

ITEM NO.1

COURT NO.1

SECTION XI

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 1867 OF 2006

MALIK MAZHAR SULTAN AND ANR.

Appellant (s)

VERSUS

U.P. PUBLIC SERVICE COMMISSION & ORS

Respondent(s)

(With appln(s) for intervention/directions in I.A.NO.34 and clarification of court's order dt.4.1.2007 and directions and modification of order dt.11.05.2007 and permission to file appln.for directions and office report)

WITH

W.P.(C)..../2008 CC NOS.14852-14854

(with appln.(s) for permission to file SLP and with prayer for interim relief and office report)

AND SLP(C)No.28488/2008

(With prayer for interim relief and office report)

WITH SLP(C)NO.27978/2008

(With appln.(s) for permission to place addl.documents on record and with prayer for interim relief and office report)

Date: 24/03/2009 These Appeals/petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE P. SATHASIVAM

HON'BLE MR. JUSTICE J.M. PANCHAL

Mr.Vijay Hansaria, Sr.Adv.(A.C.)

Ms.Sneha Kalita, Adv.

For petitioner (s) Mr.C.S.N.Mohan Rao, Adv.
Mr.Vinod Kumar, Adv.

Mr.Ranjit Kumar, Sr.Adv.

Mr.S.S.Ray, Adv.

Ms.Bina Gupta, Adv.

Mr.Nishe Rajen Shonker, Adv.

Mr.Pardeep Gupta, Adv.

Mr.K.K.Mohan, Adv.

Mr.Suresh Bharti, Adv.

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Mr.Ranjit Kumar, Sr.Adv.

Mr.V.N.Raghupathy, Adv.

For Respondent(s)/
applicant(s)

Mr.Ejaz Maqbool, Adv.

For Rajasthan High Court Mr.Sunil Kr.Jain,Adv.

Mr.Ajay Bhatia, Adv.

Mr.Aneesh Mittal,Adv.

Mr.Anis Suhrawardy, Adv.
Mr.Mehdi Imam, Adv.
Mr.Tabrez Ahmad, Adv.

Govt.of NCT of Delhi Ms.Jyoti Singh, Adv.
Mr.Ankur Chibber, Adv.
Mr Sudarshan Rajan, Adv.

Manipur Mr.Kh.Nobin Singh, Adv.

Assam Mr.Riku Sarma, Adv.
Mr.Ranjan Mazumdar, Adv.
For M/s.Corporate Law Group, Adv.

West Bengal Mr.Bhaskar P.Gupta, Sr.Adv.
Mr.Tara Chandra Sharma, Adv.
Ms.Neelam Sharma, Adv.
Ms.Pankhuri, Adv.

Uttarakhand H.C. Ms.Rachana Srivastava, Adv.
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Mr.MOhd.Noorullah, Adv.
Ms.HImani, Jadoun, Adv.

I.A.Nos.63&64 Mr.M.N.Rao, Sr.Adv.
Mr.T.N..Rao, Adv.
Mr.Ramesh, Adv.
Ms.Manjeet Kirpal, Adv.
Mr.Mitin Mohapatra, Adv.

For UPPSC Mr.Shail Kr.Dwivedi, AAG
Ms.Vandana Mishra, Adv.

Bihar/Tripura Mr.Manish Kumar, Adv.
For Mr.Gopal Singh, Adv.

High Court of A.P. Mr.T.V.Ratnam, Adv.
Mr.M.Chandrashekhar, Adv.

Sikkim Mrs.Aruna Mathur, Adv.
For M/s.Arputham Aruna & Co., Advs.

Mr.Lakshmi Raman Singh, Adv.

I.A.No.57 Mr.Manish Mohan, Adv.
Mr.Nirmal Kr.Ambastha, Adv.
Mrs.Anita Mohan, Adv.

Mr.Sanjay Kharde, Adv.
Mrs.Asha G.Nair, Adv.

Mr.Ranjan Dwivedi, Adv.

H.C.of M.P. Mr.Ravindra Shrivastava, Sr.Adv.
Mr.C.D.Singh, Adv.
Mr.Sunny Chaudhary, Adv.
Mr.Aditya Singh, Adv.
Ms.Upasana Nath, Adv.
Mr.Krishna, Adv.

Mr.Maninder Singh, Adv.
Mr.Gaurav Sharma, Adv.
Mr.Sumeet Bhatia, Adv.
Ms.Surbhi Mehta, Adv.

Mr.Kamlendra Mishra, Adv.

Mr.Ashok K.Srivastava, Adv.

Mr.Shaiwal Srivastava, Adv.

Mr.Indrajeet Das, Adv.

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Mr.Debasis Misra, Adv.

Mr.Aniruddha P.Mayee, Adv.

Mr.Anil Shrivastav, Adv.

Mr.P.I.Jose, Adv.

Mr.Anupam Mishra, Adv.

Mr.B.K.Mishra, Adv.

Mr.Vivek Kandari, Adv.

Mr.Pradeep Misra, Adv.

Mr.Radha Shyam Jena, Adv.

Mr.Ashok Mathur, Adv.

Mr.Arun K.Sinha, Adv.

Mr.Sanjay R.Hegde, Adv.

Mr.Amit Kr.Chawla, Adv.

Mr.A.Rohen Singh, Adv.

Mr.Nishant Mishra, Adv.

Mr.Rajesh Srivastava, Adv.

Mr.Jatinder Kr.Bhatia, Adv.

Mr.Vishnu Sharma, Adv.

Ms.Anupama Sharma, Adv.

Ms.S.Janani, Adv.

Mr.B.B.Singh, Adv.

Mr.P.H.Parekh, Sr.Adv.

Mr.Ajay Kr.Jha, Adv.

Miss Divya Sinha, Adv.

Miss Pallavi Srivastava, Adv.

For M/s.Parekh & Co., Advs.

Mr.Ranjan Mukherjee, Adv.

Ms.Kamini Jaiswal, Adv.

Mrs.D.Bharathi Reddy, Adv.

Mrs.Jayshree Anand, AAG

Mr.K.K.Mahalik, Adv.

Mr.Ajay Pal, Adv.

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Ms.Nitu Kumari Sinha, Adv.

Ms.Asha Jain Madan, Adv.

Mr.Mukesh Jain, Adv.

Mr.S.C.Patel, Adv.

Mr.Kamal Mohan Gupta, Adv.

Mr.T.Mahipal, Adv.
Mr.Prakash Kumar Singh, Adv.
Mr.Y.Raja Gopala Rao, Adv.
Mr.C.S.Rajan, Sr.Adv.
Mr.G.Prakash, Adv.
Mrs.Beena Prakash, Adv.
Mr.Naresh K.Sharma, Adv.
Mr.Anuvrat Sharma, Adv.

R.G.,H.C.of T.N. Mr.R.Nedumaran, Adv.
Mr.P.Somasundaram, Adv.
Ms.Sumita Hazarika, Adv.
Mr.Siddhartha Chaudhary, Adv.
Mr.Sunil Kr.Verma, Adv.
Mr.T.G.N.Nair, Adv.
Mr.Ugra Shankar Prasad, Adv.
Mr.S.Chandra Shekhar, Adv.
Mr.Naresh Kumar, Adv.
Mr.Edward Belho, Adv.
Mr.P.Athumei R.Naga, Adv.
Mr.Vikuolie Nihu Kera, Adv.
Mr.Milind Kumar, Adv.
Mr.Dharam Bir Raj Vohra, Adv.
Mr.Amit Kumar, Adv.

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UPON hearing counsel the Court made the following
ORDER

I.A.No56:

On 4th January, 2007, this Court had given certain directions regarding the selection and appointment of Members of subordinate judicial officers in various courts. In the tabular form, the number of vacancies are notified by the High Court/Public Service Commission. It was directed that the further vacancies that may arise due to elevation or death or otherwise, 10 per cent of the posts shall be notified and this is referred at P.16 of the order, it is further stated :

"We further direct that ten per cent of unforeseen vacancies would be in respect of sanctioned posts and not vacancies occurring in a particular year".

It has been pointed out by the counsel appearing for the various High Courts that 10 per cent of the sanctioned posts are notified in some States. A large number of posts are to be notified whereas there was corresponding number of vacancies to be filled if the candidates are selected in the select list.

There may be an expectation for such candidates to get appointment and this creates unwanted litigation by the candidates and it is prayed that the existing vacancies alone be notified along with the anticipated

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vacancies that may arise in the next one year and some candidates also be included in the wait list prepared by the High Courts/PSCs.

In supersession of the order passed by this Court on 4.1.2007, this Court direct that in future the High Courts/PSCs shall notify the existing number of vacancies plus the anticipated vacancies for the next one year and some candidates also be included in the wait list. To this extent earlier order is modified.

I.A. is disposed of accordingly.

I.A.NO.67:

I.A. is dismissed as withdrawn with liberty to pursue the matter in the special leave petition filed by the petitioner.

I.A.NO.57:

There were 42 vacancies in the cadre of District Judges in the State of Jharkhand and the examination was proposed to be held on 31.8.2008, but the same was not held and the clarification was sought from the High Court. Learned counsel appearing for the High Court of Jharkhand stated that there was a Writ Petition(S) No.4159 of 2008 before the High Court and it was finally disposed of by the judgment dated 29th August, 2008, and certain directions have been given to fill up these 42 posts. We are told that the Judgment of the High Court is challenged before this Court in a special leave petition and they are to be dealt with separately.

There were 22 posts of sub-Judge (Civil Judge Senior Division) and 66 candidates have been put in the zone of consideration and interview is proposed to be held and it is submitted by the learned counsel for the Jharkhand that these posts will be filled up. There were 65 vacancies of Munsiffs and the main

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examination and interview are to be held shortly. This is recorded.

I.A. is disposed of accordingly.

The presence of the Registrar is recorded. His presence is dispensed with.

I.A.59 & SLP(C) No.28488/2008

The Registrar General seeks further time. Adjourned.

I.A.Nos.63&64:

Registrar General and Registrar (Vigilance) of the High Court of Andhra Pradesh are present.

Learned counsel for the High Court submits that there were 10 vacancies of Civil Judges (Sr.Division) and the same have been filled up by promoting the Civil Judges (Jr.Division) and the High Court has also prepared a list of eligible candidates for promotion to Civil Judges (Sr.Division).

List on 5.5.2009.

Meanwhile, reply, if any be filed.

I.A.Nos.65&68:

Registrar, Kerala High Court is present.

Two weeks time, as requested, is granted for filing a reply.

List on 5.5.2009.

I.A.No.66:

Issue notice returnable on 5.5.2009.

Secretary(Legal) of the State of Bihar is directed to be present on the next date of hearing.

We are told by learned counsel appearing for the High Court of Bihar that 109 vacancies of the Civil Judge (Sr.Division) are to be filled up and it has

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recommended the names of 101 candidates to the State Government and the State Government has not taken any further

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steps to appoint them. The State of Bihar is directed to take urgent steps to fill up these vacancies.

(G.V.Ramana)
Court Master

(R.K.Dhawan)
Court Master

(Veera Verma)
Court Master