

**GOVERNMENT OF KERALAM****Abstract**

Home Department - District Judiciary - Enhancement of the age of superannuation of Judicial Officers from 60 years to 62 years- - Orders issued

HOME (C) DEPARTMENT

G.O.(Ms)No.162/2026/HOME Dated, Thiruvananthapuram, 10-09-2026

Read 1 Order dated 22.07.2026 of the Hon'ble Supreme Court in WP(C)1022/1989

2 Letter No.HCKL/8429/2025-B1-HC-KERALA dated 03.08.2026 from the Registrar General High Court of Kerala

3 Affidavit dated 31.08.2026 filed by State Government before the Hon'ble Supreme Court

4 Order dated 01.09.2026 of the Hon'ble Supreme Court in WP(C)1022/1989

ORDER

The Hon'ble Supreme Court while considering W.P.(C) No.1022/1989 filed by All India Judges Association & Ors and other connected cases, directed the State Governments/Union Territories, in consultation with the respective High Courts, to take a decision regarding enhancement of the age of superannuation of Judicial Officers from 60 years to 61/62 years and to place their respective stands before the Hon'ble Supreme Court and file status reports within four weeks, as per the Order read as 1st paper above.

2). Accordingly the matter was considered in consultation with the Hon'ble High Court of Kerala. The Registrar General, Hon'ble High Court of Kerala, as per the letter read as 2nd paper

above, conveyed the considered view of the Hon'ble High Court that the age of superannuation of Judicial Officers in the District Judiciary may be enhanced to 62 years, with prospective effect from the date of the order enhancing the retirement age.

3). In the meanwhile, as the stand of the State Government was required to be filed before the Hon'ble Supreme Court, an affidavit was filed before the Hon'ble Supreme Court to the effect that the Government of Kerala is not in a position to enhance the age of retirement of Judicial Officers in the State, as per the Affidavit read as 3rd paper above.

4). Consequently, the Hon'ble Supreme Court, as per the Order read as 4th paper above has directed the remaining States/Union Territories, including Keralam, to reconsider their decision, if already taken, regarding enhancement of the age of superannuation in judicial service from 60 years to 62 years, in the light of the observations contained in the orders dated 05.08.2026 and 01.09.2026. The Hon'ble Supreme Court further directed that the matter be reconsidered positively within two weeks and that a compliance report be submitted before the Hon'ble Supreme Court. The relevant portions of the Order of the Hon'ble Supreme Court dated 01.09.2026 are extracted below:-

" 4 . We have heard Mr. Siddharth Bhatnagar, Learned Amicus Curiae, Mr. R. Venkatramani, Learned Attorney General for India (appearing for the State of Rajasthan), the Learned Advocates General/Senior Counsel/Standing Counsel for the other States/UTs, Mr. Vikas Singh and the other Learned Senior Counsel/Counsel appearing for the intervenors. Mr. Bhatnagar has rightly pointed out that the age of superannuation of judicial officers was last enhanced in 1992.¹ As a consequence of that judicial decision, the Union of India as well as the various States filed various Review Petitions, leading to this Court making detailed findings in All India Judges' Association v. Union of India,² the relevant extract whereof reads as under:

"7. It is not necessary to repeat here what has been stated in the judgment under review while dealing with the same contentions raised there. We cannot however, help observing that the failure to realize the

distinction between the judicial service and the other services is at the bottom of the hostility displayed by the review petitioners to the directions given in the judgment. 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. When it is said that in a democracy such as ours, the executive, the legislature and the judiciary constitute the three pillars of the State, what is intended to be conveyed is that the three essential functions of the State are entrusted to the three organs of the State and each one of them in turn represents the authority of the State. However, those who exercise the State power are the Ministers, the Legislators and the Judges, and not the members of their staff who implement or assist in implementing their decisions. The council of ministers or the political executive is different from the secretarial staff or the administrative executive which carries out the decisions of the political executive. Similarly, the Legislators are different from the legislative staff. So also the Judges from the judicial staff. The parity is between the political executive, the Legislators and the Judges and not between the Judges and the administrative executive. In some democracies like the USA, members of some State judiciaries are elected as much as the members of the legislature and the heads of the State. 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 a par with the members of the judiciary, either constitutionally or functionally.

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9. So much for the contention of the review petitioners that the directions given by this Court would lead to the demand from the members of the other services for similar service conditions. It is high time that all concerned appreciated that for the reasons pointed out above there cannot be any link between the service conditions of the Judges and those of the members of the other services. It is true that under Article 309 of the Constitution, the recruitment and conditions of service of the members of the subordinate judiciary are to be

regulated by the Acts of the appropriate legislature and pending such legislation, the President and the Governor or their nominees, as the case may be, are empowered to make rules regulating their recruitment and the conditions of service. It is also true that after the Council of States makes the necessary declaration under Article 312, it is the Parliament which is empowered to create an All India Judicial Service which will include posts not inferior to the post of District Judge as defined under Article 236. However, this does not mean that while determining the service conditions of the members of the judiciary, a distinction should not be made between them and the members of the other services or that the service conditions of the members of all the services should be the same. As it is, even among the other services, a distinction is drawn in the matter of their service conditions. This Court has in the judgment under review, pointed out that the linkage between the service conditions of the judiciary and that of the administrative executive was an historical accident. The erstwhile rulers constituted, only one service, viz., the Indian Civil Service for recruiting candidates for the judicial as well as the administrative service and it is from among the successful candidates in the examination held for such recruitment, that some were sent to the administrative side while others to the judicial side. Initially, there was also no clear demarcation between the judicial and executive services and the same officers used to perform judicial and executive functions. Since the then Government had failed to make the distinction between the two services right from the stage of the recruitment, its logical consequences in terms of the service conditions could not be avoided. With the inauguration of the Constitution and the separation of the State power distributed among the three branches, the continuation of the linkage has become anachronistic and is inconsistent with the constitutional provisions. 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 a 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.

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29. The alleged financial burden that would be thrown on the State exchequer on account of the enhancement of the superannuation age as a result of the payment of the maximum salary in the pay scale to the officers for a further period of 2 or 5 years as the case may be, and on account of the higher outlay on their retiral benefits, is negligible considering the enormous advantage that the administration of justice and the society at large would derive from the enhancement in the age of retirement. The additional financial outlays have also to be weighed against those occasioned by the training of the new recruits, comparatively lower and slower rate of disposal of cases, higher rate of incorrect decisions and the consequent more number of appeals etc. Further, a simple arithmetical exercise would show that there is in fact little extra financial outlay involved. For, as against the payment of the maximum salary for another 2 or 5 years as the case may be, we have to calculate, for that period, the salary of the new recruit and the pension of the incumbent. The further contention that it would affect the employment conditions in different States is equally misconceived since all over India there are not more than about 10,000 judicial posts and most of the judicial officers after their retirement come to be appointed to the quasi-judicial or administrative tribunals. Thus, we see no merit in any of the objections to the enhancement of the retiring age.

5. More than three decades have elapsed since the said pronouncements. During this period, the sanctioned strength of the judicial service in most States has been increased, and a substantial number of posts have remained vacant on account of the non-availability of eligible candidates. The induction of competent judicial officers is a sine qua non for the preservation of an independent judiciary, which forms part of the basic structure of the Constitution. Judicial officers constitute a specialised cadre, distinct and independent from the other categories of employees in the service of the State.

6. It bears no gainsaying that the appointment and conditions of service of judicial officers are matters falling within the direct control of the respective High Courts under Articles 233 and 235 of the Constitution.³

Other employees of the State cannot, therefore, claim parity with members of the judicial service. In these circumstances, the apprehension expressed by the States regarding heartburn amongst other categories of employees is wholly unfounded. Equally misplaced is the apprehension of additional financial burden; on the contrary, an increase in the age of superannuation would enable the State to retain the services of experienced officers, while simultaneously effecting substantial savings on the post-retirement benefits that would otherwise become payable upon their superannuation.

7. In fact, these very issues stood substantially addressed and negated in our earlier order dated 05.08.2026.⁴ However, with a view to achieving a sense of consensus, we had directed the State Governments to revisit the issue and, uninfluenced by the age of superannuation prescribed for other Government employees, to bear in mind the reasons recorded in the said order. We note with appreciation that almost all the High Courts have agreed to the enhancement of the age of superannuation from 60 years to 62 years, and that several States, upon revisiting the issue, have departed from their earlier stance and likewise agreed to such enhancement. Others, however, continue to hold on to the same reasoning as before, which did not find favour with this Court.

8. It needs no emphasis that the source of recruitment, the nature of duties discharged by a judicial officer, and the power of appointment and superintendence exercised by the High Court under the constitutional scheme, unequivocally distinguish the unique and independent character of the judicial service from that of other employees of the State Government. In such view of the matter, we reiterate our opinion that the enhancement of the age of superannuation of judicial officers cannot be permitted to have a cascading effect on the principle of parity claimed by other employees. Apprehension has been expressed that this exercise may cause disruption amongst other categories of employees and derail the smooth functioning of civic administration in the States; we are constrained to observe that such apprehensions are wholly extraneous to the issue at hand, namely, the requirement of enhancing the age of superannuation of members of the judicial service for the efficient administration of justice.

9. As other employees of the State cannot claim parity with members of the judicial service, it would be wholly untenable in law to withhold the enhancement of the age of superannuation on the plea of an unjustified

and petulant demand raised by other employees of the State. The concern of the States regarding an enhanced financial burden is, in our view, clearly misconceived. Were members of the judicial cadre to superannuate at the age of 60 instead of 62, the State would stand burdened with the responsibility of paying the post-retiral dues of such superannuated officers, in addition to the salary of those newly appointed in their place. On the contrary, if experienced members of the judicial cadre are permitted to continue in service till the age of 62, the additional burden of bearing such post-retiral dues would stand correspondingly postponed.

10. The third, and more significant, aspect has been highlighted by Mr. Vikas Singh, namely, that judicial officers require specialised training, and experience has shown that the recruitment of independent and competent judicial officers is an arduous task. Most of the recruitment drives undertaken in the various States have not resulted in optimum recruitment or in the filling up of the sanctioned cadre strength, and a yawning gap between the sanctioned and working strength persists across the board.

*11. Mr. Singh has argued that a similar crisis of employability is discernible in other professional cadres as well, and that the States concerned have responded thereto by enhancing the age of superannuation applicable to those cadres. We are of the view that identical reasoning applies with full force to the judicial service and would justify the enhancement of the age of superannuation of judicial officers. We further take note of the fact that a similar recommendation was made by the Shetty Commission, which was not accepted by this Court in *All India Judges' Association (3) v. Union of India*.⁵ It was contended therein that the age differential between the High Court and the district judiciary ought to be maintained.*

12. We have taken into consideration the fact that age differential may be a legitimate expectation in the superior judiciary. But, the crying need of the hour is to ensure that the attrition of the experienced judicial talent be arrested so that the gap between the sanctioned and the working strength in the judicial service is educed, and access to justice does not remain a mere chimera due to unfilled posts. It is with this spirit that we request the High Courts and States to reconsider the issue with regard to

enhancement of age of superannuation in the district judiciary, whose conditions of service are to be governed by rules framed on their recommendation.

13. Being alive to the aforesaid crisis in dispensation of justice, most of the High Courts have consented to such enhancement. Some High Courts have wisely added relevant riders with regard to assessment of judicial work as a condition precedent, so that deadwood can be removed, and only the competent officers of proven integrity may be permitted to continue in the cadre. This suggestion is most welcome as it would balance the preservation of experienced judicial officers, while removing the clog of deadwood, blocking the entrance of young blood invigorating the system.

14. In light of these circumstances, we are inclined to issue the following directions:

(1) The States which have consented to the enhancement of age of the Judicial Officers, namely, Chhattisgarh, Karnataka, Madhya Pradesh, Maharashtra, Sikkim, Tamil Nadu, West Bengal, are directed to amend the service rules and enhance the age of superannuation in the judicial service to 62 years, subject to the suitability assessment of the concerned Judicial Officer, on their attainment of the age of 60 years, by the High Court. Such amendments shall be carried out as early as possible, preferably within two months;

(2) Pending amendment of the rules, no judicial officer in the aforesaid States who has attained the age of 60 years shall superannuate until he attains the age of 62 years, subject to an assessment of his suitability and performance by the High Court concerned;

(3) Judicial officers in the aforesaid States who have superannuated on or after 31.03.2026 shall be given an option to re-join the judicial office, if they have not already obtained subsequent employment or has been appointed to any other office of profit under the Union Government or any State Government. In the event they exercise such option in the affirmative, they shall be reappointed with all consequential benefits of pay, seniority, and continuity in service, subject to their suitability assessment and their performance by the High Court, and surrender of post-retirement benefits, if any already granted;

(4) Other States/UTs, i.e., Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Goa, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Keralam, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Punjab, Rajasthan, Telangana, Tripura, Uttarakhand, Uttar Pradesh, NCT of Delhi, Jammu and Kashmir, and Puducherry and are directed to reconsider their decision, if already taken, or take an appropriate decision in the matter of enhancement of age in the judicial service from 60 to 62 years, in the light of the observations made by us in our order dated 05.08.2026 as well as in this order, positively within two weeks, and submit a compliance report.

5). In view of the aforesaid directions of the Hon'ble Supreme Court, Government have examined the matter in detail and are pleased to enhance the age of superannuation of Judicial Officers in the District Judiciary of the State from the existing 60 years to 62 years.

6). The Order of the Hon'ble Supreme Court read as 4th paper above is thus complied with.

(By order of the Governor)

MINHAJ ALAM I A S

ADDITIONAL CHIEF SECRETARY

To:

The Registrar General, High Court of Kerala, Ernakulam (with C/L)
The Principal Accountant General (Audit/A&E) Kerala, Ernakulam
Finance Department (vide E-3591021/EXP-D2/222/2026-FIN dated 10.08.2026)

Web & New Media , I&PRD (for uploading in the Government website)

General Administration (SC) Department (Cabinet Decision Item No.172 dated 09.09.2026)

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Forwarded /By order

Section Officer