhered to. The District Judges at entry level are described as Addl. District Judges in some States. The District Judges having the charge of a District are designated as Principal District Judges in many States. To the extent information has been received from the High Courts, on an average, it takes about 17 years for a Junior Civil Judge to reach the position of a District Judge. It depends on the number of Courts, sanctioned cadre strength, the vacancy position and the timely steps taken for promotion when it is due. However, precise information is lacking in this regard.

**4.1** The working strength includes the officers who are sent on deputation to other departments and also the Judges manning Labour Courts and Industrial Tribunals and the Courts set up under the special enactments (Central or State). The highest number of vacancies remain in the States of UP and Bihar which are about 40%. The vacant posts of Civil Judges (Junior Division) who are also posted as First Class Judicial Magistrates is very high in UP, Bihar, Jharkhand, Delhi, Manipur and Tripura. The vacant posts in the States within the jurisdiction of Bombay, Rajasthan, Kerala, HP and Chattisgarh High Courts are at minimal level. According to the information furnished by the Registry of High Court of Calcutta, there are no vacant posts at all. However, it deserves notice that the sanctioned strength in West Bengal is quite low when compared to the size of the State. The details relating to the delays in recruitment and problems associated with the recruitment are not proposed to be examined in the Report under consideration. Probably, it will be the subject-matter of discussion in the next part of the Report. This Report concentrates on pay, allowances and pension.

## **5. THE JUSTIFICATION FOR DIFFERENT AND UNIFORM PAY STRUCTURE:**

**5.1** Justice K. Jagannadha Shetty Commission made elaborate reference to the essential characteristics of Judicial office, the special qualifications required for recruitment and the onerous duties and responsibilities required to be performed by the Judges and the personal sacrifice in terms of secluded life. The Commission stressed on the need to have an appropriately designed remuneration system which must serve



as a key feature for recruitment, retention and motivation of Judges to ensure proper administration of justice.

**5.2** The justification for higher pay scales for Judicial Officers, when compared to their counterparts in executive branch of civil service is now a matter of history. That the Judges belonging to Subordinate Judiciary shall be treated differently in matters relating to pay, allowances and certain other service conditions and shall not stand in comparison with civil administrative officers of the State is now a firmly recognised principle. It is only in recognition of this reality, the Supreme Court of India in the landmark judgment in *All India Judges Association v. UOI* [1992 SCC (1) 119, AIR 1992 SC 165), directed the setting up of a separate Judicial Pay Commission for the members of Subordinate Judiciary and issued various other directions regarding the uniformity of service conditions, pay and perks, pension, training etc.. The review petitions filed by the Governments and Union of India were disposed of with certain modifications and clarifications. In the order passed in the review petition, there are significant observations which spell out the justification for treating the members of Judicial service as a distinct class, ruling out the comparison with the executive officers. The Supreme Court, in the review judgment reported in AIR 1993 SC 2493, held thus:

“The judicial service is not service in the sense of ‘employment’. The judges are not employees. As members of the judiciary, they exercise the sovereign judicial power of the State. They are holders of public offices in the same way as the

members of the Council of Ministers and the members of the legislature.”

xxx xxx xxx “The Judges, at whatever level they may be, represent the State and its authority unlike the administrative executive or the members of the other services. The members of the other services, therefore, cannot be placed on par with the members of the judiciary, either constitutionally or functionally.”

“The distinction between the Judges and the members of the other services has to be constantly kept in mind for yet another important reason. Judicial independence cannot be secured by making mere solemn proclamations about it. It has to be secured both in substance and in practice. It is trite to say that those who are in want cannot be free. Self reliance is the foundation of independence. The society has a stake in ensuring the independence of the judiciary, and no price is heavy to secure it. To keep the judges in want of the essential accoutrements and thus to impede them in the proper discharge of their duties is to impair and whittle away justice itself.”

“As pointed out earlier, the parity in status is no longer between the judiciary and the administrative executive but between the judiciary and the political executive. Under the Constitution, the judiciary is above the administrative executive and any attempt to place it on par with the administrative executive has to be discouraged. The failure to grasp this simple truth is responsible for the contention that the service conditions of the judiciary must be comparable to those of the administrative

executive and any amelioration in the service conditions of the former must necessarily lead to the comparable improvement in the service conditions of the latter.”

The Supreme Court, having said so, also observed thus:

“Further, since the work of the judicial officers throughout the country is of the same nature, the service conditions have to be uniform.”

## **6. BROAD FEATURES OF 1<sup>st</sup> NJPC RECOMMENDATIONS REGARDING PAY AND ALLOWANCES:**

**6.1** The 1<sup>st</sup> National Judicial Pay Commission, thus, proceeded to determine the uniform pay scales of the three cadres in Judicial service applicable throughout the country. The assistance of various experts was taken by the Commission. The Commission noted that according to the Judges whose responses were sought, the most important criteria to be taken into account were the nature and quantum of work and the morale of Judicial Officers. At paragraph 15.24, the Commission observed as under:

“We have particularly borne in mind the pivotal role of Subordinate Judiciary, essential characteristics of judicial office, special qualifications required for recruitment, onerous duties and responsibilities of the post and personal sacrifice in terms of loneliness and general withdrawal from the community affairs by Judicial Offices. We have taken into consideration the pay scales recommended by the 5<sup>th</sup> CPC and those that have been

accepted by the Central and State Governments and all other relevant principles which have bearing on the matter for determining the uniform pay structure to the three cadres in Judicial Service.”

**6.2** At paragraph 15.26, it was noticed that there was a wide variance in the pay structures prevailing in the various States and Union Territories. It was then observed;

“Judicial officers performing the same or similar nature of work are remunerated differently. We have to remove this incongruity by evolving a uniform/common pay scale, cadre-wise, to Judicial Officers in every State and Union Territory.”

**6.3** At paragraph 15.28, the Commission stated that instead of fixed pay scales, they have opted for the telescopic scales to the Judicial Officers. “Telescopic pay scales”, it was observed, “are preferable for the reason that experience in a lower cadre itself is a qualification for promotion to the higher cadre. This principle is also implicit in the recruitment rules of any cadre. Promotion, however, is not always definite or certain. There must therefore, be a mechanism to provide pay scale to the person in the lower cadre, which may correspond at least to the lower reaches of the scale prescribed for promotional cadre. This is in conformity with the principle that an officer in the lower cadre is generally entrusted with more responsible work after some years of experience and that responsibility may be near or more than that of the higher post.”

**6.4** Having said so, the 1<sup>st</sup> NJPC observed at paragraph 15.29 “These aspects could be worked out only when we prepare a **Master Pay Scale** before determining the different pay scales. Hence, we have, at the first instance, gone for the **Master Pay Scale.**”

**6.5** The advantages of the Master Pay Scale have been noted in paragraph 15.30: (i) the pay scale would be telescopic in nature. (ii) the pay scale is intended to reward the experienced officers in the lower cadre languishing without promotion (iii) convenient inbuilt incremental structure which would be the basis for working out other pay scales (iv) the officers reaching a particular stage of pay would get the same increment, irrespective of the pay scale attached to their posts (v) the different segments of Master Pay Scale could be formed into different pay scales according to the requirements.

**6.6** Paragraph 15.31 of the report is crucial. It sets out the **Master Pay Scale** evolved by the Commission. It is as follows:

Rs.9000-250-10750-300-13150-350-15950-400-19150-450-21850-500-24850
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In formulating the Master pay scale and in arriving at the minimum pay scales in each rank, the Commission (1<sup>st</sup> NJPC) had taken into account the corresponding pay scales of All India Service officers at the entry level, as specifically mentioned at para 15.35. For instance, the starting pay of junior scale IAS Officer such as Assistant Collector/SDM was Rs.8,000/- as per the V CPC recommendations. Rs.1,000/- was added thereto in fixing the minimum of Rs.9,000/-.

The maximum in the Master pay scale, as pointed out at paragraph 15.37, was fixed keeping in view the fact that it shall not

exceed the pay of the High Court Judge. The salary of High Court Judges post - V CPC was Rs.26,000/-, which was described as 'vertical cap' for the purpose of fixation of maximum of highest level officer. The 1<sup>st</sup> NJPC thus fixed a maximum of Rs.24,850/- in the Master pay scale.

**6.7** At paragraph 15.32, as many as 44 pay stages comprised in Master Pay Scale have been listed. The annual increments added every year are reflected in the Table beneath para 15.32. The pay stages begin from Rs.9,000/- and end up at Rs.24,850/-. Thereafter, it was observed that the number of pay scales should be equal to the number of clearly identifiable levels of responsibilities, the identifiable levels in Judicial service being three, i) Civil Judge (Junior Division); (ii) Civil Judge (Senior Division); and (iii) District Judge. Then, at paragraph 15.34, it was stated "Primarily, we have to therefore evolve three pay scales. But, since we have decided to give Assured Career Progression Scales to the first two cadres and Selection Grade Pay and Super Time Scale to the third cadre, we have to prepare 7 (seven) pay scales in all."

**6.8** The pay scale of District Judge at entry level was fixed at Rs.16,750/-, the maximum being Rs.20,500/-. The Commission further recommended the Selection Grade Scale and Super Time Scale for District Judges. According to the recommendation, 25 per cent of the cadre posts of District Judges shall be assigned the Selection Grade Scale, the prerequisite for which was five years of service as District Judge. The Commission also recommended that 10 per cent of the cadre strength of District Judges shall be given Super Time Scale if they have put in minimum of three years of service as Selection Grade DJs. The Selection

Grade scale of DJs was fixed at Rs.18750 - 22850, with increments at three stages in between. The Super Time Scale was fixed at Rs.22850 - 500 - 24850. The Selection Grade Scale for DJs recommended by the Commission was slightly more than the Super Time Scale in IAS and the Super Time Scale of District Judges was little above the Super Time Scale of Principal Secretary working in States. Both the scales, i.e., Selection Grade and Super Time Scale were to be given by selection on the basis of merit-cum-seniority.

**6.9** At paragraph 15.47, the Commission set out the Chart indicating the **Mean Basic Pay** for the proposed scale of each cadre of Judicial Officers, with reference to the pay of High Court Judges. The Mean Basic Pay of Civil Judge (Junior Division) was arrived at as Rs.11,775/-, that of Civil Judge (Senior Division) as Rs.15,200/- and the Mean Basic Pay of District Judge (Entry level) was arrived at as Rs.18,625/-. The Mean Basic Pay of District Judge - Selection Grade and Super Time Scale respectively was fixed at Rs.20,800/- and Rs.23,850/-.

The following analysis at paragraph 15.48 is important:

“It may be seen from the aforesaid Table and Chart that the mean of the basic pay of Civil Judges (Junior Division), Civil Judges (Senior Division), District Judges (Entry Level), District Judges (Selection Grade) and District Judges (Super Time Scale) works out respectively at 42.3%, 58.5%, 71.6%, 80% and 91.7% of the salary of the High Court Judges.”

P.N: There is an arithmetical error here. It must be 45.3%, as pointed out by JP Commission.

**6.10** The rate of increment adopted was discussed by the Commission from paragraphs 15.51 to 15.55. The Commission adopted the system of fixed quantum increments while evolving the Master Pay Scale. The Commission observed that the grant of increment as percentage of basic pay was “operationally inconvenient”. The reasons for adopting a particular rate of increment (s) in the Master Pay Scale were enumerated in paragraph 15.53. At paragraph 15.55, it was observed “it is common knowledge that short time span would give rise to complaints of stagnation, while longer time span results in very slow increase in the pay. To avoid these extremes, we consider that 6 (six) incremental stages would be proper and ideal. At paragraph 15.32, 44 pay stages in the Master Pay Scale starting from Rs.9,000/- upto Rs.24,850/- were set out at paragraph 15.32.

**6.11** The minimum and maximum of the revised pay scales was dealt with in paragraphs 15.35 to 15.39, which are extracted hereunder:

“15.35 While fixing the minimum of the Master Pay Scale, we have looked into the pay scales recommended by the 5<sup>th</sup> CPC to the All India Service Officers at the entry level. We have also considered the qualification prescribed for the post of Civil Judge (Junior Division); consequently, their late entry into the service.”

15.36 “Taking all these and other relevant factors, we have fixed Rs.9,000/- as the minimum of the Master Pay Scale.”

**6.12** Accordingly, the following three primary Pay Scales have been determined cadre-wise (vide para 15.38):



CIVIL JUDGES (JR. DIVN.): Rs.9000-250-10750-300-13150-350-14550

CIVIL JUDGES (SR. DIVN.): Rs.12850-300-13150-350-15950-400-17550

DISTRICT JUDGES: Entry Level Rs.16750-400-19150-450-20500

For the Civil Judges, Junior and Senior Division, ACP scales were evolved. So also, for District Judges, functional up-gradation was recommended.

**6.13** In formulating the Master Pay Scale and in arriving at the minimum pay scales in each rank, the Commission (1<sup>st</sup> NJPC) had taken into account the corresponding pay scales of the members of the IAS. At paragraph 15.35, the Commission specifically observed that the pay scales recommended by the V CPC to the All India Service Officers at the entry level were kept in view in fixing the minimum of the Master Pay Scale. At the same time, the Commission made it explicit that the qualifications prescribed for the post of Civil Judge (Junior Division) and consequently their late entry into service were the other factors taken into account.

**6.14** It may be noted that as per the V CPC recommendations, Government of India fixed the starting pay of the All India Service officer at the entry level, such as Assistant-Collector/SDM at Rs.8,000/-. Justice Shetty Commission apparently felt that the freshly recruited Civil Judges shall get about Rs.1,000/- more than the minimum pay of All India Service Officers. That is how the starting pay of Civil Judge (Junior Division) was fixed at Rs.9,000/-, which is 12.5% more than the I.A.S. Officer at entry level. Then, the starting pay of Senior Civil Judges was fixed at Rs.12,850/-, which was higher than the pay of Senior scale IAS officer at that point of time. The starting pay of District Judges was fixed

as Rs.16,750/- going up to Rs.20,500/-. This scale of District Judges (Entry level) of Rs.16750 - 400 - 19150 - 450 - 20500 was in between the scale of IAS Selection Grade and Super Time Scale. The pay of District Judge (Super Time Scale) starts with Rs.22,850/- and the maximum proposed was Rs.24,850/- which was well below the limit of High Court Judges' salary of Rs.26,000/- (post V CPC)

**6.15** The Supreme Court observed in *All India Judges Association v. Union of India and ors.* (AIR 2002 SC 1752; 2002 (4) SCC 247) that the equivalence of the District Judge (Entry Level) should be with that of IAS (Super Time Scale) and it would not be proper to equate District Judge to Selection Grade IAS Officer because of the longer length of service generally put in by a Civil Judge to reach the highest position of District Judge. The contention on behalf of Union of India to equate the pay of DJ (Entry level) with that of Selection Grade IAS was rejected. However, the 1<sup>st</sup> NJPC's recommendations as regards the pay scale assigned to the District Judge (Entry level) in between Selection Grade and Super Time Scale IAS was accepted.

## **7. RECOMMENDATIONS OF JUSTICE PADMANABHAN COMMISSION (JP COMMISSION)**

**7.1** Following the methodology adopted by the First National Judicial Pay Commission, JP Commission arrived at the Master Scale and the Mean basic pay of Judicial Officers.

Section 2 of Part III at Page No.10 sets out the revised **Master Pay Scale** with effect from 01.01.2006, which is as follows:

Rs.27700-770-33090-920-40450-1080-49090-1230-58930-1380-67210-1540-76450
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The JP Commission stated that the above revised scale will replace the then existing Master Pay Scale which was as under:

Rs.9000-250-10750-300-13150-350-15950-400-19150-450-21850-500-24850

**7.2** At page No.8 of the Report, the percentage of Mean basic pay for various categories of Judicial Officers in relation to the revised salary of High Court Judges, was specified as follows:

- Civil Judges (Junior Division) - 45.28% (rounded off to 45.3%);
- Civil Judges (Senior Division) - 58.5%;
- District Judges (Entry Level) - 71.6% ;
- District Judges (Selection Grade) - 80%
- District Judges (Super Time Scale) - 91.7%

The JP Commission thus followed the respective ratios fixed by 1<sup>st</sup> NJPC in determining the Mean basic pay.

**7.3** Page 9 of JP Commission Report contains the following Table working out the Mean basic pay and revised scale of pay for the five categories of Judicial Officers:

S.No.	Name of the Post	Existing Scale of Pay as per FNJPC <u>Mean and % of Rs.26,000/-</u>	Revised Scale of Pay arrived at	Mean of Basic Pay of the proposed scale	% of 80000/-
(I)	(II)	(III)	(IV)	(V)	(VI)
1.	Civil Judge (Junior Division) (Entry Level)	Rs.9000-250-10750-300-13150-350-14550 <u>(Rs.11775)</u> (45.3%)	Rs.27700-770-33090-920-40450-1080-44770	Rs.36235	45.3%
2.	Civil Judge (Sr. Division) (Entry Level)	Rs.12850-300-13150-350-15950-400-	Rs.39530-920-40450-1080-49090-1230-	Rs.46770	58.5%

		17550 <hr style="width: 50%; margin: auto;"/> (Rs.15200) (58.5%)	54010		
3.	District Judge (Entry Level)	Rs.16750-400- 19150-450- 20500 <hr style="width: 50%; margin: auto;"/> (Rs.18625) (71.6%)	Rs.51550- 1230-58930- 1380-63070	Rs.57310	71.6%
4.	District Judge (Selection Grade)	Rs.18750-400- 19150-450- 21850-500- 22850 <hr style="width: 50%; margin: auto;"/> (Rs.20800) (80%)	Rs.57700- 1230-58930- 1380-67210- 1540-70290	Rs.63995	80%
5.	District Judge (Super Time Scale)	Rs.22850-500- 24850 <hr style="width: 50%; margin: auto;"/> (Rs.23850) (91.7%)	Rs.70290- 1540-76450	Rs.73370	91.7%

Thus, the percentage of the Mean basic pay (the average of the minimum and maximum in the timescale of pay) in comparison with the High Court Judges' Salary was indicated in the chart at Page No.9 of the Report in relation to the five ranks of Judicial Officers. As mentioned above, it ranges from 45.3% to 91.7%.

**7.4** At page No.11 of Section 2, we find a Table containing the revised pay figures for 1 to 44 stages of the new Master Pay Scale together with the details of increments in the old and revised pay scales for 1 to 44 stages. The annual increment in the proposed/revised pay scale starts from Rs.770/- as against the pre-existing increment of Rs.250/- (as fixed by 1<sup>st</sup> NJPC) and it ends with Rs.1540/- as against the pre-existing rate of Rs.500/-.

Table II at page No.13 gives the details of existing scales of pay and corresponding revised scales of pay determined on the basis of percentage of increase of High Court Judges' salary as on 01.01.2006. The revised scales of pay – minimum and maximum – worked out in

relation to five categories of Judicial Officers have already been noted at para 7.3 supra.

**7.5** Having noted that the revised pay made applicable to High Court Judges by the notification dated 09.01.2009 with effect from 01.01.2006 denotes upward revision of pay by 3.07 times, it was observed by JP Commission at page No.14 that keeping this in view, the corresponding increase in scale of pay needs to be arrived at. JP Commission then observed that “the question of fitment or fixation of pay by giving one or more increment or additional weightage does not arise”. It was further clarified at page No.15 that in the Master Pay Scale, the pay at the existing rate and corresponding revised pay as determined by the Commission found a place for incremental stages 1 to 44 of Table I and hence “the question of fitment does not arise”. Further it was clarified in paragraph 10 of page 15 that in the Master Pay Scale itself, following the recommendation of 1<sup>st</sup> NJPC, six incremental stages (as revised) were provided for in respect of all the pay scales in Table I and therefore any further increase in annual increment will result in deviation of ratio fixed by the 1<sup>st</sup> NJPC.

**7.6** The Assured Career Progression Scheme was discussed in Section 5 of Part III. The benefit of I and II Stage ACP Scales was recommended for Civil Judges (Junior Division) and Civil Judges (Senior Division) and in so far as District Judges are concerned, the financial upgradation on functional basis to Selection Grade and Super Time Scale was maintained. This recommendation is also based on 1<sup>st</sup> NJPC report. The revised ACP Scales for Civil Judges (Junior Division) and Civil Judges

(Senior Division) and the financial upgradations for District Judges were given at pages 16 and 17 of the said Report.

## **8. INCREMENTS:**

**8.1** As regards increments, the 1<sup>st</sup> NJPC adopted the system of fixed quantum increments while evolving the Master Pay Scale. The Commission felt that 6 incremental rates would be proper. The Commission observed that short time-span would give rise to complaints of stagnation, while longer time-span would result in very slow increases in the pay. To avoid these two extremes, the Commission proposed 6 incremental rates, which were Rs.250/- upto 7<sup>th</sup> stage, Rs.300/- from 8<sup>th</sup> to 15<sup>th</sup> stage, Rs.350/- from 16<sup>th</sup> to 23<sup>rd</sup> stage, Rs.400/- from 24<sup>th</sup> to 31<sup>st</sup> stage, Rs.450/- from 32<sup>nd</sup> to 37<sup>th</sup> stage and thereafter from 38<sup>th</sup> to 44<sup>th</sup> stage at Rs.500/-. The JP Commission also adopted the same pattern. The increments were however increased by applying the multiple of 3.07 equivalent to the quantum of increase in the pay of High Court Judges in 2006. The six incremental rates were arrived at starting from Rs.770/-. They are Rs.770/- upto the 7<sup>th</sup> stage, Rs.920/- upto 15<sup>th</sup> stage, Rs.1,080/- upto 23<sup>rd</sup> stage, Rs.1,230/- upto 31<sup>st</sup> stage, Rs.1,380/- upto 37<sup>th</sup> stage and Rs.1,540/- upto 43<sup>rd</sup> stage. The percentage of increase in the next five stages approximately works out to 16%, 15%, 13%, 11% and 10.5% respectively.

**8.2** It may be noted that the 7<sup>th</sup> CPC added the increments at 3% (with slight variations) uniformly for all ranks every year and the increments keep on adding to the pay and the officer thereby gets into the next stage

of pay level. In other words, the next increment (at 3%) is calculated on the pay plus increment already added.

**8.3** Whether in arriving at the Master Pay Scale, the increase in the rate of increment upto the specified number of stages (6 or 7) shall be in the same proportion as the increase in the salary of High Courts Judges is one point which is open to debate keeping in view the fact that the High Court Judge gets fixed pay scale (without increments). What then is the rational basis for fixation of increments? This aspect has to be examined by the Commission.

## **9. ASSURED CAREER PROGRESSION SCHEME (ACP):**

**9.1** The grant of ACP scale and functional scale is one of the important recommendations made by 1<sup>st</sup> NJPC which has been followed by JP Commission (vide Chapter 17). Lack of adequate promotional opportunities in view of the limited number of posts was the main reason that weighed with the Commission in evolving the scheme. ACP system was designed to assure pay progression within the time-bound schedule. With ACP scales, the officer moves into the next higher scale, so that a person of considerable experience may not get stagnated at a particular pay level. The ACP is not linked to the availability of the promotional posts, nor is it on functional basis. It was observed by the Commission that “this scheme is intended to afford reasonable opportunity to all the officers in the grade to get financial upgradation in a time frame”. The ACP scales were recommended in respect of Civil Judge (Junior Division) and Civil Judge (Senior Division). The Civil Judge (Junior Division) would get the first ACP scale, i.e., Rs.10750-300-13150-350-14900, after five years of continuous service and the 2<sup>nd</sup> ACP scale would

be available to the officers with five years of service thereafter. The scale at the end of 10 years of continuous service was prescribed as Rs.12850-300-13150-350-15950-400-17550. So also, for the Civil Judges (Senior Division), the following ACP scales were prescribed:

Rs.14200-350-15950-400-18350 (after five years of continuous service)

Rs.16750-400-19150-450-20500 (after ten years of continuous service)

**9.2** It may be noticed that the maximum of the second level of ACP for Civil Judge (Junior Division) is equivalent to that of Civil Judge (Senior Division) at entry level. So also, the second level of ACP scale for Civil Judge (Senior Division) is equivalent to the pay of District Judge (Entry Level). The Commission (1<sup>st</sup> NJPC) observed “we have recommended the second ACP with a definite purpose that a Civil Judge (Junior Division) at the end of the 10<sup>th</sup> year of continuous service shall be able to get the initial pay scale of Civil Judge (Senior Division) to avoid frustration due to stagnation”. However, the Commission introduced an important qualification. “Conferment of benefits by way of ACP should not be automatic, but on the appraisal of their work and performance by a Committee of senior Judges of the High Court.”

**9.3** Unfortunately, in a number of States, the benefit of ACP scales has not been extended to the judicial officers on the due date or within a reasonable time thereafter. Years have rolled by with the judicial officers eagerly waiting for conferment of ACP scale with arrears. Lack of timely preparation and scrutiny of ACRs seems to be the main reason behind this delay. The delay in financial sanctions may be another reason. In regard to the officers within the jurisdiction of two major High Courts, it is



noticed that the Junior Civil Judges appointed in 2008 are still waiting for the conferment of ACP scales. In one of the HCs, though the Junior Civil Judges and Senior Civil Judges have completed 10 years of service, neither ACP-1 nor ACP-2 scales have been extended to them. The High Courts on administrative side have to bestow requisite care and attention to avoid such delays. However, it appears (subject to further verification) that arrears are paid (may be in staggered instalments) once the decision is taken.

**9.4** As far as the District Judges are concerned, financial upgradation on functional basis has been recommended by the 1<sup>st</sup> NJPC. The Selection Grade Scale of Rs.18750-400-19150-450-21850-500-22850 would be available to 25% of the cadre posts and to those having 5 years of continuous service as District Judge. Then, a Super Time Scale of Rs.22850-500-24850 was also proposed for District Judges in Selection Grade. This scale would be given to those who have put in not less than 3 years of continuous service as Selection Grade District Judges on the basis of merit cum seniority. Further, the Super Time Scale benefit would be available to the Selection Grade District Judges only to the extent of 10% of the cadre strength of District Judges.

The provision of ACP scales for Civil Judges (Jr. and Sr. Division) and the functional pay scales for District Judges has been followed by JP Commission and the revised pay scales were accordingly arrived at as set out in the Table given above at para 7.3.

**10. SYNOPSIS OF THE PRINCIPLES FOLLOWED AND APPROACH ADOPTED BY THE 7<sup>TH</sup> CPC:**

**10.1** The pay recommended by 7<sup>th</sup> CPC for all categories of Central Government civilian employees has been given effect to from 01.01.2016. The methodology adopted by 7<sup>th</sup> CPC needs to be adverted briefly. The new pay structure in the form of Pay Matrix has been devised “to provide complete transparency regarding pay progression”. It may be noted that prior to 6<sup>th</sup> CPC, there were pay scales. The 6<sup>th</sup> CPC had recommended running Pay Bands with Grade pay as status determiner. The 7<sup>th</sup> CPC has recommended a Pay matrix with distinct pay levels. The level would henceforth be the status determiner as stated in para 5.1.8 of the Report. The 7<sup>th</sup> CPC thought it fit to dispense with the system of pay bands and grade pay and proposed new functional levels which were arrived at by merging the grade pay with the pay comprised in the relevant pay band. All of the existing levels have been subsumed in the new structure.

**10.2** The 7<sup>th</sup> CPC having observed that the estimation of minimum pay was the first step towards evolving the pay structure, clarified that “in doing so, the approach is to ascertain, by using the most logical and acceptable methodology, what the lowest ranked staff in Government needs to be paid to enable him to meet the minimum expenditure for himself and his family in a dignified manner.” After adverting to the minimum pay estimated by 5<sup>th</sup> and 6<sup>th</sup> CPCs, the Commission has estimated minimum pay through the steps enumerated in para 4.2.8. The cost estimated was rounded off to Rs.18,000/- which was the minimum pay recommended by the Commission, operative from 01.01.2016. It represents 2.57 times the minimum pay of Rs.7,000/- fixed by Government of India while implementing the VI CPC’s recommendations

from 01.01.2006. Accordingly, it was observed “basic pay at any level on 01.01.2016 (pay in the pay band + grade pay) would need to be multiplied by 2.57 to fix the pay of an employee in the new pay structure”. At para 4.2.13, the Commission observed that the minimum pay recommended at Rs.18,000/- per month w.e.f. 01.01.2016 is fair and reasonable and the said pay together with other allowances and facilities would ensure a decent standard of living for the lowest ranked employee in the Central Government.

**10.3** Pay fixation in the new pay structure was spelt out at para 5.1.28 as follows:

“The fitment of each employee in the new pay matrix is proposed to be done by multiplying his/her basic pay on the date of implementation by a factor of 2.57. The figure so arrived at is to be located in the new pay matrix, in the level that corresponds to the employee’s grade pay on the date of implementation, except in cases where the Commission has recommended a change in the existing grade pay.”

5.1.29: The pay in the new pay matrix is to be fixed in the following manner:

Step 1: Identify Basic Pay (Pay in the pay band plus Grade Pay) drawn by an employee as on the date of implementation. This figure is ‘A’.

Step 2: Multiply ‘A’ with 2.57, round-off to the nearest rupee, and obtain result ‘B’.

Step 3: The figure so arrived at, i.e., 'B' or the next higher figure closest to it in the Level assigned to his/her grade pay, will be the new pay in the new pay matrix. In case the value of 'B' is less than the starting pay of the Level, then the pay will be equal to the starting pay of that level."

**10.4** The following observations in the 7<sup>th</sup> CPC Report at para 5.121 also deserve notice:

"The pay matrix comprises two dimensions. It has a "horizontal range" in which each level corresponds to a 'functional role in the hierarchy' and has been assigned the numbers 1, 2, and 3 and so on till 18. The "vertical range" for each level denotes 'pay progression' within that level. These indicate the steps of annual financial progression of three (3) percent within each level. The starting point of the matrix is the minimum pay which has been arrived at based on 15<sup>th</sup> ILC norms or the Aykroyd formula. This has already been explained in Chapter 4.2."

**10.5** Thus, for the purpose of migrating from old to new scales, a common fitment formula of 2.57 over old pay scales across all cadres in Government of India has been adopted. However, for the purpose of assigning appropriate cell/stage falling within the relevant pay level, varying percentages of 2.57 to 2.81 have been applied. For this purpose, upto Group B posts, the multiple of 2.62 was adopted and then for Group A from junior scale to selection grade, 2.67 was prescribed. 2.67 is applicable to officers within the levels 10 and 11. 2.72 was applied for

officers placed in Super Time Scale and above, viz., Secretary to State Governments, and Joint Secretary in GOI. These higher percentages were prescribed keeping in view the higher degree of responsibility and accountability. The pay of Secretary to Government of India is fixed pay without increments. It is 2.25 lakhs (same as the High Court Judges' pay). The pre-existing fixed pay of Rs.80,000/- was multiplied by the factor 2.81. So also, in the case of Cabinet Secretary who was getting the fixed pay of Rs.90,000/-, the said figure was multiplied by 2.78 so as to reach the vertical cap of Rs.2,50,000/-. That is how the Cabinet Secretary gets Rs.2,50,000/- which is also the pay of Supreme Court Judge.

The pay of All India service officers starts from pay level No.10 (Jr. scale applicable to Sub/Asst. Collector) and goes upto pay level No.18, which is Rs.2,50,000/- applicable to Cabinet Secretary.

**10.6** A uniform increase of approximately 3% every year has been proposed by the 7<sup>th</sup> CPC towards annual increment, which keeps adding to the previous year's pay with the increment/increments already earned as reflected in **Table-5**. The Pay Matrix annexed to the report of 7<sup>th</sup> CPC in so far as it relates to Group 'A' officers is appended as *Annexure A*.

### **10.7 PAY SCALES IN STATES:**

An overview of the pay scales of the officials of State Governments would reveal that in many of the States, the 7<sup>th</sup> CPC pay pattern has been followed upto a particular level. In Haryana, a civil service junior scale officer gets starting pay of Rs.56,100/- which corresponds to level 10 in the 7<sup>th</sup> CPC Pay Matrix. A senior scale officer gets Rs.67,700/- (pay level 11). A Selection Grade officer gets Rs.78,800/- falling within pay level No.12 and the officers in Class I

above the Selection Grade get Rs.1,18,500/- (pay level No.13) with effect from 01.01.2016. However, in Punjab, the old pay bands as per VI CPC starting from Rs.15600-39100 upto Rs.37400-67000 with grade pay ranging between Rs.5,400 to 10,000 have been in force from 01.01.2006. In Gujarat, with effect from 01.01.2016, the officers of the Revenue Department (junior scale, senior scale and Selection Grade) are assigned levels 10, 12 and 13 of the 7<sup>th</sup> CPC Pay Matrix, whereas Class I Apex Scale officer gets the pay corresponding to pay level 13-A of 7<sup>th</sup> CPC Pay Matrix. The Secretarial Services start from level 10 and go upto pay level 13-A of 7<sup>th</sup> CPC Pay Matrix. In Uttarakhand, the State Government officials from junior time scale upto above super time scale are placed in levels 10 to 17 of 7<sup>th</sup> CPC Pay Matrix with effect from 01.01.2017. So also, in Madhya Pradesh, junior time scale, senior time scale and junior administrative grade officers are placed in pay levels 10, 11 and 12 (each category previous pay bands of 15600-39100 with grade pay of 5400, 6600 and 7600). A Selection grade and a Super time scale officer gets pay within levels 13 and 13-A (7<sup>th</sup> CPC Pay Matrix w.e.f.01.01.2016). In Orissa, the pay scale of Group A officers with effect from 01.01.2016 is Rs.56100-172500 falling within the pay level 10 of 7<sup>th</sup> CPC Pay Matrix.

The position of pay scales in the States where 7<sup>th</sup> CPC pay pattern has not been adopted is as follows:

The pay scale of top level officer of State Civil Services in Andhra Pradesh and Telangana after the pay revision in 2013 is Rs.87130-110850. The Special Grade Deputy Collector is in the pay scale of Rs.52590-103290. The pay revision seems to be in process now in

Telangana. In Karnataka, the top pay scale in Revenue Department in Secretarial service has been Rs.40050-56550 from 2012.

In Manipur, the Asst. Dy. Commissioner/Assistant District Magistrate are in highest Pay Bands of Rs.15600-39100 with grade pay of Rs.6,600/-. The Dy. Commissioner is an IAS cadre officer. In Secretariat service, the highest pay of Secretary is Rs.37400-67000 with grade pay of Rs.8700. This is the position from 01.04.2010. In Mizoram, the Super Time Grade A and B are officers placed in Pay Band Rs.37400-67700 with grade pay of Rs.9500/-. The Junior Admn. Grade officer is in the pay band of Rs.15600-39100 with grade pay of Rs.5400/-. In Meghalaya, as per the pay scales which were in effect from 01.01.2007, the pay scale of the entry level Grade A officer is Rs.17000-33690 and the top level officer, i.e. Director gets Rs.31300-46760. The Joint Secretary in Secretariat also gets up to Rs.31300-46760. In Tripura, with effect from 01.04.2017, the entry pay (level 14) of the officers of State Government is Rs.47250 plus Grade Pay of Rs.5400. An officer at level 19 (PB-4) gets Rs.67320 with Grade Pay of Rs.7600. The Apex scale at level 21 goes upto Rs.1,17,000. The entry pay of HAG scale categories is Rs.1,03,730 plus Grade Pay of Rs.8700 and the Apex scale goes upto Rs.1,17,000 with Grade Pay. The information from other States has not been received.

In Meghalaya, the entry level Group A officer gets Rs.17000-33690 and the top officials viz. Director and Joint Secretary are placed in Pay Band Rs.31300-46760. In Manipur, the Assistant, Dy. Commissioner/Assistant District Magistrate is in the Pay Band of Rs.15600-39100 with grade pay of Rs.6,600/-. In Mizoram, the Super

Time Scale Grade A officer is placed in Pay band Rs.37400-67700 with grade pay of Rs.9500/-. Junior grade officer is in the pay band of Rs.15600-39100 with grade pay of Rs.5400/-.

**10.8** Having regard to the pronouncement the information received from some of the States lacks clarity, the fact remains that the maximum pay which the State officials get is much less than what the Judicial Officers are presently getting with DA.

However, having regard to the pronouncements of Supreme Court in All India Judges Association cases, the comparison with State Government officials will not be appropriate, more so, when uniform pay scales have to be made applicable to Judicial Officers throughout the country. The comparison could only be with All India service officers and it was on that basis, the 1<sup>st</sup> NJPC recommended appropriate pay scales for Judicial Officers of all ranks. However, Justice Padmanabhan Commission did not refer to the pay structure of All India Service Officers though the relativities in pay structure between the members of subordinate Judiciary and other civil servants is one of the factors to be considered in terms of clause (b) of the terms of reference and in view of the approach adopted by the Supreme Court in 2002 (4) SCC 247 (vide paragraphs 18 to 20).

## **11. INTERIM REVISION OF PAY IN DELHI:**

**11.1** In the NCT of Delhi, after the 7<sup>th</sup> CPC Report was accepted, the Judicial Officers have been given the benefit of revised pay substantially in accordance with the pay matrix evolved by the 7<sup>th</sup> CPC. For instance, the Civil Judge (Junior Division) has been placed in level 10. Level 10 has the pay range of Rs.56100-177500 corresponding to the earlier pay



band of Rs.15600-39100 plus grade pay of Rs.5400/-. In that pay range, the Junior Civil Judge has been fitted into the stage/cell No.10 i.e., Rs.73200/- after multiplying the existing basic pay of Rs.27,700/- by the fitment factor of 2.57. It comes to Rs.71,189/- between stage/cell 9 and 10 i.e. Rs.71,100/- and Rs.73,200/-. Therefore, the officer who was not drawing any increment by 01.01.2016 (being fresh recruit) has been assigned to the stage 10 which is a stage above the pay of Rs.71,189/-. Having arrived at the pay as on 01.01.2016, the DA at 2% was made applicable thereon with effect from 01.07.2016. The DA got eventually increased to 7% with effect from 01.01.2018.

**11.2** At this stage, the Commission would like to give another concrete illustration as to how the Judicial Officers belonging to DJS and DJHS have been fitted into 7<sup>th</sup> CPC pay matrix. Let us take the case of Junior Civil Judge (Junior Division) appointed in May 2013. The pay scale starts from Rs.27,700/- which is the starting pay without increment. Then, from 01.05.2014, the Officer became eligible to draw increment. That means, by 1<sup>st</sup> May 2014, he got the increment of Rs.770/-, the pay thereby getting increased to Rs.28,470/-. On 1<sup>st</sup> May 2015, another increment was added and the pay became  $\text{Rs.}28470 + 770 = \text{Rs.}29,240/-$ . This was the pay with increments the officer was drawing on 01.01.2016 (the effective date of 7<sup>th</sup> CPC pay revision). With the addition of one increment, the pay of Rs.30010/- was arrived at as the pre-existing pay (according to O.M. dated 19.03.2012, Department of Expenditure, Ministry of Finance as the increment due is between February to June 2016). This amount of Rs.30010/- has been multiplied by the index of 2.57 and the resultant pay works out to Rs.77,126/-. The Officer has been

assigned to pay level No.10 at the 12<sup>th</sup> stage i.e. Rs.77,700/-. The earlier stage No.11 carries the pay of Rs.75,400/-. The next annual increment was allowed with effect from 01.07.2016 and accordingly his pay at pay level No.10 was worked out as Rs.80,000/- (13<sup>th</sup> stage) with the increment of 3% added thereto. The Officer got next annual increment on 01.07.2017 and the pay with increment of 3% has been fixed at Rs.82,400/- which is the 14<sup>th</sup> stage of pay level 10.

**11.3** The Senior Civil Judge who was in the scale of Rs.39530-54010 as per the JP Commission Report gets into the pay level 11 with the starting pay of Rs.85,800/- w.e.f. 01.01.2016 which is the 9<sup>th</sup> stage and thereafter, every year, the officer progresses to the next stage in that pay level with the increment added thereto. The District Judge at Entry level has been fitted into level 13A and the pay starts at Rs.1,35,000 which is at stage No.2 of pay level 13A. The Super Time Scale District Judge has been fitted into the pay level No.15 and his pay as on 01.01.2016 was fixed as Rs.1,82,200/- with one increment. The maximum he/she gets is Rs.2,24,100/-.

**12.** One point which needs serious consideration is whether the 7<sup>th</sup> CPC pattern of pay fixation can be usefully adopted for the Judicial Officers as well in lieu of the Master Pay Scale methodology, as the pay structure/emoluments of the Judicial Officers have to be fixed on uniform basis in the entire country. If so, would it not be proper and appropriate to fall in line with the model adopted by the 7<sup>th</sup> CPC? If such methodology is adopted, whenever there is revision of pay of Central Government officials pursuant to the CPC recommendations, the same can be given effect to immediately in respect of Judicial Officers as well,

without waiting for Judicial Pay Commission Report or the respective Governments sanctioning interim relief according to their choice. As already noted, for the Delhi Judicial Officers, based on the acceptance of the 7<sup>th</sup> CPC Report, the benefit of increased pay scales has been made available w.e.f. 01.01.2016 as noted in the previous paragraph, by placing them at the appropriate level and stage in the pay matrix evolved by the 7<sup>th</sup> CPC.

**12.1** The Table **Annexure B** gives a clear idea of pay progression in accordance with 7<sup>th</sup> CPC model. The revised pay details in respect of each category of Judicial Officers worked out in accordance with the pay matrix of 7<sup>th</sup> CPC on the basis of the interim relief granted by Delhi Government is set out in detail in that Table. The figures shown therein from 01.01.2016 are based on the pay benefit given by Delhi Government as an interim measure. The pay starts with Rs.73,200/- in the case of Civil Judge (Jr. Division) recruited just before 01.01.2016. It may be noted that this Table is only an illustrative model and shall not be construed as an indication of the figure proposed to be adopted by the Commission or that the starting pay of Judicial Officers will be arrived at by the Commission at the same figure and not beyond that.

**13.** Though the relativity in respect of pay scales governing Judicial Officers and other civil service officers is one of the factors to be taken into account as per the terms of reference and in the light of the observations of the Supreme Court in All India Judges Association Case of 2002, Justice Padmanabhan Commission did not address this aspect. The Commission merely went by the proportion of increase of High Court Judges' salary (3.07 times). In this context, it needs to be pointed

out that the High Court Judges' salaries were increased by the highest multiple (in the case of 6<sup>th</sup> CPC, it was 3.07 times and in the case of 7<sup>th</sup> CPC, it was 2.81 times) in view of the fact that the salary is a fixed figure without any increments. So also is the case of Secretary to Government of India, a level 17 officer, in the pay matrix enclosed.

**13.1** In this context, it may be mentioned that the terms of reference require relativities in respect of pay-scales governing Judicial Officers and other Civil service officers to be taken into account. Accordingly, 1<sup>st</sup> NJPC had kept in view this aspect and taken into consideration the pay-scales of All India Service Officers (not State Government Officials) and arrived at the pay of Judicial Officers with appropriate increases and equations. Further, the 1<sup>st</sup> NJPC did not say that the increase shall be in the same proportion as the High Court Judge. It also deserves mention that the percentages (45.3, 58.5, 71.6, 80 and 91.7% of the salary of High Court Judges) arrived at by the JP Commission can still be maintained by and large even if the multiple is less. On considerations of fairness and equity and in view of the observations of Supreme Court in AIJA Case of 2002, whether the criterion of relativities ought to be taken into account is one question that may arise.

An analysis of the pay-scales arrived at by JP Commission by maintaining the level of increase at 3.07 times (which represented the quantum of increase of HC Judges' salary) would show that the Civil Judge (Jr. Div.) at entry level got much more pay than the Junior Time-scale IAS Officer (Sub-Collector, Asst. Collector, SDM) and the Junior Civil Judge in I ACP got more than the pay of Senior Time Scale IAS Officer (District Collector, District Magistrate, Deputy Commissioner).

The Senior Civil Judge got much more than the maximum pay applicable to JA Grade (Joint Secretary in States etc.) and the Sr. Civil Judge in ACP I started with the pay more than the starting pay of Selection Grade IAS. The District Judge at entry level got slightly more than the pay of the super-time scale IAS Officer.

Incidentally, it may be mentioned that as far as Senior District Judges in Selection Grade and Super time-Scale are concerned, the maximum pay drawn by them as per the JP Commission's report happens to be lower than the maximum pay of officers of comparable rank in IAS as per the VI CPC report. The Joint Secretary to GOI (placed in Super time-Scale) gets higher maximum than the DJ (Selection Grade) because of grade pay then prevalent. So also, the Addl. Secretary level officer (in Higher Administrative Grade, above STS) gets higher maximum pay than what a DJ (STS) gets by virtue of the JP Commission's report. This anomaly was apparently not noticed.

Notwithstanding the above disparities, the Commission has to consider whether at this point of time, a different approach or principle has to be adopted, keeping in view the repercussions on the pay structure in vogue since the last ten years or more. The Commission may have to consider whether to what extent this vast disparity (between the pay of members of IAS and Judicial Officers) could be minimised at this stage without unduly affecting the expectations of Judicial Officers.

**14.** The new Master Pay Scale that emerges as per the methodology formula adopted by Justice Padmanabhan Commission is: Rs.77840-2160-92960-2590-113680-3030-137920-3460-165600-3880-188880-

4330-214860. For ready reference, the existing Master Pay Scale is: Rs.27700-770-33090-920-40450-1080-49090-1230-58930-1380-67120-1540-76450.

The starting and maximum pay of 5 categories of Judicial Officers as per the above Master Pay Scale works out to:

Civil Judge (Junior Division): Rs.77840-125800

Civil Judge (Senior Division): Rs.111080-151770

District Judge (Entry Level): Rs.144860-177230

District Judge (Selection Grade): Rs.162140-197520

District Judge (Super Time Scale): Rs.197520-214830

**14.1** Apart from the established models of pay structure which the Commission has adverted to above, it is worth considering whether an innovative pay structure involving fixed pay scales with higher starting pay but without increments operative for a certain number of years should be evolved for the Judiciary. The idea is to make Judicial Service more attractive for the talented law graduates and lawyers with some experience. Moreover, such approach will impart distinct identity to Judicial Pay Structure in tune with the pay model applicable to Judges of High Court. Suggestions regarding the modalities of such pay fixation are welcome :

The following illustrative model spells out what has been adverted to above :

<b>S No.</b>	<b>Designation</b>	<b>Proposed Scale</b>
<b>1</b>	Civil Judge (Junior Division) Entry Level For 1 <sup>st</sup> 5 years	100000
<b>2</b>	Civil Judge (Junior Division) Middle Level	110000

	For next 5 years	
<b>3</b>	Civil Judge (Junior Division) Senior Level For next 5 years	120000
<b>4</b>	Civil Judge (Senior Division) Entry Level For 5 years	135000
<b>5</b>	Civil Judge (Senior Division) Middle Level For next 5 years	150000
<b>6</b>	Civil Judge (Senior Division) Senior Level For next 5 years	165000
<b>7</b>	District Judge (Entry Level) For 5 years	185000
<b>8</b>	District Judge (Middle Level)	205000
<b>9</b>	District Judge (Senior Level)	224000

PN : The figures are only worked out on rough and ready basis, just to give an idea of the said Pay Structure.

We would like to make it clear again that we are not at this stage proposing any particular pay scale or pay matrix or fixed pay model for judicial officers. Nor the Commission is suggesting that the above Master Pay Scale or new model of Pay Structure may be adopted as it is. We would like to arrive at the appropriate pay structure after gathering the necessary inputs and views from all concerned.

## **15. PENSION:**

**15.1** At present, the Judicial Officers, are entitled to get full pension on completion of 20 years of qualifying service. The formula for the fixation of pension including commutation is almost on uniform basis, 50% of the last drawn pay is admissible as pension. In the case of family pensioners, it is 30% of the last drawn pay. Additional pension is payable at varying percentages after the pensioner attains the age of 80. The first level of increase is for the pensioners between 80-85 years. A 20 percent

increase in the revised basic pension/family pension is being allowed at par with State Government officials.

In the states of Jammu & Kashmir and Madhya Pradesh, the first level of increase is for pensioners between 70 - 75 years @10% and thereafter @20% for pensioners between 75 - 80 years and it is 30% for pensioners between 80 - 85 years.

**15.2** For the Judicial Officers recruited during 2004/2005 and thereafter, the National Pension System (NPS) otherwise known as Contributory Pension Scheme is being applied. The officers have been required to convey their willingness in prescribed format. In the existing system of pension, GPF and gratuity would cease to apply for the new entrants. As per tier I account which is mandatory under the said pension scheme, Government servants (including Judicial Officers) will have automatic contribution of 10% of basic pay plus DA, which will be deducted from the salary bill every month. The Government will make an equal matching contribution. Since 01.04.2008, the pension contributions of all the employees covered by NPS are being invested by professional pension fund Managers. The contribution and returns thereon would be deposited in a non-drawable pension account. A Pension Fund Regulatory and Development Authority will regulate and develop the pension funds and there will be different investment choices. A subscriber can exit at or after the age of 60 years for tier I of the pension system. On such exit, the individual would be required to invest 40% of pension wealth to purchase an annuity (from IRDA regulated insurance company) in case of Government employees (including Judicial Officers). The subscriber would receive lump sum of the remaining pension wealth, which he



would be free to utilise in any way. If the subscriber exits before 60 years of age, she/he has to invest 80% of accumulated savings to purchase a life insurance from IRDA-regulated insurer. The remaining 20% can be withdrawn as lump sum.

**15.3** The objective in introducing NPS seems to be to switch over from a defined benefit pension scheme to a defined contribution-based pension scheme. The propelling reason for introduction of this scheme seems to be that the fiscal burden of providing defined benefit pension to the Government servants had reached unsustainable proportions and the State Governments, are finding it difficult to meet the liabilities.

**15.4** There seems to be much resentment to the NPS. However, the advantages accruing from investment returns and the savings are being pointed out in support of this scheme. It appears that from 01.04.2018 onwards, the pension contributions of Central Government employees covered by NPS are being invested by professional Pension Fund Managers. The contributions and returns thereon would be deposited in a non-withdrawable pension account. There are investment guidelines for the pension fund Managers.

**15.5** It may be noted that the V Central Pay Commission had recommended a supplementary pension scheme that was contributory in nature while retaining the existing rule of payment of pension at 50% of the last drawn pay. The constitution of a pension fund, in which both the Government's share and the employees' contribution will be deposited and invested, was mooted by the V Central Pay Commission.

**15.6** A Division Bench of the Bombay High Court, in its judgment dated 11.08.2017 in PIL No.188 of 2015 – *Vihar Durve v. State of Maharashtra*, has declared that the Maharashtra Government's resolution applying the New Pension Scheme to those Judicial Officers, appointed after 31.10.2005, was illegal and went contrary to the order of the Supreme Court, accepting the recommendations of the Justice Padmanabhan Commission. It was declared that Judicial Officers appointed on or after 01.11.2005 are also entitled to the same pensionary benefits which were available to the Judicial Officers, appointed before 01.11.2005.

The reason given is that as per the new scheme introduced by the Commission, 10% of the basic salary plus DA is liable to be deducted from the salary of JO (for crediting the same to the contributory Pension Account) and such deduction was not contemplated under the judgment of the Supreme Court. The High Court of Bombay referred to the order of the Supreme Court dated 26.07.2010 accepting the recommendations of Justice Padmanabhan Commission and observed that the service conditions of the Judicial Officers, in the State, including the pensionary benefits, shall be in terms of the recommendations of the Padmanabhan Commission, subject to the option an individual JO may choose to exercise.

**15.7** This Judgment (which arose out of an amendment application filed in PIL WP No.1883/2015) was challenged in the Supreme Court in Civil Appeal No.31461/2017. On appeal filed against this judgment by the State Government, Hon'ble Supreme Court in its order dated 27.03.2018 did not express any view. The entire matter was transferred back to

Bombay High Court for consideration of aspects (such as infrastructure) which do not fall within the realm of consideration of this Commission.

**15.8** Assuming that this Commission can examine the propriety or justification for the application of NPS to the Judicial Officers, recruited during or after 2004, the Commission would like to have the benefit of the views of the serving Judicial Officers Associations and the Governments in this regard.

**15.9** Under the orders of the State Governments, the pensioners are being paid domestic help allowance. The maximum domestic help allowance seems to be Rs.2,500/- and medical allowance Rs.1,500/-. The family pensioners get Rs.1,000/- per month as domestic help allowance and Rs.750/- as medical allowance.

## **16. GRATUITY:**

**16.1** The maximum gratuity has been enhanced to Rs.10 lakhs in 2010 pursuant to the order of the Supreme Court dated 26.07.2010 in All India Judges Assn. case, accepting the recommendations of the JP Commission in this regard. The 7<sup>th</sup> CPC has raised the limit of maximum gratuity to Rs.20 lakh with increase of 25% when DA rises beyond 50%. The quantum of increase in the said allowances paid to pensioners and family pensioners need to be looked into.

## **17. RETIREMENT AGE:**

**17.1** In the first All India Judges Assn. case [1992 (1) SCC 119], the Supreme Court directed that the service rules of the States and UTs, shall

be amended so as to fix the age of retirement of Judicial Officers, at 60 years.

**17.2** In the second All India Judges Assn. case [1993 (4) SCC 288] arising out the review petition filed by Union of India and the States, the Supreme Court modified the direction with regard to the enhancement of superannuation age in the following terms:

“While the superannuation age of every subordinate judicial officer shall stand extended up to 60 years, the respective High Courts should, as stated above, assess and evaluate the record of the judicial officer for his continued utility well within time before he attains the age of 58 years by following the procedure for the compulsory retirement under the service rules applicable to him and give him the benefit of the extended superannuation age from 58 to 60 years only if he is found fit and eligible to continue in service. In case he is not found fit and eligible, he should be compulsorily retired on his attaining the age of 58 years.”

Further, it was laid down:

“It is necessary to make it clear that this assessment is for the purpose of finding out the suitability of the concerned officers for the entitlement of the benefit of the increased age of superannuation from 58 years to 60 years. It is in addition to the assessment to be undertaken for compulsory retirement and the compulsory retirement at the earlier stage/s under the respective Service Rules.”

**17.3** In the third All India Judges Assn. case [2002 (4) SCC 247], the said directions were reiterated. Thereafter, most of the High Courts have proceeded on the basis that the scrutiny for the purpose of assessing the continued utility of the officer in judicial service has to be taken up before the officer reaches the age of 58 years so that the deserving officer will get the benefit of extension of service till he completes the age of 60 years. Perhaps, keeping in view the above quoted last observation in the judgment in the review petition [1993 (4) SCC 288], the composite State of Andhra Pradesh amended Section 3 of A.P. Public Employment (Regulation of Age of Superannuation) Act, 1984 by inserting sub-section (1A) which starts with a non-obstante provision. It says that every member of the A.P. State Higher Judicial Service or the A.P. Judicial Service shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years provided that the member of such service may be compulsorily retired on the last day of the month in which he attains the age of 50 years or 55 years or 58 years or 33 years of qualifying service if he is found not fit and eligible to be continued in service by the High Court of Andhra Pradesh on assessment and evaluation of the record of such member for his continued utility.

The second proviso lays down that any member of service who has attained the age of 50, 55 or 58 years or 33 years of qualifying service, may be required to retire in public interest after giving three months notice in writing.

**17.4** Those Judicial Officers who were prematurely retired from service even before they attained 58 years challenged the constitutionality of Section 3 (1A) of the said Act. A Full Bench of the then AP High Court,

in the case of K. Veera Chary v. High Court of AP [2008 (5) ALD 372] declared the said provisos to Section 3 (1A) unconstitutional and the compulsory retirement orders of the concerned judicial officers were quashed on other grounds too. However, this decision was reversed by the order of the Supreme Court dated 29.11.2017 in Civil Appeal Nos.9700 to 9701/2013. The Hon'ble Supreme Court held that "there is no basis for declaring the 1<sup>st</sup> proviso to Section 3 (1A) of A.P. Public Employment (Regulation of Age of Superannuation) Act, 1984 as amended by A.P. Act 42 of 2006 to be void. Such provisions are held to be *intra vires*. Orders of compulsory retirement of the respondents did not call for any interference and the same are restored."

**17.5** However, we find no reasons for the conclusion reached in the order and for reversing the Full Bench decision of High Court. Pursuant to this judgment of Supreme Court, the High Court of Judicature at Hyderabad has issued a circular on 02.01.2018 stating that "In view of the orders of the Hon'ble Supreme Court, hereafter, the cases of Judicial Officers who are going to complete the age of 50, 55 and 58 have to be reviewed for assessing their continued utility in service."

**17.6** In the representations made by the Associations and in the course of informal interaction, serious concern has been expressed on the move to undertake review of performance at three stages i.e. at the age of 50, 55 and thereafter at 58. Leaving aside the question of constitutionality of such provision, the issue has to be considered from the point of view of propriety and fair treatment, including security of tenure. The apprehension that the exercise of such power at multiple stages may be resorted to as a shortcut to disciplinary enquiry cannot be lightly brushed

aside. Further, it may go against the spirit of the decision taken by the Supreme Court to enhance the retirement age of Judicial Officers, to 60 subject to scrutiny on the eve of completion of 58 years. The Commission would like to examine the issue in detail.

**17A. UTILIZATION OF SERVICES OF RETIRED OFFICERS:**

At any given point of time, considerable number of vacancies in various cadres of Judicial Service have been existing. This situation is likely to continue in future, in spite of the endeavours being made to tide over the problem. In this background, it is worth considering whether the services of Judicial Officers who have attained the age of superannuation and who are otherwise fit and healthy, could be usefully utilised in regular judicial work or in other Judiciary related duties such as Lok Adalats, Legal aid Schemes, Mediation/Conciliation.

Most of the Judicial Officers who retire are of the District Judge level. Some of them join the statutory bodies on the basis of selection, in which case they continue to draw the same emoluments and facilities minus pension. Some of them take up assignments in private sector or do arbitration work. However, many of them lead retired life.

The proposal is that the services of willing retired Judicial Officers can be utilised by the Judiciary, say for a period of 5 (five) years after superannuation so long as the vacancy exists. During this period, they will draw basic pay (without increments) plus DA and other specified allowances admissible to serving Judicial Officers. The payment of terminal benefits can be deferred till they finally exit from the service.

The Commission would like to consider the views of all concerned on this aspect.

## **18. MONETARY ALLOWANCES & AMENITIES:**

There are as many as 16 types of allowances which are being drawn by the Judicial Officers. Most of these allowances are also applicable to State Government officials.

**18.1 Dearness Allowance (DA):** The foremost amongst the allowances is of course Dearness Allowance. The 1<sup>st</sup> NJPC recommended the same DA formula as was applicable to the Central Government employees to be adopted in the case of Judicial Officers in every State/UT. The JP Commission reiterated the same. The DA rates in force as on 01.01.2016 with effect from which the 7<sup>th</sup> CPC recommendations were given effect to was 125%. On introduction of new pay scales with effect from 01.01.2016, the DA which started initially at 2% now stands at 5%. The same quantum of DA is also being paid to Judicial Officers of Delhi and UTs. In the States in which pay revisions have been made, in the recent times, that is to say, during the last 3 or 4 years, more or less the same percentage of DA as is applicable to the Central Government employees is in force. However, the Judicial Officers are drawing the DA applicable with reference to the pay scales evolved in 2006 (pursuant to JP Commission Report) because the pay scale has not undergone revision. At present, the Judicial Officers, are getting DA ranging from 136 to 142% (136% was the DA that was being applied to the High Court Judges till recently). As and when the new pay scales pursuant to the Report of this Commission are sanctioned, the same rates of DA as applicable to Central staff are to be applied to the Judicial Officers, as well.



**18.2 House Rent Allowance (HRA):** Many of the Judicial Officers are not having residential accommodation provided by the Government. Hence, HRA is being drawn by them. The 1<sup>st</sup> NJPC recommended HRA at the rates applicable to the Government servants in the respective States/UTs. The same recommendation was reiterated by Justice Padmanbhan Commission. The 6<sup>th</sup> CPC whose report was implemented w.e.f. 01.01.2006 recommended 30%, 20% and 10% of the basic pay as HRA for cities X, Y and Z. The 7<sup>th</sup> Central Pay Commission has recommended 24%, 16% and 8% for the cities classified as X, Y and Z and when DA crosses 50%, the same shall be increased by 27%, 18% and 9% respectively and to be further revised to 30%, 20% and 10% at the stage when DA crosses 100% or more.

The Government of India by the O.Ms. dated 02.05.2017 and 07.07.2017, has notified the rates of HRA as 24%, 16% and 7% for cities X, Y and Z which will further increase to 27%, 18% and 9% when DA crosses 25% **and** 30%, 20% and 10% when DA crosses 50%. Further the OM prescribes the minimum limit of HRA to be Rs.5400/-, Rs.3600/-, Rs.1800/- for cities X, Y and Z respectively.

The Delhi and UTs, the rates of HRA suggested by the 7<sup>th</sup> CPC are being applied.

In majority of States, HRA is being paid at the rates applicable to the State Government Officers. No information has been furnished in this regard by 3 High Courts.

In West Bengal, District Judges are paid HRA as per the Central Government rates and the Civil Judges get 15% of Basic Pay as HRA.

In Uttarakhand, judges are being reimbursed the actual rent paid on the basis of the rent assessed by the competent authority and the Judicial Officers living in their own houses draw HRA @ 75% of the grade pay in B-2 cities, @ 50% in C class cities and @ 40% in case of unclassified cities. That is to say, a Civil Judge (Jr. Division) [with grade pay of Rs.5400/- at entry level] will be getting Rs.3,950/- for B-2 cities, Rs.2,700/- for C Class and Rs.2,160/- for unclassified cities. A District Judge of super time scale gets Rs.9,000/- for B-2, Rs.6,000/- for C and Rs.4,800/- for unclassified cities.

In Uttar Pradesh, varying rates of HRA are being allowed to the Judges depending upon the class of city (A, B1, B2, B3 and C and unclassified area) and depending upon the rank of the officers. In class A, B1, B2 cities, it starts from Rs.3,780/- in the case of Civil Judge (Jr. Div.) and goes upto Rs.11,040/- in the case of District Judges (STS). It appears that these rates were prescribed purportedly on implementation of Justice Padmanabhan Commission Report.

In the States of Andhra Pradesh and Telangana, varying rates of HRA have been prescribed by the G.Os., issued in 2015. The rate of HRA is 30% subject to maximum limit of Rs.20,000/- for certain cities; 20% for certain towns subject to maximum of Rs.15,000/-; 14.5% for some other places subject to maximum of Rs.15,000/- and it is 12% for all other places subject to maximum limit of Rs.15,000/-.

**18.3 City Compensatory Allowance (CCA):** The 1<sup>st</sup> NJPC recommended CCA at the same rates payable to the respective State

Government officials and the same was reiterated by Justice Padmanabhan Commission.

The 6<sup>th</sup> CPC abolished CCA and it got subsumed in transport allowance. The 6<sup>th</sup> CPC was of the view that CCA did not really address the problem of providing proper compensation for relative expensiveness of a particular region/city. Further, the Commission noted that apart from the problems of housing and transportation, larger cities and towns have much better facilities than smaller places. As such, the Commission felt that no rationale exists for compensating any factor other than accommodation and transportation in order to meet the living cost in larger cities. Instead, the Commission recommended the revision of HRA and Transport Allowance separately and therefore, the Commission felt no need for continuance of CCA.

However, Justice Padmanabhan Commission reiterated the recommendation of 1<sup>st</sup> NJPC for payment of CCA at the same rates prescribed by the concerned Government.

In the 7<sup>th</sup> Pay Commission Report, there is no mention of CCA inasmuch as it was discontinued post 6<sup>th</sup> CPC Report.

The present position of CCA: It appears that in many States, CCA is being paid at the same rates applicable to the State Government officials. The CCA being paid ranges from Rs.300/- (Tripura) to Rs.1,000/- (in Andhra Pradesh & Telangana) and it is Rs.930/- in Delhi. There is no information regarding the actual amount being paid from many High Courts.

**18.4 Sumptuary Allowance:** As per the recommendations of Justice Padmanabhan Commission, Sumptuary Allowance that is being paid to the Judicial Officers is as follows:

District Judge: Rs.3100/- per month

Civil Judge (Sr. Division): Rs.2300/- per month

Civil Judge (Jr. Division): Rs.1500/- per month

The 7<sup>th</sup> CPC did not make any provision for Sumptuary Allowance.

The Government of India termed it as Expenditure on hospitality and the Ministry of Finance, Department of Expenditure has issued office Memorandum No.11-1/2016/E-11(7<sup>th</sup> CPC)/Pt.III(C) dated 22/9/2017 as to the expenditure on hospitality and has laid down the ceilings for such expenditure on hospitality.

**18.5 Electricity and Water Charges:** The 1<sup>st</sup> NJPC recommended 50% of the electricity and water charges consumed by the Judicial Officers at their residences to be reimbursed. Justice Padmanabhan Commission reiterated the recommendation. In most of the States, the payment is being accordingly made to the Judicial Officers. However, in some states, the maximum is prescribed in terms of the Units or the cost. The maximum eligible amount ranges between Rs.300/- and Rs.1,500/-. In Allahabad, the maximum is Rs.500/-, in Karnataka, the maximum is Rs.1,000/-, in Madhya Pradesh, the maximum is Rs.1,000/- and in Kerala, the maximum is Rs.350/- per month. In Gujarat, DJs are eligible to get 300 units and others 200 units per month. In Delhi, District Judges get reimbursement of electricity charges to the maximum of 8000 units per annum and Civil Judges get reimbursement to the maximum of 6000

units and as regards water charges, the cost of maximum 35 Kilolitres per month to District Judges and 28 Kilolitres to Civil Judges are being allowed in Delhi. In Rajasthan, the maximum allowed for water consumption varies between 58 and 116 Kilolitres according to the rank of Judicial Officers. The maximum water charges payable in Madhya Pradesh is Rs.200/-. There is no information from other High Courts.

**18.6 Medical Allowance:** The 1<sup>st</sup> NJPC recommended Rs.100/- per month by way of medical allowance and as per the recommendations of Justice Padmanabhan Commission, Rs.1000/- per month is being paid to the serving officers, Rs.1,500/- per month to the pensioners and Rs.750/- per month to the family pensioners. This fixed allowance is to take care of routine consultations and expenses incurred by the Officers without going through the ordinary procedures.

The 6<sup>th</sup> CPC recommended earlier Rs.300/- per month which was later increased to Rs.500/- per month and the 7<sup>th</sup> CPC has retained the same. This Commission has no information whether any OM was issued by Government of India this regard.

The need to enhance the same in the case of serving officers as well as Pensioners/Family Pensioners is obvious.

**18.7 Medical Reimbursement:** Medical reimbursement is being allowed to the Judicial Officers and their dependant family members and the same has been extended to pensioners. The same facility is also extended to Central and State Government employees. As regards the family pensioners, there is no definite information. If that facility is not available to the Family pensioners, it needs to be considered whether this

facility at the same level shall be extended to them. There are some variations in regard to the procedure prescribed for claiming medical reimbursement in various States. The procedure applicable to State Government employees/UTs employees is by and large applicable to the Judicial Officers. There were some informal representations to this Commission that the procedure needs to be simplified. Further, in many States, the serving officers/pensioners have to pay cash when they are admitted as in-patients and later claim reimbursement. Difficulties are being reported in this regard.

**18.8 Leave Travel Concession (LTC)/Home Travel Concession (HTC):** LTC is available to the Judicial Officers once in a block period of 4 years. In addition thereto, a Judicial Officer can avail of HTC once in 2 years.

In Gujarat, 2 HTCs, in a block of 4 years is allowed.

In Haryana Judicial officers are allowed one month salary + DA in lieu of LTC/HTC in a block of 4 years.

LTC and HTC applicable to Judicial Officers, is on the same pattern as the State Government officials.

No information has been furnished by three High Courts and five High Courts have not mentioned the frequency of LTC/HTC allowed.

The JP Commission recommended that that the first LTC may be permitted to be availed of by the Judicial Officers on completion of 2 years of service and “after successful completion of period of probation”, while retaining the block period of 4 years as eligible period. It was also recommended that a Judicial Officer can avail of LTC during the last year

of service as well. These recommendations have been accepted by the Supreme Court.

The Government of India has issued various office memorandums from time to time permitting visit to certain specified places in lieu of HTC.

**18.9 Transport Allowance:** As per All India Judges Assn. case, pool cars have to be provided to Judicial Officers upto the maximum of four Officers for each car. However, District Judge and CMM are to be provided separate vehicles. Though full information is not available with the Commission, it is learnt that pool car facility is optional and presently it is not being availed of in many cities/States. The Judicial Officers are using their own vehicles and they get fuel/transport allowance.

By and large, the Judicial Officers of all ranks are allowed reimbursement to the extent of 75 ltrs. of fuel in A and A.1 cities and 50 liters in the District Headquarters. In the States of A.P. and Telangana, it is 75 ltrs. in District Headquarters and in other places, it is 50 ltrs. In Sikkim, 100 ltrs. of petrol/diesel is allowed to Judicial Officers. In Uttarakhand, the officer can claim actual expenditure on petrol/diesel upto the limit of 100 ltrs. In Chattisgarh, for officers working in 3 cities, it is 100 ltrs. and at other places, it is 75 ltrs. In Delhi, District Judges are allowed 100 ltrs. per month and Civil Judges are allowed 75 ltrs. per month. Those who use two-wheelers are allowed 25 ltrs. of petrol. The fuel allowance is admissible as per the ceiling prescribed to the Judicial Officers, who do not avail of pool car facility.

Time has come to have a relook at the pool car facility in view of the declining number of those who are opting for the same and the expenditure involved on cars and drivers. The Commission may consider whether it be more appropriate to make provision for fixing transport allowance on a realistic assessment of expenses on fuel and maintenance coupled with soft loan facility for purchase of vehicle.

The Government of India, Ministry of Finance, Department of Expenditure has issued office memorandum No.21/5/2017-E.II(B), dated 7<sup>th</sup> July 2017 prescribing rate of transport allowances @ Rs. 7200/- + DA for level 9 and above in the pay matrix and Rs. 15750/- + DA for pay level 14 and above in case they do not avail the official car.

**18.10 Telephone Facility:** Reimbursement of charges for usage of telephone at the office and residence was recommended by 1<sup>st</sup> NJPC. 1500 calls for office and 1000 calls for residence with STD facility was allowed for Principal District Judges and Chief Metropolitan Magistrates. For the next category i.e. Additional District Judges, Senior Civil Judges and Chief Judicial Magistrates, 1000 calls for office and 500 calls for residence with STD facility was recommended. For the rest i.e. for Junior Civil Judges 750 calls for office and 375 calls for residence without STD facility was recommended. The JP Commission reiterated the said recommendation. The 7<sup>th</sup> CPC proposed that the ceiling fixed by the Ministry of Finance for the use of telephones shall be raised by 25%. Only in some states, viz., Patna, Delhi, Punjab and Haryana, Jammu and Kashmir, Jharkhand and Uttarakhand, private mobile phone charges varying from Rs.1,000/- upto Rs.2,000/- in case of DJs are being allowed. Reimbursement for buying mobile phone to the extent of Rs.15,000/- is



allowed in Punjab and Haryana. In Delhi, District Judges can seek reimbursement to the extent of Rs.25,000/- to Rs.30,000/- and others to the extent of Rs.15,000/- towards Mobile handset. So also, the usage charges ceiling is maximum in Delhi.

The Government of India, Ministry of Finance, Department of Expenditure has issued office memorandum No. F.No.24(3)/E-Coord/2018 dated 26/3/2018 in respect of telephone facilities at office and residence including mobile telephone and laid down the limits of reimbursement from Rs.1200/- to Rs.4200/- per month plus taxes as applicable, for various categories of officers.

**18.11 Concurrent charge allowance and Spl. pay for Administrative work**: The officers holding additional charge of other courts where regular officers are not posted get the concurrent charge allowance. As per the recommendation of the 1<sup>st</sup> NJPC, which has been reiterated by the JP Commission, the quantum of such allowance is 10% of the minimum of the scale of the additional post held beyond the period of 10 working days. The 7<sup>th</sup> CPC has also recommended 10% of the basic pay of the present post or additional post whichever is higher. In Chattisgarh, such allowance is being paid for a maximum period of 3 months.

The 1<sup>st</sup> NJPC suggested that High Courts should evolve a principle of paying special pay to Judicial Officers having considerable administrative work outside court hours. The same suggestion has been reiterated by the JP Commission.

The special pay for administrative work varies from State to State. In Allahabad, Punjab & Haryana, it is Rs.1,000/- per month. The highest Special Pay is in Kerala. The Principal District Judge is paid Rs.3,750/-

per month and the Judges of other courts such as Family Courts get Rs.1250-2500. In Himachal Pradesh, starting from Civil Judge (JD) to District Judge, it is in the range of Rs.400-1000. In Chattisgarh, Principal District Judge gets Rs.1,500/- and others get Rs.500-1000. In Manipur, District Judge gets Rs.700/- per month and Civil Judge (SD) gets Rs.500/- per month. In Sikkim, District Judge gets Rs.2,000/- per month. In Jammu and Kashmir, it is as low as Rs.250/- per month. There is no information from other States.

**18.12 Home Orderly Allowance:** Though the 1<sup>st</sup> NJPC has recommended Rs.2,500/- per month for every Judicial Officer, no mention has been made regarding the same in JP Commission Report, presumably because the Supreme Court did not approve the said recommendation in AIJOA case (2002) however, home orderly allowance is prevalent in a few States.

In Karnataka, Civil Judge (Jr.) and (Sr.) Division, get Rs.2,000/- and Rs.3,000/- respectively. DJs get Rs.4,000/- to Rs.6,000/- per month.

In Punjab/Haryana, the Judicial Officers may avail the services of one class IV employee of the Government at their residence or they may engage one candidate for appointment as Home Peon on Contract basis at statutory minimum wages for unskilled workers subject to certain conditions.

In Delhi, the District Judges (Super Time Scale) are paid allowance equivalent to 50% of the prevailing minimum wages for two peons with effect from 01.02.2011. The other officers are eligible to get 50% of the prevailing minimum wages for one peon.

In Meghalaya, a peon is provided for assistance at home for Civil Judges (Sr. Division) and District Judges.

**18.13 Newspaper and Magazine Allowance:** The 1<sup>st</sup> NJPC provided for 1 National and 1 Regional Newspaper and 1 Magazine to be available for all cadre of Judicial Officer. The JP Commission also retained the same. The 7<sup>th</sup> CPC left it to the Ministers to deal with the same of their own, ceiling of which to be fixed by the Ministry of Finance.

The Government of India, Ministry of Finance, Department of Expenditure has issued office memorandum No. 25(12)/E.Coord-2018, dated 03/04/2018, laying down guidelines for reimbursement of newspapers at residence and fixing the limits from Rs. 500/- pm to Rs 1100/- and actuals per month in respect of various categories of officers.

**18.14 Robe Allowance**

The 1<sup>st</sup> NJPC recommended Rs.5000/- once in five years and the JP Commission recommended Rs.6000/- once in 3 years.

In accordance with the recommendations of 7<sup>th</sup> CPC, the Govt. of India, Ministry of Finance, Department of Expenditure has issued office memorandum No. 19051/1/2017-E.IV, dated 02/08/2017, specifying the categories of employees eligible for Dress allowance and prescribing the limits thereof. These orders are only applicable to those employees who are required to wear uniforms such as the officers of Army, Police, SPG, Customs and Central Excise, Railway staff and Nurses.

**18.15 Children Education Allowances :** This allowance is being drawn by the Judicial Officers in Delhi at par with Central Govt. staff. There is no mention of Children Education Allowance in the 1<sup>st</sup> NJPC as well as in

JP Commission Report. The Central Govt. servants have been getting the Children Education Allowances since long.

After the 7<sup>th</sup> CPC Report, the Government of India, Department of Personnel and Training issued office memorandum No. A-27012/02/2017-Estt.(AC), dated 16/08/2017 and 31/10/2017 providing for grant of Children Education Allowance maximum Rs. 2250/- per month limited to 2 children, to be increased by 25% when DA goes up by 50%. The allowance will be double for differently abled children.

**18.16 Allowance for Higher Qualifications** : Acquisition of higher educational qualifications such as LL.M or Ph.D will help the judicial officers improve their academic and professional knowledge and the level of confidence.

The 1<sup>st</sup> NJPC recommended 3 advance increments for acquiring higher qualification, like post - graduation in law (vide para 8.48 of the Report). The Govt of India allows a fixed amount to be paid to its officials on acquiring higher qualifications.

According to the information received from the High Courts of Punjab & Haryana, Allahabad and Uttarakhand, three (3) advance increments are granted to the judicial officers for acquiring higher qualification - LL.M. etc. Delhi also extends the benefit of three advance increments for acquiring higher qualifications. In Tamil Nadu, as per G.O. (Ms) No. 324 dated 11.05.2018, the Judicial Officers in Tamil Nadu are eligible to get three increments.

The Commission would like to consider (i) whether there should be monetary incentives for acquiring the LL.M degree qualification and a further incentive for acquiring Doctorate in Laws and if so, on what

pattern and (ii) Whether the incentive shall also be extended to those who have acquired higher qualification before joining Judicial service.

**18.17 Facility for soft loans** : The grant of soft loans carrying low rate of interest for specific purposes was recommended by the 1<sup>st</sup> NJPC. House building advance and computer advance as per Central Government norms and vehicle loan of Rs.2,50,000/- has been recommended. The JP Commission recommended increase of the quantum of HBA in proportion to the relevant pay scale with 'usual' interest and vehicle loan of Rs.8,00,000/- with 'nominal' interest. As laptops are being supplied, the computer allowance was considered to be unnecessary.

The 7<sup>th</sup> CPC recommended HBA upto 34 month's basic pay subject to the maximum of Rs.25 lakhs and for the extension of existing house, the maximum recommended is Rs.10 lakhs. The motor car loan has been discontinued.

For computer, Rs.50,000/- or actual price whichever is less has been recommended by 7<sup>th</sup> CPC.

The Government of India has issued comprehensive guidelines governing the grant of House Building Advance and Ministry of Housing and Urban Affairs has issued Office Memorandum No. 1.17011/11 (4)/2016-H-III dated 09.11.2017 laying down the House Building Advance Rules (HBA)-2017 for availing House Building Advance and has also amended the rules relating to personal computer advance through

Government of India, Ministry of Finance, Department of Expenditure  
Office Memorandum No. 12(1)/E.II (A)/2016 dated 07.10.2016.

**19. It is necessary to have a fresh look at the allowances enumerated above especially the quantum/the need, and the anomalies if any.**

**19.1** While on the subject of allowances, there is one aspect on which the Commission would like to elicit the views of all concerned.

It needs to be considered whether the existing practice of Judges availing of vacation shall be dispensed with and instead, non-vacation allowance shall be granted to the Judicial Officers. In spite of heavy pendency and arrears, availment of vacation by the members of Judiciary has been a point of criticism and comments. Such criticism may or may not be justified. However, the Judiciary with its unique role as dispenser of justice and the values associated with it, will have to introspect whether it is desirable to continue to avail of vacation.

In the next phase, when the 4<sup>th</sup> point of reference viz., work methods and work environment has to be taken up, the idea of five day working week will also be mooted and suggestions invited.

**20.** A Questionnaire is appended to this Consultation paper.

**QUESTIONNAIRE- Part of Consultation Paper**

1. What shall be the appropriate pay fixation for Judicial Officers of various ranks and grades, keeping in view the broad principles evolved by the 1<sup>st</sup> NJPC and accepted by Supreme Court?
2. Whether the methodology and rationale adopted by 1<sup>st</sup> NJPC in the fixation of Master Pay Scale should be duly taken into account or this Commission should go purely by the formula of fixation of minimum pay in Master Pay Scale based on the percentage of increase of High Court Judges' pay, as was done by Justice Padmanabhan Commission?
3. The terms of reference require relativities in respect of pay scales governing Judicial Officers and other Civil Service Officers to be taken into account. Accordingly, the 1<sup>st</sup> NJPC had kept in view this aspect and taken into consideration the pay scales of All India Service Officers (not State Government officials) with appropriate increases and equations. How best and in what manner this principle can be effectuated in evolving the new pay structure?
4. a) Whether instead of Master Pay Scale, the 7<sup>th</sup> CPC pattern of fixation of pay in relation to All India Service Officers is preferable in the interests of uniformity and rationalization of pay scales? (Table 5, Pay Matrix prepared by 7<sup>th</sup> CPC – Annexure A and the illustrative/notional pay fixation of Judicial Officers as per the said pattern Annexure B appended to this paper).

- b) If so, what is the appropriate pay level to be assigned to Judicial Officers of various ranks and grades? (going by 7<sup>th</sup> CPC pay matrix - see Table 5 – Annexure A annexed).
5. What shall be the appropriate rate of increments?
  6. Do you find any anomalies in the pay structure or allowances and perquisites available to the Judicial Officers and in regard to their transport allowances?
  7. What steps could possibly be taken to ensure that JOs (Junior & Senior Civil Judges) get the benefit of ACP Scale without much of delay?
  8. Whether fixed pay scale system adverted to at para 14.1 of this paper is a desirable alternative? If so, what pay would be appropriate cadre/grade-wise?
  9. a) Which allowances in your view have to be increased and if so, to what extent?  
  
b) Do you suggest any modifications regarding allowances & facilities?  
  
c) Is there need to retain CCA having regard to the views expressed by 7<sup>th</sup> CPC?
  10. a) Whether pool car system is being availed of by Judicial Officers in the towns/cities? If so, to what extent? (No. of towns/cities may be furnished. How many officers are provided the pool car? (The



maximum number of officers travelling in the pool car may also be mentioned).

b) Is there need to continue the pool car facility in view of the fuel allowance the Judicial Officers are now eligible to get?

11. Whether it is desirable to give up the practice of availment if vacation? If so, whether any allowance shall be granted ?
12. a) In what respects the pensioners and family pensioners have reasonable expectation of improvements in terms of monetary benefits or facilities?  
  
b) Whether the pensioners are facing any procedural hassles or any particular problems to be addressed by appropriate authorities?  
  
c) How many pensioners/family pensioners related to judiciary related are there in your State/UT?
13. For the Judicial Officers appointed during 2004 or thereafter, the New Pension Scheme is applicable. It equally applies to all civil servants – State and Central. Options have been furnished as required by the Rules. There are advantages and disadvantages in this Scheme. Keeping aside the issue of legality of such scheme in relation to Judicial Officers, what are your views on it?
14. Do you support the idea of deployment of retired Judicial Officers on such duties as are assigned by the High Courts for certain period of time on payment of basic salary plus DA? What are your views on the proposal at para 17 A?

15. a) Are there Service Rules in force similar to those applicable to Judicial Officers working within the jurisdiction of the High Court at Hyderabad (referred to in para 17.3 of this Consultation Paper) ?  
  
b) If so, please furnish the details of the number of officers (category-wise) who have been retired prematurely before attaining the age of 58 years during the last 10 (ten) years.  
  
c) Also, please furnish details of Judicial Officers compulsorily retired from service at the age of 58 years on the basis of assessment of their continued utility, during the last 10 (ten) years.
16. What should be the reasonable quantum of increase of the emoluments of Fast Track Court Judges (not borne in the regular cadre), Special Judicial Magistrates (morning/evening Courts) and Special Metropolitan Magistrates/ Judicial Magistrates of II Class?
17. a) Are there any Rules in force giving the benefit of additional increments for possessing acquiring while in service higher qualification such as LLM or Ph.D?  
  
b) How many such officers have become eligible to get such increments during the last 10 years till date?  
  
c) What monetary incentives do you suggest in this regard?
18. Can you suggest any incentives – monetary or otherwise for encouraging the students of National law schools and other reputed law schools to join the Judicial Service as Junior Civil Judges?

**Annexure A**

<b>Table 5 : Pay Matrix VII CPC Group 'A' Officers</b>										
<b>Pay Band</b>	<b>15600-39100</b>			<b>37400-67000</b>			<b>67000-79000</b>	<b>75500-80000</b>	<b>80000</b>	<b>90000</b>
<b>Grade Pay</b>	<b>5400</b>	<b>6600</b>	<b>7600</b>	<b>8700</b>	<b>8900</b>	<b>10000</b>				
<b>Entry Pay(EP)</b>	<b>21000</b>	<b>25350</b>	<b>29500</b>	<b>46100</b>	<b>49100</b>	<b>53000</b>	<b>67000</b>	<b>75500</b>	<b>80000</b>	<b>90000</b>
<b>Level</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>13A</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>
<b>Index</b>	<b>2.67</b>	<b>2.67</b>	<b>2.67</b>	<b>2.57</b>	<b>2.67</b>	<b>2.72</b>	<b>2.72</b>	<b>2.72</b>	<b>2.81</b>	<b>2.78</b>
<b>1</b>	56100	67700	78800	118500	131100	144200	182200	205400	225000	250000
<b>2</b>	57800	69700	81200	122100	135000	148500	187700	211600		
<b>3</b>	59500	71800	83600	125800	139100	153000	193300	217900		
<b>4</b>	61300	74000	86100	129600	143300	157600	199100	224400		
<b>5</b>	63100	76200	88700	133500	147600	162300	205100			
<b>6</b>	65000	78500	91400	137500	152000	167200	211300			
<b>7</b>	67000	80900	94100	141600	156600	172200	217600			
<b>8</b>	69000	83300	96900	145800	161300	177400	224100			
<b>9</b>	71100	85800	99800	150200	166100	182700				
<b>10</b>	73200	88400	102800	154700	171100	188200				
<b>11</b>	75400	91100	105900	159300	176200	193800				
<b>12</b>	77700	93800	109100	164100	181500	199600				
<b>13</b>	80000	96600	112400	169000	186900	205600				
<b>14</b>	82400	99500	115800	174100	192500	211800				
<b>15</b>	84900	102500	119300	179300	198300	218200				
<b>16</b>	87400	105600	122900	184700	204200					
<b>17</b>	90000	108800	126600	190200	210300					
<b>18</b>	92700	112100	130400	195900	216600					
<b>19</b>	95500	115500	134300	201800						
<b>20</b>	98400	119000	138300	207900						
<b>21</b>	101400	122600	142400	214100						
<b>22</b>	104400	126300	146700							
<b>23</b>	107500	130100	151100							
<b>24</b>	110700	134000	155600							
<b>25</b>	114000	138000	160300							
<b>26</b>	117400	142100	165100							
<b>27</b>	120900	146400	170100							
<b>28</b>	124500	150800	175200							
<b>29</b>	128200	155300	180500							
<b>30</b>	132000	160000	185900							



