

Salary hike for judges

The Lok Sabha on 4th July 98 adopted a Bill enhancing the salaries of judges of the Supreme Court and the High Courts by more than three times. The High Court and Supreme Court Judges [Conditions of Service] Amendment Bill which replaces an ordinance promulgated this April. Increases the salary of the Chief Justice of India to Rs. 33,000/- per month from Rs. 10,000/- and that of Supreme Court Judges and the Chief Justices of the High Courts to Rs. 30,000/- per month from Rs. 9,000/-. The salary of a High Court Judge has been increased to Rs. 26,000/- per month from Rs. 8,000/-.

CJ of Calcutta HC Resigns

Mr. Justice Prabha Shankar Mishra, Chief Justice of Calcutta High Court resigned his post to protest the elevation of his juniors as Judges of the Supreme Court overlooking his seniority. Mr. Mishra was due for retirement on August 14, 1998. The President accepted the resignation on 14.7.98. Mr. Justice Samir Mukherjee of the same High Court took over as the Acting Chief Justice of the Court. The Bar Association of Calcutta High Court organised a touching farewell function in honour of Mr. Justice Mishra.

Warrant against Minister

A court of Magistrate in Ernakulam [Kerala] ordered issue of non-bailable warrant against the Union Environment Minister Suresh Prabhu on 4.7.98 after he failed to respond to the summons in a case of dishonouring of cheques which were issued by a company formerly headed by him.

President seeks decision from the Apex Court

In an unprecedented turn of events the President Sri K.R. Narayanan has asked the Supreme Court to decide whether the Chief Justice of India could make recommendations for appointment of the High Court and Supreme Court judges without following the consultation process and whether such recommendations would be binding on the government. The presidential reference a copy of which was placed before a division bench of the Supreme Court on 27.7.98 by the Attorney General Mr. Soli Sorabjee containing nine points of reference, states that these aspects should be resolved in public interest. Justices S. Saghir Ahmad and K.T. Thomas, constituting the division bench, ordered that the reference be put before the Chief Justice for appropriate orders and directions. The bench also deferred till September 14th hearing of two writ petitions seeking the appointment of judges to the Allahabad High Court and the Supreme Court on the recommendations of the Chief Justice of India.

On the order from the CJI a nine judge constitutional bench headed by Justice A.S. Anand was immediately constituted. On 30-7-98 the constitution bench ordered issuance of notices to the centre and all states and union territories with regard to the presidential reference returnable by September 15th. The presidential reference made by exercising the powers under Article 143(1) has said that "doubts have arisen about the interpretations of the law laid down by the Supreme Court and it is in public interest that the said doubts relating to the appointment and transfer of judges be resolved."

The presidential reference also called upon the Supreme Court to decide whether the CJI, as provided in Articles 217(1) and 222(1) of the constitution, was required to consult other judges of the court before making recommendation or whether he could do so on his own. It also asked the court to decide whether transfer of judges of high courts was reviewable in the light of its 1993 judgment saying it was not justiciable and the further observation that only a limited judicial review was available. Referring to Article 124(2) as interpreted in the Supreme Court's judgment requiring consultation with the two

senior most judges of the court the presidential reference wanted the court to decide whether there should be wider consultations as per the past practice.

It is interesting to note that on 18.7.98 the Union Minister for Housing and Urban Development Mr. Ram Jethmalani had criticised some of the nominees of CJI for appointment as judges of the Supreme Court saying "they are not the best persons" for the job. In an interview to Star TV Mr. Ram Jethmalani had said "controversy has been going on that some of the nominees of the present Chief Justice are quite questionable, but I do not want to get into names nor do I wish to tell you what the allegations are." The next day the government had to issue an official statement distancing itself from the statement of the Union Minister and clarify that the government did not question the right of the Supreme Court to recommend the names of the judges for appointment to Supreme Court.

Jethmalani wants panel to review Constitution

Union Minister for Urban Affairs Ram Jethmalani said on July 8, 1998 that there was need for immediate amendment of the constitution and that a judicial commission be set up to examine this. Speaking at a "meet the press" programme organised by the Press Club of India at New Delhi Mr. Jethmalani said "the Indian Constitution is one of the best documents ever produced in the history of the world but it is good to keep assessing that document from time to time. There are atleast three matters on which immediate amendments in the Constitution are called for. These are powers of the executive and judiciary, use of Article 356 of the constitution and the policy of reservation."

Man throws faeces in court

In a bizarre incident a 78 year old man, Gopalachar from Bellary, entered court hall No.2 in the High Court of Karnataka on July 22, 1998 and threw a container filled with human faeces spilling it on the floor in the aisle near the front rows even as the court was in session. He was immediately taken into custody by the High Court police squad and the division bench suo moto initiated contempt proceedings against the person. Mr. Gopalachar was found shouting "I want my pension and I want my properties, which were sold through the backdoor after my wife's death. But although my case is pending in the High Court for the last three years, I have not got any justice."

**Read
Communique**

Delays in the law are hateful

-Latin Legal Phrase

Delay costs dearly

Due to the uncertainty about the application of section 31 of the Karnataka Rent Control Act a large number of cases involving non-residential premises are pending adjudication for considerable length of time. Lawyers find it extremely difficult to advise the litigants with certainty as to the forum they should choose to seek eviction of their tenants. In the process a number of cases which would have been instituted by the landlords in the normal course have not been filed. Therefore there is considerable need for immediate removal of the confusion created. This could only be done by a judgment of the High Court or the Apex Court.

Surprisingly the fluid situation is allowed to remain as such for long time as a result of which the litigants interest remain unprotected. This is a clear case of law's delays in the popular perception. After all the law courts are expected to provide expeditious justice to the needy litigants. However, they cannot act as stumbling blocks. The delay involved in removing the confusion is considerable and a solution could have been found much earlier.

The situation is compounded further on account of the divergent views expressed by single judges of the High Court on the point in the course of different judgments. The trial courts, where large number of cases falling within the ambit of section 31 are pending, are literally confused as to which of the judgments on the point cited before them should be followed. Infact the trial courts have been simply aljourning the cases of this nature waiting for a settled verdict which they could uniformly follow. A lot of court's time is wasted on granting

adjournments as well as conducting trial of the cases of this nature.

Kolar Dairy

- On Sunday the 27th September 1998 a conference of Bar Associations of Kolar District is scheduled to be held at Kolar. Karnataka State Bar Council is co-sponsoring the conference. Justice S. Rajendra Babu, Judge, Supreme Court of India is understood to have agreed to participate in the conference.
- B.M. Sampangi Gowda, Advocate and the Principal of the KGF Law College, passed away on 24.7.97. Bar Associations of Kolar, KGF and Srinivasapura have condoled his demise.

Police pulled up for hand cuffing Lawyer

Recently a division bench of the Mumbai High Court deprecated the conduct of the police officers who had hand cuffed an advocate connected with an incident occurred in Sangli District and directed the State Government to pay token compensation of Rs. 5,000/- to the Bar Council of Maharashtra and Goa which had challenged the police action.

Views and Vignettes

Mr. A.L. Lamba, Advocate has suggested that the Federation of Bar Association [FOBA] must take initiative to establish Advocates Clubs in all the Districts to cater to the needs of Advocates and their family members.

Clarification

It was reported in the June part of Communique that Mr. Justice M. Ramakrishna, Former Chief Justice of J&K High Court was appointed as the Lokayuktha of Andhra Pradesh. It is now learnt that the appointee is a different person with the same name and initial.

KTCA Debate on Entry Tax vs Octroi

Sri Vasudeva Murthy, Deputy Mayor of Bangalore Mahanagara Palike strongly pleaded for the reintroduction of octroi in the state of Karnataka on the ground that the local bodies in the state are unable to undertake development projects and or provide the basic infrastructure to the people living within their territorial jurisdiction due to starvation of resources. He said that the allocation of the share of the local bodies out of the revenue collected from the entry tax, grants received from the government, the revenue received as property tax etc., are hardly sufficient to manage the affairs of the local bodies. With particular reference to the Bangalore Mahanagara Palike he said that while it received grant of about Rs. 89 crores as its share from the entry tax Mahanagara Palike would be able to realise more than Rs. 10 crores per annum with the reintroduction of octroi. He warned that unless sufficient funds are available to the Mahanagara Palike it may not be in a position to provide the basic minimum facilities to the people and the city may not be able to withstand the strain of over population. Sri Vasudeva Murthy was speaking in a debate "Octroi or entry tax" organised in the city by the Karnataka Tax Consultants Association on 28.7.98.

The President of the Federation of Karnataka Chamber of Commerce and Industry Sri K. Lakshman said that both octroi and entry tax are not needed and with the efficient management and collection of property tax and other revenue the local bodies can provide better facilities to the people. He said that the NGOs like the FKCCI have always been in the forefront to conceive and co-operate with the local bodies in implementing the development projects provided that the latter are serious about seeking the co-operation from the former. He also explained in detail the improvements made by the neighbouring states even while Karnataka is gradually losing its base as an industrial and commercial centre.

However he suggested that the state government should provide sufficient grants to the local bodies. He also further suggested that with a view to remove congestion in the larger urban areas, particularly with reference to Bangalore city, new satellite towns can be allowed to come up.

Mr. S. Narayana, Advocate and former member of the Sales Tax Appellate Tribunal suggested that more scientific approach is required in the implementation of the provisions of the entry tax lest higher incidence of the tax on industries can be avoided. Mr. E.R. Indra Kumar, Advocate and Standing Counsel for income tax felt that there is nothing wrong in the reintroduction of octroi subject to the ability of the local bodies to collect the toll with least hindrance on the movement of goods carriers.

Mr. Sudhir Krishna, Commissioner for Commercial Taxes said that even though the collection of octroi is the oldest method of raising revenue it had to be abolished during 1979 due to serious drawbacks and the entry tax had to be introduced. He felt that any system of levy and collection of tax to be successful should be progressive in nature. Mr. D.R. Balaji Singh, Joint Commissioner [Legal], Department of Commercial Taxes, in his scholarly speech pointed out that as per the latest Supreme Court ruling the octroi and entry tax can co-exist. He also vividly focussed on the findings of the fourteen committees since 1925 which went into the question of the octroi system. He felt that the local bodies should have sufficient resources to effectively discharge their obligations but reintroduction of octroi may not be the panacea.

President of the Association Sri S.K. Nahar welcomed the participants in the debate and Sri Manohar proposed vote of thanks. Sri Daiveegan, Advocate compered the programme which was well attended by the advocates, tax practitioners and the dealers as well as trade representatives.

**Read
Communique**

News Panorama

- A District Court jury in Nevada [USA] on 31.7.98 awarded 150.9 Million Dollars as punitive damages and general damages of 2.2 Million Dollars to a couple whose three year old son was killed in October 1994 while climbing into a parked truck to look for his piggy bank and fell and went under the wheels of the truck resulting in his death. The jury found that the truck rolled over and killed the child as it had defective parking brake and as a result the manufacturer of the truck viz. the Ford Motors are liable to pay the damages. Incidentally the Ford Motors has announced that it would begin to recall 8,84,000 vehicles of the Model Ford 'F' 350.
- The Los Angeles District Court has ordered summons to the Pakistan President Mr. Mohammad Rafiq Tarar, the Prime Minister Mr. Nawaz Sharif, the Governor of Punjab province Mr. Shahid Hamid, the Chief Minister Mr. Shahbaz Sharif, the Principal of Army Medical College, Rawalpindi, the Superintendent of the District Head Quarters Hospital, Rawalpindi, Prof. of Pharmacology, Army Medical College, Rawalpindi and various senior officials of the Pakistan Government in a case claiming damages arising out of the death of a lady doctor. According to the lady doctor's father [plaintiff] Pakistan born American National C. Muhammad, his daughter Nasreen Akhtar has been murdered while she was working as a Gynaecologist in the District Head Quarters Hospital at Rawalpindi. According to the plaint allegations the lady doctor was a American National and the plaintiff has claimed damages of 400 Million Dollars.
- A Delhi based research foundation for science, technology and ecology has filed a case in Supreme Court of India against the US based Rice tech corporation challenging the patent obtained by it in respect of Basmati rice. The Attorney General submitted to the Supreme Court Bench that

the Indian Government is consulting American Lawyers to prepare a petition to be filed in the US court which had granted the patent to Rice tech corporation.

- The Roman Catholic diocese of Dallas [USA] has agreed to pay 30.9 Million Dollars as compensation to 12 altar boys, as a part of deal, who were sexually abused by a Catholic Priest belonging to the diocese. Last year a Dallas jury had ordered the diocese to pay the compensation of 119.6 Million Dollars to the altar boys as those boys were repeatedly abused by Father Rudolph Kos over a period of 11 years ending in 1992. The diocese said that the ruling would push it towards bankruptcy. So a settlement was reached.
- According to an investigation conducted by the Sunday Times of London 150 Million Pounds bill for processing asylum cases through legal aid is being "milked" by "rogue" British Lawyers.
- During July 1998. Bangladesh President Mr. Shahabuddin Ahmed appointed lawyer Mr. Mahmudul Islam as the Attorney General following the resignation of his predecessor a month ago.

Bench Constituted to hear Almatti case

A three judge bench headed by the Chief Justice Mr. M.M. Punchhi has referred the dispute between Andhra Pradesh and Karnataka over the height of Almatti dam on the Krishna river to the constitution bench comprising five judges to determine the jurisdiction of the court to decide such matters. The order making reference has said that in view of the bar imposed on the Supreme Court by Article 145[3] of the constitution and section 11 of the Inter State Water Disputes Act a pronouncement requires to be made regarding the jurisdiction of the court. It is to be noted that the state of Andhra Pradesh has moved the Supreme Court alleging that the state of Karnataka has taken steps to raise the height of Almatti dam by flouting the earlier court order.

News Focus

- On 2.7.98 Mr. Justice R.V. Raveendran addressed the members of AAB, City Unit on the subject "Role of lawyers in settling the pending cases through Lok Adalats."
- On 3.7.98 Mr. M.R. Devappa, Director of Prosecution, addressed the members of AAB, Magistrates Court Unit on the topic the "role of public in the administration of criminal justice." In his speech Mr. Devappa suggested enactment of law giving protection to prosecution unitnesses so that they may not turn hostile.
- On 6.7.98 members of AAB and the Bangalore City Police Personnel jointly undertook a programme near Bangalore Dairy Circle to educate the vehicle drivers about air pollution and accidents caused due to the use of bright lights while driving.
- On 9.7.98 Dr. M.S. Rajanna, Prof. Department of Community Medicine, Kempe Gowda Medical College, Bangalore, addressed the members of AAB, City Unit, on the subject "Diabetes Mellitus and Humour in Medical profession".
- On 16.7.98 Mr. Justice T.N. Vallinayagam, addressed the members of AAB, City Unit, on the subject "Amendments to Civil procedure code."
- On 16.7.98 a batch of Advocates from Bangalore under the leadership of AAB president Mr. K.N. Subba Reddy took out a peace march in the communally disturbed area of D.J. Halli and K.G. Halli, Bangalore.
- On 17.7.98 AAB had organised a sugam sangeetha programme in the High Court Unit by renowned singer Mr. Shimoga Subbanna and his son Mr. Sriranga.
- On 18.7.98 Sri Sri Balagangadharanatha Swamiji of Adichunchanagiri Mutt addressed the members of AAB, City Unit on the subject "Nyaya-Dharma".
- Saturday the July 18, 98 was a working day for the High Court of Karnataka.
- On 22.7.98 Sangeetha Vidhya Nidhi Sri Vidyabhushana sang devotional songs in AAB, City Unit.
- On 24.7.98 Mr. L. Revanasiddiah, Commissioner of Police, Bangalore City, addressed the members of AAB, City Unit, on the topic "Crime in Bangalore".
- On 25.7.98 a seminar on the need for a state human rights commission and a human rights court in Bangalore was held at Bangalore. Former judge of the Supreme Court Mr. Justice V.R. Krishna Iyer the Director of the NLSIU, Dr. N.L. Mitra, Prof. Hassan Mansoor, President, People's Union for Civil Liberties and others participated in the seminar.
- On 26.7.98 Justice M.F. Saldanha joined other dignitaries in sweeping Lalbagh as a part of creating environmental awareness among the people.
- On 27.7.98 Mr. Justice Kumara Rajarathnam addressed the members of AAB, Magistrates Court Unit on the topic "Relationship of the Bar and the Bench."

Ban on Azaan

The Green bench of Calcutta High Court has recently banned the use of loud speakers at all religious, cultural and public meetings which were causing noise pollution. The blanket ban also includes the use of loud speakers by the Calcutta mosques for rendering Azaan [invitation for prayer]. The Imams of the city failed to comply with the ban imposed by the court on the ground that it offends the minority religious rights. As a result the court directed the Imams to appear and to show cause as to why action should not be taken against them. Thereafter Mr. Justice Bhagwati Prasad Banerjee and Mr. Justice Ronojit Mitra, who constituted the Green bench have been receiving death threats. In the meanwhile the Supreme Court has stayed the proceedings of the High Court against the Imams who had challenged the Calcutta High Court's order banning the use of loud speakers for Azaan.

Literary Union

Advocates present their case before the court. Judges decide the case. If the judgment is wrong judges are responsible for it but not the advocates. Truth has many facets and the task of an advocate is only to analyse it. This is how Mr. Justice A.J. Sadashiva, Judge, High Court of Karnataka defended the lawyers in his speech as the chief guest of the function organised to release "Suvarna Bharathi" the souvenir of Bangalore Literary Union on Thursday the July 23, 1998 at the City Auditorium of AAB at Bangalore.

Earlier the renowned Kannada poet and lyricist Sri Doddarange Gowda after releasing the souvenir had remarked that lawyers represent a noble profession. Due to loss of tolerance and compassion the profession is gradually losing its sanctity. Because of their logic advocates are able to convert a lie into truth. Advocates must desist from protecting the murderers and unrighteous litigants to see that justice is available to deserving persons.

In the beginning of the function President of the Union Sri C.H. Hanumantharaya had suggestively said that so long as the motto of the advocate is to win his client's case in an adversarial system of law justice only remain as an article of exhibition. Sri K.N. Subba Reddy, President of AAB and Sri K.L. Manjunath, President of the Bangalore Advocates Co-operative Society also spoke on the occasion. Secretary of the Union Sri C.R. Gopalaswamy welcomed the guests and the Treasurer Sri N.C. Narayana proposed the vote of thanks. The programme ended with the orchestra by Mohan Jimpets.

Foot Ball team in offing

The Chairman of Sports Committee of the Advocates Association, Bangalore Mr. I.M. Devaiah has notified that an Advocates foot ball team is being formed shortly. He has requested the Advocates desirous of joining the team to register their names in the office of the AAB at the earliest.

Foreign Tour

Mr. S.P. Shankar, Advocate left Bangalore for Germany on 14.7.98 where he will deliver three lectures on law of environment. Before returning to Bangalore on 12.8.98 Mr. Shankar will be visiting few neighbouring countries of Western Europe and England.

Retirement

Mr. P. Seetharamaiah, Judge, I Addl. Family Court, Bangalore, retired from service on 27.7.98.

Miscellany

- Attimabbe Prathisthana Trust [R], Bangalore, Gorur Prathisthana and Kannada Women Writers Parishath have jointly selected Mr. H.R. Shankaranarayana [Ha.Ra.], Advocate, for being felicitated for his life time service to literature and the state on the occasion of the Golden Jubilee Celebration of Indian independence. The felicitation function is scheduled to be held on sunday the August 30, 98 at 10.30 a.m. in the Mithic Society precincts at Bangalore.
 - Mr. S. Mahesh, Advocate and his friend Mr. H.C. Ravindranath travelled from Bangalore to Jammu [Katra] and Vaishnodevi by road during May 1998. During their journey they touched Maharashtra, Madhya Pradesh, Delhi, Haryana, Chandigarh, Punjab, Rajastan, Uttar Pradesh and Jammu & Kashmir.
 - With effect from 1.6.98 Mr. R. Narendra, Advocate has shifted his law chamber to 'Nathan Arcade', I Floor, 34, Infantry Road, Bangalore-560 001. Phone: 2861909.
 - Ms. Suman Bopaiah D/o Mr. B.K. Bopaiah, Advocate, from Bangalore left for United States for undertaking two years course of Master of Environmental Pollution Control with Environmental Pollution Control as Major in Pennsylvania State University's Graduate School.
- On 1.7.98 Mr. Rajaram D. Bhat, Advocate, opened his law chamber at No. 43, P.H. Complex, Cubbonpet Main Road, Bangalore-560 002.

Lahari Advocates Forum

On 2.7.98 Lt. Col. [Retd.] Haridev Katkar delivered a talk on the topic "Distortions in recorded Indian history" in the City Auditorium of AAB.

Lahari Foundation

Financial assistance of Rs. 2,000/- was provided to Mr. N. Kupendra, Trainee Advocate. The Foundation has received from Mr. Ashok Harnahalli Rs. 500/- as donation.

News Panorama

Nestle India has sought for a patent for vegetable pulao [parboiled rice and cooked cereals] from the Indian patent office. A fact sheet prepared by the Research Foundation for Science, Technology and Ecology reveals that twenty two Indian plants have been cornered by foreign companies through unlawful patents for their beneficial derivatives. Prominent among the plants that have been patented by the US, Japanese and German Companies include amaltas [Cassia fistula], Indian mustard [Brassica campestris], pomegranate [Punica granatum], basmati rice [Oryza sativa] and black pepper [Piper nigrum].

Obituary

- On 1.7.98 Zafar Ahmad, Advocate, passed away at Bangalore.
- On 2.7.98 K. Venugopal [42], Advocate and Oath Commissioner, passed away at Bangalore.
- On 21.7.98 Pradeep Kumar U. Shete [45], Advocate, passed away at Bangalore.
- On 26.7.98 R.A. Chandrashekara Reddy [45] Advocate practicing in Bangalore died alongwith his wife near Kolar in a road accident.
- On 26.7.98 S.V. Jagannath [67], Advocate, passed away at Bangalore.

Humour in Courts

- A widow who was a claimant of compensation in a MVC case had deposed that she had spent Rs. 10,000/- on performing the last rites of her husband. Counsel for the owner of the vehicle was cross examining the claimant.
Counsel: how many persons were fed on the occasion?
Witness: Five hundred persons.
Counsel: What was the menu?
Witness: Vade, Payasa etc.
Counsel: What was the payment given to the priest?
Witness: Rupees eight hundred.
- The Judge: Mr. Counsel the witness is speaking about the last rites of her husband. By the time you complete the cross examination perhaps her last rites will have to be performed!
- The case was set down for hearing arguments.
Judge: Mr. Counsel, you can argue.
Counsel: Your honour may pass it over. My senior will come and argue.
Judge: Why not you?
Counsel: I am only nine months old in the profession.
Judge: It is right time to deliver!
- Advocate: Your honour may have this case on Monday and I will argue on that date.
Judge: After going through the order sheet it is seen that this case was listed on all days of the week to hear your arguments except the Sunday!
- A tenant's revision petition against the order of eviction in respect of non-residential premises was listed for hearing. the counsel for the petitioner stood up to address arguments.
Judge: Mr. Counsel, at the outset let me make it clear that if you argue the case the petition will be dismissed.
Counsel: If I don't argue My Lord?
Judge: I will grant 4-5 years time to your client!

**Read
Communique**