

ITEM NO.1+2

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s).643/2015

ALL INDIA JUDGES ASSOCIATION

Petitioner(s)

VERSUS

UNION OF INDIA . & ORS.

Respondent(s)

(WITH IA No. 2/2017 - AMENDMENT IN CAUSE TITLE, IA No. 96520/2020 - APPLICATION FOR PERMISSION, IA No. 70316/2020 - APPLICATION FOR PERMISSION, IA No. 168154/2022 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 74821/2022 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 205948/2022 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 195313/2022 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 66487/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 88733/2020 - CLARIFICATION/DIRECTION, IA No. 70323/2020 - CLARIFICATION/DIRECTION, IA No. 68481/2020 - CLARIFICATION/DIRECTION, IA No. 100172/2020 - CLARIFICATION/DIRECTION, IA No. 50728/2020 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 66488/2021 - EXEMPTION FROM FILING O.T., IA No. 168155/2022 - EXEMPTION FROM FILING O.T., IA No. 119382/2023 - EXTENSION OF TIME, IA No. 90290/2023 - EXTENSION OF TIME, IA No. 50727/2020 - EXTENSION OF TIME, IA No. 14761/2023 - EXTENSION OF TIME, IA No. 185903/2022 - EXTENSION OF TIME, IA No. 181545/2022 - EXTENSION OF TIME, IA No. 121923/2023 - EXTENSION OF TIME, IA No. 68480/2020 - INTERVENTION APPLICATION, IA No. 100166/2020 - INTERVENTION APPLICATION, IA No. 87335/2020 - INTERVENTION APPLICATION, IA No. 70318/2020 - INTERVENTION APPLICATION, IA No. 74820/2022 - INTERVENTION/IMPLEADMENT, IA No. 18284/2020 - INTERVENTION/IMPLEADMENT, IA No. 10040/2022 - INTERVENTION/IMPLEADMENT, IA No. 169826/2019 - INTERVENTION/IMPLEADMENT, IA No. 109809/2021 - INTERVENTION/IMPLEADMENT, IA No. 165066/2019 - INTERVENTION/IMPLEADMENT)

WITH

SLP(C) No. 6471-6473/2020 (IV-A)
(FOR ADMISSION and I.R.)

CONMT.PET.(C) No. 711/2022 in W.P.(C) No. 643/2015 (X)

CONMT.PET.(C) No. 37/2023 in W.P.(C) No. 643/2015 (X)
(FOR ADMISSION)

CONMT.PET.(C) No. 38/2023 in W.P.(C) No. 643/2015 (X)
(FOR ADMISSION)

CONMT.PET.(C) No. 39/2023 in W.P.(C) No. 643/2015 (X)
(FOR ADMISSION)

CONMT.PET.(C) No. 40/2023 in W.P.(C) No. 643/2015 (X)
(FOR ADMISSION)

CONMT.PET.(C) No. 36/2023 in W.P.(C) No. 643/2015 (X)
(FOR ADMISSION)

CONMT.PET.(C) No. 848/2023 in W.P.(C) No. 643/2015 (X)
(FOR ADMISSION)

SLP (C) No(s).29232/2018

(WITH IA No. 138436/2021 - CLARIFICATION/DIRECTION, IA No. 138438/2021 - EXEMPTION FROM FILING O.T., IA No. 144232/2018 - EXEMPTION FROM FILING O.T., IA No. 146956/2021 - EXEMPTION FROM FILING O.T., IA No. 144234/2018 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 146955/2021 - VACATING STAY)

Date : 23-11-2023 These matters were called on for hearing today.

CORAM :

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HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

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**UPON hearing the counsel the Court made the following
O R D E R**

Compliance on behalf of States/UTs

1 On 19 May 2023, directions were issued by this Court stipulating that:

- (i) Compliance affidavits of all States and Union Territories for the payment of the arrears of pay to all judicial officers be filed by 30 July 2023 stating that the arrears of pay have been positively credited into the accounts of the concerned officers; and

- (ii) The revised rates of pension approved by the Court shall be payable from 1 July 2023 and the arrears of pension, additional pension, gratuity and other retiral benefits shall be paid in instalments - 25% by 31 August 2023, 25% by 31 October 2023 and the remaining 50% by 31 December 2023.
- 2 Mr K Parameshwar, *amicus curiae*, has placed on the record a tabulated statement indicating the status of compliance by the States and Union Territories on the above directions of this Court.
- 3 For convenience of reference, the tabulated statement is set out below:

“STATUS OF COMPLIANCE BY STATES TO THE JUDGMENT DATED 19.05.2023

SL.	State	Revised Pay (Recommendation No. 44 and Direction in Para No. 113 of Judgment dated 19.05.2023)	Arrears of Pay (Recommendation No. 44.13 and Direction in Para No. 113 of Judgment dated 19.05.2023)	Revised Pension (Recommendation No. 39, 4, 21, 8, 9, 11 and Direction in Para No. 114 of Judgment dated 19.05.2023)	Arrears of Pension (Direction in Para No. 114 of Judgment dated 19.05.2023)
1.	Andhra Pradesh (10.08.2023 and 17.11.2023)	Issued GOMs No. 58 dated 22.10.2022 revising the pay scales w.e.f. 01.01.2016 (Pg. 3).	Arrears of pay have been paid (Pg. 3).	GOMs No. 89&90 dated 01.11.2023 have been issued revising pension and gratuity (Pg. 7)	Instructions have been issued for preparation and submission of bills for clearing payments. Therefore, seeking extension (Pg. 7).
2.	Arunachal Pradesh (09.08.2023)	Issued GO dated 20.10.2022 revising the pay scale w.e.f. 01.01.2016 (Pg. 24).	Arrears of pay have been paid (Pg. 22)	No response	No response
3.	Assam (31.07.2023)	Issued notification dt. 12.12.2022 revising the pay scale (Pg. 42).	Arrears of pay have been paid to Chief Judicial Magistrate. Further, finance have been approved on 30.07.2023 for Judicial Officers under the District Judge Establishment, MACT Courts, Special Courts	No response	No response

			etc. For secretaries, DLSA-Finance has not been sanctioned yet (Pg. 43) .		
4.	Bihar (28.07.2023)	Issued Resolution dated 28.09.2022 for revising the pay scale (As per Affidavit filed in compliance of order dated 27.07.2022).	For judges under some districts, payments have been made. For few judicial officers in Buxar, Gaya, Kishanganj, Nalanda, Patna, Samastipur and West Champaran-payment is pending. Also pending for some officers under Revenue and Land Reforms Department (Pg. 49) .	No response	No response
5.	Chhattisgarh (29.-07.2023 and 15.09.2023)	Released notification dt. 29.09.2022 revising the pay w.e.f. 01.01.2016 (Pg. No. 57) and Chhattisgarh Lower and Higher Judicial Service (Pay Revision, Pension and other Retirement Benefit) Rules, 2023 are also framed. (Pg. 64 @66) .	Except 7, arrears of all the judges have been paid (Pg. No. 57)	Chhattisgarh Lower and Higher Judicial Service (Pay Revision, Pension and other Retirement Benefit) Rules, 2023 are framed (Pg. 64@66) .	No response
6.	Goa (03.07.2023)	No response	Arrears have been paid.	No response	No response
7.	Gujarat (20.11.2023)	Gujarat Subordinate Judicial Services (Revision of Pay) Rules, 2022 have been notified revising the pay.	First instalment is paid (As per Affidavit filed in compliance of order dated 27.07.2022).	Vide Resolution dated 21.09.2023, pension has been revised.	No response
8.	Haryana (27.07.2023)	Haryana Civil Service (Judicial Branch) and the Haryana Superior Judicial Service Revised Pay Rules, 2023 has been notified revising pay on 12.05.2023 (Pg. 151 @161) .	Direction has been issued for payment of arrears of pay vide Letter dated 02.06.2023 (Pg. 168) .	No response	No response
9.	Himachal Pradesh	No response	No response	No response	No response
10.	Jammu and Kashmir	No response	No response	No response	No response
11.	Jharkhand	No response	No response	No response	No response

12.	Karnataka (04.09.2023)	Issued GO dated 29.10.2022 revising the pay (Pg. 218) .	No response	GO dated 24.08.2023 has been issued revising pension (Pg. 219) .	Will be paid after adjusting the interim amount paid to officers (Pg. 223) .
13.	Kerala (01.11.2023)	Pay has been revised vide GOMS No. 265/2022 dated 22.12.2022, GOMS No. 1575/2023 dt. 14.06.2023 and GOMS No. 1068/2023 dt. 24.04.2023 (Pg. 228) .	Arrears of pay have been paid (Pg. 229) .	GOMS No. 109/2023 dt. 16.07.2023 has been issued revising pension (Pg. 222) .	Majority of the officers have been paid (Pg. 223) .
14.	Madhya Pradesh (28.08.2023)	Madhya Pradesh Judicial Services (Revision of Pay, Pension and other Retirement Benefits) Rules, 2022 have issued revising the pay w.e.f. 01.01.2016 (Pg. 287 @328) .	Arrears of pay have been paid to the 1647 judicial officers out of 1945 judicial officers (Pg. 287) .	Rules also includes revised pension (Pg. 287 @328) .	No response
15.	Maharashtra (01.07.2023)	Issued Govt. Resolution dated 27.09.2022 revising the pay. (As per Affidavit filed in compliance of order dated 27.07.2022).	50% payment has been made. Funds have been made available by the State Government for the rest 50% (Pg. 356) .	No response	No response
16.	Manipur (17.11.2023)	Proposal to revise pay has been approved by State on 26.09.2023 (Pg. 359)	Payment of arrears have been deferred due to lack of financial services (Pg. 360) .	No response	No response
17.	Meghalaya	No response	No response	No response	No response
18.	Mizoram (14.07.2023)	Govt. issued Notification dt. 21.09.2022 to pay revised pay w.e.f. 01.01.2016 (Pg. 365) .	Arrears of pay have been paid (Pg. 365) .	No response	No response
19.	Nagaland (10.07.2023)	Notification dated 05.12.2022 is issued revising pay w.e.f. 01.01.2016 (Pg. 370) .	Arrears of pay have been paid (Pg. 370) .	Notification dated 05.12.2022 also includes revision of pension (Pg. 370) .	No response
20.	Odisha	No response	No response	No response	No response
21.	Punjab (28.07.2023)	Notification dated 08.02.2023 has been issue revising the pay.	Arrears of pay have been paid.	No response	No response

22.	Rajasthan	No response	No response	No response	No response
23.	Sikkim (17.11.2023)	Sikkim Judicial Service (Amendment) Rules, 2022 have been notified revising the pay. (As per Affidavit filed in compliance of order dated 27.07.2022).	Arrears of pay have been paid.	Sikkim Judicial Officers Pension Rules, 2023 have been notified revising the pension.	No response
24.	Tamil Nadu (10.08.2023)	GOMs. 384 dt. 20.07.2023 has been issued revising pay w.e.f. 01.01.2016 (Pg. 382@385).	Review Petition (Diary No. 8247/2023) is pending against the order dt. 27.07.2022. However, directions have been issued to release arrears (Pg. 382).	GOMs. 385 dt. 20.07.2023 has been issued revising pension for officers retiring on or after 01.01.2016 (Pg. 393).	No response
25.	Telangana (09.08.2023 and 22.11.2023)	Issued GO No. 111 dt. 22.10.2022 for revision of pay (As per Affidavit filed in compliance of order dated 27.07.2022).	No response	GO 38 and 39 dt. 24.07.2023 has been issued revising pension and gratuity (Pg. 404@406 and 409).	No response
26.	Tripura (21.09.2023)	Pay has been revised by notification dt. 30.09.2022 (As per Affidavit filed in compliance of order dated 27.07.2022).	Arrears of pay have been paid (Pg. 414).	Memo dated 09.08.2023 and 14.08.2023 have been issued revising pension (Pg. 414@420 and 425).	Directions have been issued for payment of arrears (Pg. 415).
27.	Uttar Pradesh (31.10.2023)	GO dated 30.06.2023 and 07.07.2023 have been issued revising the pay (Pg. 432@438).	Arrears of 1505 Judicial Officers out of 2723 Judicial Officers have been paid. Remaining 1218 officers are not paid for want of details (Pg. 433).	Pension has been revised vide Office Memo dated 11.09.2023 (Pg. 434@467).	No response
28.	Uttarakhand	No response	No response	Office Memo dated 08.09.2023 has been issued revising pension (Pg. 476@479).	No response
29.	West Bengal (02.08.2023)	Revised Pay is being paid to the serving Judicial Officers (Pg. 493).	Arrears hadditional incrementave been paid to broadly all the Judicial Officers (Pg. 493).	Revised pension w.e.f. 01.07.2023 will be implemented within August, 2023 vide GOs dt. 31.07.2023 (Pg. 494@500).	Steps have been taken by the State Government for payment of arrears of pension (Pg. 495).

STATUS OF COMPLIANCE BY UNION TERRITORIES TO THE JUDGMENT DATED 19.05.2023

SL.	UT Name	Revised Pay	Arrears of Pay	Revised Pension	Arrears of Pension
	Union of India (08.2023)	Has granted sanction to the UTs of J&K,	-	Has granted sanction to the UTs	-

		Delhi and Puducherry on 08.08.2023. Remaining UTs have no cadres of their own (Pg. 525) .		of J&K, Delhi and Puducherry on 08.08.2023. Remaining UTs have no cadres of their own (Pg. 525) .	
1.	Andaman and Nicobar Islands	No response	Arrears have been paid.	No response	No response
2.	Chandigarh	No response	No response	No response	No response
3.	Dadra & Nagar Haveli	No response	No response	No response	No response
4.	Daman & Diu	No response	No response	No response	No response
5.	Delhi (09.10.2023)	Pay has been revised (Pg. 94 @131) .	Arrears have been paid except those who are on deputation (Pg. 95) .	Under process (Pg. 95) .	Arrears bill have been prepared and sent for release of payment (Pg. 95) .
6.	Lakshwadeep	No response	No response	No response	No response
7.	Puducherry (13.10.2023)	Pay has been revised as per GOMs No. 21/2022 dated 10.10.2022 except the Officers on deputation from the Tamil Nadu State Judicial Service (Pg. 179) .	Arrears have been paid to all Judicial Officers except 3 Judicial Officers who are on deputation from the Tamil Nadu State Judicial Service (Pg. 177) .	GO dt. 21.07.2023 have been issued for payment of revised pension w.e.f. 01.07.203 (Pg. 176) .	Action is being taken to disburse the arrears of pension (Pg. 177) ."

4 Despite the peremptory directions of this Court, it is apparent that the above States and Union Territories have not complied with the directions of this Court. Where arrears of pay have been paid, there has been no compliance in respect of pension. We, *prima facie*, are of the view that there has been a default and breach in compliance with the order of this Court warranting the initiation of contempt action against the State governments and Union Territories in default. However, in order to grant one last opportunity for compliance, we direct that compliance with the directions contained in the judgment dated 19 May 2023 shall be positively effected before 6 December 2023, failing which the Chief Secretaries of all the defaulting States or, as the case may be, the Union Territories shall remain personally present before this Court on the next date of listing, that is, 8 December 2023. In the event that compliance has been effected, compliance affidavits shall be filed on or before 6 December 2023

through the Standing Counsel. A copy each of the compliance affidavits shall also be forwarded to the *amicus curiae* who shall collate them in the form of a compilation.

- 5 We clarify that the direction for compliance before 6 December 2023 shall mean the actual crediting of the amounts payable to each judicial officer and, in the case of family pension to the surviving spouses, into their accounts.
- 6 A copy of the above order shall be served by the Registry forthwith on the Chief Secretaries of all the States and Union Territories as well as on the Standing Counsel for compliance.
- 7 List the proceedings on 8 December 2023.

Compliance on behalf of the High Courts

- 8 As regards the High Courts, three directions were issued by this Court, in its judgment dated 19 May 2023:
 - (i) The States/High Courts to take steps to re-designate the officers in conformity with the All India pattern;
 - (ii) The High Courts to revise norms regarding the grant of the first ACP of the Civil Judge (Junior Division) and if the delay in grant of ACP is beyond one year, one additional increment for every year of delay shall be granted; and
 - (iii) The posts of District Judge (Selection Grade) shall be increased to 30% of the cadre strength as against the existing 25%, and the District Judge (Super Time Scale) shall be increased to 15% of the cadre strength as against the existing 10% with effect from 1 January 2020.

9 Mr K Parameshwar, *amicus curiae*, has placed on the record a tabulated statement indicating the status of compliance. While most of the High Courts have taken necessary steps, it appears that the State governments are in the process of completing the process of notifying the rules as proposed by the High Courts. In certain cases, the High Courts are yet to complete the compliance at their end.

10 Based on the outer limit of 31 January 2024, we issue the following directions:

- (i) All High Courts shall ensure compliance with the directions contained in the judgment dated 19 May 2023, as noted above by 31 December 2023;
- (ii) The High Courts shall, within the aforesaid time frame, communicate the proposed amendments to the rules to the State governments/UTs; and
- (iii) The State governments/UTs shall notify the rules by 31 January 2024.

IA 193331 of 2023

11 The IA has been filed by the High Court of Delhi.

12 In the judgment of this Court dated 19 May 2023, there was a direction that the posts of District Judges (Selection Grade) shall be increased to 35% of the cadre strength as against the existing 25% and the posts of District Judges (Super Time Scale) shall be increased to 15% of the existing strength as against the existing 10% with effect from 1 January 2020.

13 Mr K Parameshwar, *amicus curiae*, and Mr Rajshekhar Rao, senior counsel appearing on behalf of the High Court of Delhi, have drawn attention to the

observations in the Minutes of 8 August 2023 of the Committee constituted by the Full Court of the High Court of Delhi. The Committee has observed thus:

“... As would be evident from the orders issued in connection with the creation of the aforementioned posts, the pay scale has clearly been prescribed. It is in that backdrop that the number of posts in the Selection Grade and Super Time Scale may exceed the number of posts otherwise worked out in terms of the judgment in All India Judges Association. However, since those posts already stand created and included in the overall cadre, there would be no justification to either reduce or downgrade those posts for the following reasons.

We are of the considered view that the judgment in All India Judges Association did not intend to prescribe a maximum limit or cap when it entered the observations appearing in paragraphs 74 and 75. The clear intent of All India Judges Association is to ensure that the benefit of Selection Grade and Super Time Scale actually reaches the maximum number of officers of the District Judiciary before they attain the age of superannuation and exit service. The intent of the directions embodied in that decision are clearly aimed at the extension of benefits as opposed to existing holders being deprived of the same...”

14 The Committee of the High Court has, with respect, correctly interpreted the frame of the directions issued by this Court on 19 May 2023. The object of the directions is not to impose a cap, but to ensure that at least a threshold for extension of benefits of the Selection Grade and Super Time Scale in the cadre of District Judges is given to prevent stagnation. The High Court is, therefore, permitted to take necessary steps accordingly by seeking the amendment of the Schedule appended to the Delhi Higher Judicial Service Rules 1970.

15 The IA is accordingly disposed of.

IA No 170936 of 2023

16 The High Court of Telangana has sought a clarification in respect of the age of

superannuation of judicial officers working in the State of Telangana so as to bring it in line with Section 3 (1A) of the Telangana Public Employment (Regulation of Age of Superannuation) Act 1984.

- 17 Mr Anish R Shah, counsel appearing on behalf of the High Court of Telangana, submits that since the State government has increased the age of retirement of government officials from 60 to 61 years, the High Court may be permitted to make suitable amendments to the Telangana Stage Judicial Service Rules.
- 18 Permission as sought by the High Court of Telangana is granted and the IA is made absolute in terms of prayer clause (I).
- 19 We clarify that the IA which has been moved by the High Court of Telangana is being allowed since the increase in the age of retirement would be beneficial to the judicial officers.
- 20 The IA is disposed of.

Recommendations of Second National Judicial Pay Commission

- 21 The Second National Judicial Pay Commission has, *inter alia*, made recommendations in Part II titled as 'permanent mechanism', on the need to set up a permanent mechanism for reviewing the pay scales and conditions of service of judicial officers, Part III which is titled 'supplemental report' and Part IV which deals with 'work methods and work environment'.
- 22 The response of the High Courts, the State Governments and the Union of India on Parts II, III and IV would be necessary. We accordingly issue notice to the High

Courts, the State Governments and the Union of India, returnable on 19 January 2024.

- 23 The submissions which are sought to be made in respect of the above three parts of the report of the SNJPC shall be filed on or before 31 December 2023 in the electronic form with copies to Mr K Parameshwar, *amicus curiae*.
- 24 Service of notice shall be effected in addition on the Standing Counsel for the State Governments, the Central Agency and the Standing Counsel for the High Courts, where available.
- 25 Mr K Parameshwar, *amicus curiae* is permitted to circulate a questionnaire on continuing judicial education. The Registrars General of the High Court shall submit their responses to the questionnaire independently to the Amicus Curiae, which shall be duly tabulated.

Payment of Pension

- 26 The issue whether the payment of pension to judicial officers purely on the basis of Contributory Pension Scheme would be consistent with the norms of financial dignity and independence of judicial officers would merit consideration.
- 27 Notice has already been issued to all the State Governments/Union Territories and the Union of India.
- 28 Mr K Parameshwar, *amicus curiae* states that the responses have been filed and he would be preparing a tabulated statement indicating in brief the nature of responses.
- 29 The proceeding in respect of payment of pension shall be listed on 19 January 2024 at 2 pm for considering the above aspect, whereas the proceeding in

respect of allowances shall be listed on 29 November 2023.

(SANJAY KUMAR-I)
DEPUTY REGISTRAR

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR