



2026:KER:6576

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

WEDNESDAY, THE 28TH DAY OF JANUARY 2026 / 8TH MAGHA, 1947

WP(C) NO. 45866 OF 2025

PETITIONER:

KERALA HIGH COURT GAZETTED OFFICERS' ASSOCIATION
REPRESENTED BY ITS SECRETARY JITHESH P.
AGED 47 YEARS
COURT OFFICER/SECTION OFFICER
HIGH COURT OF KERALA
KOCHI, PIN - 682031

BY ADVS.
SHRI.MATHEWS K. NELLUVELY
SHRI.REJI MATHEW.M
SHRI.MATHEW VARGHESE
SHRI.JOEL REJI MATHEW
SHRI.ANDREW MATHEWS

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 ADDL. CHIEF SECRETARY TO GOVERNMENT
FINANCE (RULES-B) DEPARTMENT
GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM, PIN - 695001
- 3 ADDL. CHIEF SECRETARY TO GOVERNMENT
HOME (C) DEPARTMENT
GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM, PIN - 695001



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4 HIGH COURT OF KERALA
 REPRESENTED BY THE REGISTRAR GENERAL
 HIGH COURT BUILDINGS
 KOCHI, PIN - 682031.

BY ADVS.
SRI. P.K. BABU, SPECIAL GOVERNMENT PLEADER
(FINANCE)
SRI. ANEESH JAMES FOR R4.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY
HEARD ON 18.12.2025, THE COURT ON 28.01.2026 DELIVERED
THE FOLLOWING:



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CR**N. NAGARESH, J.**.....
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.....*Dated this the 28th day of January, 2026***J U D G M E N T**

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The petitioner is a registered Association representing Gazetted employees of the High Court of Kerala. The petitioner states that the Government unjustifiably amended the Kerala Service Rules to include Gazetted Officers among those ineligible for compensatory leave, ignoring their duties and extended working hours.

2. The petitioner states that under Appendix VII of Part I KSR, compensation leave was conceived as an



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essential protective measure to ensure adequate rest and work-life balance for government servants who are required to attend duty on public holidays under the orders of 'Heads of the Department'. From the very beginning, compensatory leave was made uniformly available to all officers irrespective of cadre or rank, but the 'Heads of Offices' were made not eligible to the compensation leave with effect from 03.07.1970.

3. The Government later issued GO(P) No.123/2022/Fin. dated 07.10.2022 whereunder compensatory leave was denied to all Gazetted Officers. Appendix VII Part I KSR was amended by inserting the words "Gazetted Officers" alongside "Heads of Offices" as per Ext.P1 gazette notification dated 10.10.2022.

4. The petitioner states that the Kerala High Court Service Rules, 2007 govern the staff of the Kerala High Court and it do not contain independent provision relating to compensatory leave. In view of Rule 37(2) of the Rules,



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2007, the provisions of KSR apply to the employees of the High Court in all matters concerning leave. Pursuant to Ext.P1, the High Court has issued Ext.P2 OM revoking the longstanding practice of compensatory leave to Gazetted Officers.

5. The Hon'ble Chief Justice directed that a communication be issued to the Government seeking exemption for the Gazetted Officers of the High Court from the operation of the amended Appendix VII. The 4<sup>th</sup> respondent-Registrar General addressed Ext.P3 letter dated 06.12.2022 to the Government requesting that the Gazetted Officers of the High Court be exempted from the newly introduced restriction under Ext.P1.

6. The Government declined Ext.P3 request as per Ext.P4 letter dated 18.05.2023. Ext.P4 is devoid of any reason. The Government did not advert to the specific concerns highlighted by the High Court. Therefore, the Gazetted Officers submitted a representation before the



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Hon'ble Chief Justice. The Registrar General again addressed Ext.P5 letter dated 17.08.2024 to the Government. The Government, however, again declined the request made by the High Court as per Ext.P6 letter dated 19.12.2024. Ext.P6 also did not contain any reasons for rejecting the request.

7. The petitioner states that Government has granted exemptions from the restrictions imposed under Ext.P1 to the Gazetted Officers of several other Departments of the Government. However, in spite of the recommendations of the Hon'ble Chief Justice, the Government refused to exempt the Gazetted Officers of the High Court from the restrictive provision.

8. The 2<sup>nd</sup> respondent filed a counter affidavit. The 2<sup>nd</sup> respondent stated that earlier only Heads of the Offices were ineligible for compensation leave. As per Section III, Appendix VII of Part I KSR, compensation leave is granted to a government servant who attends office on public



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(authorised) holidays under the orders of the Head of Office in order to attend the urgent work. But, at the same time, Rule 14 of Part-I KSR clearly stipulates that unless in any case it be otherwise distinctly provided, the whole time of an officer is at the disposal of the Government which pays him and he may be employed in any manner required by proper authority, without claim for additional remuneration.

9. This clearly indicates that compensation leave is an additional benefit granted by the Government in recognition of the extra hours worked by employees. The Government, as a part of policy decision, discontinued the grant of compensation leave to Gazetted Officers as per G.O(P) No.123/2022/Fin dated 07.10.2022 amending Rule (vii), Section III, Appendix VII, Part I KSR. The Government has power to restrict any type of leave to non-gazetted employees. Compensation leave in Appendix-VII of Part-I of the Kerala Service Rules is not permissible to the Heads of the Offices and Gazetted Officers.



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10. Only Gazetted Officers in the Health Sector are excluded from the scope of G.O(P)No.123//2022/Fin dated 07.10.2022, and this exemption is granted in view of the Department's role as an emergency service. Several other Departments including the State Planning Board, Chemical Examiners Laboratory, Animal Husbandry, the Food Safety Department and even the Kerala High Court had sought exemptions, but their requests were not approved. The contention that the Government has granted exemptions to various other Departments is not true. Further a government employee irrespective of their rank/cadre enjoys the leave benefits like Casual Leave, Earned Leave, Half Pay Leave, Commuted Leave along with various special purpose leaves.

11. I have heard the learned counsel for the petitioner, the learned Special Government Pleader (Finance) representing respondents 1 to 3 and the learned Standing Counsel appearing for the 4<sup>th</sup> respondent.





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12. The petitioner is aggrieved by Exts.P4 and P6 communications of the Government of Kerala whereby compensation leave was declined to the Gazetted Officers of the High Court. The Registrar General of the High Court of Kerala sent Ext.P3 request to the Government pointing out that the High Court service being a vacation Department, compensation leave is availed by the Gazetted Officers in lieu of the duty attended mainly during Onam and Christmas holidays.

13. Even though High Court is closed for Onam and Christmas holidays, works of routine nature have to be performed by the staff in both the judicial and administrative sides. In addition, vacation sittings conducted during such holidays demand the usual process of filing, scrutiny, case allocation, issuance of urgent orders, etc. which requires proper supervision from the part of Gazetted Officers. The Registrar General pointed out that though working hours in the High Court is from 10 am to 4.30 pm, most of the



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employees in the Gazetted Cadre put in extra hours of work starting as early from 9 am to late evening. The Registrar General therefore requested the Government to exempt the Gazetted Officers of the High Court from the purview of the GO dated 07.10.2022.

14. The request made by the High Court has been rejected as per Exts.P4 and P6. Exts.P4 and P6 do not consider the reasons on the basis of which exemption was sought by the High Court. Exts.P4 and P6 do not give any reason for declining exemption.

15. In the judgment in ***High Court Employees Welfare Association v. State of W.B.*** [(2004) 1 SCC 334], the Hon'ble Apex Court has held that the Government will have to bear in mind the special nature of the work done in the High Court, which the Chief Justice and his colleagues alone could really appreciate. If the Government does not desire to meet the needs of the High Court, the administration of the High Court will face severe crisis.



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16. ***In Union of India and another v. S B Vohra and others [(2004) 2 SCC 150]***, the Hon'ble Apex Court pointed out that it is the primary duty of the Union of India or the State concerned normally to accept the suggestion made by a holder of a high office like a Chief Justice of a High Court and differ with his recommendations only in exceptional cases. The reason for differing with the opinion of the holder of such high office must be cogent and sufficient.

17. It is therefore evident that recommendations of the Chief Justice should ordinarily be approved by the State and refusal thereof must be for strong and adequate reasons. In this case, respondents 1 to 3 have rejected the proposal made by the Hon'ble Chief Justice holding that they have comprehensively considered the issue and has decided to reject the request. No reason whatsoever has been advanced for rejection.



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18. The object of Article 229 of the Constitution of India is to secure independence of the High Court, which is essential for the working of the democratic form of Government in this country by giving the High Court the absolute control over its staff, subject only to the limitations imposed by Article 229 and free from interference by the Government.

19. In High Court, the functional realities are materially different from other Government Departments. Administrative and judicial work continues even during major holidays such as Onam and Christmas. Even during holidays, vacation sittings are held, which require the full process of filing, scrutiny, allocation of cases, issue of orders and even clearing of pendency. Indexing and processing of disposed files are usually done during this holiday period. The Gazetted Officers of the High Court are required to supervise, coordinate and ensure completion of all such duties.



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20. When the facts being so, respondents 1 to 3 are not justified in rejecting the request made at the instance of the Hon'ble Chief Justice of the High Court, who is the head of the High Court. The request emanated from a constitutional authority exercising absolute control under Article 229 over the conditions of service and functioning of the High Court establishment. The recommendations of the Chief Justice in matters concerning internal administration and functioning of the High Court cannot be disregarded by the Executive.

21. In the afore circumstances, the petitioner is bound to succeed. Exts.P4 and P6 communications are set aside. It is declared that denial of compensatory leave to the Gazetted Officers of the High Court under Ext.P1 is illegal, arbitrary and violative of Article 229 of the Constitution of India. Respondents 1 to 3 are directed to reconsider the proposal of the High Court establishment in strict conformity with the constitutional scheme under Article 229 and in the



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light of the recommendations made by the Hon'ble Chief Justice. Orders in this regard shall be passed within a period of three months.

The writ petition is disposed of as above.

Sd/-

**N. NAGARESH, JUDGE**

aks/21.01.2026



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APPENDIX OF WP(C) NO. 45866 OF 2025

## PETITIONER'S EXHIBITS

|            |                                                                                                                                                          |
|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Exhibit P1 | TRUE COPY OF G.O.(P) NO. 123/2022/FIN DATED 07.10.2022 PUBLISHED AS SRO 969/2022, IN THE EXTRAORDINARY KERALA GAZETTE NO. 3461, VOL. XI DATED 10.10.2022 |
| Exhibit P2 | A TRUE COPY OF THE OFFICIAL MEMORANDUM NO. A8-728/2022 DATED 27.10.2022 ISSUED BY THE 4TH RESPONDENT                                                     |
| Exhibit P3 | A TRUE COPY OF THE LETTER NO. A8-728/2022 DATED 06.12.2022 ISSUED BY THE 4TH RESPONDENT                                                                  |
| Exhibit P4 | A TRUE COPY OF LETTER NO.C2/503/2022-HOME DATED 18.05.2023 ISSUED BY THE 3RD RESPONDENT                                                                  |
| Exhibit P5 | A TRUE COPY OF LETTER NO. HCKL/3198/2022-A8 DATED 17.08.2024 ISSUED BY THE 4TH RESPONDENT                                                                |
| Exhibit P6 | A TRUE COPY OF LETTER NO. C2/503/2022-HOME DATED 19.12.2024 FROM THE 3RD RESPONDENT                                                                      |
| Exhibit P7 | A TRUE COPY OF GO (MS) NO. 231/2023/H&FWD DATED 24.08.2023                                                                                               |
| Exhibit P8 | A TRUE COPY OF GO (MS) NO. 8/2024/H&FWD DATED 13.01.2024                                                                                                 |