

IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. 643 OF 2015

ALL INDIA JUDGES ASSOCIATION

Petitioner (s)

VERSUS

UNION OF INDIA AND ORS.

Respondent (s)

O R D E R

1. The Constitution envisages a unified judicial system in this country against the backdrop of a federal system of governance in relation to the legislature and executive. Given that the Constitution in Chapter VI, Part VI largely vests the appointment and service conditions of the subordinate judiciary with the Governor, in consultation with the High Court of the respective states, conditions of service were often found to be asymmetrical within the country. This prompted the All India Judges Association to approach this Court by filing a writ petition.

2. This Court in *All India Judges Association v. Union of India* (1992) 1 SCC 119, *inter alia* considered questions as to pay scales and service conditions of the members of the subordinate judiciary. It directed the states and the union territories to separately examine and review the pay structure of judicial officers as and when the states constitute pay commissions for its employees. Various states and the Union of India filed review petitions against the directions given in the aforesaid judgment and these objections were disposed of by judgment reported as

*All India Judges Association v. Union of India* (1993) 4 SCC 288. This Court specifically held that judicial service is not a service in the sense of 'employment' and judges are not employees. It held that parity in terms of conditions of service is to be maintained between the political executive, the legislators and the judges and between the judges and the administrative staff. The Court held that although service conditions were to be regulated by Rules made under Art. 309 to 312 of the Constitution, it does not mean that the judiciary will not have any say with respect to its service conditions. The Court, speaking through Sawant J., held,

*"8. This 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 too heavy to secure it. To keep the Judges in want of essential accoutrements and thus to impede them in the proper discharge of their duties, is to impair and whittle away justice itself."*

3. The Court therefore recommended that the service conditions of the judicial officers should be laid down and reviewed from time to time by an independent Commission exclusively constituted for the purpose, and the composition of such Commission should reflect adequate

representation on behalf of the judiciary.

4. Pursuant to the directions of this Court, the Union of India appointed the first National Judicial Pay Commission on 21.03.1996, under the chairmanship of Shri Justice K J Shetty. The Justice Shetty Commission submitted a preliminary report on 31.01.1998 and a final report on 11.01.1999. In *All India Judges Association v. Union of India* (2002) 4 SCC 247, this Court accepted the recommendations made by the Shetty Commission with modifications made in the judgment. It also directed the Union of India and the states to implement the judgment and report compliance.

5. A perusal of the law reports for the subsequent years would indicate the number of times that this Court had to intervene to effectively get the recommendations of the Shetty Commission implemented. One would have expected that following a decade of directions, the executive would proactively setup another judicial pay commission since, in the meanwhile, a Sixth Pay Commission was set up and its recommendations implemented after modifications by the Union of India in respect of the public servants under the executive. However, the Court in *All India Judges Association v. Union of India* (2011) 12 SCC 677 was impelled to intervene and set up a Pay Commission under Justice E Padmanabhan, a retired High Court Judge. This was followed by a similar set of orders and judgments

attempting to implement the recommendations of the report submitted by the Commission.

6. In the present Writ Petition, the petitioner had again approached this Court by filing the present writ petition seeking the appointment of another Pay Commission and by order dated 9.5.2017, a Pay Commission under the chairmanship of Justice P Venkatarama Reddi, was constituted. The said Commission submitted its interim report on 09.03.2018 and the Court by order dated 27.03.2018, directed the official Respondents to implement the recommendations of the Commission with regard to interim relief.

7. The Commission has now submitted its report with respect to the pay, pension and allowances of the Judicial Officers to this Court on 29.01.2020. It now falls upon the respective States and Union Territories to consider and implement the report. Over the years, it has been observed that the primary objection to the implementation various directions concerning the service conditions of the subordinate judiciary is an alleged paucity of financial resources. We hope that the same objections, which have been rejected by this Court in *All India Judges Association v. Union of India* (1993) 4 SCC 288, will not be re-agitated. The Court in the aforesaid judgment observed that compared to the other plan and non-plan expenditures, the financial burden caused on account of the directions

given therein are negligible.

8. The following table demonstrates that the expenditure on account of High Court and subordinate courts in the respective states continues to be inadequate and negligible in comparison to its overall expenditure for the year 2018-2019:

Rs.in crores

Sl. No.	Name of the State	High Court	Subordinate Courts	Total	State Budget		% to Revenue Expenditure	Percentage Total Expenditure
					Revenue Expenditure	Total Expenditure		
1	2	3	4	5	6	7	8	9
1	Andhra Pradesh	32.86	653.55	686.41	1,26,339	1,62,134	0.54	0.42
2 @	Assam	60.46	207.55	268.01	82004.81	2,91,593.74	0.32	0.09
3 @	Arunachal Pradesh	5.27	-	5.27	12,429.47	18,177.07	0.04	0.02
4 @	Mizoram	12.48	22.86	35.34	8,142.50	10,402	0.43	0.33
5 @	Nagaland	7.83	12.16	19.99	11,449.13	16198.20	0.17	0.12
6	Bihar	152.09	643.58	795.67	124896.81	154655.14	0.63	0.51
7	Chhattisgarh	57.30	206.35	263.65	80,370	95072	0.32	0.28
8	Goa	-	-	-	11,795	17,123		
9	Gujarat	177.57	1011.77	1189.34	1,39,153	1,88,110	0.85	0.63
10 \$	Haryana	146.12	453.46	599.58	85,334.81	1,02,779.09	0.70	0.58
11 \$	Punjab	149.06	398.50	547.56	82,317.96	1,27,415	0.66	0.43
12 \$	Chandigarh	21.65	30.7	52.36	NA	NA	NA	NA
13	HP	38.07	118.92	156.99	33,408.18	43,625.16	0.46	0.35
14	J & K	56.08	159.60	215.68	59,041.76	1,04,718.27	0.36	0.20
15	Jharkhand	83.23	324.58	407.81	62,513.41	80,623.41	0.65	0.50
16	Karnataka	633.92	770.37	1404.29	1,65,702	2,06,268	0.84	0.68
17	Kerala	135.08	587.65	722.73	1,13,033.57	1,24,678.88	0.63	0.57
18	MP	133.67	821.57	955.24	1,51,022.46	1,80,279.24	0.63	0.52
19 *	Maharashtra	248.08	1303.15	1551.23	3,01,460	3,73,235	0.51	0.42
20	Manipur	13.94	14.17	28.11	12,189.97	16,650.79	0.23	0.16
21	Meghalaya	15.12	12.50	27.62	12,036.50	43,437	0.22	0.06
22	Odisha	76.71	428.93	505.64	91,327.85	1,20,125	0.55	0.42
23	Rajasthan	132.69	965.38	1098.07	1,73,008.92	2,12,259	0.63	0.51
24	Sikkim	16.86	16.83	33.69	5,881.02	7685	0.57	0.43
25	Tamil Nadu	259.35	970.23	1229.58	1,99,937.92	2,48,360	0.61	0.49

26	Tripura	25.46	95.58	121.04	12,801.14	16,380.80	0.94	0.73
27	Uttarakhand	42.67	149.14	191.81	34,726.63	43,460.93	0.55	0.44
28	UP	289.21	1325.41	1614.62	3,32,774.06	4,49,573.29	0.48	0.35
29	West Bengal	116.79	1025.23	1142.12	1,60,150	2,26,937	0.71	0.50
30	Telangana	137.27	361.67	498.94	1,19,026.93	1,61,856.53	0.41	0.30
31	Delhi	261.57	783.95	1045.52	39,893.90	50,200	2.62	2.08
	<b>Total</b>	<b>3,538.46</b>	<b>13,875.34</b>	<b>17,413.91</b>	<b>28,44,168.71</b>	<b>38,94,0120.54</b>	<b>0.61</b>	<b>0.44</b>

@ The State of Assam, Arunachal Pradesh, Mizoram, Nagaland have Benches of Gauhati High Court.

\* Includes expenditure of Goa Bench.

\$ Punjab contributes 47.05%, Haryana 46.12% and Chandigarh 6.83% to the total expenditure.

Expenditure on Haryana & Punjab High Court is borne by Punjab, Haryana & Chandigarh and has been divided amongst them.

9. We are informed that the report which is presented to this Court on 29.01.2020 is already on the website of the Second National Judicial Pay Commission and therefore in public domain. The respective state governments and Union Territories are directed to file their responses with respect to each recommendation, if any, within a period of four weeks from today. If any of the parties fail to file such response, it will be presumed that they have no objections to the recommendations made by the Commission. We expect that the recommendations of the Commission will be implemented proactively.

10. Mr. P.S Narasimha, Ld. Senior Counsel has been assisting the Commission. We appoint him as *amicus curiae* to assist this Court and also appoint Shri K. Parameshwar as an *amicus curiae* to assist him. The respective State Governments are directed to serve their responses to the Registry of this Court as well as *amicus curiae* within stipulated period. The *amici* shall consolidate the views of

the states and give their suggestions to the Court. They shall also consider what institutional mechanisms can be put in place to ensure that this Court is not compelled to intervene every time in respect of pay scales and conditions of service in respect of the subordinate judiciary. The Law Secretary, Union of India may also give his suggestions in this regard to the *amici*.

11. The States shall be represented by the Chief Secretaries. We request the Advocates General of the respective States to appear in the matter.

.....CJI  
[ S.A. BOBDE ]

.....J.  
[ B.R. GAVAI ]

.....J.  
[ SURYA KANT ]



New Delhi  
February 28, 2020

ITEM NO.32

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 &amp; ORS.

Respondent(s)

(NAME OF SHRI P.S. NARASIMHA, ADDL. SOLICITOR GENERAL TO BE SHOWN IN THE CAUSE LIST

IA No. 125439/2018 - INTERVENTION APPLICATION

IA No. 169826/2019 - INTERVENTION/IMPLEADMENT

IA No. 165066/2019 - INTERVENTION/IMPLEADMENT

IA No. 18284/2020 - INTERVENTION/IMPLEADMENT

IA No. 1/2015 - PERMISSION TO FILE SYNOPSIS AND LIST OF DATES)

Date : 28-02-2020 This matter called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE B.R. GAVAI

HON'BLE MR. JUSTICE SURYA KANT

Mr. P.S. Narsimha, Sr. Adv. (AC)

For Petitioner(s)

Mr. Gourab Banerji, Sr. Adv.

Ms. Mayuri Raghuvanshi, AOR

Mr. Vyom Raghuvanchi, Adv.

Mr. Sangya Negi, Adv.

For Respondent(s)

Mr. Mukesh Kumar Maroria, AOR

Ms. Preetika Dwivedi, AOR

Mr. Sudhanshu S. Choudhari, AOR

Mr. Aniruddha P. Mayee, AOR

Mr. A. Rajarajan, Adv.

Mr. Sanjeev Kr. Choudhary, Adv.

Mr. Jaideep Gupta, Sr. Adv.

Mr. Kunal Chatterji, AOR

Mr. Maitrayee Banerjee, Adv.

Mr. Pravar Veer Misra, Adv.

Mr. Apoorv Kurup, AOR

Mr. Annam D.N. Rao, AOR

Mr. Annam Venkatesh, Adv.

Mr. Rahul Mishra, Adv.

Ms. Sangeetha, Adv.

Ms. Avni Sharma, Adv.

Ms. Ananya Kandelwal, Adv.

Mr. P.I. Jose, AOR

Mr. Prashant K Sharma, Adv.

Mr. Jenis Francis, Adv.



Ms. Sneha Kalita, AOR

Mr. Naresh K. Sharma, AOR

Mr. Sanjai Kumar Pathak, AOR  
Ms. Shashi Pathak, Adv.  
Mr. Arvind Kumar Tripathi, Adv.  
Ms. Shubhali Pathak, Adv.

Mr. Nikhil Goel, AOR  
Ms. Naveen Goel, Adv.  
Mr. Vinoy Mathew, Adv.  
Mr. Dushyant Sarna, Adv.

Ms. Pragati Neekhara, AOR

Mr. Anupam Raina, AOR  
Mr. Sunando Raha, Adv.

Mr. Krishnanand Pandeya, AOR  
Mr. Ambhoj Kr. Sinha, Adv.

Mr. T.G. Narayanan Nair, AOR  
Mr. Amit Sharma, Adv.

Mr. A. Radhakrishnan, AOR

Mr. Arjun Garg, AOR  
Mr. Devansh Srivastava, Adv.

Mr. Sibho Sankar Mishra, AOR

Mr. Ashok Mathur, AOR

Mr. Mukul Kumar, AOR

Ms. Aruna Mathur, Adv.  
Mr. Avneesh Arputham, Adv.  
Ms. Anuradha Arputham, Adv.  
Ms. Geetanjali, Adv.  
For M/S. Arputham Aruna And Co, AOR

Mr. Mukesh K. Giri, AOR

Mr. G. Prakash, AOR  
Mr. Jishnu M.L., Adv.  
Mrs. Priyanka Prakash, Adv.  
Mrs. Beena Prakash, Adv.

Mr. Shuvodeep Roy, AOR

Mr. Pratap Venugopal, Adv.  
Ms. Surekha Raman, Adv.  
Mr. Parushottam K Jha, Adv.  
Ms. Ayushi Gaur, Adv.  
Mr. Akhil Abraham Roy, Adv.  
For M/S. K J John And Co, AOR

Ms. Deepanwita Priyanka, Adv.  
Ms. Hemantika Wahi, AOR (NP)

Mr. Vikas Mahajan, AAG, HP

Mr. Aakash Varma, adv.  
Mr. Anil Kumar, Adv.  
Mr. Vinod Sharma, AOR

Mr. Vishal Arun, AOR

Mr. V.N. Raghupathy, AOR  
Mr. Manendra Pal Gupta, Adv.

Mr. Nishant Ramakantrao Katneshwarkar, AOR

Mr. Ranjan Mukherjee, AOR  
Mr. Avijit Mani Tripathi, Adv.  
Mr. Upendra Mishra, Adv.  
Mr. T.K. Nayak, Adv.  
Mr. K.V. Kharlyngdoh, Adv.  
Mr. Deniel Stone Lyngdoh, Adv.  
Mr. P.S. Negi, Adv.

Ms. K. Enatoli Sema, AOR  
Mr. Amit Kumar Singh, Adv.

Mr. Shibashish Misra, AOR  
Mr. D. Reddy, Adv.  
Mr. Chandan Kumar Mandal, Adv.

Mr. Devendra Singh, AOR

Ms. Ruchi Kohli, AOR

Mr. Raghuvendra Kumar, adv.  
Mr. Narendra Kumar, AOR  
Mr. Anand Dubey, Adv.

Mr. Abhishth Kumar, AOR

Mr. Tanmaya Agarwal, Adv.  
Ms. Rachana Srivastava, AOR  
Mr. Wrick Chatterjee, Adv.  
Ms. Smriti Dua, Adv.

Mr. Parijat Sinha, AOR

Mr. K.V. Jagdishvaran, Adv.  
Ms. G. Indira, AOR

Mrs. Anil Katiyar, AOR

Mr. V.G. Pragasam, AOR  
Mr. S. Prabhu Ramasubramanian, Adv.  
Mr. S.Manuraj, Adv.

Mrs. Anjani Aiyagari, AOR

Mr. Ankur Kashyap, AOR

Mr. Gopal Jha, AOR  
Mr. Manjeet Jha, Adv.  
Mr. Ranjeet Kumar Jha, Adv.  
Ms. Divya Sharma, Adv.  
Ms. Gurnoor Kaur, Adv.

Mr. Pravin H Parekh, Sr. Adv.  
 Mr. K. Raj, Adv.  
 Ms. Tanya Chaudhary, Adv.  
 Ms. Pratyusha Priyadarshini, Adv.  
 Ms. Nitika Pandey, Adv.  
 Mr. Nikhil Ramdev, Adv.  
 Ms. Ashna Bhatnagar, Adv.  
 Mr. Kshatrshal Raj, Adv.  
 For M/S. Parekh & Co., AOR

Mr. Sanjay Kumar Tyagi, AOR  
 Mr. Yashvi Virendra, Adv.

Ms. Ranjeeta Rohatgi, AOR

Mr. ANS Nadkarni, Ld. ASG  
 Ms. V. Mohana, Sr. Adv.  
 Ms. Rashmi Malhotra, Adv.  
 Mr. D.L. Chidanand, Adv.  
 Ms. Swarupma Chaturvedi, Adv.  
 Ms. Ankita Sharma, Adv.  
 Mr. K. Chandra Mohan, Adv.  
 Mr. Arvind Kumar Sharma, Adv.  
 Mr. B.V. Balaramdas, Adv.

Ms. Radhika Chaturvedi, Adv.  
 Mr. Hitesh Kumar Sharma, Adv.  
 Mr. S.K. Rajora, Adv.  
 Mr. Akhileshwar Jha, Adv.  
 Ms. Madhumita P., Adv.

Ms. Pinky Anand, Ld. ASG  
 Mr. S.W.A. Qadri, Sr. Adv.  
 Mr. R.R. Rajesh, Adv.  
 Ms. Sunita Sharma, Adv.  
 Mr. R.R. Rajesh, Adv.  
 Mr. Lara Siddique, Adv.  
 Mr. R.R. Rajesh, Adv.  
 Mr. Arun Kumar Yadav, Adv.  
 Mr. Raj Bahadur Yadav, Adv.

Mr. G.N. Reddy, AOR  
 Mr. T. vijaya Bhaskar Reddy, Adv.  
 Mr. Digvijay Harichandan, Adv.

Mr. Rahul Chitnis, Adv.  
 Mr. Aaditya A Pande, Adv.  
 Mr. Sushil Karanjkar, Adv.  
 Mr. Sachin Patil, AOR

Dr. Rajesh Pandey, Adv.  
 Ms. Shweta Mulchandani, Adv.  
 Mr. Mahesh Pandey, Adv.  
 Ms. Tanuja Manjari Patra, Adv.  
 Ms. Aswathi M.K., AOR

Mr. Suhaan Mukerji, Adv.  
 Mr. Vishal Prasad, Adv.  
 Mr. Amit Verma, Adv.  
 Mr. Abhishek Manchanda, Adv.  
 For M/s. PLR chambers & co.

Mr. Siddhesh Kotwal, Adv.  
Ms. Bansuri Swatraj, Adv.  
Ms. Arshiya Ghose, Adv.  
Mr. Divyansh Tiwari, Adv.  
Ms. A. Upadhyay, Adv.

Dr. Manish Singhvi, Sr. Adv.  
Mr. Satyendra Kumar, Adv.  
Mr. Arpit Parkash, Adv.  
Mr. Sandeep Kumar Jha, AOR

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

The respective state governments and Union Territories are directed to file their responses with respect to each recommendation, if any, within a period of four weeks from today.

List thereafter.

List after two weeks for consideration of the applications for intervention.

[ CHARANJEET KAUR ] [ INDU KUMARI POKHRIYAL ]  
A.R.-CUM-P.S. ASSTT. REGISTRAR

[ Signed order is placed on the file ]