

ITEM NO.17

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(Civil) No.643/2015

ALL INDIA JUDGES ASSOCIATION

Petitioner(s)

VERSUS

UNION OF INDIA . & ORS.

Respondent(s)

(LEARNED ATTORNEY GENERAL FOR INDIA AND SHRI K. PARAMESHWAR, ADVOCATE AS AMICUS CURIAE).

(IA No. 70316/2020 - APPLICATION FOR PERMISSION, IA No. 96520/2020 - APPLICATION FOR PERMISSION, IA No. 66487/2021 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 68481/2020 - CLARIFICATION/DIRECTION, IA No. 100172/2020 - CLARIFICATION/DIRECTION, IA No. 88733/2020 - CLARIFICATION/DIRECTION, IA No. 70323/2020 - CLARIFICATION/DIRECTION, IA No. 50728/2020 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 66488/2021 - EXEMPTION FROM FILING O.T., IA No. 1375/2021 - EXTENSION OF TIME, IA No. 50727/2020 - EXTENSION OF TIME, IA No. 125439/2018 - INTERVENTION APPLICATION, 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. 18284/2020 - INTERVENTION/IMPLEADMENT, IA No. 109809/2021 - INTERVENTION/ IMPLEADMENT, IA No. 169826/2019 - INTERVENTION/ IMPLEADMENT, IA No. 165066/2019 - INTERVENTION/ IMPLEADMENT)

WITH

C.A. No. 2702/2017 (XVI)

W.P.(C) No. 869/2021 (X)

SLP(C) No. 6471-6473/2020 (IV-A)

(FOR ADMISSION and I.R.)

W.P.(C) No. 993/2017 (X)

(IA No. 136171/2019 - INTERVENTION/IMPLEADMENT)

W.P.(C) No. 548/2018 (X)

W.P.(C) No. 911/2018 (X)

(FOR ADMISSION IA No. 18577/2020 - ADDITION / DELETION / MODIFICATION PARTIES, IA No. 107836/2018 - APPROPRIATE ORDERS/DIRECTIONS & IA No. 107837/2018 - EXEMPTION FROM FILING O.T.)

W.P.(C) No. 86/2019 (X)

(IA No. 7729/2019 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 7246/2019 (IV-B)

(I.A. FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 36522/2019, FOR APPLICATION FOR TAGGING/DETAGGING ON IA 163293/2019

FOR EXEMPTION FROM FILING O.T. ON IA 163296/2019
 FOR STAY APPLICATION ON IA 19104/2020, IA No. 163293/2019 -
 APPLICATION FOR TAGGING/DETAGGING, IA No. 36522/2019 - EXEMPTION
 FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 163296/2019 -
 EXEMPTION FROM FILING O.T., IA No. 19104/2020 - STAY APPLICATION)
 W.P.(C) No. 244/2019 (X)
 (FOR ADMISSION)
 W.P.(C) No. 1542/2019 (X)
 (FOR ADMISSION)
 C.A. No. 2701/2017 (XVI)
 (To FOR DELETING THE NAME OF PETITIONER/RESPONDENT ON IA
 165114/2019 IA No. 165114/2019 - DELETING THE NAME OF
 PETITIONER/RESPONDENT)
 W.P.(C) No. 1040/2017 (X)
 (FOR impleading party ON IA 49553/2019)
 W.P.(C) No. 1048/2017 (X))
 W.P.(C) No. 1262/2021 (X)
 (FOR ADMISSION)

Date : 27-07-2022 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
 HON'BLE MR. JUSTICE KRISHNA MURARI
 HON'BLE MS. JUSTICE HIMA KOHLI

For Petitioner(s)

Mr. K.M. Nataraj, Ld. ASG
 Ms. V. Mohana, Adv.
 Mr. Shailesh Madiyal, Adv.
 Mr. Rajan Kumar Chourasia, Adv.
 Mr. Vatsal Joshi, Adv.
 Ms. Chinmaee Chandra, Adv.
 Ms. Shradha Deshmuk, Adv.
 Mr. Arvind Kumar Sharma, AOR

Mr. Saket Singh, Adv.
 Ms. Somya Shree, Adv.
 Mrs. Niranjana Singh, AOR

Ms. Anisha Upadhyay, AOR
 Mr. Vaibhav Kalra, Adv.

Mr. Ankur Yadav, AOR

Mr. Shuvodeep Roy, AOR

Mr. B. Balaji, AOR

Mr. Gourab Banerji, Sr. Adv.

Ms. Mayuri Raghuvanshi, AOR
 Mr. Vyom Raghuvanshi, Adv.
 Ms. Purvat Wali, Adv.
 Ms. Akanksha Rathore, Adv.
 Mr. Subhro Prokas Mukherjee, Adv.

Mr. V. N. Raghupathy, AOR

Ms. Pritha Srikumar, AOR
 Ms. Mansi Binjrajka, Adv.

Mr. S.R. Singh, Sr. Adv.
 Mr. Mangal Prasad, Adv.
 Mr. Ajay Yadav, Adv.
 Mr. Gaurav Lomes, Adv.
 Mr. Prithvi Yadav, Adv.
 Mr. Tushar Bakshi, AOR

Mr. Sanjay Parikh, Adv.
 Ms. Aparna Bhat, AOR
 Ms. Karishma Maria, Adv.

Mr. N.K. Mody, Sr. Adv.
 Mr. Probuddha Singh, Adv.
 For M/s. Pareekh & Co., AOR

Mr. Nitin Singh, Adv.
 Mr. Shashank Shekhar, Adv.
 Mr. Apoorva Singh, Adv.

For Respondent(s)

Mr. Sharan Thakur, Adv.
 Mr. Mahesh Thakur, AOR
 Mr. Siddharth Thakur, Adv.
 Ms. Vipasha Singh, Adv.
 Mr. Ajay Kanojiya, Adv.
 Mr. Bishwendra N. Singh, Adv.

Mr. Navamiti Pd. Singh, Sr. Adv.
 Mr. Shantanu Sagar, AOR
 Mr. Anil Kumar, Adv.

Mr. K.M. Nataraj, ASG
 Ms. Swarupama Chaturvedi, Adv.
 Mr. D.L. Chidananda, Adv.
 Ms. Neela Kedar Gokhale, Adv.
 Mr. Rajan Kumar Chourasia, Adv.
 Mr. Mukesh Kumar Maroria, AOR

Mr. K.M. Nataraj, ASG
 Ms. Madhavi Goradia Divan, ASG

Ms. V. Mohana, Sr. Adv.
Ms. Kiran Suri, Sr. Adv.
Mr. Sarad Singhania, Adv.
Mr. Shailesh Madiyal, Adv.
Mr. Anmol Chandan, Adv.
Mr. Vatsal Joshi, Adv.
Mr. T.S. Sabarish, Adv.
Mr. Ayush Puri, Adv.
Ms. Nidhi Khanna, Adv.
Mr. T.S. Shabarwal, Adv.
Mr. Mohd. Akhil, Adv.
Ms. Swarupama Chaturvedi, Adv.
Mr. Rajan Kr. Chourasia, Adv.
Ms. Neela Kedar Gokhale, Adv.
MR. Anuj Srinivas Udopa, Adv.
Mr. Arvind Kumar Sharma, AOR

Mr. Divyakant Lahoti, AOR
Mr. Shashank Garg, Adv.
Mr. Parikshit Ahuja, Adv.
Ms. Praveena Bisht, Adv.
Ms. Madhur Jhavar, Adv.
Mr. Kartik Lahoti, Adv.
Ms. Vindhya Mehra, Adv.
Ms. Nishtha Jain, Adv.

Mrs. Anil Katiyar, AOR

Mr. K.N. Balgopal, Sr. Adv.
Ms. K. Enatoli Sema, AOR
Mr. Amit Kumar Singh, Adv.
Ms. Nitya Nambiar, Adv.
Mr. Vitso Rio, Adv.
Mr. Ishaan Sharma, Adv.
Ms. Chubalemla Chang, Adv.
Mr. Abhinav Bajaj, Adv.

Mr. Abhimanyu Tewari, AOR
Ms. Eliza Bar, Adv.

Mr. Sudhanshu S. Choudhari, AOR

Mr. P. I. Jose, AOR
Mr. Prashant K. Sharma, Adv.
Mr. Jenis Francis, Adv,
Mr. James P. Thomas, Adv.
Mr. Alok K. Prasad, Adv.
Mr. Anipam Mishra, Adv.

Ms. Diksha Rai, AOR
Ms. Ragini Pandey, Adv.

Mr. Anandh Kannan N., AOR

Mr. Shridhar Y. Chitale, Adv.
Ms. Sujata Kurdukar, AOR

Mr. Pratap Venugopal, AOR

Mr. Gaurav Agrawal, AOR

Mr. Samar Vijay Singh, AOR
Ms. Amrita Verma, Adv.

Mr. D. K. Devesh, AOR
Mr. Abhinav S. Raghuvanshi, Adv.
Mr. Apurv S., Adv.
Mr. Suprabh Kumar Roshan, Adv.
Mr. Upendra Pratap Singh, Adv.
Mr. Harsh Singh Rawat, Adv.
Ms. Snehal U. Kanzarkar, Adv.

Ms. Kavita Jha, AOR
Mr. Adteya Bali, Adv.

Mr. Apoorv Kurup, AOR
Ms. Nidhi Mittal, Adv.

Ms. Mukti Chaudhry, AOR

Mr. Abhay Anil Anturkar, Adv.
Ms. Bhavya Pande, Adv.
Mr. Dhruv Tank, Adv.

For M/s. Dr. R.S. Deshpande And Associates, AOR

Mr. Barun Kumar Sinha, Adv.
Mr. Kumar Anurag Singh, Adv.
Ms. Pallavi Langar, AOR

Mr. Ratan Kumar Choudhuri, AOR

Mr. Sandeep Sudhakar Deshmukh, AOR

Ms. Deepanwita Priyanka, AOR

Mr. G. Prakash, AOR

Mr. Naresh K. Sharma, AOR

Mr. Malak Manish Bhatt, AOR

Mr. Ashutosh Dubey, AOR

Mrs. Rajshree Dubey, Adv.

Mr. Abhishek Chauhan, Adv.

Mr. Ashwani Kumar, Adv.

Mr. Amit P. Shahi, Adv.

Mr. Amit Kumar, Adv.

Ms. Ranjeeta Rohatgi, AOR

Ms. Samten Doma, Adv.

Mr. Nishant Ramakantrao Katneshwarkar, AOR

Mr. K.M. Nataraj, Ld. ASG

Mr. S. Wasim A. Qadri, Sr. Adv.

Mr. S.A. Qudi Singh, Adv.

Mr. Mukesh Kumar Verma, Adv.

Mr. P.R. Rajesh, Adv.

Mr. G. Sante Sheme, Adv.

Ms. Sunita Sharma, Adv.

Mr. Anmol Chandan, Adv.

Ms. Neela Kedar Gokhle, Adv.

Mr. Mohd. Akhil, Adv.

Mr. Vatsal Joshi, Adv.

Mr. Anirudh Sharma, Adv.

Mr. Anuj Srinivas Udupa, Adv.

Mr. Gurmeet Singh Makker, AOR

Mr. Mrinal Gopal Elker, AOR

Mr. Nikhil Goel, AOR

Ms. Aakanksha Kaul, Adv.

Ms. Garima Bajaj, AOR

Ms. Pragati Neekhra, AOR

Mr. Vinod Sharma, AOR

Ms. Pratyusha Priyadarshini, Adv.

For M/s.Parekh & Co., AOR

Ms. Radhika Gautam, AOR

Mr. Krishnanand Pandeya, AOR

Mr. Barun Kr. Sinha, AAG

Mr. Kumar Anurag Singh, Adv.

Mr. Anando Mukherjee, AOR

Mr. Shwetank Singh, Adv.

Mr. Raghvendra Kumar, Adv.
Mr. Anand Kumar Dubey, Adv.
Simanta Kumar, Adv.
Mr. Nishant Verma, Adv.
Ms. Rajlakshmi Singh, Adv.
Mr. Sunil Saraogi, Adv.
Mr. Varun Singh, Adv.
Mr. Narendra Kumar, AOR

Mr. A. Radhakrishnan, AOR

Ms. Komal Mundhra, AAG
Mr. Raghavendra S.Srivatsa, AOR
Mr. Venkta Subramanian T.R., Adv.
Mr. Rahat Bansal, Adv.
Mr. Likhi Chand Bonsle, Adv.

Mr. Nishe Rajen Shonker, AOR
Ms. Anu K. Joy, Adv.
Mr. Alim Anvar, Adv.

Mr. Ashok Mathur, AOR

Mr. Avneesh Arputham, Adv.
Ms. Anuradha Arputham, Adv.
Mr. Praveen Kr. Singh, Adv.
For M/s.Arputham Aruna And Co, AOR

Mr. T. G. Narayanan Nair, AOR

Mr. Mukesh K. Giri, AOR

Mr. Arjun Garg, AOR
Mr. Shobhit Jain, Adv.
Mr. Aakash Nandolia, Adv.
Ms. Sagun Srivastava, Adv.

Mr. Mahfooz Ahsan Nazki, AOR
Mr. Polanki Gowtham, Adv.
Mr. Shaik Mohamad Haneef, Adv.
Mr. T. Vijaya Bhaskar Reddy, Adv.
Mr. K.V. Girish Chowdary, Adv.
M. Rajeswari Mukherjee, Adv.

Mr. Gopal Singh, AOR

Mr. Manoj Goel, Sr. Adv.
Mr. Shuvodeep Roy, AOR

Mr. Shreyas Balaji, Adv.
Mr. Kabir Shankar Bose, Adv.
Mr. Arnav Singh Deo, Adv.

Mr. Samrat K. Shinde, Adv.
Mr. Rahul Chitnis, Adv.
Mr. Sachin Patil, AOR
Mr. Aaditya A. Pande, Adv.
Mr. Geo Joseph, Adv.
Ms. Shweta Shepal, Adv.

Mr. Abhinav Singh, Adv.
Mr. Nirvikar Singh, Adv.
Mr. Manish Kumar, AOR

Ms. Aswathi M.k., AOR

Mr. Abhishek Atrey, AOR

Mr. Arun Bhardwaj, Sr. Adv.
Mr. Piyush Hans, Adv.
Ms. Annu Singh, Adv.
Mr. Naveen Gupta, Adv.
Ms. Gauraan, Adv.
Mr. Abhishek Sharma, Adv.
Mr. Bhaskar Bhardwaj, Adv.
Mr. Piyush Gaur, Adv.
Mr. Vishwa Pal Singh, AOR

Ms. Taruna Ardhendumauli Prasad, AOR

Mr. Pukhrambam Ramesh Kumar, AOR
Mr. Karun Sharma, Adv.
Ms. Anupam Ngangom, Adv.
Mr. Wahengbam Immanuel Meitei, Adv.

Mr. Nikhil Goel, AAG
Mr. V. N. Raghupathy, AOR
Mr. Adithya Roy, Adv.

Mr. Sanjai Kumar Pathak, AOR
Mr. Arvind Kumar Tripathi, Adv.
Mrs. Shashi Pathak, Adv.

Mr. Saurabh Mishra, Ld. AAG
Mr. Manoj Kumar, Adv.
Mr. Sunny Choudhary, AOR

Mr. Siddhesh Kotwal, Adv.
Ms. Ana Upadhyay, Adv.

Ms. Manya Hasija, Adv.
Mr. Akash Singh, Adv.
Mr. Nihar Dharmadhikari, Adv.
Mr. Nirnimesh Dube, AOR

Mr. Avijit Mani Tripathi, AOR
Mr. Shaurya Sahay, Adv.
Mr. Upendra Mishra, Adv.
Mr. T.K. Nayak, Adv.
Mr. Marbiany Khongwir, Adv.

Mr. Shibashish Misra, AOR

Mr. Sibho Sankar Mishra, AOR
Mr. Debabrata Dash, Adv.
Mr. Umakant Mishra, Adv.
Mr. Rajesh Kumar Nayak, Adv.
Mr. Niranjan Sahu, Adv.

Mr. Prateek K. Chadha, AAG
Mr. Shashwat Mehra, Adv.
Mr. Ketan Paul, AOR
Ms. Ayushi Rajput, Adv.

Mr. Mukul Kumar, AOR

Mr. Abhinav Mukerji, AOR
Mrs. Bihu Sharma, Adv.
Ms. Pratishtha Vij, Adv.
Mr. Akshay C. Shrivastava, Adv.

Mr. Sameer Abhyankar, AOR
Mr. Abhinav Mishra, Adv.
Ms. Nishi Sangtani, Adv.
Ms. Vani Vandana Chhetri, Adv.
Ms. Yeshi Rinchhen, Adv.
Ms. Pooja Singh, Adv.
Mr. Harsh, Adv.
Mr. Amish Tandon, Adv.
Mr. Ayush Beotra, Adv.

Mr. M. Yogesh Kanna, AOR

Mr. V. Krishnamurthy, Sr. Adv.
Dr. Joseph Aristotle S., AOR
Ms. Nupur Sharma, Adv.
Mr. Shobhit Dwivdi, Adv.
Mr. Sanjeev Kumar Mahara, Adv.
Ms. Richa Vishwakarma, Adv.

Mr. V. Balachandran, Adv.
Mr. Siddharth Naidu, Adv.
For M/s. KSN & Co., AOR

Mr. Sanjay Kumar Tyagi, AOR
Mr. Prabhat Kumar Rai, Adv.
Mr. Ajay Kumar Pandey, Adv.
Mr. Yagyawalkya Singh, Adv.

Mr. Sudarshan Singh Rawat, AOR
Mr. Ashutosh Sharma, Adv.
Mr. Sunny Sachin Rawat, Adv.
Ms. Saakshi S. Rawat, Adv.

Mr. S. Udaya Kumar Sagar, AOR
Ms. Sweena Nair, Adv.
Mr. P. Mohith Rao, Adv.

Mr. Parijat Sinha, AOR

Ms. Uttara Babbar, AOR
Mr. Anirudh Ramakrishnan, Adv.
Ms. Shipra Jain, Adv.

Mr. Manpreet S. Doabia, Adv.
Ms. Kiran Bhardwaj, AOR

Mr. Amrish Kumar, AOR

Mr. Chirag M. Shroff, AOR
Mr. Amandeep Mehta, Adv.

Ms. Vanshaja Shukla, AOR
Ms. Sajal Singhai, Adv.

Mr. Aravindh S., AOR
Ms. A. Lakshmi Narayanan, Adv.

Ms. Preetika Dwivedi, AOR
Mr. Abhishek Mohanty, Adv.

Ms. Madhumita Bhattacharjee, AOR
Mr. Anant, Adv.

Mr. Jaideep Gupta, Sr. Adv.
Mr. Kunal Chatterji, AOR
Ms. Maitrayee Banerjee, Adv.
Mr. Rohit Bansal, Adv.

Mr. Gautam Narayan, AOR

Ms. Asmita Singh, Adv.

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

Ms. Madhavi Goradia Divan, Ld. ASG
Ms. Kiran Suri, Sr. Adv.
Mr. Arijit Prasad, Sr. Adv.
Mr. Bharat Singh, Adv.
Mr. Prashant Singh, Adv.
Mr. Shashank Bajpai, Adv.
Mr. Shubhankar Singh, Adv.
Ms. Gargi Khanna, Adv.
Mr. Anmol Chandan, Adv.
Mr. Shailesh Madiyal, Adv.
Mr. T.S. Sabarish, Adv.
Mr. Anuj Srinivas Udupa, Adv.
Mr. Raj Bahadur Yadav, AOR

Ms. Hemantika Wahi, AOR

Mr. P. S. Sudheer, AOR
Mr. Rishi Maheshwari, Adv.
Ms. Anne Mathew, Adv.
Mr. Bharat Sood, Adv.
Ms. Shruti Jose, Adv.

Mr. Rohit K. Singh, AOR

Mr. Farrukh Rasheed, AOR

Mr. T. V. Ratnam, AOR

Mr. Vinay Arora, AOR

Mrs. Anjani Aiyagari, AOR
Ms. M.V. Rama, Adv.
Ms. Divya, Adv.
Mr. K. Sriram, Adv.

Mr. Sudhir Kumar Saxena, Sr. Adv.
Mr. Aviral Saxena, AOR
Mr. Vikas Jain, Adv.
Mr. Diyant Mishra, Adv.
Manjeet Rathore, Adv.

Mr. Ankur Kashyap, AOR
Mr. Ajith S. Ranganathan, Adv.
Mr. Rohit Rajershi, Adv.
Mr. Aman Bajaj, Adv.

Mr. V. Giri, Sr. Adv.
 Mr. Joydeep Roy, Adv.
 Mr. Gopal Jha, AOR
 Mr. Umesh Kumar Yadav, Adv.

Mr. Uday B. Dube, AOR

Mr. K. Parameshwar, AOR (*Amicus Curiae*)
 Ms. A. Sregurupriya, Adv.
 Mr. M.V. Mukunda, Adv.

Ms. Madhavi S. Sawant, Adv.
 Mr. Hitesh Kumar Sharma, Adv.
 Mr. Akhileshwar Jha, Adv.
 Dr. Vivek Sharma, Adv.
 Ms. Kavita S. More, Adv.
 Mr. Subhash S. Kadam, Adv.

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

1. In *All India Judges' Association vs. Union of India*¹, (All India Judges' Association Case-I), this Court had issued a slew of directions, which included (i) the setting up of an All India Judicial Service; (ii) bringing about uniformity in the designation of officers; (iii) raising of the age of retirement to 60 years; (iv) provision of residential accommodation to judicial officers etc. One of the directions so issued, which is relevant for our present purpose, reads as follows:-

"63(iv) As and when the Pay Commissions/Committees are set up in the States and Union Territories, the question of appropriate pay scales of judicial officers be specifically referred and considered."

2. Petitions for reviewing the aforesaid Judgment were filed by the Union of India as well as by various States, objecting to

certain specific directions contained therein. These review petitions were disposed of by this Court by an Order dated 24.08.1993 in *All India Judges' Association vs. Union of India*², which came to be referred to as All India Judges' Association Case-II. Though certain directions issued in All India Judges' Association-I were modified in the judgment in All India Judges' Association Case-II, the above direction contained in paragraph 63(iv) of the original judgment was not modified.

3. In All India Judges' Association Case-II, the necessity to maintain parity in status between the Judges and the Political Executive, and not between the Judges and the Administrative Executive, was highlighted. It will be appropriate to quote the first part of paragraph 36 of the decision in All India Judges Association Case-II :

"we have already discussed the need to make a distinction between the political and the administrative executive and to appreciate that parity in status can only be between Judges and the political executive and not between Judges and the Administrative executive. Hence the earlier approach of comparison between the service conditions of the Judges and those of the administrative executive has to be abandoned and the service conditions of the Judges which are wrongly linked to those of the administrative executive have to be revised to meet the special needs of the judicial service."

4. Moreover, this Court highlighted in All India Judges' Association Case-II, the need to keep Judges above their essential wants, considering the distinct nature of Judges' duties, the

society's expectations, the lifestyle of the Judge and the occupational hazards to which he is exposed.

5. Subsequently the Government of India constituted the First National Judicial Pay Commission (FNJPC) under the Chairmanship of Mr. Justice K.J. Shetty. As a consequence, the reference to the 5th Central Pay Commission, of the question of revision of pay scales of judicial officers was dropped.

6. The FNJPC submitted its Report on 11.11.1999 recommending adoption of what is known as 'Master Pay Scales' comprising of 44 stages. The Commission recommended fixed quantum increments with six incremental rates from Rs.250 to Rs.500, spanning over 44 specified stages.

7. By a judgment dated 21.03.2002 passed in *All India Judges' Association vs. Union of India*³, (All India Judges' Association case-III), this Court recommended the implementation of the revised scales of pay with effect from 1.07.1996. However, it was directed that the judicial officers shall be paid salary in revised pay scales with effect from 1.07.2002 and the arrears of salary for the period from 1.07.1996 to 30.06.2002 was directed to be paid either in cash or by crediting the same into the provident fund accounts of the officers.

8. After the constitution of the 6th Central Pay Commission, the question of revision of the scales of pay of judicial officers came up once again before this Court in *All India Judges' Association*

*vs. Union of India*⁴, (All India Judges' Association Case-IV). By an order dated 28.04.2009 this Court appointed Mr. Justice E. Padmanabhan, a retired Judge of the High Court of Madras as a One man Committee, to make suitable recommendations. This Committee submitted a report on 17.07.2009.

9. Thereafter, this Court passed an Order on 4.05.2010 recording that most of the States have accepted the recommendations, though there was a dispute about the date of implementation. Moreover, this Court directed the States to implement Justice E. Padmanabhan Committee's recommendations with effect from 01.01.2006.

10. Nearly 5 years after the order passed in All India Judges' Association Case-IV, the present writ petition came to be filed by the All India Judges' Association in the year 2015, seeking various reliefs including constitution of All India Judicial Commission to review the service conditions of judicial officers. In this writ petition, an order was passed on 09.05.2017, appointing the Second National Judicial Pay Commission (SNJPC), with Mr. Justice P. Venkatarama Reddy, a former Judge of this Court as its Chairman and Mr. R. Basant, a former Judge of the Kerala High Court as its member. The terms of reference of the Commission, as agreed to by all parties, were extracted in the Order dated 09.05.2017.

11. Accordingly a notification was issued on 16.11.2017 constituting the Second National Judicial Pay Commission. Some of the terms of reference of the Commission were as follows:-

(i) to evolve the principles which should govern the structure of pay and other emoluments of Judicial Officers.

(ii) to examine the existing structure of emoluments and conditions of service and to make recommendations including post retirement benefits.

(iii) to examine the work methods and work environment as also the variety of allowances and benefits and to suggest rationalization.

12. In January 2020, the Commission submitted its Report in five volumes, namely Volume-I, IA, II, III and IV. The summary of the recommendations are as follows:-

<i>Benefit</i>	<i>Recommendations</i>
I Pay Structure	<p>(1) New Pay Structure shall be as per the pay matrix pattern on the model of 7th Central Pay Commission, as against the Master Pay Scale pattern.</p> <p>(2) The categorization of Judicial Officers shall be :</p> <p>Civil Judge (Jr.Division) (Entry Level) J-1</p> <p>Civil Judge (Jr.Division) (ACP-I) J-2</p> <p>Civil Judge (Jr.Division) (ACP-II) J-3</p> <p>Civil Judge (Sr.Division) (Entry Level) J-3</p> <p>Civil Judge (Sr.Division) (ACP-I) J-4</p> <p>Civil Judge (Sr.Division) (ACP-II)</p>

J-5

District Judge (Entry Level)

J-5

District Judge (Selection Grade)

J-6

District Judge (Super Time Scale)

J-7

(3) The initial pay for each rank of officer from J-1 to J-5 shall be 2.81 times the existing entry pay of each rank.

(4) For J-6 and J-7 the increase shall be in the same proportion as that of High Court Judges.

(5) While there shall be no change in the existing system regarding the date of accrual of increment, the retiring Judicial Officers shall have the benefit of increment becoming due the next day following the retirement. This increment shall be for the purpose of pension only and subject to vertical ceiling of Rs.2,24,100/-

(6) The new Pay Matrix/Pay Structure will be effective from 1.1.2016 and arrears shall be paid in the Calendar Year 2020.

Pension

(1) National Pension Scheme/defined Contributory Pension Scheme shall not be applicable to Judicial Officers. Old pension scheme shall be applicable.

(2) No change suggested in the

existing percentage of pension at 50% and family pension at 30% of the last pay drawn, for those retiring on or after 1.1.2016.

(3) Those who retired before 1.01.2016 shall be granted pension with effect from 1.01.2016, by notionally fixing their pay at the corresponding stage of the revised pay scale and calculating the pension as a percentage of the notional pay.

(4) The direct recruits of higher judicial service who have retired prior to 1.01.2016 shall be given a maximum weightage of 10 years as per the number of years of practice at the Bar.

III Family Pension

No change in the existing percentage, namely, 30%

IV Additional

Quantum of Pension/Family Pension

(1) Additional quantum of pension shall be given to those in the age groups mentioned in Column I, at the rate mentioned in Column-II, with effect from 1.01.2016:

75-80 years	20%
80-85 years	30%
85-90 years	40%
90-95 years	60%
95-100 years	80%
On completion of 100 years	100%

V Retirement/Death

Gratuity

(1) With effect from 1.1.2016, the maximum limit for retirement gratuity/death gratuity shall be Rs.20,00,000/-, which shall be increased by 25% whenever DA rises by

50%.

(2) Death gratuity shall be according to the length of service mentioned in Column-I below at the rate mentioned in Column-II

Less than one year	Twice the monthly emoluments.
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one year and more upto 5 years	6 times
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5 years and more but less than 11 years	12 times
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11 years and more but less than 20 years	20 times
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20 years and more	Half month of emoluments for every completed six monthly period subject to a maximum of 33 times.
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VI Allowances

(1) House Building Advance as per HBA Rules, 2017.

(2) Children Education Allowance @ Rs.2250/- per month and hostel subsidy @ Rs.6750/- per month.

(3) CCA to be discontinued.

(4) Concurrent Charge Allowance @ 10% of minimum of the scale of the additional post.

(5) Conveyance/Transport Allowance in the form of reimbursement to the extent of 100 litres of petrol in

cities and 75 litres in other areas and transport allowance of Rs.10,000/- per month for those who own a car. The list of Judicial Officers eligible to get official cars shall be enlarged.

(6) Three advance increments for acquiring higher qualification namely post graduation in law and one more advance increment for acquiring Doctorate in law.

(7) Hilly area/tough location allowance @ Rs.5000/- per month.

(8) Home orderly/Domestic help allowance shall be the minimum wages for one unskilled worker in the concerned State subject to minimum of Rs.10,000/- per month in respect of District Judges and 60% of the minimum wages for one unskilled worker subject to a minimum of Rs.7500/- per month in respect of Civil Judges.

(9) Domestic help Allowance to pensioners shall be Rs.9000/- per month and to family pensioners Rs.7500 per month. It shall be increased by 30% with effect from 1.01.2021.

(10) House Rent Allowance: Residential Quarters shall be of a minimum plinth area 2500 sq. ft. for District Judges and 2000 sq. ft. for

Civil Judges. Expeditious step shall be taken for completion of construction of residential complexes.

(11) One leave travel concession and one home travel concession in a block of three years shall be made available.

(12) Encashment of 10 years Earned Leave while availing LTC shall continue in addition to encashment of 300 days at the time of retirement.

(13) Fixed medical allowance of Rs.3000/- per month to the serving Judicial Officers and fixed medical allowance of RS.4000/- to the pensioners and family pensioners with effect from 1.1.2016.

(14) Reimbursement of newspapers and magazines shall be @ 1000/- for District Judges and Rs.700/- for Civil Judges and it shall be made available from 1.01.2020.

(15) Robe Allowance of Rs.12,000/- to be paid once in three years with effect from 1.01.2016.

(16) Special pay for administrative work @ Rs.7000/- per month for Principal District and Sessions Judges and @ Rs.3500/- per month for other District Judges and Rs.2000/- per month for officers below the rank of District Judges.

(17) Sumptuary allowance of Rs.7800/- per month for District Judges; Rs.5800/- per month for Civil Judges (Sr. Div.) and Rs.3800/- per month for Civil Judges (Jr. Div.)

(18) Residential telephone, broadband facility and provision of mobile handset.

(19) Transfer grant at the rate of one month's basic pay.

13. Though the recommendations of SNJPC covers various aspects, for the present, we propose to deal only with the revision of the pay structure. This is for the reason that after the implementation of the recommendations of Justice E. Padmanabhan Committee, with effect from 01.01.2006, a period of 16 years have passed without any revision of the same. In contrast, the 7th Central Pay Commission has already been implemented with effect from 01.01.2016. Therefore, there is a need to atleast implement the revised pay structure immediately so as to alleviate the sufferings of the judicial officers.

14. As a matter of fact, the scales of pay of Government servants are raised in some States once in five years/six years and by the Central Government once in 10 years. Judicial Officers are not covered by the Pay Commissions constituted by the Central or State Governments. Therefore, there is an imperative need to revise the pay structure immediately.

15. One of the main objections to the revision of pay structure as

proposed by SNJPC, is the application of the multiplier of 2.81 and above. But this objection has already been taken by some of the States and is liable to be rejected for the two reasons, namely, (i) that the 7th Central Pay Commission has applied a multiplier of 2.81 in respect of certain categories of All India Service Officers; and (ii) that Justice Padmanabhan Committee actually applied a multiplier of 3.07.

16. As a matter of fact, SNJPC, before making its recommendations, considered three modules, i.e., (1) Master Pay Scale Method; (2) Pay Matrix Method; and (3) Fixed Pay Method. After examining the advantages and disadvantages of all the three modules, the SNJPC has adopted Pay Matrix Method, as it had already been adopted by the 7th Central Pay Commission. A fourth module, namely, Fixed Pay Pattern was also examined but was not accepted, as it was a new concept and had not been tested anywhere else.

17. Having considered the Report of the SNJPC, the objections of the Union and the State Governments and the submissions of the learned amicus, we are of the view that the revision of pay structure as recommended by SNJPC, indicated in table-1 appended, hereto shall be accepted.

18. This will lead us to two ancillary issues, namely (i) effective date; and (ii) arrears.

19. Since implementation of the recommendations of Justice E. Padmanabhan Committee was with effect from 01.01.2006, the revision of pay structure as recommended by SNJPC shall be implemented with

effect from 01.01.2016.

20. Insofar as arrears are concerned, it is noticed that the judicial officers were provided interim relief @ 30% of the basic pay, vide order dated 27.03.2018. Therefore, the arrears shall be computed with effect from 01.01.2016 and after adjusting the interim relief already paid, the balance amount shall be paid in stages in the following manner:

I 25% in cash within a period of 3 months;

II Another 25% to be paid in cash within 3 months thereafter;

and

III the balance 50% has to be paid on or before the end of June, 2023.

21. We are informed that a few States have given revised pay structures to the Judicial Officers on the basis of the recommendations of the State Pay Commissions. Wherever the judicial officers have been given benefits under the respective Pay Commissions with effect from 01.01.2016, those judicial officers shall also be brought within the ambit of the pay structure, as recommended by SNJPC and the arrears shall be calculated after adjusting the amounts they have already received with effect from 01.01.2016. In case the arrears calculated on the basis of this order is less than the amount already disbursed, no recovery need be effected.

22. During the course of hearing, it was brought to our notice by

the learned *Amicus Curiae* that on earlier occasions, though directions were issued by this Court, several States have not implemented the pay scales, as approved by this Court and there was undue delay.

23. Taking into consideration the said fact, we direct the State Governments/Union Territories to file affidavits of compliance of this Order after each stage as indicated above, with the first compliance affidavit being filed within a period of three months from today.

24. Learned counsel appearing for the petitioner seeks permission to withdraw Writ Petition (C) No.244 of 2019. Permission as prayed for is granted and it is, accordingly, dismissed as withdrawn.

25. The Registry is directed to list Writ Petition(C) Nos.869/2021, 993/2017, 548/2018, 911/2018, 86/2019, 7246/2019, 1542/2019, 1040/2017, 1048/2017 and 1262/2021 tomorrow.

26. So far as rest of the reliefs are concerned, list the matters after some time.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(R.S. NARAYANAN)
COURT MASTER (NSH)

Table-I

Sr. No.	Civil Judge (Jr. Div) Entry Level	Civil Judge (Jr. Div) Stage 1 ACP	Civil Judge (Jr. Div) II Stage ACP/Civil Judge (Sr. Div) Entry Level	Civil Judge (Sr. Div) Stage ACP	Civil Judge (Sr. Div) II Stage ACP/District Judges Entry Level)	District Judges (Select ion Grade)	District Judges (Super Time Scale)
Existing Pay Scale	27700-44700	33090-45850	39530-54010	43690-56470	51550-63070	57700-70290	70290-76450
Existing Entry Pay Level	27700	33090	39530	43690	51550	57700	70290
	J-1	J-2	J-3	J-4	J-5	J-6	J-7
Year 1	77840	92960	111000	122700	144840	163030	199100
Year 2	80180	95750	114330	126380	149190	167920	205070
Year 3	82590	98620	117760	130170	153670	172960	211220
Year 4	85070	101580	121290	134080	158280	178150	217560
Year 5	87620	104630	124930	138100	163030	183490	224100
Year 6	90250	107770	128680	142240	167920	188990	
Year 7	92960	111000	132540	146510	172960	194660	
Year 8	95750	114330	136520	150910	178150	200500	
Year 9	98620	117760	140620	155440	183490	206510	
Year 10	101580	121290	144840	160100	188990	212710	
Year 11	104630	124930	149190	164900	194660	219090	
Year 12	107770	128680	153670	169850			
Year 13	111000	132540	158280	174950			
Year 14	114330	136520	163030	180200			
Year 15	117760						
Year 16	121290						
Year 17	124930						
Year 18	128680						

Year	132540
19	
Year	136520
20	