

Chapter – III (xxxiii)

Prosecution Department

1. **Service /Cadre:-** Rajasthan Prosecution Service and Prosecution Subordinate Service
- Posts:-** Assistant Public Prosecutor Grade II, Assistant Public Prosecutor Grade I, Assistant Director & Deputy Director.
2. **Representation from:-** Rajasthan Abhiyojan Adhikari Association.
3. **Demand:-** They have represented that:
- (i) Central 5th Pay Commission had recommended pay scale of Rs.6500-10500 for Law Degree Holders. 6th Central Pay Commission has recommended grade pay Rs.4600 at entry level, but State Government has given grade pay Rs.3600. Grade pay should be given at par with Central Government.
- (ii) For Legal Service and Vidhi Rachna Service, the minimum prescribed qualification is Law Degree, whereas for Prosecution Service besides Law Degree, two years' experience as advocate is also required. Yet, there is a difference in their pay scales. Therefore, the scales of Public Prosecutors should be higher than those of other Legal Services.
- (iii) Pay scale of first promotion post in Prosecution Service is identical to other Legal Services, but the pay scale of second promotional post is lower than the pay scale admissible to Vidhi Rachna Service. Pay scale of the third promotion post is lower than both the Legal Service and Vidhi Rachna Service. This anomaly should be corrected.
- (iv) They have demanded following pay scales :-

Name of Post	RCS (Revised Pay) Rules 2008		Demanded Pay Band and Grade Pay	
	Existing Pay Band	Grade Pay	Pay Band	Grade Pay
Assistant Public Prosecutor II	9300-34800 (PB-2)	3600	9300-34800 (PB-2)	5400
Assistant Public Prosecutor I	9300-34800 (PB-2)	4200	15600-39100 (PB-3)	6600
Assistant Director	15600-39100 (PB-3)	6000	15600-39100 (PB-3)	7200
Deputy Director	15600-39100 (PB-3)	6600	15600-39100 (PB-3)	8200

(v) 5th Pay Commission as well as 6th Pay Commission has recommended higher pay scales for Prosecution Services.

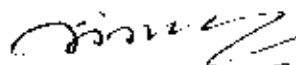
(vi) No. of affected persons are:

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|---|-----|
| 1. Deputy Director | 14 |
| 2. Assistant Director | 70 |
| 3. Assistant Public Prosecutor Grade I | 190 |
| 4. Assistant Public Prosecutor Grade II | 325 |

4. **Factual Position and views of the Committee:-**

I - Factual Position

(i) Director, Prosecution has confirmed that besides Bachelor's degree in law, 2 years of experience as advocate is also required for appointments in Prosecution Service. In D.B. Civil Writ


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petition No.9045/2002, filed by Rajasthan Assistant Public Prosecutor and others v/s Government of Rajasthan, Hon'ble High Court has directed (on 6.11.2008) that the petitioners may file a representation for removal of pay anomaly and State Government may decide the pay anomaly within three months.

(ii) Pay scales of various posts in RCS (Revised Pay) Rules 1998 and RCS (Revised Pay) Rule 2008 are as follows: -

(Prosecution Department)

Post	RCS (Revised Pay) Rules 1998 Pay Scale	RCS (Revised Pay) Rules 2008	
		Running Pay Band	Grade Pay
Assistant Public Prosecutor Grade II	5500-9000 (11)	9300-34800 (PB-2)	3600
Assistant Public Prosecutor Grade I	6500-10500 (12)	9300-34800 (PB-2)	4200
Assistant Director	9000-14400 (14)	15600-39100 (PB-3)	6000
Deputy Director	10650-15850	15600-39100 (PB-3)	6800

(Law Department)

Legal Assistant	5000-8000 (10)	9300-34800 (PB-2)	3200
Head Legal Assistant	6500-10500 (12)	9300-34800 (PB-2)	4200
Assistant Legal Remembrancer	9000-14400 (14)	15600-39100 (PB-3)	6000
Deputy Legal Remembrancer	11300-16200 (17)	15600-39100 (PB-3)	7200
Joint Legal Remembrancer	13500-17500 (19)	15600-39100 (PB-3)	8200

(Vidhi Rachana)

Vidhi Rachnakar	5500-9000 (11)	9300-34800 (PB-2)	3600
Varishtha Vidhi Rachnakar	6500-10500 (12)	9300-34800 (PB-2)	4200
Vidhi Rachna Adhikari	10000-15200 (15)	15600-39100 (PB-3)	6600

(iii) Pay Scales in Central Government are as follows :-

Post	CCS(Revised Pay) Rules 1997 (5 th Pay Commission)	CCS(Revised Pay) Rules 2008	
		Running Pay Band	Grade Pay
Litigation Assistant	5000-8000	9300-34800 (PB-2)	4200
Assistant Legal	6500-10500 (upgraded 7450-11500)	9300-34800 (PB-2)	4600
Superintendent Legal	7500-12000	9300-34800 (PB-2)	4800
Assistant Legal Advisor	10000-15200	15600-39100 (PB-3)	6600
Deputy Legal Advisor	12000-16500	15600-39100 (PB-3)	7600
Additional Legal Advisor	14300-18300	15600-39100 (PB-3)	8700
Joint Secretary and Legal Advisor	18400-22400	15600-39100 (PB-3)	10000

(Source - 5th & 6th Central pay commission report)

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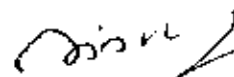
U.T. Delhi/ Prosecution Directorate

Post	CCS(Revised Pay) Rules 1997 (5 th Pay Commission)	CCS(Revised Pay) Rules 2008	
		Running Pay Band	Grade Pay
Public Prosecutor	6500-10500 (upgraded 7450-11500)	9300-34800 (PB-2)	4600
Senior Prosecutor/ Additional Public Prosecutor	8000-13500	15600-39100 (PB-3)	5400
Chief Public Prosecutor	10000-15200	15600-39100 (PB-3)	6600
Director (Prosecution)	12000-16500	15600-39100 (PB-3)	7600

(iv) Comparative Statement of method of appointment and Qualification in Prosecution, Legal and Vidhi Rachna Services are as follows:

(v) Sixth Pay commission in its report has recommended that:-
“7.24.12 - Assistants (Legal) in Department of Legal Affairs have demanded a higher pay scale of Rs.8000-13500 on the ground that they perform specialized duties. The post is presently in the pay scale of Rs.6500-10500. Post of Assistant (Legal) is a feeder post to that of Superintendent (legal) that exists in the pay scale of Rs.7500-12000. The pay scale of Rs.10000-15200 has been demanded for the post of Superintendent (Legal). The scale is attached to Grade IV of Indian Legal Service which is a Class-I service. Clearly, this scale cannot be granted without upsetting the existing relativities. Similarly, the scale of Rs.8000-13500, being the entry level pay scale for Group A posts, can not be extended to the posts of Assistant (Legal). The duties attached to the posts also do not justify the higher pay scales being demanded. However, the Commission, as a general rule, has recommended pay scale of Rs.7450-11500 for posts requiring minimum qualification of a degree in law. This will need to be extended in case of Assistants (Legal) as well. The Commission recommends that the post of Assistant (Legal) should be upgraded and placed in the next higher grade of Rs.7450-11500 corresponding to the revised pay band PB-2 of Rs.8700-34800 along with grade pay of Rs.4600. Superintendents (Legal) shall be accorded the normal replacement pay band and grade pay.”

“ 7.57.30- Higher pay scales have been demanded for the cadre of public Prosecutor in Directorate of prosecution on the ground that minimum qualifications for these posts is a degree in Law and, therefore, these should be treated on par with Doctors. The parity with medical Doctors is not justified. The Commission, as a general policy, has recommended the scale of Rs. 7450-11500 for all posts other than in Group A carrying minimum qualification of a degree in Law. This will need to be extended here as well. The post of Public prosecutor shall, therefore, be placed in the entry


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scale of Rs. 7450-11500 corresponding to the revised pay band PB-2 of Rs. 8700-34800 along with grade pay of Rs. 4600.

Note:- The above recommendations have been modified by the Government of India and final recommended Running pay band-2 in Rs.9300-34800 in place of Rs.8700-34800."

II – Views of the Committee

(vi) The Rajasthan Abhiyojan Adhikari Association has represented to the Committee for grant of pay scale and grade pay at par with Central Government. They have further contended that their pay scale should be higher than Legal and Vidhi Rachana Service in view of their higher qualification at entry level.

(vii) The Committee gave thoughtful consideration to the contents of the representation submitted before it. In order to appreciate their representation in correct perspective, a chart indicating their entry level qualifications, promotional avenues is reproduced below:-

	Prosecution Service	Legal Service	Vidhi Rachnakar Service
Entry Level Post and	Assistant Public Prosecutor II	Legal Assistant	Vidhi Rachnakar
Mode of Recruitment	100% Direct recruitment	100% Direct recruitment	100% Direct recruitment

	Prosecution Service	Legal Assistant Service	Vidhi Rachankar Service
Qualification for entry Level Post	<u>Assistant Public Prosecutor Grade II</u> 1. Degree in Law (Two years Course under the old Scheme or three years Course under the New Scheme) or Degree in Law (Professional) and 2. Two years' experience at the Bar or if worked as Prosecuting Sub- Inspector, experience for 2 years as such.	<u>Legal Assistant</u> Law Graduate OR Its equivalent with three years course of Proficiency degree.	<u>Vidhi Rachankar</u> Law Graduate and Bachelor Degree with General Hindi and English.
Promotional Channel	(i) <u>Assistant Public Prosecutor I,</u> 100% by promotion from Assistant Public Prosecutor Grade II having 5 years experience. (ii) <u>Assistant Director</u> 100% by promotion from Assistant Public Prosecutor Grade I having 5 years experience	(i) <u>Head Legal Assistant,</u> 100% by promotion from Legal Assistant with 5 years experience. (ii) <u>Assistant Legal Remembrancer</u> 100% by promotion from H.L.A with 5 years experience.	(i) <u>Varishtha Vidhi Rachanakar,</u> 100% by promotion from Vidhi Rachankar with 5 years experience. (ii) <u>Vidhi Rachna Adhikari</u> 100% by promotion from Varishtha Vidhi Rachanakar with 5 years experience.


	Prosecution Service	Legal Assistant Service	Vidhi Rachankar Service
	(iii) Deputy Director 100% by promotion from Assistant Director having 4 years experience	(iii) Deputy Legal Remembrancer 100% by promotion from ALR with 5 years experience.	(iii) Deputy Secy. Vidhi Rachana Sangathan 100% by promotion from Vidhi Rachnakar Adhikari with 5 years experience.
		(iv) Joint Legal Remembrancer 100% by promotion from DLR with 5 years experience.	

(viii) From perusal of the above chart it is evident that the post of Assistant Public Prosecutor-II, Legal Assistant and Vidhi Rachanakar are 100% direct recruitment posts with law degree as an essential qualification. The initial entry level qualification for Assistant Public Prosecutor-II requires besides, graduation in law, two years of experience at bar also. From the table quoted above it is evident that the pay scale of the 3rd promotion post in Prosecution Service is lower.

(ix) The Committee has considered the demands of the Association. The primary demand of the Prosecution Service is that they come through the same competitive examination with same qualifications as their other counterparts in the Legal Service and yet their pay scales are lower than those of other comparable post. This is so despite the fact that they are required to possess two years experience at the entry level.


(x) As regards the demand of Prosecution Service for parity with Vidhi Rachana Sangathan it would be appropriate to mention here that Vidhi Rachana Sangathan has been encadred in Secretariat Service. Like Secretariat Service, it is also a closed cadre. Secretariat, High Court, RPSC have been assigned special status in view of specialized nature of duties of the employees working therein. Therefore, the pay scales in the Secretariat given to Vidhi Rachana Sangathan can not be compared with those in Prosecution Service. However, keeping in mind the higher entry level qualifications prescribed in Prosecution Service, the Committee is of the view that a fair comparison is warranted between the pay scales of Prosecution Service and those in Law Service.

(xi) The initial entry level qualification in prosecution is higher than that of entry level qualification in law service. Besides Law Degree, two years experience is also required at entry level in Prosecution Service. Their first and second promotion scales are identical with those of Law Service but their third


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promotional scale i.e. on the post of Deputy Director is in the pre-revised pay scale of 10650-15850 grade pay 6800, whereas the third promotional post in Law Service is in the pre-revised pay scale of 11300-16200 with grade pay 7200. The Committee therefore, recommends that the pay scale of the post of Deputy Director, Prosecution may be revised to 11300-16200 (pre-revised) grade pay 7200 at par with Law Department post of Legal Remembrancer.

(xii) As regards their contention for grant of grade pay of 4600 at par with analogous post in Government of India, it would be pertinent to mention that the State Government has taken no decision to grant higher pay scale to holders of Engineering and Law degree because of its functional requirements. The functional requirements of the State and Centre are totally different. The State Government, therefore, has rightly granted replacement pay scales. There is therefore, no force in this demand.


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