

VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MR.JUSTICE BASANT BALAJI

MONDAY, THE 28TH DAY OF SEPTEMBER 2026 / 6TH ASWINA, 1948

WA NO. 181 OF 2019

AGAINST THE JUDGMENT DATED 13.11.2018 IN WP(C) NO.10151 OF
2017 OF HIGH COURT OF KERALA

APPELLANT:

A.V. RAMAKRISHNA PILLAI, AGED 63 YEARS
S/O. VELAYUDHAN PILLAI (LATE), AMBAZHAVELIL, RAJEEV
NAGAR, ELAMAKKARA, KOCHI-682026

SMT.NISHA GEORGE
SRI.A.L.NAVANEETH KRISHNAN
SRI.GEORGE POONTHOTTAM (SR.)

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY THE SECRETARY, HOME DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001
- 2 SECRETARY, FINANCE DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001
- 3 HIGH COURT OF KERALA, REPRESENTED BY THE REGISTRAR
(SUBORDINATE JUDICIARY), ERNAKULAM, KOCHI-682031
- 4 THE ACCOUNTANT GENERAL,
OFFICE OF THE ACCOUNTANT GENERAL (A & E), KERALA,
M.G. ROAD, P. B. NO.5607, THIRUVANANTHAPURAM-695001

SHRI.K.C.VINCENT, ADDL.ADVOCATE GENERAL
ADV M.R ANISON
SRI.P.M.RAFEEL - SR.GP.

THIS WRIT APPEAL HAVING COME UP FOR HEARING ON 28.09.2026,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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JUDGMENTDevan Ramachandran, J.

The Government of India, in the year 1996, constituted the First National Judicial Pay Commission chaired by Justice (retired), K.J.Shetty, a former judge of the Hon'ble Supreme Court of India – which Commission is often referred to as the “Shetty Commission.” In fact, the Commission was constituted pursuant to the directions of the Hon'ble Supreme Court in **All India Judges' Association v. Union of India and Others** [(1992) 1 SCC 119], with the intent of setting up an All India Judicial Service and to formulate uniform conditions of service across India.

2. The “Shetty Commission” submitted its report on 11.11.1999, recommending that the pay scales suggested by it be deemed to have come into force with effect from 01.01.1996; but that the monetary benefits be payable only with effect from 01.07.1996.

3. One among the recommendations of the “Shetty Commission” was that Civil Judges (Junior Division) having higher qualifications or a Post Graduate Degree in Law, be granted three



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advance increments - on par with what had been earlier granted by the Delhi Administration.

4. Through the judgment dated 21.03.2002 in W.P(C)No.1022/1989, the Hon'ble Supreme Court approved the recommendations of the "Shetty Commission", with certain modifications; but not with respect to the advance increments for a Post Graduate Degree in Law, as seen above.

5. The Government of Kerala accepted the aforesaid recommendations of the "Shetty Commission", through Ext.P3 order dated 28.03.2007; but through a subsequent letter dated 17.11.2007, informed the Accountant General that such benefit be confined only to those Officers who had been appointed after 28.03.2007 – being the date of Ext.P3 order.

6. The action of the Government in confining the benefit as afore, was challenged by certain Judicial Officers through W.P(C)No.34846/2008, which was allowed by a learned Judge of this Court, by judgment dated 09.09.2010; consequently quashing the above mentioned communication of the Government to the Accountant General.

7. The Government appealed against the judgment of the



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learned Single Bench, through WA No.591/2011, but which was dismissed through Ext.P5 dated 14.02.2012.

8. Subsequently, the Government issued Ext.P6 order, granting the benefit of three advance increments to all Munsiffs/Magistrates who had acquired a Post Graduate Degree in Law at the time of recruitment, and had been in service from 01.07.1996.

9. Since the “Shetty Commission Report” specified the benefit of three advance increments to Civil Judges (Junior Division), a question arose whether District Judges who possessed Post Graduate Degree in Law at the time of direct recruitment would also be entitled to the said benefit.

10. The Registrar of the High Court of Kerala, thereupon, addressed the Principal Secretary to Government, Home Department, vide Ext.P7 letter dated 17.07.2013, requesting that the benefit of three advance increments under the ‘Shetty Commission’ recommendations be extended to District Judges *“appointed by direct recruitment and having post graduation in Law at the time of entry in service”* (sic).

11. The Government responded to Ext.P7, through its



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order dated 22.11.2013, acceding in principle to extend the benefit to the aforesaid category of the District Judges; but mentioning therein that the said order – a copy of which is on record as Ext.P8 – would have only ‘prospective effect’. In its crux, therefore, Ext.P8 operated in the manner that only District Judges who were appointed by direct recruitment after the date of Ext.P8 order, namely, 22.11.2013, would be entitled.

12. The High Court, therefore, again issued Ext.P9 request to the Government on 09.12.2013, that “*all the District Judges recruited with post graduation in law and are in service on 01.07.1996 and to the District Judges recruited thereafter*” (sic) be granted the benefit of three advance increments. The said Letter expatiated the reasons for this request, as being because the qualifications of the District Judges are identical; it being filled up by Direct Recruitment from the Bar; and since increment is part of pay in law. The letter also mentioned that, if Ext.P8 is put into effect, namely in a prospective manner, there would stand created a hostile discrimination between the District Judges who were appointed prior to it and after it.

13. The Government, however, did not accede to Ext.P9



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and issued Ext.P10 letter dated 12.05.2014 to the Registrar General of the High Court of Kerala, stating that, what has been granted in Ext.P8 is *“not as a matter of right but leniency from the part of Government, it should not be taken for granted ”* (sic). It further justified its stand, saying that *“neither the Shetty Commission nor the Padmanabhan Commission recommended advance increments to those having post graduation in Law in the Higher Judiciary”* (sic).

14. The High Court, nevertheless, took up the matter again before the Government, issuing Ext.P11 letter dated 26.08.2014, reiterating what was earlier stated in Ext.P9; but the Government responded through Ext.P12, stating that *“Therefore Government sticks to its earlier stand”* (sic).

15. The Registrar of the High Court then made a last effort, addressing the Government again, as per Ext.P13 letter dated 16.09.2015, requesting them to reconsider what has been stated in Exts.P10 and P12, specifically mentioning that there are less than ten officers who possessed post graduation in Law at the time of their entry into service as District Judges during the period from 01.07.1996 to 22.11.2013; and asserting that there would not



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be any far reaching consequence on granting retrospectivity to Ext.P8 order, by way of recurring expenditure, since the said Officers are part of a 'vanishing group'. It was thus reiteratingly asked that all District Judges who have post graduation in law at the time of recruitment and who were in service on 01.07.1996, as also those recruited in such manner thereafter, be given the benefit of three advance increments.

15. Not surprisingly, the Government once again rejected Ext.P13, restating the reasons earlier recorded in Ext.P10; and reaffirming that "*Therefore Government sticks to its earlier stand*" (sic).

16. As admitted, the appellant was recruited as a District Judge by direct recruitment from the Bar in the year 1995; and concededly, he had a Post Graduate Degree in Law at that time. On 18.01.2012, he was elevated as a Judge of this Court; and served in that capacity until his retirement on 24.11.2015.

17. Thus, under the rigour of Ext.P8, the appellant stood disentitled to the benefit of the three advance increments. It is thus that he approached this Court by filing the Writ Petition, seeking that Exts.P8, P10, P12 and P14 be quashed; and for a declaration



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that he is entitled to obtain the benefit of three advance increments with effect from 01.07.1996.

18. The learned Single Judge, however, dismissed the Writ Petition, granting approval to Ext.P8, holding that the Government has a right to fix a particular date while introducing a new benefit.

19. The Appellant is thus in Appeal.

20. Sri.George Poonthottam, learned senior counsel, instructed by Smt.Silpa - appearing for the appellant, argued that the recommendations made by the High Court to the Government through Exts.P7, P9, P11 and P13 were based on Annexure D minutes of the Finance Committee of Judges of this Court, dated 09.07.2013. He took us through the said minutes, to show us that, on the question of granting additional increments to the District Judges who were directly recruited, the opinion of the Committee was as under:

“Having perused the joint representation submitted by the four District Judges and the relevant portion of the Shetty Commission Report, it was felt that the benefit of advance increments is to be extended to the Judicial Officers who entered/enter in the Kerala State Higher Judicial Service as District Judges, possessing higher qualifications like Post Graduation in Law. The Committee noticed the fact that though the Shetty Commission has expressly recommended such advance increments to the Munsiff Magistrates at the entry cadre, the same benefit can never be intended to have been



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excluded at the entry cadre in the 'District Judges' level since such exclusion would be hostile discrimination. Therefore, the said facility should be extended to the District Judges also.

Hence, resolved to approve prayer "A" in the Office Notes submitted for the consideration of the Committee and direct the Registry to address the Government to extend the benefit of three advance increments to the District Judges having Post Graduation in Law as qualification, who were directly recruited from the Bar, at the time of entry in service."

21. The learned senior counsel argued that, hence, the Government ought to have accepted the request of the High Court, rather than have rejected it in the manner done in Exts.P10, P12 and P14. He contended that the essential question in this case is not whether the Government is free to fix a particular date while introducing a fresh benefit — as has been thought by the learned Single Judge; but if the Government could have declined or rejected the request of the High Court in the manner as it has done. He relied upon the judgment of the Hon'ble Supreme Court in **State of Rajasthan and Ors. v. Ramesh Chandra Mundra and Ors.** [2019 (4) SCT 360 (SC)] to argue that, in normal circumstances, the recommendations of the High Court cannot be rejected by the Government, but the differences ought to have resolved through amiable discussions and negotiations. He asserted that the learned



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Single Judge has misunderstood the perspective of the issue; and prayed that this appeal be allowed.

22. Sri.K.C.Vincent, learned Additional Advocate General instructed by Sri.P.M.Rafeek - learned Government Pleader, responded to the above contentions, saying that the view of the learned Single Judge, that the Government was extending a new benefit — thus being entitled to fix a particular date from which it would become eligible, is wholly justified because, the “Shetty Commission Report” did not recommend the grant of advance increments to District Judges. He insisted that the said report was only dealing with the case of Civil Judges (Junior Division); but that the Government, in fairness, decided to accede to the request of the High Court, as made in Ext.P7 letter dated 17.07.2013, to thus issue Ext.P8 order dated 22.11.2013, extending the benefit of three advance increments to District Judges also. He maintained that, in such circumstances, the Government was fully justified in having ordered that the benefits under Ext.P8 could operate only prospectively. He added that, while issuing Ext.P8 in the above manner, the Government was fully conscious of the huge financial impact it would have to encounter; and that this is also a valid



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determinant in deciding the date of the grant of the benefit. He prayed that this appeal be hence dismissed.

23. It is pertinent that, at every stage after the “Shetty Commission Report” had been published, Judicial Officers were forced to litigation — not only in Kerala, but in other parts of the country also, for securing the benefits under it.

24. Even when the Government of Kerala adopted the “Shetty Commission Report” and issued Ext.P3 order dated 28.03.2007, it ordered the benefits under it to be only with effect from the said date and not earlier. It took the then serving Munsiff/Magistrates to approach this Court to obtain Ext.P4 judgment — which was confirmed in appeal as limpid from Ext.P5 — for the Government to then offer benefits with effect from 01.07.1996, as stipulated in the “Shetty Commission Report”.

25. True, the report of the “Shetty Commission” did not specifically refer to District Judges *qua* the three advance increments for Post Graduation in Law; but, as rightly pointed out by Sri.George Poonthottam, the Finance Committee of Judges of this Court, in Annexure D minutes dated 09.07.2013, found that such benefit is entitled to the officers since the “Shetty



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Commission” never intended to exclude such Judges at the entry cadre and because such exclusion would be hostile discrimination. The Committee thereupon directed the Registry to address the Government to extend the benefit of three advance increments to all District Judges having Post Graduation in Law, who are directly recruited.

26. As seen above, though the Government acceded to the afore request of the High Court made through Ext.P7 — by issuing Ext.P8 order on 22.11.2013 — it was expressly mentioned therein that it would only operate prospectively.

27. It is here that the controversy has its genesis.

28. The High Court addressed the Government repeatedly thereafter, through Exts.P9, P11 and P13; but every time refused to be acceded to by the latter, as limpid from Exts.P10, P12 and P14.

29. What is rather intriguing in this case is that the Government took the stand that the benefit they offered through Ext.P8 “*was not a matter of right but leniency*”; and that “*it should not be taken for granted.*” In Ext.P8, it also expressed an apprehension that if Ext.P8 was to be given retrospective effect, it will have serious financial implications.



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30. It is crucial that the High Court allayed the afore apprehension in Ext.P13, pointing out that the financial burden would not be very high, since there were only ten officers who would be entitled to the advance increments and since they are part of a “vanishing group.”

31. Nevertheless, the Government issued Ext.P14, refusing to accede to the request of the High Court.

32. At this juncture, we must record that when Ext.P8 Government Order was issued on 22.11.2013, showing it to be prospective in effect, there arose a confusion whether District Judges who were recruited prior to that date would be entitled to the benefit of the three advance increments. This led to one of the officers to approach this Court through a writ petition, which was allowed by the judgment reported as **Kauser Edappagath (Dr). v. State of Kerala and others [2017 (2) KHC 703]**. The learned Single Judge concluded that, even when the Government order (Ext.P8 herein), operates to grant benefits under it prospectively, it is not intended to operate only to the favour of officers appointed after its date. However, the question whether the monetary benefits ought to flow from 01.07.1996 was not raised and hence not answered in



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the said judgment; with the petitioner therein seeking to quash the order of the Government issued against him – marked as Ext.P7 therein - informing him that he would not be entitled to any benefit because he was recruited as District Judge prior to 22.11.2013. This judgment was accepted by the Government; and consequentially, it becomes beyond pale of contest that every District Judge having Post Graduation in Law directly recruited from the bar would be entitled to the benefit of Ext.P8 order, notwithstanding whether they entered service prior to 22.11.2013 not thereafter. The only surviving question is, from when ?

33. In this context, the reliance of Sri.George Poonthottam in **Ramesh Chandra Mundra** (*supra*) has importance because, when it comes to matters of pay and allowances of Judicial Officers, the two institutions must act cohesively and in the spirit of collaboration.

34. Even when the Government says that the grant of benefits as mentioned in Ext.P8 order is “*in leniency and not as a matter of right*”, it requires to be adverted to that, what the High Court requested vide Ext.P7 was nothing but a corollary of the recommendations in the “Shetty Commission Report.” As recorded



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by the Finance Committee of Judges in Annexure D minutes, the “Shetty Commission” never intended to exclude District Judges at the entry cadre and that any such can only be seen to be hostile discrimination.

35. Therefore, the stand of the Government in Exts.P10 and P14, that the benefits granted through Ext.P8 were “*not as a matter of right but leniency*” (sic) cannot be offered approval by us in any manner.

36. Axiomatically, when it is understood that what was sought for by the High Court in Ext.P7; and what was granted by the Government vide Ext.P8 was not a new benefit, but an adjunct of the recommendations of the “Shetty Commission Report”, the findings of the learned Single Judge that the Government can fix a particular cut off for such, becomes untenable.

37. Admittedly, the “Shetty Commission Report” has ordered the monetary benefits flowing from its recommendations, to be with effect from 01.07.1996. This is why the High Court, in Exts.P7, P9, P11 and P13, made specific request that the directly recruited District judges with Post Graduation in Law be granted the benefits of the three advance increments with effect from the



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afore date, namely 01.07.1996.

38. In our firm view, the Government could not have rejected this request, particularly after it had accepted the recommendations of the “Shetty Commission” with respect to Munsiff/Magistrates, then granted benefits with effect from 01.07.1996 as stipulated in the said report.

39. Consequently, we allow this appeal and set aside the impugned judgment of the learned Single Judge; consequently, quashing Exts.P8 Government Order to the extent to which it says that it will only operate prospectively.

Needless to say, the view of the Government expressed to the contrary in Exts.P10, P12, and P14 are also quashed. Resultant to this, we order that the appellant and similarly placed officers will be entitled to the benefits under Exhibit P8 with effect from 01.07.1996.

Sd/- DEVAN RAMACHANDRAN
JUDGE

Sd/- BASANT BALAJI
JUDGE

akv/stu/saap



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APPENDIX OF WA NO. 181 OF 2019

PETITIONER ANNEXURES

ANNEXURE A	TRUE COPY OF THE COVERING LETTER ISSUED BY THE REGISTRAR (SUBORDINATE JUDICIARY) TO ADDITIONAL CHIEF SECRETARY OF THE GOVERNMENT)
ANNEXURE B	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE JUDICIAL OFFICER TO GOVERNMENT OF KERALA
ANNEXURE C	TRUE COPY OF THE LETTER ISSUED BY THE PRINCIPAL CHIEF SECRETARY TO GOVERNMENT TO REGISTRAR GENERAL OF THIS HON'BLE COURT
ANNEXURE D	TRUE COPY OF THE MINUTES OF THE FINANCE COMMITTEE OF THIS HON'BLE COURT
ANNEXURE E	TRUE COPY OF THE WRIT PETITION - W.P.(C) NO.23252/2016 FILED BY DR. KAUSER EDAPAGATH
ANNEXURE F	TRUE COPY OF THE ORDER OF THE HON'BLE SUPREME COURT IN W.P.(C) 1022/1989
ANNEXURE G	TRUE COPY OF THE RESOLUTION PASSED BY THE GOVERNMENT OF GUJARAT
ANNEXURE H	TRUE COPY OF THE JUDGMENT OF THE HON'BLE SUPREME COURT IN W.P.(C) NO.19/2012
ANNEXURE I	TRUE COPY OF THE GUJARAT STATE JUDICIAL SERVICE RULES 2005
ANNEXURE J	TRUE COPY OF THE ORDER OF THE HON'BLE SUPREME COURT IN W.P.(C) 1022/1989
ANNEXURE K	TRUE COPY OF THE ORDER OF THE GOVERNMENT OF ANDHRA PRADESH
ANNEXURE L	TRUE COPY OF THE ORDER OF THE GOVERNMENT OF ANDHRA PRADESH
ANNEXURE M	TRUE COPY OF THE ORDER ISSUED BY THE GOVERNMENT OF ANDHRA PRADESH
ANNEXURE N	TRUE COPY OF THE ORDER ISSUED BY THE GOVERNMENT OF ANDHRA PRADESH
ANNEXURE O	TRUE COPY OF THE LETTER ISSUED BY THE REGISTER OF HIGH COURT OF HYDERABAD TO PRINCIPAL DISTRICT AND SESSIONS JUDGE OF NALGONDA
ANNEXURE P	TRUE COPY OF THE ORDER OF THE HON'BLE SUPREME COURT IN W.P.(C) 1022/1989
ANNEXURE Q	TRUE COPY OF THE NOTIFICATION OF THE



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	GOVERNMENT OF HIMACHAL PRADESH
ANNEXURE R	TRUE COPY OF THE HIMACHAL PRADESH JUDICIAL OFFICERS (PAY, ALLOWANCES AND CONDITIONS OF SERVICES) ACT 2003
ANNEXURE S	TRUE COPY OF THE HIMACHAL PRADESH JUDICIAL SERVICE RULES 2004
ANNEXURE T	TRUE COPY OF THE ORDER OF THE HON'BLE SUPREME COURT IN W.P. (C) 1022/1989
ANNEXURE U	TRUE COPY OF THE NOTIFICATION OF THE GOVERNMENT OF ASSAM
ANNEXURE V	TRUE COPY OF THE LETTER ISSUED BY REGISTER OF HIGH COURT OF GAUHATI TO DISTRICT AND SESSIONS JUDGE OF ASSAM
ANNEXURE W	TRUE COPY OF THE LETTER ISSUED BY REGISTER OF HIGH COURT OF GAUHATI TO JUDICIAL OFFICERS