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To,

The Hon. Secretary

Second National Judicial Pay Commission,
Vigyan Bhawan, New Delhi

Subject - Request to the second National Judicial Pay Commission to initiate hearing regarding service conditions of judges and for suggesting solutions to remove anomalies in the report of First National Judicial Pay Commission.

Dear Sir,

1. First national judicial pay commission was constituted to give new life support the trial court judiciary. Hon. Justice Shetty mentioned in the report that the commission like this serves as an institutional sieve which protects the courts from political interference through economic manipulation. The First National Judicial Pay Commission made several recommendations to remove the dissatisfaction of the trial court judiciary over burgeoning judicial workload, inadequate compensation, long waiting period for promotions from one cadre to another, want of transparency in the process of promotion and insufficient training. With the passage of time after implementation of recommendations of FNJPC it was noticed that some of the recommendations created adverse effect on the career of judicial officers which is demoralizing the spirit of the judicial officers particularly the judicial officers recruited in the cadre of civil judge

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as they have to go on performing stressful duty of a judge without any hope of getting timely promotion and financial upgradation.

2. Recommendations of FNJPC regarding salary were implemented from 1st of January 1996 which was the date of implementation of recommendations of 5th Central Pay Commission. Recommendations of VI Central pay commission were implemented for the central and State Government employees but not to the judges of trial court judiciary. The All India Judges Association raised this issue before Hon. Apex Court in WP no 2011 of 1989 as the Apex Court has directed to raise all issues recommendations of FNJPC in said petition. Hon. Apex Court directed constitution of one-man committee to consider enhancement of pay and allowances of the judges of trial court judiciary in the light of basic principles laid down in All India judges association vs Union of India. Honorable Supreme Court appointed honourable justice Padmanabhan. Justice Padmanabhan committee worked out enhancement in salary strictly on the basis of recommendations of FNJPC and refuse to consider problems of service conditions contending that it has limited scope of jurisdiction.
3. The members of All India Judges Association are of the view that not only the issue of revision of emoluments and allowances but the issues of upgradation of service conditions and removal of anomalies created by implementation of recommendations of FNJPC are the major issues which required to addressed to lift morale of judges of trial court judiciary and make them more effective to deal with growing challenges of backlogs, mobocracy and media trials. The association was satisfied that these issues can only be addressed by appointment of second National Judicial Pay Commission. The Association therefore filed writ petition no. 643/2015. Honorable Supreme Court by its order dated 09/05/2017 directed Constitution of Second National Judicial Pay Commission with 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 sub-ordinate judiciary all over the country.
 - b. To examine the present structure of emoluments and conditions of service of Judicial Officers in the states and UT's taking into account the total packet of benefits available to them and make suitable recommendations including post-retirement benefits such as pension etc. having regard among other relevant factors, to the existing relativities in the pay structure between the officers belonging to sub-ordinate judicial services vis-a-vis other civil servant and mechanism for redressal of grievances in this regard.
 - c. ... X X X X ...
 - d. To examine the work methods and work environment as also the variety of allowance and benefits in kind that are available in 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. and to remove anomalies created in implementation of earlier recommendations. (emphasis added)

e. To consider and recommend such interim relief as it considers just and proper to all categories of Judicial Officers of all the States/Union Territories. The interim relief, if recommended, shall have to be fully adjusted against and included in the package which may become admissible to the Judicial Officers on the final recommendations of the Commission.

f. To recommend the mechanism for setting up of a permanent mechanism to review the pay and service conditions of members of subordinate judiciary periodically by an independent commission exclusively constituted for the purpose and the composition of such commission should reflect adequate representation on behalf of the judiciary.

4. Honorable Apex Court while directing constitution of SNJPC in WP no. 643 of 2015 referred to the reliefs claimed by the All India Judges Association by mentioning that the petitioners are seeking review of the service conditions of the judicial officers of subordinate judiciary in India including but not limited to pay scales, retirement age, pension and other emoluments. Honorable Apex Court also observed that earlier Shetty Commission has carried such an exercise. The court accepted the request of all the stakeholders that the fresh commission be appointed to undertake similar exercise.

5. When the commission started its functioning, it has declared that it will function in three phases. In first phase it will decide about interim monetary relief as other government servants are already enjoying hike in salary because of implementation of 7th Central pay commission. In the second phase it will decide about pay, allowances and pension and in the third phase the issues regarding service conditions will be considered. During the conferences held by SNJPC for discussions the executives of AIJA from time to time raised the issues of review and upgradation of service conditions and they were reassured by the Commission that the issues regarding service condition will be considered after phase of pay, allowances and pension is completed.

6. The commission now submitted the report regarding pay, pension and allowances. Since March 2000 the country is going through epidemic of COVID-19 and the threat of epidemic looms large. The commission was therefore unable to resume hearing. The manner in which now the things proceeding, many executives of the Association apprehend that the Commission is not going to address the issue of service conditions.

7. The circumstances which create apprehension in the minds of members of the Association are as under,

I. The Commission while submitting report before honourable Supreme Court mentioned that supplemental report will be submitted on Restoration of commuted pension, review at the age of 58 years and utilizing services of the retired judicial officers.

II. The tenure of the Commission is about to end but the Commission has not requested honorable Supreme Court to extend the time of the Commission.

8. As it is mentioned earlier, terms of reference of the commission include review of service condition of the judges and to remove the anomalies created by recommendations of FNIJC. We find it appropriate to refer internationally accepted statements to define service

conditions. International Labour Organization in its paper on "Decent work for Sustainable Development" discussed about working conditions for sustainable development. It is highlighted in the article that working conditions cover a broad range of topics and issues from working time to remuneration, as well as the physical and mental demands that exist in the workplace. As mentioned in the paper working conditions also include employment security, access to different work experiences and systematically address issues of employee's family requirements. Indeed, career guide October 29 2020 issue while discussing about career development mentioned that professional improvement of the employees is important for better performance of the job they are doing and for advancement in their career so also, they can be prepared to adopt to change or take on the responsibilities on promotion. For this purpose, they have to be trained in time management, teamwork, interpersonal skills, flexibility, problem solving, leadership, improve ability to achieve the goals, ability to qualitative listening and to keep patience. Diana Kaemingk Eenadu in her paper published on the web site Qualtrics write about the 10 ways to improve employees' experiences in the company which include improving internal communication, invest in employee's wellness, use employee benefit surveys, employee feedback, offer career development programs, share customer feedback with your employees and provide them managerial training. Considering the above aspects of service conditions and applying it to the judiciary one can say that the aspects of timely promotions, transfers, environment at the workplace, availability of accommodation on reporting to new place of posting, mechanism to secure them from the unwanted blemishing attacks by litigants and advocates, giving them appropriate training, improving the standard of training, which is presently parted to the judges, issue of security of the judges at workplace as well as off the workplace are some of the aspects which are required to be considered while determining service conditions of judges of trial court judiciary.

9.Implementation of recommendations of Shetty commission created some anomalies which are required to be looked into and propose rectification of these anomalies to better service conditions of judges. Few of anomalies are enlisted here,

- i. Period of Promotional opportunities available to civil Judge cadre to District Judge cadre after 7 years of service is delayed and now after implementation of recommendation of FNJPC period required is 15-20 years.
- ii. No promotion from the cadre of Civil Judge to District Judge
- iii. Harmony between two streams of appointees and promotes to the cadre of District Judge is disturbed by creating large difference of age between direct recruits and promotes,
- iv. High court Judges are elevated from bar and bench to have experience at bar and trial court judiciary is available on bench. The issue of proportion is ill addressed by FNJPC keeping open very less opportunities to district judges to get elevation.

- v. FNJPC preferred silence regarding process adopted for elevation. This issue after the episode of NJAC is required to be scrutinize and evolve a process to select meritorious judges and advocates for elevation.
- vi. The issue of inter-se seniority amongst district Judges now also leads to petitions before Hon. Supreme Court by judges from different States. This issue requires fresh recommendations.

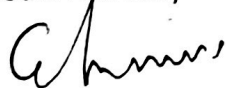
10. These are the few anomalies in recommendations of FNJPC. Many more will be pointed out to the Commission on resumption of hearing.

11. Hon. Justice Pamdanabhan in part VIII an IX of the Committees reports gave list of 53 and 12 demands of the All India Judges Association which are beyond the scope of Jurisdiction of the committee. As stated above SNJPC is full-fledged Commission and it has jurisdiction in view of terms of reference to consider all submissions regarding service conditions of judges of trial court judiciary.

12. In view of the terms of references of the commission second National judicial pay commission has to here are all the stakeholders regarding service conditions of judges by exploring all the topics and assist the trial court judiciary to have better work environment, better safety and timely opportunities of promotions. All these aspects will also improve qualitatively justice delivery mechanism of trial court judiciary and make it more people oriented, more diligent and more effective to remove all the backlogs of dockets.

13. All India Judges association, therefore, request honorable President, honourable Member and honorable Secretary of Second National Judicial Pay Commission to start working on the aspects of betterment of service conditions of judges of trial court judiciary and to remove all the anomalies created by the recommendations of First National Judicial Pay Commission. All India Judges Association also requests the Commission to give the All India Judges Association and all the stakeholders opportunity to submit their submission regarding service conditions and give them patient hearing on all these aspects.

Yours Faithfully



Dr. Ajay Nathani
General Secretary
All India Judges Association

19th Nov. 2020