

ITEM NO.1+2

COURT NO.1

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 IA No. 75407/2024 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 4137/2024 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 143933/2024 - CLARIFICATION/DIRECTION, IA No. 4124/2024 - INTERVENTION/IMPLEADMENT, IA No. 75406/2024 - INTERVENTION/IMPLEADMENT)

WITH

SMW(C) No. 4/2024 (X)
(FOR ADMISSION)

W.P.(C) No. 232/2023 (X)

(WITH IA No. 243349/2023 - APPLICATION FOR TAGGING/DETAGGING, IA No. 38583/2023 - EXEMPTION FROM FILING O.T., IA No. 38581/2023 - STAY APPLICATION)

W.P.(C) No. 501/2023 (X)

(WITH IA No. 259153/2023 - APPLICATION FOR TAGGING/DETAGGING, IA No. 84450/2023 - EXEMPTION FROM FILING O.T.)

W.P.(C) No. 660/2023 (X)

(FOR ADMISSION)

W.P.(C) No. 3/2024 (X)

(FOR ADMISSION and IA No.773/2024-GRANT OF INTERIM RELIEF and IA No.766/2024-EXEMPTION FROM FILING O.T)

Diary No(s). 25226/2024 (X)

(FOR ADMISSION and IA No.151093/2024-EXEMPTION FROM FILING O.T. and IA No.151092/2024-CONDONATION OF DELAY IN REFILEING / CURING THE DEFECTS)

W.P.(C) No. 1048/2017 (X)

SLP(C) No. 29232/2018 (XV)

(WITH IA No. 138436/2021 - CLARIFICATION/DIRECTION, IA No. 144232/2018 - EXEMPTION FROM FILING O.T., IA No. 146956/2021 - EXEMPTION FROM FILING O.T., IA No. 138438/2021 - EXEMPTION FROM FILING O.T., IA No. 144234/2018 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 146955/2021 - VACATING STAY)

CONMT.PET.(C) No. 164/2024 in W.P.(C) No. 643/2015 (X)

CONMT.PET.(C) No. 181/2024 in W.P.(C) No. 643/2015 (X)
(FOR ADMISSION)

W.P.(C) No. 993/2017 (X)
(WITH IA No. 146989/2022 - EXEMPTION FROM FILING O.T., IA No. 146988/2022 - INTERVENTION APPLICATION)

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

SLP(C) No. 20781/2018 (XII)

W.P.(C) No. 911/2018 (X)
(WITH 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)
(WITH IA No. 7729/2019 - EXEMPTION FROM FILING O.T., IA No. 250186/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

W.P.(C) No. 1542/2019 (X)

W.P.(C) No. 1262/2021 (X)
(FOR ADMISSION)

SLP(C) No. 6471-6473/2020 (IV-A)
(FOR ADMISSION and I.R.)

W.P.(C) No. 1133/2023 (X)
(WITH IA No. 125464/2024 - APPLICATION FOR PERMISSION)

W.P.(C) No. 50/2024 (X)
(FOR ADMISSION)

CONMT.PET.(C) No. 485/2024 in W.P.(C) No. 643/2015 (X)
(FOR ADMISSION and IA No.93581/2024-PERMISSION TO APPEAR AND ARGUE IN PERSON and IA No.104759/2024-APPROPRIATE ORDERS/DIRECTIONS and IA No.104733/2024-APPLICATION FOR EXEMPTION FROM FILING THE RESIDENTIAL ADDRESS OF RESPONDENT/CONTEMNOR WITH AFFIDAVIT, IA No. 104733/2024 - APPLICATION FOR EXEMPTION FROM FILING THE RESIDENTIAL ADDRESS OF RESPONDENT/CONTEMNOR WITH AFFIDAVIT)

W.P.(C) No. 1134/2023 (X)
(WITH IA No. 125395/2024 - APPLICATION FOR PERMISSION, IA No. 115793/2024 - EXEMPTION FROM FILING O.T.)

Civil Appeal No(s).2701/2017
(WITH IA No. 165114/2019 - DELETING THE NAME OF PETITIONER/RESPONDENT, IA No. 140076/2023 - INTERLOCUTARY APPLICATION)

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

Date : 27-08-2024 These matters were called on for hearing today.

CORAM :

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HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

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

Tamil Nadu, Madhya Pradesh, Meghalaya and Himachal Pradesh

- 1 In pursuance of the order dated 22 August 2024, the Chief Secretaries and Finance Secretaries of the States of (i) Tamil Nadu; (ii) Madhya Pradesh; (iii) Meghalaya; and (iv) Himachal Pradesh; are present.

- 2 Mr K Parameshwar, *amicus curiae*, states that the proceedings against the aforesaid four States need not be pursued any further. Insofar as the State of Tamil Nadu is concerned, it has been stated that funds have been made available for disbursement to the judicial officers.
- 3 The judicial officers in the State of Tamil Nadu are permitted to raise their claims in terms of the request made to this Court on behalf of the State of Tamil Nadu within a period of four weeks.
- 4 It has been stated on behalf of the State of Tamil Nadu by Mr Amit Anand Tiwari, Sr AAG, that disbursement will be made to the judicial officers within a period of four weeks.
- 5 Insofar as the States of Madhya Pradesh, Meghalaya and Himachal Pradesh, compliance has been effected.
- 6 Accordingly, the proceedings against the States of Madhya Pradesh, Meghalaya, Himachal Pradesh and Tamil Nadu on this aspect stand closed and personal presence of the Chief Secretaries and the Finance Secretaries is dispensed with.

West Bengal

- 7 Mr Rakesh Dwivedi, senior counsel appearing on behalf of the State of West Bengal, has tendered a copy of the Office Memorandum dated 26 August 2024 issued by the Finance (Audit) Department in the following terms:

Government of West Bengal

Finance(Audit) Department

"Nabanna", Mandirtala,

Howrah : 711102

No.3745-F(P2)

Dated: 26/08/2024

Memorandum

In compliance with the direction of the Hon'ble Supreme Court in the matter of WP[C] 643, 2015 regarding All India Judges Association Vs Union of India & others for disbursement of all arrear allowances due and payable to Judicial Officers, retired Judicial Officers and family pensioners, relevant Government Orders have already been issued by the Judicial Department with the concurrence of Finance Department.

Now, it is evident from the IFMS report that considerable amount of arrear payments have already been made. Also, as on 26/08/2024, there is a balance of Rs. 116,51,55,460.00 available at the end of Judicial Department as detailed below :

Sl. No.	HoAs	B.P	FD release	Total expenditure	Balance
1	34-2014-00-105-00-001-V	3566253000	2630377000	2228280760	402096240
2	34-2014-00-105-00-005-V	1733618000	1289237000	1020302010	268934990
3	34-2014-00-105-00-010-V	39592000	29227000	26475170	2751830
4	34-2014-00-105-00-011-V	2958000	2667000	14591990	-11924990
5	34-2014-00-105-00-015-V	887627000	648757000	430229550	218527450
6	34-2014-00-107-00-001-V	150238000	109164000	83546850	25617150
7	34-2014-00-105-00-002-V	272177000	203560000	114373820	89186180
8	34-2014-00-105-00-004-V	275914000	202858000	131133180	71724820
9	34-2014-00-105-00-006-V	30539000	22822000	11651050	11170950
10	34-2014-00-105-00-007-V	118112000	88119000	64754790	23364210
11	34-2014-00-105-00-008-V	63046000	46877000	18206460	28670540
12	34-2014-00-105-00-009-V	233643000	173513000	138476910	35036090
Total		7373717000	5447178000	4282022540	1165155460

From the above, it is evident that necessary amount of fund has already been released by the Finance Department for payment of arrear allowances on the basis of claim as and when received. The Judicial Department is also requested to re-assess exact requirement of fund for payment of arrear dues with detailed break-up, if any, and furnish the same to Finance Department immediately.

It is hereby further directed that if required fund is not available under the concerned Head of Account, concerned Pay & Accounts Officer, Kolkata, P&A Office I/II/III and Treasury Officer, as the case may be, will arrange for disbursement of the claims in anticipation of allotment of fund so that the arrear payment is credited to the bank account of the concerned Judicial Officer / retired Judicial Officer / family pensioner immediately.

Sd/- (Dr. Manoj Pant)
Additional Chief Secretary
to the Government of West Bengal

- 8 In view of the Office Memorandum and the compliance which has been effected by the State of West Bengal, no further proceedings are necessary.
- 9 The Drawing and Disbursing Officer shall raise the bills within a period of four weeks and the disbursement shall be made within a period of four weeks of the bills being raised.
- 10 Mr Rakesh Dwivedi has also assured the Court that the payment of the higher

qualification allowance shall also be duly effected.

11 The directions issued by this Court, in its order dated 4 January 2024 (paragraphs 41 to 43), are clear and, hence, the payments against the above allowance shall also be duly disbursed within the aforesaid period.

12 Accordingly, the proceedings against the State of West Bengal on this aspect stand closed and personal presence of the Chief Secretary and the Finance Secretary is dispensed with.

Odisha

13 An Office Memorandum was issued on 29 February 2024 mandating that the actual disbursement of arrears would be made over a period of three succeeding financial years, commencing from 1 April 2024. By a subsequent Office Memorandum dated 16 May 2024, it was mandated that the drawal of funds for arrears of allowances would be allowed in three phases from 2024-2027 (33%, 33% and 34% respectively). However, an additional affidavit has been filed on behalf of the State of Odisha on 23 August 2024 indicating that the previous OMs dated 29 February 2024 and 16 May 2024 which mandated only partial withdrawal of arrears in phases have been withdrawn. The affidavit has indicated that 44 bills remain pending for processing in respect of arrears of pay, pension and allowances.

14 Mr Shibashish Misra, counsel appearing on behalf of the State of Odisha, states that instructions have already been issued to the Treasury of the State Government to ensure that the payment is made within a period of three weeks.

15 The assurance of the counsel is recorded.

16 Accordingly, the proceedings against the State of Odisha on this aspect stand

closed and personal presence of the Chief Secretary and the Finance Secretary is dispensed with.

Bihar

17 We have heard Mr Manish Kumar, counsel appearing on behalf of the State of Bihar.

18 On 11 July 2024, the following statement of the counsel for the State was recorded:

“The counsel appearing for the State of Bihar states that an amount of Rs. 122 crores has been transferred to the Law and Justice Department and the payments are being made in full compliance of the orders of this Court.”

19 Pursuant to the above order, a questionnaire was circulated by the *amicus curiae* seeking an update on all aspects. Since the State of Bihar neither filed a response to the questionnaire nor did it file an affidavit until 24 August 2024, it was classified as a defaulting State.

20 However, on 24 August 2024, the State has filed an affidavit indicating that it has fully complied with the orders of this Court with respect to revision of pay, pension and allowances. The allowances were revised by a resolution dated 28 February 2024. It has been stated that all the claims made in respect of the arrears of allowances have been disposed of.

21 In view of the above compliance, the proceedings against the State of Bihar on this aspect stand closed and personal presence of the Chief Secretary and the Finance Secretary is dispensed with.

Kerala

- 22 By GO No 66/2024/Home dated 4 March 2024, the State of Kerala had directed that the arrears of allowances will be credited subject to the condition that the amount could be withdrawn only after a lock-in period of two financial years. Accordingly, the arrears were to be disbursed in three instalments of six months each spread over a period of two financial years. However, the subsequent GO dated 20 August 2024 has rectified the anomalies which were pointed out by the Registrar General of the High Court in respect of various allowances. The GO withdraws the lock-in condition and the condition on disbursement of arrears in three instalments.
- 23 Mr K Parameshwar, *amicus curiae*, has pointed out that the amounts were credited in the PF accounts of the judicial officers which would effectively mean that the availing of the arrears would stand deferred until the date of retirement.
- 24 Mr Jaideep Gupta, senior counsel appearing on behalf of the State of Kerala, has stated, in response to the above submission, that the State of Kerala has taken steps to reverse the position so that the amounts which were credited to the PF accounts would be re-transferred to the salary accounts of the judicial officers. The GO dated 20 August 2024 states that the disbursement of arrears would be made as and when bills are presented.
- 25 The bills shall be presented within a period of four weeks from the date of this order and the disbursements shall be made within a period of four weeks from the date of presentation of the respective bills.
- 26 In view of the above compliance, the proceedings against the State of Kerala on this aspect stand closed and personal presence of the Chief Secretary and the

Finance Secretary is dispensed with.

Jammu and Kashmir, Ladakh and Delhi

- 27 A review petition¹ seeking review of the judgment of this Court dated 4 January 2024 has been dismissed by an order dated 31 July 2024.
- 28 Mr K M Nataraj, Additional Solicitor General, states that in view of dismissal of the review petition, necessary permissions would be issued by the Union of India within a period of four weeks.
- 29 The disbursements shall be made to the judicial officers within a period of four weeks thereafter.
- 30 Accordingly, the proceedings against the UTs of Jammu and Kashmir, Ladakh and Delhi on this aspect stand closed and personal presence of the Chief Secretaries and the Finance Secretaries is dispensed with.

Jharkhand

- 31 On behalf of the State of Jharkhand, an affidavit has been filed on 7 December 2024. The State of Jharkhand has stated that the payment of arrears of pay has been cleared for all judicial officers and a majority of the officers has been paid the arrears of pension. Except for seven allowances, rest of the allowances have been approved on 19 July 2024, 8 August 2024 and 13 August 2024.
- 32 Mr Sunil Kumar, senior counsel appearing on behalf of the State of Jharkhand, states that the District Judge is the Drawing and Disbursing Officer in the State of Jharkhand.

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33 To facilitate payment to judicial officers, it is directed that the concerned judicial officers shall place their claims before the DDO within a period of four weeks from the date of this order. The payment shall be made within a period of four weeks of the lodging of the respective claims.

34 In view of the above compliance, the proceedings against the State of Jharkhand on this aspect stand closed and personal presence of the Chief Secretary and the Finance Secretary is dispensed with.

Andhra Pradesh

35 We have heard Ms Prerna Singh, counsel appearing on behalf of the State of Andhra Pradesh.

36 In its affidavit dated 20 August 2024, the State of Andhra Pradesh has sought a period of four weeks for clearing of pending bills.

37 It is directed that the concerned judicial officers shall place their claims before the DDO within a period of four weeks from the date of this order. The payment shall be made within a period of four weeks of the lodging of the respective claims.

38 In view of the above compliance, the proceedings against the State of Andhra Pradesh on this aspect stand closed and personal presence of the Chief Secretary and the Finance Secretary is dispensed with.

Chhattisgarh

39 In its affidavit dated 24 August 2024, the State of Chhattisgarh stated that information was received by the State from the High Court regarding disbursement of allowances on 23 August 2024. The High Court has stated that

sufficient budget has been allocated by the State and payments are being processed by the High Court as against the submission of bills.

40 The *amicus curiae*, however, states that it appears that the arrears in respect of four allowances are still in the process of being paid (Concurrent Charge Allowance, Higher Qualification Allowance, Telephone Facility, Hill/Tough Area Allowance).

41 We direct that the exercise be completed within four weeks.

42 Counsel for the State of Chhattisgarh states that while payments have been made, any further payment which remains due will be paid within four weeks from the date of this order.

43 The statement of counsel for the State of Chhattisgarh is accepted. Compliance be effected in the above terms. The Registrar General of the High Court shall monitor compliance and in the event there is any further difficulty, bring it to the notice of the Committee appointed by this Court by the judgment dated 4 January 2024.

44 In view of the above compliance, the proceedings against the State of Chhattisgarh on this aspect stand closed and personal presence of the Chief Secretary and the Finance Secretary is dispensed with.

Assam

45 Mr Shuvodeep Roy, counsel appearing on behalf of the State of Assam, and the Chief Secretary of the State, state that on 12 August 2024, a notification has been issued by the State Government and necessary budgetary allocations have been made on 10 August 2024. However, it has been stated that there are 204 Drawing and Disbursing Officers in the State and as soon as the bills are

received, payment will be made within four weeks of the bills being raised. The bills shall be raised within four weeks and payments shall be disbursed within four weeks thereafter.

46 In view of the above compliance, the proceedings against the State of Assam on this aspect stand closed and personal presence of the Chief Secretary and the Finance Secretary is dispensed with.

Nagaland

47 In its affidavit dated 16 August 2024, the State of Nagaland has stated that the arrears of pension have been cleared. Moreover, amounts of Rs 4 crores and Rs 9.32 lakhs have been released on 15 July 2024 and 25 July 2024 respectively for the payment of arrears of allowances. So far, the State has made payments of Rs 10 crores. However, the further statement is in the following terms:

“It is, however, clarified that this amount does not include pension, family pension and pension arrears to the retired Judicial Officers as the documentation with regard to this group of officers is done by the Treasury on instructions of the Accountant General’s office and not routed through the Law and Justice Department.”

48 Ms K Enatoli Sema, counsel appearing on behalf of the State of Nagaland, states that no risk allowance has been sanctioned for the reason that the civil servants are not receiving it.

49 The statement made on behalf of the State of Nagaland is, however, disputed by Mr B K Sharma, senior counsel appearing on behalf of the judicial officers of the State of Nagaland.

50 The judgment of this Court dated 4 January 2024 clarifies that the payment of risk allowance shall be made at the same rate as is made to civil servants (Paragraphs 68 and 69). Whether any risk allowance is paid to the civil servants

in the State of Nagaland is a matter which should be verified by the Committee constituted by the judgment dated 4 January 2024. In the event that no risk allowance is paid to the civil servants, there is no obligation on the part of the State to pay it to the judicial officers.

51 As regards the grant of advance increments for acquiring higher qualifications, counsel appearing on behalf of the State of Nagaland states that the directions contained in the judgment of this Court dated 4 January 2024 have been duly complied with. However, the issue as to whether advance increments should be granted at every ACP stage was placed before the Committee of the High Court, but could not be resolved. An application for clarification has been filed before this Court.

52 Both Mr K Parameshwar, *amicus curiae*, and Mr Gourab Banerji, senior counsel appearing on behalf of the All India Judges Association, state that this is an issue which concerns every State. They have stated that they would prepare a compilation indicating the manner in which implementation has taken place of the directions contained in paragraph 43 of the judgment dated 4 January 2024 so that comprehensive directions on a pan-India basis can be issued.

53 The issue in regard to the payment of advance increments for higher qualifications, as regards the State of Nagaland, is deferred and would be dealt with on a pan-India basis subsequently.

54 The proceedings against the State of Nagaland on this aspect stand closed and personal presence of the Chief Secretary and the Finance Secretary is dispensed with.

Haryana

- 55 We have heard Dr Hemant Gupta, AAG for the State of Haryana.
- 56 The State of Haryana, in its affidavit dated 20 August 2024, has stated that it has issued GOs for revising pay, pension and allowances. The affidavit, however, indicates as follows:
- “Further stated that ‘Domestic Help Allowance’ and ‘Medical Allowance’ are not extended by the State Government to any New Pension Scheme retirees. In the present petition, the matter regarding extending of Old Pension Scheme benefits to the Judicial Officers who are currently getting benefits under New Pension Scheme (NPS) is pending adjudication before this Hon’ble Court. The matter is listed for hearing on 22.08.2024 before this Hon’ble Court. Hence, the State Government is awaiting decision of this Hon’ble Court in this regard.”
- 57 We take on record the assurance that all other allowances except for the domestic help allowance and medical allowance have been paid. Moreover, it has been stated that the retirees under the Old Pension Scheme have been paid the domestic help allowance and medical allowances as well. The issue, however, pertains only to retirees under the New Pension Scheme. Since the issue in regard to the applicability of the New Pension Scheme is pending before this Court, we defer further consideration of this aspect.
- 58 The proceedings against the State of Haryana on this aspect stand closed and personal presence of the Chief Secretary and the Finance Secretary is dispensed with.
- 59 The present order has dealt with the issue of compliance with the directions contained in the judgment dated 4 January 2024 and the previous orders. Apart from the above directions, we issue the following general directions:

- (i) In the event that any individual grievance of judicial officers in any State subsists, that may be brought to the attention of the Committee constituted in pursuance of the judgment of this Court dated 4 January 2024;
- (ii) Direction (i) above would also cover any grievance in respect of any specific allowance which should be resolved at the level of the State/UT by the Committee of the High Court;
- (iii) The Committee shall, in particular, ensure that a Standard Operating Procedure, as mandated in paragraphs 85 and 86 of the judgment is duly put into place, in any event by 30 September 2024; and
- (iv) In order to resolve any subsisting issue regarding the grievance of the officers in regard to the payment of allowances, we request the Committees constituted by the High Court to meet once every month so that the grievances are resolved expeditiously.

60 List the proceedings for hearing on the aspect of National Pension Scheme on 17 September 2024 at 2 pm.

Writ Petition (C) Nos 232 of 2023, 501 of 2023, 3 of 2024 and 1262 of 2021

61 Detagged.

62 List the Petitions on 30 August 2024 on the top of the Board.

Civil Appeal Nos 2701 of 2017, 2702 of 2017 and SLP(C) No 29232 of 2018

63 Detagged.

64 List the appeals on a non-miscellaneous day, namely, on 24 September 2024.

SMW (C) No.4/2024, WP (C) No. 660/2023, Diary No. 25226/2024, WP (C) No. 1048/2017, WP (C) No. 993/2017, WP (C) No. 548/2018, WP (C) No. 911/2018, WP (C) No. 86/2019, WP (C) No. 1542/2019, WP (C) No. 1133/2023, WP(C) No. 50/2024, WP(C) No. 1134/2023

65 Detagged from WP(C) No 643 of 2015.

66 Issue notice in Writ Petition (Civil) Nos 911 of 2018, 1542 of 2019 and 50 of 2024.

67 List the Petitions on 30 September 2024.

68 Pleadings be completed in the meantime.

**(SANJAY KUMAR-I)
ADDITIONAL REGISTRAR**

**(POOJA SHARMA)
COURT MASTER**