

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 1867 OF 2006

MALIK MAZHAR SULTAN AND ANR.

Appellant (s)

VERSUS

U.P. PUBLIC SERVICE COMMISSION & ORS

Respondent(s)

(FOR DIRECTIONS AND INTERVENTION)

(REGARDING STATES OF MADHYA PRADESH, DELHI AND
EASTERN STATES UNDER THE GAUHATI HIGH COURT,
GUJARAT, MAHARASHTRA, JHARKHAND)SEVEN NORTH
UTTARAKHAND,

Date: 10/02/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN
HON'BLE MR. JUSTICE H.L. DATTU

For Appellant(s)

Mr. Vijay Hansaria, Sr. Adv. (AC)
Ms. Sneha Kalita, Adv.

Mr. Ejaz Maqbool, Adv.

Mr. Debasis Misra ,Adv

Mr. T.N. Rao ,Adv

For Respondent(s)

Mr. Lakshmi Raman Singh, Adv.

State of
Chhattisgarh

Mr. Dharmendra Kumar Sinha, Adv.

Intervener

Mr. Arvind Kr. Tiwary, Adv.
Mr. Rakesh Kumar Singh,, Adv.
Mr. Ranjan Dwivedi, Adv.

State of W.B.

Mr. Tara Chandra Sharma, Adv.

State of Arunachal
PradeshMr. Anil Shrivastav, Adv.
Mr. Ritu Raj Biswas, Adv.

Mr. Nishe Rajen Shonker, Adv.

Mr. Amit Kumar, Adv.

Mr. Shankar Divate, Adv.

....2/-

:2:

State of Jharkhand

Mr. Anil Kr. Jha, Adv.

State of Goa

Ms. A.Subhashini ,Adv

Allahabad HC

Mr. Ashok K. Srivastava ,Adv

Mr. Arun K. Sinha ,Adv

HC of P & H Ms. Asha Jain Madan ,Adv
 Mr. Ashok Mathur ,Adv
 Mr. Anis Suhrawardy ,Adv
 Ms. Bina Gupta ,Adv
HC of J & K Mr. Bharat Sangal ,Adv
 Ms. Binu Tamta ,Adv
 Mr. Dharam Bir Raj Vohra ,Adv
Calcutta HC Mr. G.S. Chatterjee ,Adv
NCT of Delhi Mrs. Rekha Pandey, Adv.
 Mr. Wasim A. Qadri, Adv.
 Ms. Saima Bakshi, Adv.
 Mr. Mukesh Verma, Adv.
 Mrs. Anil Katiyar, Adv.
State of Bihar/
Tripura Mr. Gopal Singh ,Adv
 Mr. Manish Kumar, Adv.
 Mr. Rituraj Biswas, Adv.
State of Nagaland Mr. Rituraj Biswas, Adv.
 Mr. Edward Belho, Adv.
 Mr. K. Enatoli Sema, Adv.
 Mr. Balaji Shrinivas, Adv.
 Ms. Hemantika Wahi ,Adv
 Ms. Jesal, Adv.
HC of Orissa Mr. Sibho Sankar Mishra,Adv
 Mr. K.K. Mohan ,Adv
Chandigarh Ms. Kamini Jaiswal ,Adv (N/P)
 Mr. Naresh K. Sharma ,Adv

...3/-

:3:

Mr. Naresh Kumar, Adv.

Mr. Pradeep Misra ,Adv

Mizoram Mr. K.N. Madhusoodhanan, Adv.
 Mr. R. Sathish ,Adv

State of Mizoram Mr. Pragyan P. Sharma, Adv.
 Mr. Biddhatha Lodha, Adv.
 Mr. P.V. Yogeswaran ,Adv

Mr. S.C. Patel ,Adv

Mr. Sunil Kumar Jain ,Adv

Kerala HC Mr. T.G. Narayanan Nair ,Adv

State of Kerala Mr. G. Prakash ,Adv

Mr. A. Senthil, Adv.

Mr. T.V. Ratnam ,Adv

Mr. Ugra Shankar Prasad ,Adv

State of Sikkim

Mrs. Aruna Mathur, Adv.
M/S Arputham, Aruna & Co. ,Adv

UOI

Mr. R. K. Rathore, Adv.
Mr. Aditya Sharma, Adv.
Ms. Sunita Sharma, Adv.
Mr. H.S. Sachdeva, Adv.
Mr. D.S. Mahra, Adv.

State of Meghalaya

Mr. Ranjan Mukherjee ,Adv
Ms. S. Janani ,Adv

State of Puducherry

Mr. V.G. Pragasam ,Adv
Mr. S.J. Aristotle, Adv.
Mr. Prabu Ramasubramanian, Adv.

Mr. Ashok Kumar Singh ,Adv

Mrs.D. Bharathi Reddy ,Adv

Mr. Krishnanand Pandey ,Adv

...4/-

:4:

State of M.P.

Mr. Vikas Upadhyay, Adv.
Mr. B.S. Banthia ,Adv
Mr. M.P. Singh, Adv.

H.C. of M.P.

Mr. S.K. Dubey, Sr. Adv.
Mr. C.D. Singh, Adv.
Mr. Sunny Choudhary, Adv.

State of Manipur

Mr. Khawairakpam Nobin Singh ,Adv
Mr. Sapam Biswajit Meitei, Adv.

Mr. Radha Shyam Jena ,Adv

State of Karnataka

Mr. Sanjay R. Hegde ,Adv (N/P)

Mr. P.I. Jose ,Adv

Mr. Y. Raja Gopala Rao ,Adv

Mr. Shail Kumar Dwivedi ,Adv

State of T.N.

Mr. R. Nedumaran ,Adv

State of Haryana

Mr. Manjit Singh, Adv.
Ms. Vivekta Singh, Adv.
Mr. Kamal Mohan Gupta ,Adv

Mr. V.N. Raghupathy ,Adv

State of
Uttarakhand Ms. Rachana Srivastava ,Adv (N/P)
L
State of Assam Mr. Navnit Kumar, Adv.
M/S Corporate Law Group ,Adv.

Mr. Ashwani Kumar ,Adv.

Mr. Rajesh Srivastava ,Adv
Mr. Jatinder Kumar Bhatia ,Adv

State of U.P. Mr. Kamendra Mishra ,Adv
Mr. Mukul Singh, Adv.
Mr. Shrish Kumar Misra ,Adv

HC of Patna Ms. Suman Yadav, Adv.
M/S. Parekh & Co. ,Adv

Mr. T. Mahipal ,Adv

...5/-

:5:

Ms. Sumita Hazarika ,Adv

HC OF Bombay Mr. Aniruddha P. Mayee ,Adv

Mr. Siddhartha Chowdhury ,Adv

HC of Sikkim Mr. Vishnu Sharma ,Adv
Ms. Anupama Sharma, Adv.
Mr. Amarjyoti Sharma, Adv.

Mr.T.V.George ,Adv

Mr.Prakash Kumar Singh ,Adv

Mr.Sunil Kumar Verma ,Adv

Mr. Anuvrat Sharma ,Adv

Mr. Balaji Srinivasan ,Adv

State of Rajasthan Dr. Manish Singhvi, Addl. AG
Mr. Devanshu Kumar Devesh, Adv.
Mr. Milind Kumar ,Adv

State of Punjab Mr. Ajay Pal ,Adv

State of Mah. Mr. Sanjay V. Kharde, Adv.
Mrs. Asha G. Nair, Adv.

Mr. E.C. Vidyasagar, Adv.

DHC Mr. A.D.N. Rao, Adv.
Ms. Neelam Jain, Adv.
Mr. Aditya Sengar, Adv.
Mr. Mushtaq Ahmad, Adv.

Mr. Kanaka Durga, Adv.

UPON hearing counsel the Court made the following

O R D E R

Re: State/High Court of Assam

As per the affidavit, dated 27th January, 2011, filed by the High Court, the vacancy position in the subordinate judiciary is as under:

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1. District Judge:

Total vacancies 41 (Actual 29 +

Anticipated 12) [direct (16), limited competitive examination (6), and promotion (19)].

2. Civil Judge (Senior Division):

Total vacancies 31 (Actual 19 +

Anticipated 12)

3. Civil Judge (Junior Division):

Total vacancies 66 (Actual 35 +

Anticipated 31)

It is stated that advertisement for filling up of 16 vacant posts for direct recruits has been issued on 18th January, 2011. Similarly,

options for promotion by limited competitive examination have been invited on 12th January, 2011. It is also pointed out that amendment to

the Higher Judicial Service Rules, relating to increase of age of superannuation to 60 years is pending consideration with the State Government.

Learned counsel appearing for the State submits that the State Government has made certain suggestions to the recommendations made by the High Court for amendment in the said Rules, but High Court's response thereon has not been received. In fact, a reminder in this behalf has also been issued to the High Court yesterday.

:7:

We would request the High Court to expedite the process and ensure that the State Government notifies the amended Rules as expeditiously as practicable and in any case not later than eight weeks from today.

Learned counsel appearing for the High Court states that promotion orders for filling up five posts in the promotee quota for District Judges have already been issued.

As per the affidavit of the High Court, steps for filling up of 57 posts of Civil Judge (Junior Division) have already been initiated on 18th January, 2011.

We hope and trust that the selection process shall be completed expeditiously. It is also pointed out by learned counsel for the High Court that orders for promotion of 09 candidates for the post of Civil Judge (Senior Division) have been issued on 21st January, 2011.

Re: States of Arunachal Pradesh/ Meghalaya/
Manipur/ Tripura/ Mizoram/ Nagaland
Deferred by three months.

:8:

Re: State of Madhya Pradesh
According to the affidavit dated 31st January, 2011, filed by the High court, there are 52 vacant posts in the cadre of District Judge

(Direct). It is stated that for filling up of 20 posts, preliminary examination and main examination has been held, but the valuation process has been delayed because of illness of one of the valuers. It is also stated that for filling up of 32 remaining vacancies, steps will be taken after formulation of roster with effect from January, 2011. It is evident that the High Court has not taken effective steps for filling up of all the vacancies as directed in our earlier orders passed from time to time. We expect and hope that all the vacant posts in the cadre of District Judge (Direct) shall be filled up by the High Court within four months. As regards promotions by limited competitive examination, no information about the number of vacant posts and the steps taken for filling up the same has been furnished. We are also not happy to note that for filling up of 11 posts falling in promotee quota/selection grade, no effective steps have been taken after 22nd May, 2010, when the Full Court meeting was held.

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We request the Hon'ble the Chief Justice to see to it that all vacancies falling to the share of the promotees are filled up expeditiously and, if necessary, Full Court meeting is convened at the earliest.

As regards filling up of 67 vacant posts in the cadre of Civil Judge (Junior Division), it is stated that recruitment process for filling up of 57 posts has been completed and 48 candidates

have been selected, but the letters of appointment are awaited from the State Government.

Learned counsel for the State is not in a position to apprise us about the status of these appointments. We direct that, if the appointment letters have not yet been issued, these shall be issued by the State Government as expeditiously as practicable and in any case not later than four weeks from today.

List for further orders on 10th March, 2011 at 3.00 p.m.

In the meantime, the High Court as well as the State of Madhya Pradesh shall file requisite affidavits furnishing full information/latest status of the vacancies in the subordinate

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:10:

judiciary. On the next date, the Registrar General of the High Court as also the Secretary (Law) shall remain present in Court in person along with all relevant records pertaining to the judicial appointments.

Re: State of Uttarakhand

Neither the State nor the High Court of Uttarakhand are represented.

List on 10th March, 2011 at 3.00 p.m.

In the meantime, the State as well as the High Court shall file affidavit indicating the steps taken for filling up of the vacant posts in the subordinate judiciary. On the next date, the Registrar General of the High Court as also the Secretary (Law) shall remain present in Court in

person along with all relevant records pertaining
to the judicial appointments.

Re: State of Delhi

List on 10th March, 2011 at 3.00 p.m.

Re. States of Gujarat, Maharashtra, Jharkhand

List on 24th February, 2011 at 2.00 p.m.

(VINOD LAKHINA)
Court Master

(KUSUM GULATI)
Court Master