

**[2011] 12 SCC 677 / [2009] 0 Supreme(SC) 2025**

**All India Judges Association VS Union of India**

SUPREME COURT OF INDIA

K.G. Balakrishnan, P. Sathasivam, J.M. Panchal, JJ.

All India Judges Association and others – Petitioners

Versus

Union of India and others – Respondents

IA No. 244 in WP (C) No. 1022 of 1989

Decided On : 28-04-2009

**A. Constitution of India, Article 32-Pay Scale of Judges- Application to revise the scales of pay of members of the subordinate judiciary- As per Justice Shetty Commission Report, in case revision of the salary of the High Court Judges, upward, the pay scales of judicial officers in all the cadres should also be suitably revised - This recommendation was considered in All India Judges' Assn. v. Union of India, [2002 \(4\) SCC 247](#) and subject to some modifications the same was accepted - As pay scales of High Court Judges was revised , Hon'ble Mr. Justice E. Padmanabhan, Retired High Court Judge appointed as a one-member committee, to make suitable recommendations in respect of the pay scales and allowances and other perquisites of the judicial officers. [Paras 2, 3 and 4]**

**B. Constitution of India, Article 32 - Vacancies of Civil Judge (Junior Division)- Reduction of training period- Posts of Civil Judge (Junior Division) remained vacant because their statutory training was for a period of one year- As these being small States, the training period reduced from one year to six months [Para 11]**

**Constitution of India, Article 32- Filling of vacancies- Vacancies in States of Assam and Meghalaya, continued as despite the best efforts of the High Court, suitable candidates not found, to fill up the 25% vacancies of District Judges to be promoted under the limited competitive examination - The request that these 25% of the candidates be filled up by the candidates who are entitled to get regular promotion, accepted.[Para 13]**

[All India Judges Asstt. v. Union of India, 2011 \(13\) SCC 527](#)

[All India Judges' Assn. \(3\) v. Union of India, 2002 \(4\) SCC 247](#)

ORDER :

K.G. Balakrishnan, P. Sathasivam, J.M. Panchal, JJ.

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Prayer in this application is to revise the scales of pay of members of the subordinate judiciary viz. Civil Judges (Junior Division), Civil Judges (Senior Division), District Judges (Entry Level), District Judges (Selection Grade) and District Judges (Super Time Scale).

2. In the Justice Shetty Commission Report at p. 981 it is observed that in case the salary of the High Court Judges is revised upward at any time, the pay scales of judicial officers in all the cadres should also be suitably revised upward by maintaining the respective ratio. It was noticed that the basic pay of Civil Judges (Junior Division), Civil Judges (Senior Division), District Judges

(Entry Level), District Judges (Selection Grade) and District Judges (Super Timescale) works out at 42.3%, 58.5%, 71.6%, 80% and 91.7% respectively of the then salary of the High Court Judges. This recommendation of the Justice Shetty Commission was considered by this Court in All India Judges' Assn. v. Union of India, [2002 \(4\) SCC 247](#) (para 20) and subject to various modifications in the said judgment, all other recommendations including the time to time revision of pay scales suggested by the Shetty Commission have been accepted.

3. The salary of the High Court Judges has been recently revised by passing an ordinance viz. the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Ordinance, 2009 which has been published in the Gazette of India vide Notification dated 9-1-2009 and subsequently the Ordinance has become an Act of Parliament. In view of the revision of the salary of the High Court Judges, the pay scales of the judicial officers require upward revision. For the said purpose, appropriate scales of pay are to be determined having due regard to the recommendations of the Justice Shetty Commission.

4. In order to go into the question of determining the pay scales of the judicial officers on the basis of the Justice Shetty Commission Report, we appoint Hon'ble Mr. Justice E. Padmanabhan, Retired High Court Judge as a one-member committee. The said Committee may make suitable recommendations having regard to the recommendations already made by the Justice Shetty Commission in respect of the pay scales and allowances and other perquisites of the judicial officers. The Committee is requested to submit its report at the earliest and not later than 20-7-2009.

5. The Union of India (Ministry of Law and Justice) is directed to deposit a sum of Rs 25,00,000 (Rupees twenty-five lakhs) with the Secretary General of this Court within a period of four weeks. Remuneration of Hon'ble Mr Justice E. Padmanabhan may be decided later.

IAs Nos. 1 and 2 in IA No. 244 in WP (C) No. 1022 of 1989

6. In view of the above order, the Commission is also requested to make recommendations in respect of the pension of judicial officers and submit a report as aforesaid. In order to finalise the report, all the State Governments should extend cooperation to the Commission. A copy of this order be communicated to the Chief Secretaries and Law Secretaries of all the States and the Registrars General and/or Registrars of the High Courts as also to the Law Secretary of India and also to the Ministry of Law and Justice, Union of India. The Secretary General, with prior approval of the Hon'ble the Chief Justice of India, would issue appropriate direction for the proper functioning of the Committee.

7. These IAs be placed on 28-7-2009.

8. Pursuant to the order passed by this Court on 9-9-20082, some of the States and some of the High Courts have not filed the requisite affidavit stating the compliance with the recommendations of the Justice Shetty Commission. The learned counsel appearing for various States and/or High Courts submit that they would require some more time to file the affidavit. They may file affidavit with five copies to the Registry at the earliest at least before 30-5-2009.

9. However, some of the High Courts/States have filed the affidavits pursuant to the aforesaid order dated 9-9-20082. It is made clear that the Registrars of those High Courts and/or the officers of those States which have fully complied with the requirement of the filing of the affidavit pursuant to the aforesaid order dated 9-9-2008, All India Judges Asstt. v. Union of India, [2011 \(13\) SCC 527](#) need not be present on the next date of hearing.

IAs Nos. 252 and 253

10. These interlocutory applications have been filed by the Tripura and the Gauhati High Courts

(Agartala Bench). In the cadre strength of Civil Judge (Junior Division) in the State of Tripura there are 48 vacancies and 17 vacancies of Civil Judge (Junior Division) are to be filled up by way of promotion thereby it is likely that in future there would be 32 vacancies in the cadre of Civil Judge (Junior Division). The selection for appointment of Civil Judge (Junior Division) is in process and is likely to be completed within a period of four weeks.

11. In these applications, it is prayed that if these posts of Civil Judge (Junior Division) are likely to remain vacant for another one year because their statutory training is for a period of one year, hence, these selected candidates may be exempted from undergoing the statutory training. As these being small States, we are inclined to reduce the training period from one year to six months. It is also to be noticed that the minimum qualification for selection to the Civil Judge (Junior Division) is not less than 3 years' experience in the Bar. In the special circumstances, the statutory training period is reduced from one year to six months but three months' training may be at the initial stage and the rest of the three months' training may be done as part of the in-service training and the selected candidates may be given training in groups, thus fulfilling the statutory training of six months.

12. The IAs are disposed of accordingly.

IA No. 256

13. This interlocutory application has been filed on behalf of the Gauhati High Court. It is stated that in the States of Assam and Meghalaya, despite the best efforts made by the High Court, it is not possible to find suitable candidates to fill up the 25% vacancies of District Judges to be promoted under the limited competitive examination as they are not available and it is prayed that these 25% of the candidates be filled up by the candidates who are entitled to get regular promotion. This prayer is allowed and 25% seats earmarked for being filled up by limited competitive examination be filled up by regular promotion of Civil Judge (Junior Division).

14. It is also prayed that though there are eight vacancies of District Judges to be filled up by direct recruitment the written test was conducted and no suitable candidate was found eligible and it is prayed that the written test may be done away with and the High Court may be permitted to select candidates by oral interview. We do not think that it is a fair procedure to be adopted by the High Court. The High Court may have a fresh written examination and the selection process may be done in accordance with the guidelines given from time to time by this Court.

15. The IA is disposed of accordingly. Rest of the IAs on board are adjourned to 28-7-2009.

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