

Before Permod Kohli, J,

RAKESH KALIA AND OTHERS,—Petitioners

versus

UNION OF INDIA AND OTHERS,—Respondents

CWP No. 14942 of 2010

14th September, 2010

Constitution of India, 1950—Art. 226—Recommendation of Shetty Commission for grant of pay scales—Supreme Court directing States and High Courts for implementation of recommendations—Shetty Commission recommending higher pay scales for clerical cadre than Stenographers cadre—Discrimination—Challenge thereto—Fixation of pay scales—Job of expert bodies—Impermissible for High Court to entertain a challenge to Shetty Commission Report—Petition dismissed.

Held, that the pay scales now being granted and referred to in detail were granted on the recommendation of the Shetty Commission. The petitioners' claim to have approached the Hon'ble Supreme Court, but their applications have not been considered. The petitioners rely upon the direction of the Hon'ble Supreme Court contained in the order dated 7th October, 2009 to plead that this court can interfere even to set aside the recommendation of the Shetty Commission. From the directions contained in the order dated 7th October, 2009, it is abundantly clear that the Hon'ble Supreme Court accepted the recommendation of the Shetty Commission and issued directions for its implementation by the High Court as also the States. Liberty granted to the parties to approach the States/High Courts is only with regard to the implementation of the Shetty Commission recommendations and not otherwise. Once the Hon'ble Supreme Court has accepted the recommendation of the Shetty Commission on the judicial side and directed the State and High Courts to ensure implementation thereof, it is impermissible for this Court to entertain a challenge to the Shetty Commission report, that too at this belated stage.

(Para 9)

G.S. Bhatia, Advocate, *for the petitioner*

PERMOD KOHLI, J. (ORAL)

(1) The petitioners are working as Stenographers Grade I, Grade II and Grade III in various Courts in the subordinate judiciary at Chandigarh. This petition has been filed for removal of alleged anomaly created by the recommendation of the Shetty Commission and its consequential implementation in the pay scale of Stenography Cadre in comparison with the clerical cadre. In sum and substance, the prayer in this petition is for modification of the recommendation of the Shetty Commission and to bring the cadre of Stenographers at par with the clerical cadre which is in the higher pay scale than the stenographers. Averments made in the writ petition are being briefly noticed here-in-below.

(2) Service conditions of the petitioners are governed by U.T. Subordinate Courts Establishment (Recruitment and General Conditions of Service) Rules, 1997. The pay scales etc. are governed on the Punjab pattern. The hierarchy of the stenography cadre under the Rules is as follows:—

Judgment Writer (Sr. Grade)	Rs. 6400-10640
Judgment Writer (Jr. Grade), Sr. Scale Stenographers	Rs. 5800-9200
Steno Typist	Rs. 3330-6200

(3) From the above it appears that the entry level is to the post of Steno Typist. The next promotion is to the post of judgment writer (Junior Grade)/Sr. Scale Steographer and then to Judgment Writer (Sr. Grade). Their pay scales are also specified against their respective posts. It is stated that Hon'ble the Chief Justice, Punjab and Haryana High Court,—*vide* its order dated 31st August, 1989 constituted a fact finding Committee for assessment of the volume of work being performed by the Staff of the Subordinate Courts and practical difficulties faced by them. The Committee was headed by Dr. B.B. Parsson, the then Deputy Registrar, Punjab and Haryana High Court, Chandigarh. The said Committee after visiting various Districts of Punjab and Haryana submitted its report dated 27th October, 1989. The Committee recommended that one Judgment Writer Grade I in the pay scale of Rs. 6400-10640 and one Sr. Scale Stenographer be

attached with the District and Sessions Judge and Additional District and Sessions Judge whereas one Judgment Writer Grade II in the pay scale of Rs. 5800-9200 and one Steno Typist be attached with the Chief Judicial Magistrate/Additional Chief Judicial Magistrate, Civil Judge (Sr. Division) and Civil Judge (Junior Division). The recommendations of the Committee were approved by the Full Court in its meeting held on 29th May, 1995. Besides the pay scales the Judgment Writers attached with the District and Sessions Judge/Additional District Sessions Judge were also granted special pay of Rs. 100 and those Judgment Writers attached with the Chief Judicial Magistrate/Additional Chief Judicial Magistrate, Sub-Judge Rs. 80 special pay. It is alleged that despite the acceptance of recommendation of the Committee by the Full Court, the recommendations remained unimplemented. Thus CWP No. 9426 of 1996 was filed in this court for seeking implementation of the report of the Committee and for creating new posts of Steno Typists, Steno Graphers and Judgment Writers etc. It appears that during the pendency of this petition, Government of India, Ministry of Law and Justice granted *ex-post-facto* approval for the creation of 71 posts by communication dated 28th May, 1997. On consideration of the sanction of the posts, the writ petition was disposed of as having become infructuous that some direction issued by this court to the District and Sessions Judge, Chandigarh to complete the process of recruitment within a period of 10 weeks were complied with by order dated 21st August, 1997. It is further stated that before the implementation of the recommendation of the Shetty Commission, Readers attached to the District and Sessions Judge/Additional District and Sessions Judge/Civil Judge (Sr. Division) were in the pay scale of Rs. 5800-9200 whereas the Readers attached to Additional Civil Judge (Sr. Division)/Chief Judicial Magistrate were in the pay scale of Rs. 3120-5160. Staff serving in the District Courts constituted an Association for redressal of their grievances styled as "All India Judicial Employees' Confederation" which was registered under the Societies Registration Act, 1860. On appointment of the first National Judicial Pay Commission popularly known as Shetty Commission, the petitioners made representation to the Hon'ble Chief Justice of India for referring the same to the Shetty Commission. Hon'ble Supreme Court requested the Shetty Commission to examine the service conditions of the employees of the courts as well. The commission pursuant to the directions of Hon'ble Supreme Court also examined the service conditions of the employees of the courts and made recommendations.

The Association of the petitioners even moved application before the Hon'ble Supreme Court for impleadment as parties.

(4) Shetty Commission made its recommendation in respect of various judicial posts as also staff working in various Courts. Most of the recommendations were accepted by the Hon'ble Supreme Court and issued various directions for implementation of the same with effect from 1st April, 2003. *Vide* order dated 7th October, 2009, the Hon'ble Supreme Court passed following directions :—

“We are told that so far all the States/UTs have not implemented the recommendations fully. Some of the States have implemented the recommendations but had given effect to the date later than 1st April, 2003. Till some of the grievances of various officers are subsisting. In view of these circumstances, we direct that hereafter these matters be considered by the respective High Courts of the States/UTs. We direct that :

- “(i) The High Courts on judicial/administrative side, will ensure implementation of the recommendations of the Shetty Commission within a reasonable period of one year. The High Court shall permit writ petitions or applications that may be filed by the individual or staff association representing the various members of the staff.
- (ii) The High Court shall also see that the recommendations are implemented with effect of 1st April, 2003.
- (iii) There shall be benefit of one advance increment on the existing pay scale instead of initial pay scale. In many of the States, the same benefit has not been given to the members of the staff, the High Court should also see that these recommendations are implemented.
- (iv) In some of the States based on various other pay commission reports, benefits had been given to the members of the staff, these benefits, if any, given shall be in addition to the recommendations given by the Shetty Commission. In any case, if the members of the Staff Association/Subordinate Staff getting higher benefits under

any of the recommendations of the Pay Commission/ Government orders, they shall be permitted to avail those benefits.”

(5) It is the case of the petitioners that in view of the liberty granted by the Supreme Court, the petitioners are approaching this Court for appropriate directions.

(6) The short grievance of the petitioners now is that Shetty Commission has caused discrimination between the cadre of Stenographers and General Line Cadre. To support their contention, the pay scales of the Stenographers in comparison with the General Line Cadre are quoted as here under :-

After the Shetty Commission's Recommendation :

Stenography line/Cadre		Clerical line Cadre	
Judgment Writer (Sr. Grade) to Distt. & Sessions Judge/ ADJs	Rs. 6400-10640 (Only one increment)	Reader to Distt & Sessions Judge/ ADJs (Now designated as Reader Grade-I)	Rs. 7220-11660 (wrongly considering their earlier pay as Rs. 6400-10640)
Judge Writer (Jr. Grade) to Civil Judge (Sr. Division)/ CJM/Civil Judge (J.D.)	Rs. 5800-9200 (Only one increment)	Reader to Civil Judge (Sr. Division)/CJM (Now designated as Reader Grade-II)	Rs. 6400-10640 (newly designated post)
		Reader to Civil Judge (Jr. Division) (Now Designated as Grade-III)	Rs. 5800-9200 (newly designated post)
Sr. Scale Stenographer attached to DSJ/ADJ	Rs. 5800-9200 (Only one increment)	---	---
Steno-typist attached to Civil Judge (S.D./J.D.)	Rs. 4400-7000	All graduate Clerks	Rs. 5000-8100

(7) The aforesaid Chart depicts the pay scale of General Line Cadre and the Stenography Line. Based upon the aforesaid position, it is argued that the petitioners have been discriminated against in the matter of pay scale. According to the petitioners, prior to the recommendation of the Shetty Commission, the petitioners were better placed. The comparative table of the pay scale prior to Shetty Commission is as under :—

Before the Shetty Commission's Recommendation :

Stenography line/cadre		Clerical line cadre	
Judgment Writer (Sr. Grade) to Distt. & Sessions Judge/ ADJs	Rs. 6400-10640 (Only one increment)	Reader to Distt & Sessions Judge/ ADJs	Rs. 5800-9200
Judge Writer (Jr. Grade) to Civil Judge (Sr. Division)/ CJM/Civil Judge (J.D.)	Rs. 5800-9200	Reader to Civil Judge (Sr. Division)/CJM	Rs. 5800-9200 (newly designated post)
		Reader to Addl. Civil Judge (Sr. Division)-CJM	Rs. 3120-6500
Sr. Seale Stenographer attached to DSJ/ ADJ	Rs. 5800-9200	---	---
Steno-typist attached to Civil Judge (S.D./J.D.)	Rs. 3330-6200	All Clerks Rs. 3120-6200	---

(8) Thus, the prayer made in the petition is to revise the pay scale of Steno Typist, Judgement Writer Grade II and Judgment Writer Grade I.

(9) It is admitted case of the petitioners that the pay scales now being granted and referred to in detail here-in-above were granted on the recommendation of the Shetty Commission. The petitioners' claim to have approached the Supreme Court, but their applications have not been considered. The petitioners rely upon the direction of the Hon'ble Supreme Court contained in the order dated 7th October, 2009 to plead that this Court can interfere even to set aside the recommendation of the Shetty

Commission. I am not in agreement with the contention raised by the petitioners. From the directions contained in the order dated 7th October, 2009, it is abundantly clear that the Hon'ble Supreme Court accepted the recommendation of the Shetty Commission and issued directions for its implementation by the High Court as also the States. Liberty granted to the parties to approach the States/High Courts is only with regard to the implementation of the Shetty Commission recommendations and not otherwise. Once the Hon'ble Supreme Court has accepted the recommendation of the Shetty Commission on the judicial side and directed the States and High Courts to ensure implementation thereof, it is impermissible for this Court to entertain a challenge to the Shetty Commission report, that too at this belated stage.

(10) There is additional reason not to interfere in the matter. It is settled principle of law that to fix the pay scales is the job of expert bodies like Pay Commissions etc. It is not for this Court to venture into this area.

(11) In view of the above, the petitioners are not entitled to any relief. Dismissed.
