All India Judges' Association And ... vs Union Of India And Others on 24 August, 1993

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Author: P.B. Sawant

Bench: M.N. Venkatachaliah, A.M. Ahmadi, P.B. Sawant

ORDER

P.B. Sawant, J.

1. These review petitions have been filed by the Union of India and various states raising general objections as well as objections to the specific directions given by this Court vide our judgment dated 13th November, 1991 to improve the service conditions of the members of the subordinate judiciary in the country. The general objections which are common in all the petitions may be summarised as follows:

> [a] As per Articles 233 and 234 of the Constitution, the appointment to the posts of District Judges as well as to the posts other than those of the District Judges under the Judicial Service of the State are made by the Governor of the State. The power to regulate their conditions of service belongs to the executive subject to the legislative control. It is entirely in the purview of the respective State legislature/Government to determine the conditions of service and as such this power given to the State legislature and the State Government is whittled down or curtailed by issuance of the specific directions in this regard by this Court.
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> [b] In S.L. Sachdev and Ors. v. Union of India and Ors. AIR (1981) SC 411 para 13, this Court has laid down that the Court cannot interfere with or change the administrative policy of the Government unless it violates some provisions of the

Constitution such as Article 14 which requires that even an administrative authority must act fairly and treat its employees equally. No such ground was raised in the writ petition.

[c] The respective State Subordinate Judicial Services have service conditions that have been gradually developed and evolved over long years along with the service conditions of other Government services in the States/Union Territories. Any change in the service conditions of the Subordinate Judiciary in isolation, is bound to generate some demands from other services and it may be difficult for the State to resist such demands.

[d] The question of uniformity in service conditions is a question of policy pertaining to the respective State Government which alone are competent to decide on the said issue and such decisions on the issue have various implications and ramifications which have to be determined by the respective State Governments by taking into account its financial limitations.

[e] The directions given by this Court involve a very heavy financial outlay and the State Governments with varying degrees of resources cannot implement the direction without considering and taking into account their own financial resources. Hence it is not possible to bring about uniformity in service conditions as envisaged in the directions given by this Court.

[f] The Stale Governments have constituted from time to time, State Pay Commissions for examining and making appropriate recommendations for revision in pay-scales based on certain criteria, and the basic wage structure varies from State to State. As such it may not be possible to have a uniform basis for pay-scales to the members of the Subordinate Judicial Service in view of the variations in conditions from place to place and from State to State both qualitatively and quantitatively. Hence the feasibility of referring the question of appropriate pay-scales of judicial officers to the State Pay Commissions deserves careful consideration. It may be possible to strive towards uniformity of pay-scales over a period of time with the cooperation of all the States.

[g] A mandatory direction enjoining upon the State to allocate resources to a specific activity would greatly impair the competence of the executive and the legislature to decide relative priorities in respect of the allocation of available resources on developmental and non-developmental activities. Any direction by the Government which involves spending sums out of the Consolidated Fund of the State/Union Territory, would amount to a direction to the State legislature/Parliament for carrying out necessary legislation for relevant appropriation. Such a direction cannot be given by the judiciary to the legislature.

[h] In terms of Article 309 of the Constitution, matters concerning appointment, promotion, terms of conditions of service of the Subordinate Judiciary are to be decided by the State Government/Union Territory Administration subject to such laws as may be passed by the legislature/Parliament. The implementation of the directions given by this Court, is likely to result in an impingement on the constitutional functions and powers of the executive and the legislature.

[i] In the interest of adhering to the constitutional scheme of the division of powers, the directions given by the Court may be converted to recommendations prompting State legislature/governments and the Parliament/Union Government to study them carefully and to introduce the requisite changes on their own in gradual steps.

[j] The function of the higher judiciary is limited to examining whether the means adopted by the State legislature/government are constitutionally valid: Synthetics & Chemicals Ltd. etc. v. State of U.P. and Ors. .

2. To the specific directions given by this Court, the objections are as follows:

[a] To the direction for increasing the retirement age up to 60 years, the objection is that the late entry in the Service is not peculiar to judicial service. There are a number of services like medical, engineering, teaching where entry into Government service is made at a late stage and hence any deviation on the ground of late entry may have implications for other services also. It is contended that in the services where entry is at late stage the interests of the Government servants are protected by allowing a specified number of years to be added to the qualifying service for the purposes of determining the pension.

[b] It is contended that the judiciary alone is not doing the sedentary work. There are services like Central Secretariat Service which also perform the sedentary work and, therefore, the sedentary nature of work may not be a valid consideration for laying down a longer retirement age. It is argued that in arriving at the retirement age, the Government takes into account various factors like the optimum utilization of the experience and the need to provide employment to the younger generation. If the age of retirement of the members of the judiciary is changed on the ground of the late entry and the sedentary nature of the work, the other civil services may also move the Court for such a direction.

If the age of retirement is increased there would be an increase in indirect cost as well, since the pension and the gratuity of the officer would also go up and the amount involved by way of emoluments etc. would also be higher.

[c] The direction to provide residential accommodation, the vehicle and the transport facility, the library facility at the residence, the uniformity in designations and the setting up of the training facilities would call for a substantial investment in the

infrastructure. It is difficult to quantify the financial outlay. By the early 1989, there were nearly 10000 judicial officers all over the country. The accommodation is not available to many of them at present, and at least more than 5000 residential houses may have to be constructed all over the country involving a large capital investment in the region of Rs. 150-250 crores. So is the case, with providing training facilities at the Central and the State/Regional levels which will require considerable financial outlay.

3. To put it shortly, the thrust of the general objections is that the power to prescribe service conditions is vested in the executive and the legislature. The service conditions are a matter of policy and have to be prescribed by taking into consideration the comparative utility of the service, the nature and the quality of the work, the overall availability of the resources, the priorities for allocation of funds etc. It is thus an exclusive function of the executive and the legislature, and the scheme of the devolution of the power envisaged by the Constitution has been deviated from to the extent this Court has by the directions in question prescribed the conditions of service. It has thus impinged upon the field exclusively assigned by the Constitution to the executive and the legislature. There is further nothing distinguishable about the judicial work, and if the directions given by this Court are followed, the other services may demand similar service conditions. That would place a very heavy financial burden on the public exchequer. It is also contended that the financial resources of all the States are not equal and some of the States would be unable to bear the financial burden that is bound to result from the implementation of the direction. What is more, the conditions of work and of employment of the judicial officers differ from State to State. Hence, uniform conditions of service and particularly of pay-scales and of the retirement age are not warranted.

As regards the specific directions, the increase in the retirement age is opposed on the ground that there are different conditions of general employment in different States. It will have repercussions on the other services and also the finances. The implementation of the other directions is resisted mainly on the ground of the financial burden that would be imposed by their implementation.

4. At the outset, it is necessary to note that at the time of the hearing of the Writ Petition, positive representation was given to the Union of Indian and all the States and the Union Territories by issuing notices to them. They were represented through their counsel. Some of them, viz., the States of Orissa, Madhya Pradesh, Rajasthan, Bihar, Haryana, Arunachal Pradesh, Gujarat, Himachal Pradesh, Jammu & Kashmir, Mizoram, Tripura and Goa did not file their counters and took the stand that they would abide by whatever is ultimately decided by the Court. The Union of India filed a counter slating that the issues involved fell within the dominion of the Stales. Some of those which filed counters, viz., the States of Andhra Pradesh, Maharashtra, Uttar Pradesh, West Bengal, Punjab, Karnataka, Assam, Manipur, Meghalaya, Nagaland and Sikkim placed their point of view while others objected to any directions being given. The objection to the enhancement of the superannuation age was mainly on the ground that the superannuation age of the judges fixed in their States was on par with that fixed for the member of the other services. Similarly, the Judges' demand for rent-free accommodation was objected to also on the ground that the rent-free accommodation was not given to the members of the other services and that the house rent

allowance given was sufficient to meet the needs of the Judges. The demand for conveyance to the District Judges was, however, not seriously objected to by any of the States.

It is after considering the counters filed and after hearing the learned Counsel for all the parties, that this Court had pronounced its judgment and given the directions in question. The very same contentions, which are made the grounds of the present Review Petition were advanced at that time and have been dealt with in the judgment under review. Hence the Review Petition Stricto sensu is not maintainable and is liable to be dismissed summarily.

It is not necessary to repeat here what has been stated in the judgment under review while dealing with the same contentions raised there. We cannot however, help observing that the failure to realize the distinction between the judicial service and the other services is at the bottom of the hostility displayed by the review petitioners to the directions given in the judgment. The judicial service is not service in the sense of 'employment'. The judges are not: employees. As members of the judiciary, they exercise the sovereign judicial power of the State. They are holders of public offices in the same way as the members of the council of ministers and the members of the legislature. When it is said that in a democracy such as ours, the executive, the legislature and the judiciary constitute the three pillars of the State, what is intended to be conveyed is that the three essential functions of the Stale are entrusted to the three organs of the State and each one of them in turn represents the authority of the State. However, those who exercise the state-power are the ministers, the legislators and the judges, and not the members of their staff who implement or assist in implementing their decisions. The council of ministers or the political executive is different from the secretarial staff or the administrative executive which carries out the decisions of the political executive. Similarly, the legislators are different from the legislative staff. So also the Judges from the judicial staff. The parity is between the political executive, the legislators and the Judges and not between the Judges and the administrative executive. In some democracies like the U.S.A., members of some State judiciaries are elected as much as the members of the legislature and the heads of the State. The Judges, at whatever level they may be, represent the State and its authority unlike the administrative executive or the members of the other services. The members of the other services, therefore, cannot be placed on par with the members of the judiciary, either constitutionally or functionally.

This distinction between the Judges and the members of the other services has to be constantly kept in mind for yet another important reason. Judicial independence cannot be secured by making mere solemn proclamations about it. It has to be secured both in substance and in practice. It is trite to say that those who are in want cannot be free. Self-reliance is the foundation of independence. The society has a stake in ensuring the independence of the judiciary, and no price is too heavy to secure it. To keep the judges in want of the essential accoutrements and thus to impede them in the proper discharge of their duties, is to impair and whittle away justice itself.

5. So much for the contention of the review petitioners that the direction given by this Court would lead to the demand from the members of the other services for similar service conditions. It is high time that all concerned appreciated that for the reasons pointed out above there cannot be any link between the service conditions of the judges and those of the members of the other services. It is

true that under Article 309 of the Constitution, the recruitment and conditions of service of the members of the subordinate judiciary are to be regulated by the Acts of the appropriate legislature and pending such legislation, the President and the Governor or their nominees, as the case may be, are empowered to make rules regulating their recruitment and the conditions of services. It is also true that after the Council of States makes the necessary declaration under Article 312, it is the Parliament which is empowered to create an AH India Judicial Service which will include posts not inferior to the post of District Judge as defined under Article 236. However, this does not mean that while determining the service conditions of the members of the Judiciary, a distinction should not be made between them and the members of the other Services or that the service conditions of the members of all the Services should be the same. As it is, even among the other Services, a distinction is drawn in the matter of their service conditions. This Court has in the judgment under review, pointed out that the linkage between the service conditions of the judiciary and that of the administrative executive was an historical accident. The erstwhile rulers constituted, only one service, viz., the Indian Civil Service for recruiting candidates for the Judicial as well as the Administrative Service and it is from among the successful candidates in the examination held for such recruitment, that some were sent to the administrative side while others to the judicial side. Initially, there was also no clear demarcation between the judicial and executive services and the same officers used to perform judicial and executive functions. Since the then Government had failed to make the distinction between the two services right from the stage of the recruitment, its logical consequences in terms of the service conditions could not be avoided. With the inauguration of the Constitution and the separation of the State power distributed among the three branches, the continuation of the linkage has become anachronistic and is inconsistent with the constitutional provisions. As pointed out earlier, the parity in status is no longer between the judiciary and the administrative executive but between the judiciary and the political executive. Under the Constitution, the judiciary is above the administrative executive and any attempt to place it on par with the administrative executive has to be discouraged. The failure to grasp this simple truth is responsible for the contention that the service conditions of the judiciary must be comparable to those of the administrative executive and any amelioration in the service conditions of the former must necessarily lead to the comparable improvement in the service conditions of the latter.

6. This leaves us with the contention of the review petitioners that by the directions in question, this Court has encroached upon the powers of the executive and the legislature under Article 309 to prescribe the service conditions for the members of the Judicial Service. In view of the separation of the powers under the Constitution, and the need to maintain the independence of the judiciary to protect and promote democracy and the rule of law, it would have been ideal if the most dominant power of the executive and the legislature over the judiciary, viz., that of determining its service conditions had been subjected to some desirable checks and balances. This is so even if ultimately, the service conditions of the judiciary have to be incorporated in and declared by the legislative enactments. But the mere fact that Article 309 gives power to the executive and the legislature to prescribe the service conditions of the judiciary, docs not mean that the judiciary should have no say in the matter. It would be against the spirit of the Constitution to deny any role to the judiciary in that behalf, for theoretically it would not be impossible for the executive or the legislature to turn and twist the tail of the judiciary by using the said power. Such a consequence would be against one of the seminal mandates of the Constitution, namely, to maintain the independence of the judiciary.

It is for this reason again that the present practice of entrusting the work of recommending the service conditions of the members of the subordinate judiciary to the same Pay Commissions which recommend the service conditions of the other services requires reconsideration. The service conditions of the judicial officers should be laid down and reviewed from time to time by an independent Commission exclusively constituted for the purpose, and the composition of such commission should reflect adequate representation on behalf of the judiciary.

However, it cannot be contended that pending such essential reforms, the overdue demands of the judiciary can be overlooked. As early as in 1958, the Law Commission of India in its 14th report on the System of Judicial Administration in this country made certain recommendations to improve the system. The Commission lamented that "though we have been pouring money into a number of activities, the administration of justice has not seemed to be of enough importance to deserve more financial assistance. On the contrary, in a number of States not only had the administration of justice been starved so as to affect its efficiency, but it has also been made to yield revenue to the State." The report made recommendations in respect of various aspects of the service conditions of the judicial officers and also emphasised that there was no connection between the service conditions of the judiciary and those of the other services. The report further pointed out the salient features of the distinct work of the judges and emphasised the need among others, to increase the salaries and the superannuation age of the Judges as well as to improve the other facilities available to them including the provision for official residential accommodation.

These recommendations were made to improve the system of justice and thereby to improve the content and quality of justice administered by the Courts. The recommendations were made in the year 1958. Over the years the circumstances which impelled the said recommendations have undergone a metamorphosis. Instead of improving, they have deteriorated making it necessary to update and better them to meet the need of the present times.

Although the report made the recommendations in question to further the implementation of the Constitutional mandate to make proper justice available to the people, the mandate has been consistently ignored both by the executive and the legislature by neglecting to improve the service conditions. By giving the directions in question, this Court has only called upon the executive and the legislature to implement their imperative duties. The Courts do issue directions to the authorities to perform their obligatory duties whenever there is a failure on their part to discharge them. The power to issue such mandates in proper cases belongs to the Courts. As has been pointed out in the judgment under review, this Court was impelled to issue the said directions firstly because the executive and the legislature had failed in their obligations in that behalf. Secondly, the judiciary in this country is a unified institution judicially though not administratively. Hence uniform designations and hierarchy, with uniform service conditions are unavoidable necessary consequences. The further direction given, therefore, should not be looked upon as an encroachment on the powers of the executive and the legislature to determine the service conditions of the judiciary. They are directions to perform the along overdue obligatory duties.

The contention that the directions of this Court supplant and bypass the constitutionally permissible modes for change in law, we thinks, wears thin if the true nature and character of the directions are

realised. The directions are essentially for the evolvement of an appropriate national policy by the Government in regard to the judiciary's condition. The directions issued are mere aids and incidental to and supplemental of the main direction and as a transitional measure till a comprehensive national policy is evolved. These directions, to the extent they go, are both reasonable and necessary.

The contention with regard to the financial burden likely to be imposed by the direction in question, is equally misconceived. Firstly, the Courts do from time to time hand down decisions which have financial implications and the Government is obligated to loosen its purse recurrently pursuant to such decisions. Secondly, when the duties are obligatory, no grievance can be heard that they cast financial burden. Thirdly, compared to the other plan and non-plan expenditure, we find that the financial burden caused on account of the said directions is negligible. We should have thought that such plea was not raised to resist the discharge of the mandatory duties. The contention that the resources of all the States are not uniform has to be rejected for the same reasons. The directions prescribe the minimum necessary service conditions and facilities for the proper administration of justice. We believe that the quality of justice administered and the caliber of the persons appointed to administer it are not of different grades in different States. Such contentions are ill-suited to the issue involved in the present case.

7. Coming now to the specific directions given in the judgment under review -

[i] All India Judicial Services : The objection of the review petitioners to the direction to set up the All India Judicial Service is that it would eliminate chances and scope for prescribing service conditions of the judicial officers in conformity with the local need, which is the intention of the Constitution. The second objection is that the service conditions of the judicial officers should be identical to those of the members of the other services in the same State and not to those of the judicial officers of the other States. The last objection is that the matter has to be considered by the Union of India in consultation with the other states and it pertains to the executive policy which cannot be dictated by this Court.

These objections ignore the fact that while giving the said direction, this Court has only reiterated the view expressed by the Law Commission in its 14th report and in paragraph 12 of the judgment has specifically observed that "we do not intend to give any particular direction on this score particularly when the point was not seriously pressed. But, we would commend to the Union of India to undertake appropriate exercise quickly so that the feasibility of implementation of the recommendations of the Law Commission may be examined expeditiously and implemented as early as possible. It is in the interest of the health of the judiciary throughout the country that this should be done." This being the case, it is for the Union of India if it is so advised to take the initiative in the matter in the light of the discussion and recommendations of the Law Commission where all the objections which are now taken in the review petition have been fully dealt with by the Commission. If and when the Union of India takes such an initiative, the procedure for the formation of the All India Service as provided in Article 312 of the Constitution will have to be followed. The objections now taken would be of no relevance if the Council of States by resolution supported by no less than two-thirds of its members present and voting declares that such a service

should be created, it being necessary and expedient in the national interest to do so. In that case, the Parliament will have to provide for the creation of such service. The law creating the service will also regulate the recruitment and the service conditions of the persons appointed to the service. The service however, will provide for the post not inferior to that of the District Judge as defined under Article 236. Hence, the judges holding posts below that of the District Judge would not be members of such All India Service and the service conditions of (he said judges will continue to be determined as before, by the States executive and the legislature. For the reasons pointed out earlier, even the service conditions of such judges will have to be different from those of the members of the other services, and to achieve the uniformity in the service conditions, there will have to be a parity in the service conditions of such judges in all the States. Much of the misconceptions underlying the demand for review on this point, would, however, stand dispelled if the essentially recommendatory nature of the directions is realised and appreciated.

[ii] Uniform Hierarchy and Designation : There is no serious objection raised by the review petitioners to have uniform hierarchy and give uniform designations to the judicial offices in the different States and the Union Territories and to confer on them uniform jurisdiction as directed by this Court. Hence it is presumed that the said suggestion has been accepted by them. If this is so, then unless it is contended that the nature and the quantum of work performed by the judicial officers of the different States varies, it is not understood how the other directions which are given by this Court to achieve uniformity in the service conditions can be seriously resisted. As pointed out earlier, even the ground that the financial capacities of the different States/Union Territories vary is not available since the directions conceive the minimum essential facilities. It is a settle proposition of law that the minimum service conditions will have to be ensured irrespective of the capacity to fund them. The law should apply proprio vigore in the case of the minimum service conditions of the judiciary.

It has, however, become imperative, in this connection, to take notice of fact that the qualifications prescribed and the procedure adopted for recruitment of the judges at the lowest rung are no uniform in all the States. In view of the uniformity in the hierarchy and designations as well as the service conditions that we have suggested, it is necessary that all the States should prescribe uniform qualification and adopt uniform procedure in recruiting the judicial officers at the lowest rung in the hierarchy. In most of the States, the minimum qualifications for being eligible to the post of the Civil Judge-cum-Magistrate First Class/Magistrate First Class/Munsiff Magistrate is minimum three years' practice as a lawyer in addition to the degree in law. In some States, however, the requirement of practice is altogether dispensed with and judicial Officers are recruited with only a degree in law to their credit. The recruitment of law graduates as judicial officers without any training or background of layering has not proved to be a successful experiment. Considering the fact that from the first day of his assuming office, the judge has to decide, among others, question of life, liberty, property and reputation of the litigants, to induct graduates fresh from the Universities to occupy seats of such vital powers is neither prudent nor desirable. Neither knowledge derived from books nor pre-service training can be an adequate substitute for the first-hand experience of the working of the court-system and the administration of justice begotten through legal practice. The practice involves much more than mere advocacy a lawyers has to interact with several components of the administration of justice. Unless the judicial officer is familiar with the working of the said

components, his education and equipment as a judge is likely to remain incomplete. The experience as a lawyer is, therefore, essential to enable the judge to discharge his duties and functions efficiently and with confidence and circumspection. Many States have hence prescribed a minimum of three years' practice as a lawyer as an essential qualification for appointment as a judicial officer at the lowest rung. It is, hence, necessary that all the States prescribe the said minimum practice as a lawyer as a necessary qualification for recruitment to the lowest rung in the judiciary. In this connection, it may be pointed out that under Article 233(2) of the Constitution, no person is eligible to be appointed a District Judge unless he has been an advocate or a pleader for no less than seven years while Articles 217(2)(b) and 124(3)(b) require at least ten years' practice as an advocate of a High Court for the appointment of a person to the posts of the Judge of the High Court and the Judge of the Supreme Court, respectively. We, therefore, direct that all States shall take immediate steps to prescribe three years' practice as a lawyer as one of the essential qualifications for recruitment as the judicial officer at the lowest rung.

As regards the procedure adopted for recruiting judicial official officers at the lowest rung, in some Slates, the recruitment is done by the High Courts whereas in others, it is done by the Public Service Commission. Even where the recruitment is done by the Public Service Commission, there is a diversity of practice in that in some States, a representative of the High Court who is mostly a sitting Judge of the Court sits in the Committee as one of its members to interview the candidates. In other States, the representative of the High Court is not even invited for interviewing the candidates. In the latter class of cases, it may happen and in fact, it does very often happen that none of those who interview the candidates are even qualified in law. Again in some States, the opinion of the representative of the High Court when the participates in the selection process, is not given a special weight while in others, it is accorded predominant consideration. The decision of this Court in D.R. Chaudhary, Member and Ors. v. Ashok Kumar Yadav and Ors. , has already stated the correct position of law on the subject both with regard to the obligation to invite the High Court's representative to participate in the selection process and the weight age to be given to the opinion of such representative with regard to the suitability of the candidates. We may do no better than reproduce here the relevant part of that decision.

We would also like to point out that in some of the States, and the State of Haryana is one of them the practice followed is to invite a retired Judge of the High Court as an expert when selections for recruitment to the judicial Service of the State are being made and the advice given by such retired High Court Judge who participates in the viva voce test as an expert is sometimes ignored by the Chairman and members of the Public Service Commission. This practice is in our opinion undesirable and does not commend itself to us. When selections for the Judicial Service of the State are being made, it is necessary to exercise the utmost care to see that competent and able persons possessing a high degree of rectitude an integrity arc selected, because if we do not have good, competent and honest Judges, the democratic polity of the State itself will be in serious peril. It is, therefore, essential that when selections to the Judicial Service arc being made, a sitting Judge of the High Court to be nominated by the Chief Justice of the State should be invited to participate in the interview as an expert and since such sitting judge comes as an expert who, by reason of the fact that he is a sitting High Court Judge, knows the quality and character of the candidates appearing for the interview, the advice given by him should ordinarily be accepted, unless there are strong and

cogent reasons for not accepting such advice and such strong and cogent reasons must be recorded in writing by the Chairman and members of the Public Service Commission. We are giving this direction to the Public Service Commission in every State because we are anxious that the finest talent by having a real expert whose advice constitutes a determinative factor in the selection process.

To the above observations, we may add that the separation of the judiciary from the executive, as ordained by Article 50 of the Constitution, also requires that even the judicial appointments at the owe rung are made in consultation with the High Court. If the Judicial stream is polluted at its very inception, the independence of judiciary will remain in jeopardy, for ever.

To ensure uniform practice in selecting judicial officers, therefore, we direct that in all cases, where the selection of the judicial officers is made by the Public Service Commission, the representative of the High Court shall be one of the members of the Selection Committee and the opinion given by him with regard to the suitability of the candidate shall not be discharged unless there are strong and cogent reasons for not accepting the opinion, which reasons must he recorded in writing.

It should be remembered that both the directions given above, viz., prescription of minimum legal practice of three years as an essential qualification to he eligible for being appointed as a judicial officer and the obligation to invite the representative of the High Court to participate in the selection process and to accord his advice dominating weight are calculated to ensure recruitment of competent, independent and honest judicial officers and thus to strengthen the administration of justice and the confidence of public in it. The States should, therefore, take immediate steps to comply with the said directions by amending the relevant Rules. [iii] Superannuation Age : The objection to the direction for enhancement of the superannuation age of all the subordinate judicial officers up to 60 years, is firstly on the ground that the determination of the superannuation age is a matter of policy of the executive and hence the said direction is in violation of the basic structure of the Constitution which envisages separation of powers between the three organs of the State. The further objection is that the distinction made between the members of the judicial service and those of the other services on the ground of the late entry into the service and the sedentary nature of the work of the former is an error on the face of the record. It is contended that members of the other services like the College Teachers, Doctors, Engineers, have also to spend longer period in acquiring qualifications required for appointment to their respective services and almost all officers around the age of superannuation reach the highest level and usually carry on sedentary duties.

This argument misses the point that the longer period required for acquiring the necessary academic qualifications is only one of the grounds on which the enhancement of the superannuation age is directed. Even after the acquisition of the relevant academic qualifications, a minimum practice at the Bar is in most of the States, a pre-requisite for recruitment to the post of the judge even at the lowest level. There is no such waiting period for the candidates of the other services after the acquisition of the academic qualifications. Thus the judicial officer enters the service at a relatively higher age than the member of the other services. Secondly, as observed by the Law Commission in its 14th report, the judicial service stands by itself in the matter of the age of retirement by reason of the great importance of a long experience and a mature mind in the judicial office. The recognition

of such importance has led most countries to prescribe a much higher age for the retirement of judicial personnel as compared with that of the personnel in other services. In England, the judicial service is governed by special rules both in regard to the emoluments and the age of retirement. While the civil servants retire at the age of 60 years, the County Court judges and Metropolitan Magistrates retire at 72. In our country also the tenure and other terms and conditions of service of the Supreme Court and the High Court Judges stand out from those relating to the administrative service. Lastly, we cannot shut our eyes to the reality that on account of the sizeable earnings at the Bar, many times out of proportion to the skill and the labour put in, the competent lawyers are reluctant to accept the judicial posts. There is thus a dearth of proper talent available to man the judicial service. It is, therefore, for the health of the administration of justice that attractive service conditions including a higher retirement age, is prescribed for the members of the judiciary. For the same reason, it is necessary that whatever trained talent is available is utilised for as long a period as is feasible.

There is also no similarity in the nature of the sedentary work done by the judge and the members of the other services. The sedentary work is mainly of two types - mechanical and creative. Each case coming before the judge has its own peculiarities requiring application of fresh mind and skill. The judge has constantly to be a creative artist. His work, therefore, requires constant thinking and display of talent. The exertions involved in the duties of the judge cannot be compared with the duties of other services. Thus, looked at from any angle, there is need to increase the superannuation age of the judges as compared to that of the members of the other services. This is apart from the fact that as has been repeatedly pointed out earlier, it is fallacious to compare the judicial service with other services for any purpose, since the judicial service by its very nature stands on a different footing and should be treated as such.

What is further, while directing the enhancement of the superannuation age to 60 years, this Court had taken into consideration the fact that the age of retirement in different States varied from 55 to 60 years. Secondly, the age of retirement for the High Court Judges was in the meanwhile increase from 60 to 62 years. The age of retirement of the Supreme Court Judges is 65 years. If the nature and the magnitude of work done by the judicial officers all over the country is the same and if further the members of the higher judiciary, who have to discharge more onerous workload do it efficiently even that still higher age, there is no reason why in view of the shortage of the proper talent, the age of retirement of the members of the subordinate judiciary should not be increased to 60 years. The said retirement age is prevalent in some of the States for some of the judicial posts. The only reason why the age of superannuation of the judicial officer is at present kept at 55 or 58 is the misconceived requirement of the parity of service conditions between those of the judicial officers and the members of the other services. That consideration, as pointed out earlier, being both irrelevant and erroneous must fail.

The alleged financial burden that would be thrown on the State-exchequer on account of the enhancement of the superannuation age as a result of the payment of the maximum salary in the pay scale to the officers for a further period of 2 or 5 years as the case may be, and on account of the higher outlay on their retrial benefits, is negligible considering the enormous advantage that the administration of justice and the society at large would derive from the enhancement in the age of

retirement. The additional financial outlays have also to be weighed against those occasioned by the training of the new recruits, comparatively lower and slower rate of disposal of cases, higher rate of incorrect decisions and the consequent more number of appeals etc. Further, a simple arithmetical exercise would show that there is in fact little extra financial outlay involved. For, as against the payment of the maximum salary for another 2 or 5 years as the case may be, we have to calculate, for that period, the salary of the new recruit and the pension of the incumbent. The further contention that it would affect the employment conditions in different States is equally misconceived since all over India there are not more than about 10,000 judicial posts and most of the judicial officers after their retirement come to be appointed to the quasi-judicial or administrative tribunals. Thus, we see no merit in any of the objections to the enhancement of the retiring age.

There is, however, one aspect we should emphasise here. To that extent the direction contained in the main judgment under review shall stand modified. The benefit of the increase of the retirement age to 60 years, shall not be available automatically to all judicial officers irrespective of their past record of service and evidence of their continued utility to the judicial system. The benefit will be available to those who, in the opinion of the respective High Courts, have a potential for continued useful service. It is not intended as a windfall for the indolent, the infirm and those of doubtful integrity, reputation and utility. The potential for continued utility shall be assessed and evaluated by appropriate Committees of Judges of the respective High Courts constituted and headed by the Chief Justices of the High Courts and the evaluation shall be made on the basis of the judicial officers' past record of service, character rolls, quality of judgments and other relevant matters.

The High Court should undertake and complete the exercise in case of officers about to attain the age of 58 years well within time by following the procedure for compulsory retirement as laid down in the respective Service Rules applicable to the judicial officers. Those who will not be found fit and eligible by this standard should not be given the benefit of the higher retirement age and should be compulsorily retired at the age of 58 by following the said procedure for compulsory retirement. The exercise should be undertaken before the attainment of the age of 58 years even in cases where earlier the age of superannuation was less than 58 years. It is necessary to make it clear that this assessment is for the purpose of finding out the suitability of the concerned officers for the entitlement of the benefit of the increased age of superannuation from 58 years to 60 years. It is in addition to the assessment to be undertaken for compulsory retirement and the compulsory retirement at the earlier stage/s under the respective Service Rules.

The enhancement of the superannuation age to 60 years coupled with the provision for compulsory retirement at the age of 58 years does introduce a change in the service condition of the existing personnel. There may be judicial officers who are not desirous of availing of the benefit of the enhanced superannuation age with the condition of compulsory retirement and may like to opt for retirement at the age of 58 years. In such cases, the concerned officers should intimate in writing their desire to retire at the age of 58 years well in advance and in any case before they attain the age of 57 years. Those who do not do so will be deemed to have exercised their option to continue in service till they attain 60 years of age subject to the liability of being retired compulsorily at the age of 58 years according to the procedure for compulsory retirement laid down in the Service Rules.

Those who have already crossed the age of 57 years and those who will cross the age of 58 years soon after the date of this decision, will exercise their option within one month from the date of this decision. If they do not so, they will be deemed to have opted for continuing in service till the age of 60 years. In that case, they will also be subjected to the review for compulsory retirement, if any, notwithstanding the fact that there was not enough time to undertake such review before they attained the age of 58 years. However in their case, the review should be undertaken within two months from the date of the expiry of the period given to them above for exercising their option and if found unfit, they should be retired compulsorily according to the procedure for compulsory retirement under the Rules.

Since those who have already crossed the age of 58 years have had no benefit of exercising their option to retire earlier and the point of time at which their assessment could be undertaken for compulsory retirement, if any, has also passed, it is not considered proper to subject them to the review for compulsory retirement at this stage. They may, therefore, be given the benefit of the enhanced superannuation age of 60 years without subjecting them for such review.

[iv] Uniform Pay Scales: In the first instance, it is necessary to recapitulate here the observations made and the directions given in the judgment under review on the question of the uniform pay scales. The Court had found from the data before it that there was a wide variance in the pay structure prevailing in the various States and Union Territories, and for the same nature of work performed, the judicial officers were remunerated differently. However, the Court found that it was difficult to get into the exercise of fixing appropriate pay scales in the absence of full details. In the absence of such data, there was a likelihood of affecting special benefits which the judicial officers may be getting in some States. The Court, therefore, declined to direct fixation of any pay scales. Instead, the Court directed the Pay Commissions or the Committees to be set up in the States and the Union Territories to separately examine and review the pay structure of judicial officers keeping in view that relevant aspects some of which have been adverted to in the 14th Report of the Law Commission. The relevant passage from the said report which has been quoted in the judgment highlights that the entry in the judicial service is late compared to the entry into executive service and the promotions in the judicial service come less quickly. Both these factors affect the judicial officers' pension and other retirement benefits compared to those of the members of the executive service.

We have already discussed the need to make a distinction between the political and the administrative executive and to appreciate that parity in status can only be between judges and the political executive and not between judges and the administrative executive. Hence the earlier approach of comparison between the service conditions of the judges and those of the administrative executive has to be abandoned and the service conditions of the judges which are wrongly linked to those of the administrative executive have to be revised to meet the special needs of the judicial service. Further, since the work of the judicial officers throughout the country is of the same nature, the service conditions have to be uniform. We have also emphasised earlier the necessity of entrusting the work of prescribing the service conditions for the judicial officers to a separate Pay Commission exclusively set up for the purpose. Hence we reiterate the importance of such separate commission and also of the desirability of prescribing uniform pay scales to the judges

all over the country. Since such pay scales will be the minimum deserved by the judicial officers, the argument that some of the States may not be able to bear the financial burden is irrelevant. The uniform service conditions as and when laid down would not, of course, affect any special or extra benefits which some States may be bestowing upon their judicial officers.

[v] Allowances: By the judgment under review, this Court had directed two separate allowances to be given, viz., Residential office-cum-library allowance to all the subordinate judges, and Sumptuary allowance to district judges and chief judicial magistrates.

The reasons which prompted this Court to direct the grant of residence-cum-library allowance to every judicial officers was that it was found that there was no provision for a judges' library in most of the Courts of the subordinate judicial officers. As a result, they have either to depend upon the library maintained by the Bar, if any, or to go without the assistance of the books. At many places, particularly, at the taluk/tehsil level, there is not even an adequate Bar library available. It is difficult to understand the attitude of the State Governments towards the provision of the facility of law books and journals to the judges when the judges' whole duty consists of interpreting the law and applying it to the facts before them. It is like asking the artisans to work without their tools. The law books, not to speak of the other books, are the essential tools of the judges. The minimum that is expected of the State is to provide every court with the up-to-date texts of and commentaries on the relevant statutes and the law journals which report decisions of the High Courts and the Supreme Court, for the exclusive use of the judges. Since the Governments consistently failed to provide this primary facility to the Courts, it became necessary for this Court to direct the payment of Rs. 250 per month to Civil Judge [Junior Division] and Civil Judge [senior division] and Rs. 300 per month to officers of the higher category as residential office-cum-library allowance. We have been unable to understand the objection to the grant of the said allowance. The duty of the Slate towards the administration of justice is not discharged by appointing judges who are also rarely appointed in time and in requisite number. But that is a different aspect. To enable the judges to perform their duties properly and efficiently, they must also be provided with all the facilities. For want of even the minimum facilities such as the law books and journals, the cause of justice is bound to suffer.

The only alternative to the grant of the allowance in question is for the Governments themselves to undertake to supply to every court the necessary books and journals. If more than one Court is located at the same place, one set of such books and journals, depending upon the number of Courts, may be sufficient. The books and journals to be supplied to the Courts may be determined in consultation with the respective High Courts. The books and journals will than remain in the concerned Courts instead of travelling with the judges. We would in fact commend to the respective Governments this alternative course in place of the allowance in question to the individual judges.

The direction to give sumptuary allowance to the District Judge in his capacity as the principal judicial officer of the concerned district and to the Chief Judicial Magistrates at the rate of Rs. 300 and Rs. 700 per month respectively was in consideration of the fact that they had to hold monthly meetings with the Collector, District Magistrate and Superintendent of Police etc., and also to meet the judicial officers, working under them as well as the members of the Bar, occasionally. In such meetings, they are expected to extend small courtesies. It is now represented that whenever official

meetings are held, there is a provision which enables the District Judge as well as the Chief Judicial Magistrate to spend from the amounts at the disposal of the Court. In view of this, we rescind the said directions. However, we make it clear that the sumptuary allowance, if already paid to the District Judges and the Chief Judicial Magistrates, should not be recovered from them.

[vi] Provision for residential accommodation: In the directions given, This Court has emphasised that the judicial officers cannot be left without proper accommodation for any length of time. Secondly, the accommodation available to the judicial officer must be adequate and consist also of a separate and exclusive office-cum-study room as an indispensable component of such residence. Thirdly, it was pointed out that in the absence of official residences, the judicial officers are required to pay exorbitant rent out of proportion to their salaries. Lastly, it was emphasised that in the pool of the Government accommodation which is available in any town, the judiciary gets the last priority. The Governments have not so far shown any keen awareness of the problems faced by the judges for want of accommodation and of the manner in which it affects the discharge of their duties. It is for these reasons that it was suggested that the Government should give top priority to the provision of residential accommodation to the judges and construct enough houses with the requisite facilities.

It is difficult to understand the objections raised by the review petitioners to the said direction. The attitude adopted by the petitioners itself bears out that the Governments are not at all keen on providing proper residential accommodation to the members of the judiciary and justifies the necessity to give the said direction. On the admission of the review petitioners, there is at present a shortage of about 5000 houses. This means that about 50 per cent of the judicial officers are facing trials and tribulations for want of proper accommodation at rentals within their means. The estimated expense of Rs. 150 to 200 crores for constructing the said houses which is to be incurred by all the States and the Union Territories is according to us not forbidding even assuming that the estimate is.

We now understand that the judiciary has been included as plan subject by the Planning Commission. If this is so, the construction of adequate number of houses with the necessary facilities should be given the top priority being the most primary requirement of the judges at any place. The provision of houses rent allowance is not an answer much less a substitute for the adequate housing facility. In the judgment under review, it had been specifically emphasised that the provision of a separate and exclusive office room is an indispensable component of the official accommodation allotted to the judicial officer. In order to ensure that the quarters constructed for the judicial officers are of proper dimension and with adequate number of rooms, their future construction should be made in consultation with and under the supervision of the respective High Court and the High Court should take adequate interest in their construction.

It may be noted in this connection that the direction is not to provide rent-free housing accommodation but accommodation at a rental not exceeding 12-1/2 per cent of the salary of the occupant. We, therefore, reiterate the said direction and reject the objections of the petitioners.

[vii] The provision of conveyance, loans for conveyance and conveyance allowance: It has been pointed out in the judgment under review that in most of the States the District Judge has been provided with a motor car and in some of the States the Chief Judicial Magistrate is also provided with transport whether car or a Jeep. It is only in some States that the car is not provided for every District Judge. The need for such car both to the District Judge and the Chief Judicial Magistrate is also pointed out in the judgment. Both of them have to undertake touring in their District to supervise the work of the Judges and Magistrates working under them. They are not expected to undertake the touring either by public transport or by transport borrowed from the Government departments which is on many occasions not available when needed. What is further, the reliance on the Government departments for transport itself makes them supplicant which from the point of view of the judicial independence is undesirable. Further, the conveyance provided to them is meant to be used strictly for official purpose. Since for reasons more than one, there is a need to minimise the contacts between the judges and the public and particularly to avoid their being exposed to physical risks at the hands of the dissatisfied litigants, their traveling by the same public conveyance by which the litigants and their witnesses travel, has to be avoided. Hence, the direction given is also for a pool vehicle for other judicial officers in sets of 5 and failing that for a loan on suitable terms to enable the judges to acquire at least two wheeler automobiles. In this context, the direction to construct official residences for Judges at one place becomes more relevant. The judges can then travel by the same vehicle from and to the Court. The provision of the conveyance allowance is no substitute for an independent conveyance. As has been rightly pointed out "It is impossible for a Judge to discharge his functions properly if he knows that during the day he will sit on the Bench with a prisoner in the dock before him and later in the evening he may have to sit side by side with the same prisoner in the public transport." In the circumstances the necessity to distance the Judges from the public needs no emphasis. Amidst the growing cult of violence today, it has become imperative. Fortunately, we do not find much opposition to this direction and we learned that most of the States have by now carried out the same.

However, a doubt has been expressed as to whether all District Judges posted at one place such as the judges of the City Civil and Sessions Courts are each entitled to an independent vehicle. It is, therefore, necessary to make it clear that the direction given in the judgment under review is for providing vehicle to the Principal District Judge at the district headquarters including the metropolitan towns. The provision for an independent vehicle to such principal officer is linked with the inspection work which he has to carry out. Hence, whether it is at the district headquarters or in the metropolitan town, it is only the Principal District Judge or the Principal Judge as the case may be, who would be entitled to such independent conveyance. All other District Judges whether at the district headquarters or in the metropolitan town would only be entitled to the pool vehicle on the basis of one vehicle for 5 Judges for their conveyance from their residences to Court and back.

Where for some reason, the judges other that the District Judge cannot be provided with a pool vehicle or where they desire loan for purchasing two wheeler automobiles, there is no reason why they should not be given such loans on suitable terms and also the conveyance allowance.

We are further informed that where the motor-vehicles are provided to District Judges/Principal Judges of the City Civil Courts/Chief Judicial Magistrates and the pool vehicles to others, they are

not provided with petrol in some States. This is an incomplete compliance with our direction. We, therefore, also direct that in all such cases, the State Governments should make arrangements to provide free adequate quantity of petrol for the said vehicles subject to the maximum of 100 liters per month depending upon the distance from the court to the residence in residence in respect of the pool vehicles and the vehicles provided for the Principal Judges of City Civil Courts and the size of the district and the distances of the Courts to be inspected by the District Judges and the Chief Judicial Magistrates in respect of the cars provided to them. The State Governments should fix the quantum of petrol to be provided in consultation with the respective High Courts.

[viii] In-service Training: Subsequent to the hearing of the main petition, the Union Government has announced the establishment of a National Judicial Academy for comprehensive training of judicial personnel. A Committee under the chairmanship of the Chief Justice of India has been constituted. The National Judicial Academy when constituted, we hope, will take over in a comprehensive way all aspects of the training of judicial officers at all stages. In this view of the matter, we delete the directions issued to the States for the establishment of Training Institutes and make it optional for the States to have such Training Institutes either independently or jointly with other States, if they find it necessary.

8. Having dealt with the objections of the review petitioners to the directions in general as well as to the specific directions, it would be appropriate to remind all concerned of the distinct nature of the duties that a judge is called upon to discharge, the society's expectations of the conduct of the judge, the lifestyle of the judge, the occupational hazards to which he is exposed and of the need to keep judges above their essential wants. We can do no better than to quote in this behalf, relevant excerpts from David Pannick book "Judges", after omitting those which have already been referred to earlier. Although the observations made there are in the context of English judges, they are equally, if not more, applicable to the judges in this country:

> The reasons which judges must give to justify their decisions can be gnawed over at their leisure by the teams of lawyers trained [and generously paid] to extract for the purpose of an appeal, every morsel of error... The judge has 'the burden of resolving, day after day and week after week, a long succession of issues, each one of which occupies the professor-critic for months and even years of specialized study'.
>
> The English judge has no clerks or assistants to research or write his judgments. The barristers who argue the case before him will 'vary much in there ability'. Sometimes they help but often they may be a hindrance to the just determination of the issues....
>
> The judge has burdensome responsibilities to discharge. He has power over the lives and livelihood of all those litigants who enter his court... His decisions may well affect the interests of individuals and groups who are not present or represented in court. If he is not careful, the judge may precipitate a civil war... or he may accelerate a revolution... He may accidentally cause a peaceful hut fundamental change in the political complexion of the country.

Judges today face tribulations, as well as trials, not contemplated by their predecessOrs... Parliament has recognised the pressures of the job providing that before the Lord Chancellor recommends anyone to the Queen for appointment to the Circuit Bench, the Lord Chancellor 'shall take steps to satisfy himself that the person's health is satisfactory'... This seems essential in the light of the reminiscences of Lord Roskill as to the mental strain which the job can impose... Lord Roskill added that, in his experience, 'the work load is intolerable: seven days week, 14 hours a day....

Only in England could the vocation of the Judge be described as 'something like a priesthood' or 'analogous to the Royal Family', requiring practitioners to 'seclude themselves' in various ways....

The England we expect the judge to adopt a respectable lifestyle, free from any hint of the unusual, let alone the deviant.

In 1950 a Member of Parliament...recommendation an even greater degree of judicial isolation... So effective is the isolation of our judiciary that the personalities and characteristics of our judges are unknown to laymen....

The English judge ensures in a quite but effective manner that his pay accords with his status. He avoids the public display of militancy... Judge rank Coffin of the US Court of Appeals complained in l985 about the inadequacy of 'compensation' for judges. In the previous few years, he lamented, judicial salaries had become so insufficient that only the mediocre or the wealthy would henceforth be willing to lake judicial appointments. Perhaps disappointing pay levels help to explain why a clinical psychologist was helping judges in Massachusetts to cope with stress.... He also provided counselling to enable the retired judge 'to maintain self-esteem'....

He [judge] is a symbol of that strange mixture of reality and illusion, democracy and privilege, humbug and decency, the subtle network of compromises, by which the nation keeps itself in its familiar shape.

The qualities desired of a judge can be simply stated: 'that if he be a good one and that he be thought to be so'. Such credentials are not easily acquired. The judge needs to have 'the strength to put an end to injustice' and 'the faculties that are demanded of the historian and the philosopher and the prophet'.

It is unlikely that men and women will ever cease to wound, cheat, and damage each other. There will always he a need for judges to resolve their disputes in an orderly manner. As people grow ever less willing to accept unreservedly the demands of authority the judiciary, like other public institutions, will be subjected to a growing amount of critical analysis. The way in which 'Judge & Co.' is run is a matter of public interest and will increasingly become a matter of public debate.

9. It will also be relevant to quote what the Law Commission in its 14th report had to say in connection with the work of the judicial officers - "The great responsibility of the work which a judicial officer is called upon to discharge needs no emphasis... Judicial integrity is on the greatest importance and to expect persons discharging responsible functions to live on law salaries not commensurate with their office and responsibility is unrealistic and ignores present day living conditions. Elsewhere, we have also dealt with the difficulties which judicial officers, as a class, have to face in the matter of securing residential accommodation and how, in some parts of the country, a very high percentage of their salary has to be spent towards house rent alone. Considering these facts and circumstances, we are of the view that the scales of pay should he substantially higher than it is at present in order to enable an officer to maintain a proper standard of living and avoid obligations which may be embarrassing to him in the discharge of the duties....

10. To some up, we hold as follows.

[a] The legal practice of three years should he made one of the essential qualifications for recruitment to the judicial posts at the lowest rung in the judicial hierarchy.

Further, wherever the recruitment of the judicial officers at the lowest rung is made through the Public Service Commission, a representative of the High Court should he associated with the selection process and his advice should prevail unless there are strong and cogent reasons for not accepting it, which reasons should he recorded in writing The rules for recruitment of the judicial officers should be amended forthwith to incorporate the above directions.

[b] The direction with regard to the enhancement of the superannuation age is modified as follows:

> While the superannuation age of every subordinate judicial officer shall stand extended up to 60 years, the respective High Courts should, as stated above, assess an evaluate the record of the judicial officer for his continued utility well within time before he attains the age of 58 years by following the procedure for the compulsory retirement under the service rules applicable to him and give him the benefit of the extended superannuation age from 58 to 60 years only if he is found fit and eligible to continue in service. In case he is not found fit and eligible, he should be compulsorily retired on his attaining the age of 58 years.
>
> The assessment in question should be done before the attainment of the age of 58 years even in cases where the earlier superannuation age was less than 58 years.
>
> The assessment directed here is for evaluating the eligibility to continue in service beyond 58 years of age and is in addition to and independent of the assessment for compulsory retirement that may have to be undertaken under the relevant Service rules, at the earlier stage/s.
>
> Since the service conditions with regard to superannuation age of the existing judicial officers is hereby changed, those judicial officers who are not desirous of availing of

the benefit of the enhanced superannuation age with the condition for compulsory retirement, at the age of 58 years, have the option to retire at the age of 58 years. They should exercise this option in writing before they attain the age of 57 years. Those who do not exercise the said option before the attain the age of 57 years, would he deemed to have opted for continuing in service till the enhanced superannuation age of 60 years with the liability to compulsory retirement at the age of 58 years.

Those who have crossed the age of 57 years and those who cross the age of 58 years soon alter the date of this decision will exercise their option within one month from the date of this decision. If they do not do so, they will be deemed to have opted for continuing in service till the age of 60 years. In that case, they will also be subjected to the review for compulsory retirement, if any, notwithstanding the fact that there was no enough time to undertake such review before they attained the age of 58 years. However in their case, the review should he undertaken within two months from the date of the expiry of the period given to them above for exercising their option, and if found unfit, they should be retired compulsorily according to the procedure for compulsory retirement under the Rules.

Those judicial officers who have already crossed the age of 58 years, will not be subjected to the review for compulsory retirement and will continue in service upto the extended superannuation age of 60 years since they have had no opportunity to exercise their option and no review for compulsory retirement could be undertaken in their case before they reached the age of 58 years.

[c] The direction for granting sumptuary allowance to the District Judges and Chief Judicial Magistrates stands withdrawn for the reasons given earlier.

[d] The direction with regard to the grant of residence-cum-library allowance will cease to operate when the respective State Governments/Union Territory Administrations start providing the courts, as directed above, with the necessary law books and journals in consultation with the respective High Courts.

[e] The direction with regard to the conveyance to be provided to the District Judges and that the regard to the establishment of the training institutes for the judges have been clarified by us in paragraphs 7 [vii] & [viii] respectively. It is the Principal District Judge at each district headquarters or the metropolitan town as the case may be, who will be entitled to an independent vehicle. This will equally apply to the Chief Judicial Magistrate and the Chief Metropolitan Magistrate. The rest of the judges and magistrates will be entitled to pool-vehicles - one for every five judges for transport from residence to Court and back - and when needed, to loans for two wheeler automobiles and conveyance allowance. The State Governments/Union Territory Administrations are directed to provide adequate quality of free petrol for the vehicles no exceeding 100 litres per month in consultation with the High Court.

[f] In view of the establishment of the National Judicial Academy, it is optional for the States to have their independent or joint training judicial institutes.

[g] The rest of the directions given in the judgment under review are maintained.

[h] In view of the pendency of these review petitions,

(i) the time to comply with the directions for bringing about uniformity in hierarchy, designations and jurisdictions of judicial officers on both civil and criminal sides is extended up to 31st March, 1994;

(ii) the time to comply with the directions to provide law books and law journals to all courts is extended up to 31st December, 1993 failing which the library allowance should be paid to every judicial officer with effect form 1st January, 1994 if it is not paid already;

(iii) the time to provide suitable residential accommodation, requisitioned or Government, to every judicial officer is extended up to 31st March, 1994;

(vi) the time to comply with the rest of the directions is maintained as it was directed by the judgment under review.

11. The review petitions arc disposed of accordingly. I.A. Nos. 2 and 3 which are for intervention and I.A. No. 4 for impleadment are dismissed. No. order as to costs.

12. In view of our above decision in the review petitions, this S.L.P. is dismissed I.A. 1 of 1992 which is for exemption from filing certified copy of the impugned judgment is allowed and I.A. No. 2 of 1992 which is for interim stay of the impugned order is dismissed.

Writ Petition No. 71 of 1993.

13. By the judgment of this Court , it was directed that the State Governments should take appropriate steps to raise the retirement age of judicial officers by 31st December, 1992. It meant that those who were to retire on or before 31st December, 1992 would not get the benefit of the enhanced age of retirement. In the present case, the writ petitioner was admittedly to retire on 31st December, 1992 according to the superannuation age prevalent till that time, viz., 58 years. He would not, therefore, be entitled to the benefit of the enhanced retirement age which is to come into force from 1st January, 1993. The writ petition is accordingly, dismissed. I.A. No. 1 of 1993 which is for ad-interim relief will also stand dismissed.

Any clarification that may be required in respect of any latter arising out of this decision will be sought only from this Court and from no other Court. Further, the proceedings if any, for implementation of the directions given in this judgment shall be filed only in this Court and no other court shall entertain them.