

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

PENSIONS – Revision of Pension in respect of those Judicial Officers who retired before 1-7-1996 as recommended by the First National Judicial Pay Commission -
ORDERS – Issued.

LAW (LA &J-SC F) DEPARTMENT

G.O. MS. No. 79

Dated : 17 -07-2004

Read the following:-

1. Main Judgment of Hon'ble Supreme Court of India dated 13.11.1991 in WP No. 1022/1989 (All India Judges Association V Union of India and others, reported in AIR 1992 SC 165=(1992) 1 SCC 119)
2. Review Judgment of Hon'ble Supreme Court dated 24.08.1993 in Review Petition No 249/1992 (All India Judges Association V Union of India and others, reported in AIR 1993 4 SCC 2= AIR (1993) 1 SC 2493)
3. G.O. Ms. No. 71, Law (LA&J-SC.F) Department dated 29.4.1998.
4. G.O. Ms. No. 92, Law (LA&J-SC.F) Department dated 26.5.1998.
5. Letter from the Member Secretary, First National Judicial Pay Commission bearing No.FNJPC/Print/18/99 dated 16.11.1999.
6. D.O. from the Joint Secretary to Government of India, Ministry of Home Affairs bearing No. L-19018/10/99-Jus Dated: 10.12.1999
7. Directions of the Hon'ble Supreme Court of India, in WP (Civil) No. 1022/89 dated 14.12.1999.
8. Directions of the Hon'ble Supreme Court of India, in WP (Civil) No. 1022/89 dated 21.03.2002..
9. Directions of the Hon'ble Supreme Court of India, in IA Nos.103,106 and 109-119, 120-123 in W.P. No. 1022/89 dated 25.11.2002.
10. G.O. Ms. No. 60, Law (LA&J-SC.F) Department dated 07.05.2003
11. Government Circular Memo No.9/Law LA&J-SC F/2003 – 1 dated 20.9.2003.

12. Directions of the Hon'ble Supreme Court of India, in IA Nos.103,105, 109, 110, 112 - 122 with IA..., 128 and 130 , 134 - 144 in W.P. No. 1022/89 dated 08-04-2004

ORDER:

In pursuance of the directions of the Hon'ble Supreme Court in the Review Judgment dated 24.08.1993, the Government of India constituted the First National Judicial Pay Commission for the Subordinate Judiciary by resolution dated 21.3.1996 under the Chairmanship of Mr. Justice K. Jaganath Shetty with the following terms of reference:

- (a) To evolve the principles which should govern the structure of pay and other emoluments of Judicial Officers belonging to the Subordinate Judiciary Officers belonging to the subordinate judiciary all over the country.
- (b) To examine the present structure of emoluments and conditions of service of Judicial Officers in the States and Union Territories taking into account the total package of benefits available to them and make suitable recommendations having regard, among other relevant factors, to the existing relativities in the pay structure between the Subordinate Judicial Services vis - a - vis other Civil Servants;
- (c) To examine and recommend in respect of minimum qualifications, age of recruitment, method of recruitment etc., for Judicial Officers. In this context, the relevant provisions of the Constitution and directions of the Supreme Court in All India Judges Associations Case and other cases may be kept in view.
- (d) To examine the work methods and work environment as also the variety of allowances and benefits in kind that are available to Judicial Officers in addition to pay and to suggest rationalization and simplification thereof with a view to promoting efficiency in Judicial administration, optimizing the size of Judiciary etc.

2. After finding that the pay structure and other allowances granted by the Fifth Central Pay Commission was not available to the members of the State Judiciary, another term of reference was added on 16.12.1997 by the Central Government and the First National Judicial Pay Commission was requested to consider and grant Interim Relief, pending recommendations of the First National Judicial Pay Commission on condition that the Interim Relief so recommended, was to be adjusted against and included in the package which may become admissible to the Judicial Officers on the final recommendations of the First National Judicial Pay Commission.

3. The First National Judicial Pay Commission in their Preliminary report dated 31.1.1998, recommended Interim Relief to the members of the State Judiciary. Accordingly, the State Government vide G.O. Ms. No. 70, Law (LA&J-SC F) Department dated 29.4.1998 sanctioned Interim Relief of 35% of the sum of the Basic Pay (pay as defined under FR 9(21)(a)(i) and Dearness Allowance appropriate to the Pay as on 1.1.1996 to the serving Members of the A.P. State Higher Judicial Service and A.P. State Judicial Service subject to the following conditions:

- (a) The Interim relief sanctioned is to be adjusted and subsumed in the package that may become admissible on acceptance of the Commission's final recommendations to all the Judicial Officers.
- (b) The amount of Interim Relief will not count for House Rent Allowance, Compensatory Allowances including Dearness Allowance, Overtime Allowance, Encashment of leave, Pay fixation etc.

4. The State Government also vide G.O. Ms. 71, Law (LA&J-SC F) Department dated 29.4.1998 sanctioned Interim Relief of 40% of the basic pension/family pension with effect from 1.7.1996 to the Members of the A.P. State Higher Judicial Service and A.P. State Judicial Service who retired prior to 1.7.1996 subject to the following conditions:

- (a) The Interim Relief so sanctioned shall be fully adjusted against and included in the package which may become admissible to the Pensioners/Family Pensioners on the final recommendations of the Commission.
- (b) In respect of those members of such services who have retired after 1.7.1996 and those who retire hence forward, the interim relief granted above shall along with DA as on 1.7.1996 be treated as Basic Pay for determining the pension payable to them.
- (c) If a pensioner/family pensioner is re-employed/employed under the Central/State Government or a Corporation/Company/Body/Bank under them in India/abroad, he shall not be eligible to draw Interim Relief on Pension/family pension during the period of such re-employment/employment.
- (d) Interim relief shall be shown as a separate element. No dearness Allowance on this element will be admissible.

5. The First National Judicial Pay Commission submitted its final recommendations on 11.11.1999. Some of these recommendations were modified by the Hon'ble Supreme Court in the reference 8th read above. The Hon'ble Supreme Court on 21.3.2002 made the following order accepting the report of the First National Judicial Pay Commission:

"37. We are aware that it will become necessary for service and other rules to be amended so as to implement this Judgment. Firstly, with regard to the pay scales, the Shetty Commission has approved the pay scales with effect from 1st

January, 1996 but has directed the same to be paid with effect from 1st July, 1996. The pay scales as so approved by us are with effect from 1st July, 1996. However, it will take some time for the States to make necessary financial arrangements for the implementation of the revised pay scales. The Judicial Officers shall be paid the salary in the Revised Pay Scales as approved by this Court with effect from 1st July, 2002. The arrears of salary between 1st July, 1996 to 30th June 2002 will either be paid in cash or the States may make the payments by crediting the same in the Provident Fund Account of the respective Judicial Officers. Further more, the payment by credit or otherwise should be spread over between the years 1st July, 1996 to 30th June 2002 so as to minimize the Income Tax liability which may be payable thereon. In calculating the arrears, the Government will of course take into account the Interim Relief which had been granted and drawn by the Judicial Officers. The amount to be credited in the Provident Fund Account would also be after deducting the income tax payable."

6. The State Government vide G.O. Ms. No. 60, Law (LA&J-SC.F) Department dated 07-05-2003, revised the pay scales of the members of the A.P. State Higher Judicial Service and A.P. State Judicial Service as recommended by the First National Judicial Pay Commission duly laying down fixation formula as recommended by the First National Judicial Pay Commission. There is a difference of opinion about the rates of DA to be taken into account during the fixation of pay in the Revised Pay Scales as there was a Pay Revision in the State with effect from 1.7.1992 with monetary benefit from 1.4.1993. Government vide Circular Memo. No.9/Law LA&J-SC F/2003-1 Dated 20.9.2003, pending clarification from an appropriate authority, indicated the provisional percentage rates of Dearness Allowance to be taken into account for fitment in the case of State Judicial Officers from the existing State Pay Scales as on 1.1.1996 to the pay scales recommended by the First National Judicial Pay Commission implemented in the above GO.

7. The Supreme Court in the reference 12th read above, inter alia directed that:

Learned Amicus Curiae has placed before us a Government Order dated 4th February, 2004 issued by the Government of Karnataka in regard to the payment of pension to the retired Judicial Officers and suggested that the same model may be adopted by other States. We take this Government Order on record and except that all other States may adopt the said model. The States may file their response within a period of two months.

8. In obedience of the above directions of the Hon'ble Supreme Court, Government hereby order that the Revised Pension of the Judicial Officers who have retired or died while in service prior to 01-07-1996 shall be 50% of the minimum of the revised pay of the post held by the Judicial Officers at the time of retirement who have put in full qualifying service at the time of retirement. In respect of Judicial Officers who have put in less than the full qualifying service there shall be proportionate reduction.

9. Provided on receiving clarification from the appropriate authority, regarding the rates of Dearness Allowance/Relief to be allowed at the time of fixation of pay in the Revised Pay Scales/consolidation of Pension as given in Karnataka model, the Past Pensioners shall be entitled to Pension @ 50% of the minimum pay of the post held at the time of retirement as fixed by the First National Judicial Pay Commission or the revised pension in terms of consolidation as given in Karnataka model, whichever is higher.
10. As per such revision as determined in paras 8 and 9 above, the Family Pension shall be determined in accordance with the State Rules.
11. The Dearness Relief shall be at the rates as are applicable to the serving Judicial Officers.
12. The amount of interim Relief sanctioned vide G.O. first read above and paid from 1.7.1996 shall be set off against the benefit that may accrue as a result of these orders.
13. The revision in pension shall come into effect from 01.07.1996 and will be applicable to Judicial Officers who have retired or ceased to be in service due to death or retirement prior to 01.07.1996.
14. The Pension disbursing officers are requested to deduct income tax from the arrears before making payment.
15. This order issues with the concurrence of the Finance (EBS Home) Department vide their U.O. No. 3200/PFS/2004 dated 17.07.2004.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

K.G. SIIANKER
Secretary to Government

To
All concerned
The Assistant Registrar, Supreme Court of India, New Delhi with a covering letter
The Advocate on Record, Supreme Court of India, O/o the Resident Commissioner,
A.P. Bhavan, New Delhi
The Registrar, High Court of A.P., Hyderabad.
The Registrar, A.P. Administrative Tribunal, Hyderabad.
The Prl. Secretary to Govt., GAD & Resident Commissioner to Government.,
Government of A.P., A.P. Bhavan, New Delhi.
The Accountant General, A.P., Hyderabad.
The Pay & Accounts Officer, Hyderabad.
The Secretary to Government of India, Ministry of Law, Justice & C.A., New Delhi.
Copy to:
The Finance (EBS Home) Department
The Law (OP) Department.

The Law (Courts) Department.
 The G.A. (Cabinet/Claims/OP/Spl.A)Departments.
 The Director of Treasuries and Accounts, Hyderabad.
 The Joint Director, :Pension Payment Office, M.J.Road, Hyderabad.
 All District Treasury Officers
 SF/SC

//forwarded ::by order//

P. Satyanarayana
 SECTION OFFICER(SC)

11. As per such reason as mentioned in para 9 above, the Pension shall be determined in accordance with the rules.

12. The Pension shall be as the rate as the applicable to the existing judicial Officers.

13. The amount of Pension shall be as the rate as the applicable to the existing judicial Officers.

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