

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION(C) No. 643/2015

ALL INDIA JUDGES ASSOCIATION

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

O R D E R

This writ petition is filed by All India Judges Association praying as follows:-

"It is, therefore, respectfully prayed that this Hon'ble Court may be pleased:

1. To issue a writ of mandamus or a writ in the nature of mandamus or such other writ/order/direction as may be necessary directing the Respondents to constitute all India Judicial Commission in terms of the representation made by the petitioner to respondent no. 1 on 13/05/2015 to review the service conditions of the judicial officers of subordinate judiciary in India including but not

limited to pay scale, retirement age, pension and other emoluments of the sub-ordinate judiciary from time to time;

2. To issue such orders as may be necessary to direct the Respondent no. 1 to undertake appropriate exercise to ascertain the feasibility of establishing an All India Judicial Services; and

3. To pass such other orders and further orders as may be deemed necessary on the facts and in the circumstances of the case."

Notice was ordered on 14.9.2015. Various States and High Courts, and the Union of India are the parties-respondents to the instant writ petition. All the respondents are served.

By an order dated 8th March, 2017, this Court recorded that for adjudicating the various questions raised by the petitioners in the instant writ petition, certain data is required to be collected and for that purpose, a body competent to collect the data is required to be constituted. The Court also took note of the fact that, on an earlier occasion, such an exercise was undertaken pursuant to the orders of this Court by a

Commission, now popularly known as the Shetty Commission. On the basis of the recommendations of the Shetty Commission, this Court issued various directions, the details of which may not be necessary for the present purpose.

All the learned counsel appearing for the various parties agreed for appointment of a fresh Commission to undertake the exercise. It was also recorded by the order dated 8th March, 2017 that the Government of India would submit draft Terms of Reference for the guidance of the Commission, to be appointed eventually. Government of India has since filed the draft Terms of Reference. Learned counsel for the petitioner also agrees that the various suggestions made in the said draft be the terms and reference to the Commission. The agreed Terms of Reference are as follows:-

a To evolve the principles which should govern the structure of pay and other emoluments of Judicial Officers belonging to the sub-ordinate judiciary all over the country.

b To examine the present structure of emoluments and conditions of service of Judicial Officers in the states and UT's taking into account the total packet of benefits available to them and make suitable

recommendations including post retirement benefits such as pension etc. having regard among other relevant factors, to the existing relativities in the pay structure between the officers belonging to subordinate judicial services vis-a-vis other civil servant and mechanism for redressal of grievances in this regard.

c. . . . x x x x . . .

d To examine the work methods and work environment as also the variety of allowance and benefits in kind that are available in Judicial Officers in addition to pay and to suggest rationalization and simplification thereof with a view to promoting efficiency in Judicial Administration, optimizing the size of judiciary etc. and to remove anomalies created in implementation of earlier recommendations.

e To consider and recommend such interim relief as it considers just and proper to all categories of Judicial Officers of all the

States/Union Territories. The interim relief, if recommended, shall have to be fully adjusted against and included in the package which may become admissible to the Judicial Officers on the final recommendations of the Commission.

f. To recommend the mechanism for setting up of a permanent mechanism to review the pay and service conditions of members of sub-ordinate judiciary periodically by an independent commission exclusively constituted for the purpose and the composition of such commission should reflect adequate representation on behalf of the judiciary.

The Commission will make its recommendations as soon as feasible. It may consider, if necessary, sending reports on any of the matters as and when the recommendations are finalized. It shall make its recommendations to the State Governments.

The Commission will devise its own procedure and may appoint such

advisers, institutional consultants and experts as it may consider necessary for any particular purpose. It may call for such information and take such evidence as it may consider necessary. All State Governments, UT Administrations and the Ministries/Departments of the Central Government will furnish such information, documents and other assistance as required by the Commission."

In the circumstances, we deem it appropriate to appoint a Commission to be headed by Mr. Justice P. Venkatarama Reddy, a former Judge of this Court, who would act as a Chairman of the Commission, and Mr. R. Basant, a former Judge of the Kerala High Court and a Senior Advocate of this Court, to be the Member of the Commission. The Commission would be assisted by a Member Secretary who would be chosen by the Commission, preferably a Judicial Officer either in service or retired. In case the Commission decides to choose a serving Judicial Officer of any State, the concerned High Court and the State would make available the services of such an officer and treat such officer to be on deputation to the Commission.

The Chairman would be entitled to draw the same amounts as are admissible towards the salary and other monetary allowances payable to a sitting Judge of this Court. The Member would be entitled to draw the same amounts as are admissible to the salary and the other monetary allowances payable to a sitting Judge of a High Court.

Coming to the Member Secretary, if a serving Officer is chosen (since we have already directed that such Officer to be treated as an Officer of the Commission), the necessary financial implications will follow. If a retired Officer is chosen, he would be entitled for the same amounts (equivalent to both salary and other allowances) which he had have drawn on the last date of his service.

All payments indicated above shall be made by the Union of India.

It is open for the Commission to devise its own procedures and formulate modalities necessary for accomplishing the task.

We hope and trust that all the respondents-Union of India and States and High Courts, would render all assistance due to the Commission.

The Commission will also indicate to the

Union of India as to its requirements of infrastructural support, including the personnel, if any, necessary for the purpose of carrying on the task. We also deem it appropriate to direct the Union of India to make available the services of one of its Additional Solicitors General to assist the Commission. We have no doubt that the Union of India will render all necessary assistance.

We request the Commission to complete the collection of data and make appropriate recommendations and submit a copy of the same to this Court preferably within a period of 18 months. The Commission shall be at liberty to approach this Court to seek any further clarification or direction to any of the respondents, if felt necessary.

As and when a copy of the report is submitted, the matter to be listed for further orders.

.....J.
(J Chelameswar)

.....J.
(S Abdul Nazeer)

New Delhi;
May 09, 2017.

ITEM NO.50
(For orders)

COURT NO.3

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

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

ALL INDIA JUDGES ASSOCIATION

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(with appln. (s) for amendment of memo of parties and permission to file synopsis and list of dates and office report)

Date : 09/05/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR
HON'BLE MR. JUSTICE S. ABDUL NAZEER

For Petitioner(s) Mr. Gourab Banerji, Sr. Adv.
Ms. Mayuri Raghuvanshi, Adv.
Mr. Vyom Raghuvanshi, Adv.

For Respondent(s) Mr. ANS Nadkarni, ASG
Ms. Swarupama Chaturvedi, Adv.
Ms. Sunita Rani Singh, Adv.
Ms. Rashmi Malhotra, Adv.
Mr. Raj Singh Rana, Adv.
Mr. Santosh Kumar, Adv.
Mr. Umesh Babu Chaurasia, Adv.
Mr. H. Khinchi, Adv.
Mr. Santosh Rebello, Adv.
Mr. Pranav Kumar, Adv.
Ms. Archana P. Dave, Adv.
Ms. Radhika Sharma, Adv.
Mr. M.K. Maroria, Adv.
Mr. Raj Bahadur Yadav, Adv.
Mr. B.K. Prasad, Adv.

A&N Administration Mr. Bhupesh Narula, Adv.
Mr. K.V. Jagdishvaran, Adv.
Ms. G. Indira, Adv.

State of AP Mr. Guntur Prabhakar, Adv.
Ms. Prerna Singh, Adv.

High Court of Bombay	Mr. A.P. Mayee, Adv. Mr. A. Selvin Raja, Adv.
High Court of Chatisgarh	Mr. Jugal Kishore Gilda, AG Mr. A. Selvin Raja, Adv. Mr. A.P. Mayee, Adv.
HC of Chattisgarh	Mr. Apoorv Kurup, Adv. Mr. V.C. Shukla, Adv.
High Court of Calcutta	Mr. Jaideep Gupta, Sr. Adv. Mr. Kunal Chatterji, Adv. Ms. Maitrayee Banerjee, Adv.
Delhi High Court	Mr. A.D.N. Rao, Adv. Mr. A. Venkatesh, Adv. Mr. Sudipto Sircar, Adv. Mr. Rahul Mishra, Adv.
State of Gujarat	Mr. Tushar Mehta, ASG Ms. Hemantika Wahi, Adv. Ms. Puja Singh, Adv. Ms. Mamta Singh, Adv.
State of Goa	Mr. ANS Nadkarni, ASG Mr. Pratap Venugopal, Adv. Mr. Salvador Santosh Rebello, Adv. Ms. Sneha Prabhu Tendulkar, Adv. Ms. Surekha raman, Adv. Ms. Nivedita Nair, Adv. Ms. Niharika, Adv. Ms. Kanika Kalaiyarasan, Adv.
HC of Gauhati	Mr. P.I. Jose, Adv. Mr. Shashank Mishra, Adv.
State of HP	Mr. Varinder Kumar Sharma, Adv. Mr. Yugal K. Prasad, Adv. Ms. Parul Sharma, Adv.
HC of J&K	Mr. Bharat Sangal, Adv.
State of Jharkhand	Mr. Ajit Kr. Sinha, Sr. Adv. Mr. V.V.V.M.B.N.S. Pattabhi Ram, Adv. Mr. Shashank Singh, Adv. Mr. Vishal Arun, Adv.
HC of Jharkhand	Mr. Krishnanand Pandeya, Adv.
State of Karnataka	Mr. V.N. Raghupathy, Adv.
HC of Madras	Mr. A. Radha Krishnan, Adv.

HC of MP	Mr. C.D. Singh, Adv. Mr. Prateek Rana, Adv. Ms. Sakshi Kakkar, Adv.
State of Manipur	Mr. Sapam Biswajit Meitei, Adv. Mr. Naresh Kr. Gaur, Adv. Mr. M.N. Singh, Adv. Mr. Ashok Kr. Singh, Adv.
HC of Manipur	Ms. Sneha Kalita, Adv. Mr. Subro Sanyal, Adv.
HC of Meghalaya	Mr. Aman Sinha, Sr. Adv. Mr. Sanjai Kumar Pathak, Adv.
State of Maharashtra	Mr. Kunal A. Cheema, Adv. Mr. Yogesh K. Ahirrao, Adv. Mr. Nishant R. Katneshwarkar, Adv.
State of Nagaland	Mr. Z.H. Isaac Haiding, Adv. Mr. Edward Belho, Adv. Ms. K. Enatoli Sema, Adv. Mr. Amit Kumar Singh, Adv. Mr. K. Luikang Michael, Adv. Ms. Elix Gangmei, Adv.
State of Odisha	Mr. Krishnayan Sen, Adv. Mr. Ankit Jain, Adv.
State of Punjab	Mr. Saurabh Ajay Gupta, AAG Mr. Nishant Bishnoi, Adv.
Govt. of Puducherry	Mr. R. Venkataramani, Sr. Adv. Mr. V.G. Pragasam, Adv. Mr. Prabu Ramasubramanian, Adv.
State of Rajasthan	Mr. Shiv Mangal Sharma, Adv. Mr. Adhiraj Singh, Adv. Mr. Arjun Singh, Adv. Ms. Ruchi Kohli, Adv. Ms. Mukul Kumar, Adv.
State of Sikkim	Mr. A. Mariarputham, AG Ms. Aruna Mathur, Adv. Mr. Avneesh Arputham, Adv. Ms. Anuradha Arputham, Adv. Mr. Amit Arora, Adv. M/s. Arputham Aruna & Co.

State of Telangana Mr. S. Udaya Kumar Sagar, Adv.
Mr. Mrityunjai Singh, Adv.

High Court of Tripura Mr. Naresh K. Sharma, Adv.

State of UP Mr. Aviral Saxena, Adv.
Mr. Ardhendumauli Kr. Prasad, Adv.
Mr. Abhishth Kumar, Adv.

State of Uttarakhand Mr. Tanmaya Agarwal, Adv.
Ms. Rachna Srivastava, Adv.

High Court of
Uttarakhand Mr. Mukesh K. Giri, AAG
Ms. Rachana Srivasava, Adv.

State of WB Mr. Soumitra G. Chaudhri, Adv.
Mr. Chanchal K. Ganguli, Adv.

Mr. Sudhanshu S. Chaudhari, Adv.
Ms. Surabhi Guleria, Adv.

Mr. Nikhil Nayyar, Adv.

Mr. Nikhil Goel, Adv.

Mr. Chanchal Kumar Ganguly, Adv.

Ms. Pragati Neekhara, Adv.
Mr. Suryanarayana Singh, Adv.

Mr. Parijat Sinha, Adv.

Mr. Ranjan Mukherjee, Adv.

Mr. Devendra Singh, Adv.

Mr. Sibho Sankar Mishra, Adv.

Ms. Preetika Dwivedi, Adv.
Ms. Archana Mishra, Adv.

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

As and when a copy of the report is
submitted, the matter be listed for further
orders.

(DEEPAK MANSUKHANI)

AR-cum-PS

(RAJINDER KAUR)

Court Master

(Signed order is placed on the file)