

# VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

Friday, the 8<sup>th</sup> day of April 2022 / 18th Chaithra, 1944

WP(C) NO. 13336 OF 2022(R)

**PETITIONERS:**

1. KERALA JUDICIAL OFFICERS' ASSOCIATION, DISTRICT COURT ANNEX, KALOOR, ERNAKULAM-682 017, REPRESENTED BY ITS SECRETARY.
2. PRAMOD MURALI, S/O.P.K. MURALEEDHARAN, AGED 45 YEARS, PRINCIPAL MUNISFF ERNAKULAM, RESIDING AT PRAYAGA, VELLAKKINAR, ALAPPUZHA-688 001, NOW RESIDING AT VILLA NO.16, NEPTUNE COUNTRY, PANDARACHIRA ROAD, KOCHI, ERNAKULAM-682 020.

**RESPONDENTS:**

1. STATE OF KERALA, REPRESENTED BY ADDITIONAL CHIEF SECRETARY TO GOVERNMENT, HOME DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.
2. THE HIGH COURT OF KERALA, KOCHI-682 031, REPRESENTED BY THE REGISTRAR GENERAL.
3. THE PRINCIPAL ACCOUNTANT GENERAL (AUDIT/A&E), KERALA, THIRUVANANTHAPURAM-695 001.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay the operation of Exhibit P12 and consequent reduction of special pay, pending disposal of the writ petition (C).

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of SRI.K.JAJU BABU (SENIOR ADVOCATE) along with M/S. M.U.VIJAYALAKSHMI, BRIJESH MOHAN, SACHIN RAMESH, T.S.ATHIRA & ARAVIND T.RAMESH, Advocates for the petitioners and of GOVERNMENT PLEADER for R1 & R3, the court passed the following:

P.T.O.

**EXHIBIT P5: TRUE COPY OF THE GOVERNMENT ORDER VIDE  
NO.GO(MS)NO.76/2010/HOME DATED 23/03/2010.**

**EXHIBIT P12: TRUE COPY OF THE GOVERNMENT ORDER  
GO(MS) NO.48/2022/HOME DATED 14/03/2002.**



V.G.ARUN, J.

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Dated this the 08<sup>th</sup> day of April, 2022

ORDER

Admit.

Learned Government Pleader takes notice for respondents 1 and 3. Issue notice to the second respondent through speed post.

2. The entitlement of Judicial Officers for special pay should have attained quietus with the issuance of Ext.P5 Government order, which apparently was issued under compulsion from the Amicus Curiae appointed by the Apex Court in W.P.(C) No.1022/1989, for ensuring compliance of the Shetty Commission recommendations. Ext.P5 also refers to the compliance chart submitted before the Honourable Supreme Court after curing the defects pointed out by the Amicus Curiae. One of the defects thus cured and incorporated

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in Ext.P5 order is the renaming of the Special Allowance allowed to the Judicial Officers as Special Pay. Surprisingly, even after issuing Ext.P5, the Government was not willing to extend the benefit of Special Pay to retired judicial officers. The disgruntled officers approached this Court, resulting in the judgment of the Division Bench in State of Kerala and another v. P.Muraleedharan and another [2021 KHC 242]. Therein, the Division Bench made it clear that, under the Constitution, the judiciary is above the administrative executive and any attempt to place it on a par with the administrative executive has to be discouraged. After detailed discussion, the Government was directed to grant the benefit of Special Pay to the writ petitioner. The Division Bench also expressed the hope that the Government would put a quietus to the issue, so that objections of the nature

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that had led to the writ appeal are not unnecessarily raised.

3. Undeterred by the observations of the Division Bench and unmindful of its own order (Ext.P5) and in an apparent attempt to deny the benefit of Special Pay to the judicial officers, the Government has now come out with Ext.P12 order, renaming Special Pay as Special Allowance.

4. Having heard the Senior Counsel and Government Pleader having carefully scrutinized the relevant orders, I am *prima facie* convinced that the order cannot be sustained.

Hence, the first respondent is directed to keep the operation and implementation of Ext.P12 order in abeyance until further orders.

Post after vacation.

Sd/-  
V.G.ARUN  
JUDGE

Sc1/08.05.2022