

SUPREME COURT OF INDIA

All India Judges' Assn.

Vs.

Union of India (Uoi)

(J Verma, B Kirpal and V Khare JJ.)

17.12.1997

ORDER

1. A copy of the Resolution dated 16-12-1997 of the Government of India, Ministry of Law and Justice has been placed before us to show that the requisite enlargement of the terms of reference of the First National Judicial Pay Commission (Shetty Commission) has been made to enable the Commission to make recommendations even in the nature of interim reliefs. We appreciate the promptness with which the Central Government has responded to this need, at the behest of the learned Additional Solicitor General. No further mention of this requirement is, therefore, necessary.

2. With regard to the requirement of compliance by every State/Union Territories of the ultimate paragraph of our order dated 13-11-1997, the response of the States/Union Territories, in substance, is of disinclination, to say the least, to avail of this mode for the consideration of this matter pertaining to the staff of the subordinate courts. In view of the past experience and the growing discontent among the staff of the subordinate courts throughout the country, we had considered it expedient to enquire from the States whether they would agree to enlargement of the terms of reference of the Shetty Commission by the Central Government to enable the Commission to examine this aspect also simultaneously. Such a course would avoid escalation of the existing discontent of the staff of subordinate courts into a major problem for the States. Ample opportunity has been given to the States to give their response taking these factors into account which were also

explained at the previous hearings at which the presence of the Advocates General was required to ensure proper appreciation by the States of the need to take this step in their own interest. However, the States do not appear to share this perception of the problem. The question now is of the manner in which this grievance brought before us by the staff of the subordinate courts is required to be dealt with.

3. We have no doubt that the service conditions of the staff of the subordinate courts is a significant factor having relevance in the functioning of the subordinate courts. This question is, therefore, directly connected with the administration of justice and thereby with the rule of law. It being so, the matter is within the ambit of this petition and it requires examination in exercise of the power of this Court under Article 32 of the Constitution of India. If necessary, with the aid of Article 142 of the Constitution of India, this Court can issue necessary directions to the State Governments/Union Territories for due compliance.

4. We tried to avoid taking this step and to have the benefit of the Shetty Commission examining this matter in the first instance. But the stand taken by the State Governments leaves us with no option except to adopt this procedure. We may, if necessary, at a later stage, for the purpose of having the relevant data, avail of suitable expert assistance or request even the Shetty Commission to examine the matter and give its report so that this Court could formulate the necessary directions on that basis.

5. In view of the above, we permit intervention of All India Judicial Employees' Confederation District & Sessions Court and take this IA on record as a substantive application. Issue notice of the application to all State Governments/Union Territories. No separate notice of this application is required to be given to the States/Union Territories as their Standing Counsel are present in Court and they accept the same. This is sufficient notice to each of them.

6. Reply to be filed by State Governments/Union Territories within two weeks.

7. List the matter on 7-1-1998.

8. We also consider it appropriate to request the High Courts, at this stage, to furnish a detailed status report of compliance of this Court's orders reported as All India Judges' Assn. v. Union of India, and All India Judges' Assn. v. Union of India, . EN Change . Shri Sampath would kindly furnish copies of the chart prepared by him on the basis of the available record along with copies of the affidavits of respective States to the Registrar (Judicial), who would transmit the same to the Registrar of the High Court concerned together with a copy of this order. The Registrar of the High Court concerned is to send the Report on or before 3-1-1998.

9. List on 7-1-1998.

Court Masters