

(Supreme Court Of india)

All India Judges Asson. & Others

v.

Union of India & Others

(R.C. Lahoti,CJI., Y.K. Sabharwal And C.K. Thakker,JJ.,)

Interlocutory Application No. 103, 110, 112, 113, 117, 119, 128, 130, 134-139, 141, 144-147, 152, 154, 157, 159, 160, 161-162, Interlocutory Application No. 1, 2 & 3 In Interlocutory Application No. 142 & 163 In W.P.(C) No. 1022 Of 1989 With Cont.P.(C) No. 141 Of 2003 In W.P.(C) No. 1022 Of 1989 | 08-08-2005

(Re : para 15.80 of the Shetty Commission Report)

1. The learned Amicus Curiae invites attention of the Court to the affidavit filed on 30.6.2005 on behalf of State of Kerala. Vide para 4 it is stated that perks referable to 5 items mentioned therein have already been released to the Judicial Officers. Vide para 6 of the affidavit it is stated that the State of Kerala has expressed its willingness to release the benefits mentioned therein with effect from 1.6.2005. Shetty Commission Report vide para 15.80 has recommended the benefits being given nationally with effect from 1.1.1996 and actually with effect from 1.7.1996. The only reason assigned by the learned Senior Counsel appearing for the State of Kerala is that there is a financial crunch in the State. Time and again this plea has been rejected. We expect the State of Kerala to come out with a concrete proposal in the direction of releasing payments consistently with the recommendation made by the Shetty Commission and already accepted by this Court in its judgment dated 21.3.2002 reported in 2002 (4) SCC 247.

State of Tamil Nadu

(Re : para 18.14 of the Shetty Commission Report)

2. The State of Tamil Nadu vide para 9 of the affidavit filed on 21.7.2005 has reported compliance.

State of Kerala

(Re : Recommendations regarding pensioners and past pensioners as per Chapters 22 and 23 of the Shetty Commission Report)

3. Attention is invited to para 8 of the affidavit filed on behalf of the State of Kerala on 30.6.2005. The learned Senior Counsel appearing for the State of Kerala states that he would advise the State to file a better affidavit explaining reasons for the stand taken by it why Karnataka Model cannot be accepted and implemented by the State of Kerala in the case of retired judicial officers. We make it clear that Karnataka Model is only one way of implementing Shetty Commission Report. The real issue is the implementation of the recommendations made by Shetty Commission. The learned Senior Counsel appearing for the State of Kerala submits that he would be advising the State to file an affidavit keeping in view this position.

State of Gujarat

(Re : Para 18.14 and para 19.122 read with para 23.18 of the Shetty Commission Report)

4. Perused the affidavit filed on behalf of the State of Gujarat on 22.7.2005. Full compliance has not been reported. All that is stated is that Karnataka Model is being followed by the State. There is deficiency in compliance on the following points:

(i) Vide para 18.14 of the Shetty Commission Report past pensioners are to be given D.A. as applicable to Central Government employees while the State is giving D.A. to past pensioners as applicable to State employees.

(ii) Vide para 19.122 read with para 23.18 of Shetty Commission Report, medical benefit is to be given to the members of judicial service by reference to Central Government Rules, as are applicable to MLAs while the State is giving benefit as per the State Rules.

5. On both these points the learned Counsel assisting the learned Amicus Curiae would address a letter within one week to the State of Gujarat under copy to learned Counsel for the State of Gujarat pinpointing the non-compliance whereupon the State of Gujarat may respond.

State of Arunachal Pradesh

6. The learned Counsel for the State of Arunachal Pradesh states that Rules for separation of judiciary from the executive are already in the process of being finalised in consultation with the High Court of Gauhati and seeks time for reporting compliance.

State of Mizoram (I.A. No. 182/2003)

7. Attention is invited to the letter dated 4.5.2005 written by Shri A.C. Upadhyay, R.G. High Court of Gauhati to the Chief Secretary, Government of Mizoram inviting the attention of the latter to notify the Rules approved by the High Court.

8. Let the learned Counsel for the State of Mizoram have instructions and inform the Court about the position at which the matter as to issuance notification stands.

State of Meghalaya (I.A. No. 119/2002)

9. Insofar as separation of judiciary from the executive is concerned, let hearing and decision in C.A. No. 4101/2002 be awaited.

10. The learned Counsel for the State of Meghalaya points out that so far as the officers discharging judicial functions are concerned decision has been taken to implement Shetty Commission Report. He seeks further time for filing another status report. Let it be done within eight weeks.

Letters dated 20.1.2005 and 5.3.2005 received from the Rajasthan High Court

11. Mr. M.R. Calla, learned Senior Counsel appearing for the Rajasthan High Court points out that 80 judicial officers have been recruited but they are not being given posting for want of training. He points out that there is no judicial academy available in Rajasthan for imparting training to judicial officers and the State Government is not releasing funds if the judicial officers are required to be sent to an academy of some other State for the purpose of training. He further points out that the request of the High Court for allotment of land and release of funds for establishing judicial academy and in the meantime permitting the sending of officers to some other State academy is already pending with the State Government but without any response.

12. We direct the State of Rajasthan to make necessary funds available in consultation with the Rajasthan High Court for the training of the judicial officers at an academy of some other State as the judicial officers already recruited cannot indefinitely wait for posting. As rightly pointed out, looking to the huge pendency of cases judicial officers need to be posted at the earliest. Let the compliance be made within four weeks. The compliance affidavit be filed in this Court.

13. The States which have sought for time for compliance may do so in six weeks whereafter the matter shall be taken up for hearing.

14. Hearing on rest of the items noted in Office Report dated 6.8.2005 is likely to take some time. Hence, adjourned by six weeks.

I.A. No. 163/2005 (filed by Bharat Prasad Yadav and Ors. v. State of Bihar)

15. Liberty allowed to move the application.

I.A. No...../2005, I.A. No...../2005 and I.A. No...../2005 (filed by Bharat Prasad Yadav and Ors. - Re: State of Bihar)

16. Issue notice to the Patna High Court and State of Bihar, respondents 1 and 2 in the applications for the purpose of ascertaining facts and legal position, returnable in four weeks. For the present there will be no notice to other respondents impleaded in the application.

I.A. No. 165/2005 (by M.P. Judges Association)

17. Liberty allowed to move the application.

18. Issue notice.

19. Learned Counsel for the State of M.P. takes notice and seeks four weeks time for filing reply. allowed.

I.A. No. 157 (by A.P. Retired Judges Association)

20. Learned Counsel for the State of A.P. states that reply has been filed. Let a copy be delivered to the learned Counsel for the applicant.

21. This application shall be taken up for hearing along with I.A. No. 152, filed by the State of A.P. seeking clarifications, on the next date of hearing.

22. The learned Amicus Curiae submits that during the course of the day he would make available to the office a list of all those matters which need to be taken up for hearing on the next date.