

**GOVERNMENT OF ANDHRA PRADESH  
ABSTRACT**

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

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**LAW ( LA &J-SC F) DEPARTMENT**

G.O. MS. No.113

Dated 1<sup>st</sup> November, 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 No.FNJPC/Print/18/99 dated 16.11.1999.
6. D.O. Letter from the Joint Secretary to Government of India, Ministry of Home Affairs 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. 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
11. G.O. Ms. No. 60, Law (LA&J-SC.F) Department dated 07.05.2003
12. Government Circular Memo. No.9/Law LA&J-SCF/2003 -1 dated 20.9.2003
13. G.O. Ms. No. 79, Law (LA&J-SC.F) Department dated 17-07-2004

P.T.O.

14. Directions of the Hon'ble Supreme Court of India, in IA Nos.103,105, 109, 110, 112 - 122, 126, 128 and 130 and 134 - 139,145, 146, 147, 148, 149 & I A No.1 & 2 in W.P. No. 1022/89 dated 20.9.2004

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**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 Chairmanship of Mr. Justice K. Jaganath Shetty with certain terms of reference.

2. The First National Judicial Pay Commission in their Preliminary report dated 31.1.1998, recommended for an 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.

3. The State Government also vide G.O. Ms. 71, Law (LA&J-SC F) Department dated 29.4.1998 sanctioned an 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.

© 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.

4. 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 8<sup>th</sup> 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 1<sup>st</sup> January, 1996 but has directed the same to be paid with effect from 1<sup>st</sup> July, 1996. The pay scales as so approved by us are with effect from 1<sup>st</sup> 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 1<sup>st</sup> July, 2002. The arrears of salary between 1<sup>st</sup> July, 1996 to 30<sup>th</sup> 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."

5. 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 allowed 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 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.

6. The Supreme Court in the reference 10<sup>th</sup> read above, inter alia directed that:

**Learned Amicus Curiae has placed before us a Government Order dated 4<sup>th</sup> 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 expect that all other States may adopt the said model. The States may file their response within a period of two months.**

7. In obedience to the above directions of the Hon'ble Supreme Court, the State Government in the G.O. 13<sup>th</sup> read above, issued orders 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. In respect of Judicial Officers who have put in less than the full qualifying service, there shall be proportionate reduction. It has been further ordered that 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.

8. The Supreme Court in the reference 14 th read above observed that:

On behalf of the State of Andhra Pradesh, compliance affidavit is being filed during the course of day. However, a serious grievance has been brought to our notice by Ms. K. Amareswari Devi, Senior Counsel appearing for the A.P. Retired Judicial Officers Association that as to the Judicial Officers who have retired on and after 1.5.2003 no pension has been fixed or paid either at the old rates or at the revised rate recommended by the Shetty Commission. This is a serious matter. The fixation of pension and payment thereof can not be postponed on account of pendency of this matter in this Court. We direct State Government of Andhra Pradesh to take a decision in the matter and report compliance within eight weeks.

9. In obedience to the above directions of the Hon'ble Supreme Court, the State Government hereby order that the Revised Pension of the Judicial Officers who have retired or died while in service on and after 01-07-1996 shall be 50% of the minimum of the time scale in the revised pay scales of the post held by the Judicial Officers at the time of retirement or death.

10. Provided that in respect of Judicial Officers who retired or died while in service on and after 1.7.1996 and whose pension has been fixed based on the pay in the A.P. Revised Pay Scales, 1993 and treating interim relief as pay in terms of G.O.Ms. No. 71, Law (LA&J.SCF) Department, dt. 29.4.1998, if the pension so fixed is higher than 50% of the minimum of the Revised Pay Scales as evolved by the First National Judicial Pay Commission, they will continue to draw the said pension until further orders.

11. Provided that further on receiving the clarification from the appropriate authority, regarding the rates of Dearness Allowance to be allowed at the time of fixation of pay in the Revised Pay Scales, the Judicial Officers who retired or died while in service on and after 1.7.1996 shall be entitled to the pension fixed on the pay drawn at the time of retirement / death as fixed in the Revised Pay Scales by allowing appropriate Dearness Allowance as per the clarification.

12. As per such revision as determined in paras 9 to 11 above, the Family Pension shall be determined in accordance with the State Rules.

13. The Dearness Relief shall be at the rates as are applicable to the Serving Judicial Officers.

14. 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 on and after 01.07.1996.

15. The Pension disbursing officers are requested to deduct income tax from the arrears before making payment.

16. This order issues with the concurrence of the Finance (PC I) Department vide their U.O. No.297/579/A1/PC.I/2004, dated 14-10-2004.

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

G.V.SEETHAPATHY  
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 General Administration (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.

//FORWARDED::BY ORDER//

  
SECTION OFFICER (SC)