

SUPREME COURT OF INDIA
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)

(With appln. for variation of time schedule on behalf of State of West Bengal) (With appln. for directions and exemption from filing time schedule and intervention and modification of Court's order dated 24.7.2008 and extension of time schedule) (With office report)

WITH

CIVIL APPEAL NO. 1868 OF 2006

(With office report)

CIVIL APPEAL NO. 1869 OF 2006

(With office report)

CIVIL APPEAL NO. 1870 OF 2006

(With office report)

CIVIL APPEAL NO. 1871 OF 2006

(With office report)

CIVIL APPEAL NO. 1872 OF 2006

(With office report)

Date: 23/09/2008 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE C.K. THAKKER

HON'BLE MR. JUSTICE D.K.JAIN

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

Ms. Sneha, Adv.

For Appellant(s)

Mr. Ezaj Maqbool, Adv.

For Applicant(s):

Ms. Soumya Chakraborty, Adv.

Mr. DB Vohra, Adv.

For Respondent(s)

Mr. Lakshmi Raman Singh, Adv.

..2/-

C.A. 1867/2006Etc....Contd...(It. 4 Ct.7, Dt. 23/9/2008)

:2:

Mr. Atul Jha, Adv.

Mr.Dharmendra Kumar Sinha, Adv.

For intervenor

Mr. Arvind Kr. Tiwary, Adv.

Mr. Rannjan Dwivedi, Adv.

H.Court of Patna

Mr. Pravin H. Parekh, Sr.Adv.

Mr. Ajay Kr. Jha, Adv.

Ms. Mary Mitry, Adv.

Ms. Divya Sinha, Adv.

for M/s P.H. Parekh & Co.

Mr. K.K. Mohan, Adv.

Mr. Prakash Kumar Singh, Adv.

M.P. High Court

Mr. C.D. Singh, Adv.

Mr. Sunny Choudhary, Adv.

Mr. Vairagya Vardhan, Adv.
Mr. Aditya Singh, Adv.

Mr. Kamlendra Mishra, Adv.

Allahabad H.Court

Mr. Ashok K Srivastava, Adv.
Mr. Saurabh Trivedi, Adv.
Mr. Indrajeet Das, Adv.

Mr. Debasis Misra, Adv.

For UOI:

Mr. Navin Prakash, Adv.
Ms. Rekha Pandey, Adv.
Ms. Sushma Suri, Adv.

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

Orissa High Court

Mr. Janaranjan Das, Adv.
Mr. Swetaketu Mishra, Adv.

For Maharashtra

Mr. Sanjay V. Kharde, Adv.
Ms. Asha G. Nair, Adv.

For Bombay H Court

Mr. Aniruddha P Mayee, Adv.
Mr. Sanjeev Kumar Choudhary, Adv.
Mr. Sanjay Visen, Adv.
Ms. Rucha A Mayee, Adv.

For Bihar

Mr. Gopal Singh, Adv.
Mr. Manish Kumar, Adv.
Ms. Vimla Sinha, Adv.

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C.A. 1867/2006Etc.....Contd...(It. 4 Ct.7, Dt. 23/9/2008)

:3:

For Tripura

Mr. Gopal Singh, Adv.

For West Bengal

Mr. Bhaskar Gupta, Sr. Adv.
Ms. Tara Chandra Sharma, Adv.
Ms. Neelam Sharma, Adv.

For Arunachal Pradesh Mr. Anil Shrivastav, Adv.

For U.P.

Mr. S.R. Singh Yadav, Sr. Adv.
Mr. Yunus Malik, Adv.
Mr. Shrish Kumar Mishra, Adv.
Ms. Pushkin, Adv.
Ms. Sunita Gautam, Adv.
Mr. Anuvrat Sharma, Adv.
Mr. G.V. Rao, Adv.

Mr. P.I. Jose, Adv.
Mr. Vivek Kandari, Adv.

Mr. Pradeep Misra, Adv.

Mr. Radha Shyam Jena, Adv.

Mr. Ashok Mathur, Adv.

For Uttarakhand

Mr. L.P. Nathani, Adv. Gen.
Mr. Anuvrat Sharma, Adv.
Ms. Rachana Srivastava, Adv.

For Karnataka Mr. Sanjay R Hegde, Adv.
Mr. A Rohen Singh, Adv.
Mr. Amit Kr. Chawla, Adv.

For Manipur Mr. KH Nobin Singh, Adv.

For Delhi H Court Ms. Jyoti Singh, Adv.
Mr. A Mariarputham, Adv.
Mrs. Aruna Mathur, Adv.
For M/s Arputham Aruna & Co., Advs.

For Tamil Nadu Mr. A Mariarputham, Adv.
Ms. Aruna Mathur, Adv.
for M/s Arputham Aruna & Co., Advs.

For Sikkim & Mr. Sonam P Wandi, Adv. Gen. of Sikkim
Sikkim H Court Mr. A Mariarputham, Adv.
Ms. Aruna Mathur, Adv.
For M/s Arputham Aruna & Co., Advs.

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C.A. 1867/2006Etc....Contd...(It. 4 Ct.7, Dt. 23/9/2008)

:4:

Mr. Vishnu Sharma, Adv.

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

For Chhattisgarh Mr. Atul Jha, Adv.
Mr. D.K. Sinha, Adv.
Ms. Suparna Srivastava, Adv.
Mr. Neeraj Srivastava, Adv.
Mr. Rajesh Srivastava, Adv.

For Rajasthan Mr. Jatinder Kumar Bhatia, Adv.
Mr. B.N. Jha, Adv.

Rajasthan H Court Mr. Sunil Kr. Jain, Adv.
Mr. Aneesh Mittal, Adv.

For Nagaland Mr. K.N. Balgopal, Adv. Gen.
Mr. Ritu Raj Biswas, Adv.
Mr. S Balaji, Adv.
Mr. A.P. Mukundan, Adv.

For Haryana Mr. Manjit Singh, Addl. Adv. Gen.
Mr.T.V. George, Adv.

For Goa Ms. A Subhashini, Adv.

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

For U.T. Mr.T.L.V. Iyer, Sr. Adv.
(Pondicherry) Mr. V.G. Pragasam, Adv.
Mr.S.J. Aristotle, Adv.
Mr. Prabu Rama Subramanian, Adv.

H.Court of Tamil Mr. R. Nadumaran, Adv.
Nadu

Calcutta High Court Mr. Jaideep Gupta, Sr.Adv.
Mr. G.S. Chatterjee, Adv.
Mr. Raja Chatterjee, Adv.

Mr. Sachin Das, Adv.

For Chandigarh
High Court

Mr. Nidhesh Gupta, Adv.
Mr. Tarun Gupta, Adv.
Ms. S Janani, Adv.

For Patna High
Court

Mr. P.H. Pareksh, Sr. Adv.
Mr. Ajay Kumar Jha, Adv.
Ms. Divya Sinha, Adv.
for M/s P.H. Parekh & Co., Advs.

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C.A. 1867/2006Etc....Contd...(It. 4 Ct.7, Dt. 23/9/2008)

:5:

For NCT Delhi Mr. Wasim A Qadri, Adv.

Ms. Sunit Sharma, Adv.
Ms. Asha G Nair, Adv.
Mr. D.S. Mahra, Adv.

Ms. Kamini Jaiswal, Adv.
Mr. Saurav Datta, Adv.

Mr. Ejaz Maqbool, Adv.

Mr. Binay Kumar Panta, Adv.
Mr. Subhasish Howmick, Adv.
Mr. S.C. Patel, Adv.

Ms. S. Janani, Adv.
Mr. Deepak Goel, Adv.

For Assam

Mr. Amrit Phukan, Adv. Gen.
Mr. Ng.J.R.Luwang, Adv.
Ms. Riku Sarma, Adv.
for M/s Corporate Law Group, Advs.

For Kerala

Mr. G Prakash, Adv.

For Punjab

Mrs. Jay Shree Anand, Addl Adv.Gen.
Mr. K.K. Mahalik, Adv.
Mr. Ajay Pal, Adv.
Mr. Kuldip Singh, Adv. (NP)
Mr. Arun K Sinha, Adv. (NP)

For State of HP
For UPPSC

Mr. Naresh K. Sharma, Adv.
Ms. Binu Tamta, Adv.

Mr. T Mahipal, Adv.

For Chhattisgarh

Mr. Atul Jha, Adv.
Mr. D.K. Sinha, Adv.

For Jharkhand

Ms. Suparna Srivastava, Adv.
Mr. Rajesh Patnak, Adv.

For Meghalaya Mr. Ranjan Mukherjee, Adv.
Mr. S.C. Gosh, Adv.

For J & K

Mr. Anis Suharawardy, Adv.
Mr. S Mehdi Imam, Adv.
Mr. Tabraz Ahmed, Adv.
Ms. Samridhi, Adv.

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For Gujarat Ms. Hemantika Wahi, Adv.
Mr. Somnath, Adv.
Ms. K Enatahi Sema, Adv.

For Uttarakhand Ms. Rachna Srivastava.
Mr.Noorullaha, Adv.

Mr. Y Rajagopala Rao, Adv.
Mr. Y Ramesh, Adv.
Mr. Y Vismai, Adv.

Mrs. D Bharathi Reddy, Adv.

Mr. Kamal Mohan Gupta, Adv.

Mr. Prashant Chaudhary, Adv.

Punjab& H.High Ms. Asha Jain Madan, Adv.
Court Mr. Mukesh Jain, Adv.

For U.P.P.S.C. Mr. Shail Kumar Dwivedi, Adv.
Ms. Vandana Mishra, Adv.
Ms. Vibha Dwivedi, Adv.

Mr. Sidhartha Choudhary, Adv.

Mr. C. Balaji, Adv.

UPON hearing counsel the Court made the following
ORDER

I.A. No. 46, 39,43 are disposed of.

Prayer -A In I.A. No. 40 is granted.

List the matter regarding State of Bihar/High court of Patna on November 04, 2008, State of Jammu & Kashmir on September 29, 2008 and State of Kerala on October 14, 2008 and for considering the cases of the State os West Bengal and Karnatka on Septembner 30, 2008.

[Charanjeet Kaur] [Usha Bhardwaj] [Vijay Dhawan]
Court Master Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1867 OF 2006

Malik Mazhar Sultan And Anr. .. Appellant(s)

Versus

U.P.Public Service Commission & Ors. .. Respondent(s)

ORDER

State of Bihar/High Court of Patna

Earlier I.A. No. 33 filed by the State of Bihar was disposed of. We have heard learned counsel for the parties.

It appears that controversy between the High Court of Patna and the State of Bihar still continues even after earlier order was passed by this Court. The resultant effect is that at the lowest run, i.e., in the cadre of Civil Judge (Jr. Division), in the year 2008, there are as many as 84 vacancies and so far these have not been even advertised. It is pointed out that the High Court had framed the rules and had sent these to the State Government but the State Government was insisting for amendment of rules providing for reservation for the OBCs. In our opinion, it would be appropriate if the process of recruitment is undertaken immediately by both, namely, the State of Bihar as well as High Court of Patna as per the existing Rules. Similarly, there are

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25% vacancies in the cadre of District Judge by direct recruitment. 09 vacancies have not been filled up because of the aforesaid reasons. In our opinion, it would be appropriate, if a direction is issued to all concerned to undertake the process of recruitment as per the existing rules.

As far as promotion to the cadre of Civil Judge (Sr. Division) is concerned, there were 94 vacancies in the year, 2007. It is stated that the evaluation is under process. It appears that although everything had to be done by the High Court but no details in regard to the steps taken by the High court in this behalf have been furnished. Let the High Court/the State expedite the process and take appropriate steps, preferably, within a period of three months, so that immediately those posts can be filled up.

Similarly, with regard to promotion in the cadre of District Judges, 50% of vacancies have to be filled in by promotion and 25% by limited examination. Entire exercise will have to be

undertaken by the High Court/Bihar Public Service Commission,
who will take appropriate steps, preferably, within a period of
three months.

List on November 04, 2008. Meanwhile, status report will
be filed by the State of Bihar as well as High Court of Patna.

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I.A. No. 46 filed by the State of Bihar is disposed of in view
of the above order.

State/High Court of Andhra Pradesh

Mr. T Madan Mohan Reddy, Secretary (Law) is present in
Court.

We have heard learned counsel for the State of Andhra
Pradesh as well as the High Court.

So far as the appointment in the cadre of District Judge is
concerned, it appears that adequate steps have been taken. No
further direction is necessary at this stage. So far as
appointment in the cadre of Civil Judge (Sr. Division) is concerned,
process to fill up all the 24 vacancies in the year, 2007 has been
undertaken by the High Court. It appears that there are 21
vacancies in the year, 2008. So far no effective action has been
taken. It is stated that the vacancies have already been notified.
Let such action be taken as expeditiously as possible, preferably
within a period of three months keeping in view the direction
given in the order dated January 4, 2007.

As far as the vacancies in the cadre of Civil Judge (Jr.
Division) is concerned, in the year, 2007, there were 105
vacancies. So far as the High Court is concerned, effective steps
have been taken and the matter is pending with the State. The
learned counsel for the

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State, under instructions of the Secretary (Law)

Mr. T Madan

Mohan Reddy, states that the State will take appropriate action, including, issuance of appointment letters, within a period of one month from today.

North East Assam/High Court of Gauhati

Mr. Arun Ch. Upadhyay, Legal Remembrancer and Secretary, is present in Court.

As far as District Judge cadre is concerned, it is stated that in the last selections none was found fit and hence the vacancies could not be filled up. At the grass-root level, i.e., Civil Judge (Jr. Division), 72 persons have already been selected and final list has been prepared which is already approved and sent to the State Government for the purpose of appointment. Let appointment be made as expeditiously as possible, preferably within a period of four weeks.

North East State/High Court of Arunachal Pradesh

Mr. A.B. Shukla, Secretary (Law) is present in Court.

The process of separation of judiciary from Executive is going on.

North East State/High Court of Manipur

In the cadre of District Judge, none was qualified. Hence, selection could not be made and no appointment could be given. With regard to Civil Judge (Jr. Division), there

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are six vacancies. Final selection list has been prepared and already forwarded to the State Government. Let appropriate steps be taken and appointment letters be issued by the State Government as expeditiously as possible, preferably within a period of four weeks on the basis of selection process undertaken by the High Court.

North East State/High Court of Meghalaya

Mr. Sylvester Dykes, Secretary (Law) is present in Court.

It is stated that so far as the District Judge cadre is concerned,

the process has been completed. Let appropriate steps be taken by the High Court as well as by the State Government immediately. It is stated that in accordance with Article 50 of the Constitution, judiciary is separated from the Executive. A notification to that effect has been issued on January 11, 2008. Thus in principle, the doctrine of separation of judiciary from Executive has been accepted and posts of District Judge, Chief Judicial Magistrate, Chief Judicial Magistrate (Jr. Level) and Judicial Magistrate (First Class) have been created in each of seven districts. Since process of recruitment has to be initiated by the High Court, no effective steps could be taken by the State Government. Let the process be undertaken by the High Court/Public Service Commission for the purpose of Selection of the District Judges and recruitment of rest

:6:

of the cadre as expeditiously as possible.

North East State/High Court of Mizoram

It is stated that the steps have already been taken by the Public Service Commission for recruitment of 13 judicial officers in the cadre of Civil Judge (Jr. Division). Let the process be expedited and completed by September 30, 2008.

North East State/High Court of Nagaland

Mr. K.N. Chishi, Legal Remembrancer-cum-Secretary is present in Court.

There is one vacant post of Fast Track Court and the process is on for filling up the same. Adequate steps have been taken.

North East State/High Court of Tripura

With regard to promotion in the cadre of District Judge, it is stated that though there are two vacancies, none qualified in selections. Therefore, no selection could be made and no appointment could be given.

It is stated that at present qualified candidates are available and the High Court will undertake the process for the purpose of filling

up those posts. In the cadre of Civil Judge (Jr. division) out of 23 vacancies in the year, 2007, 5 persons were selected and they were appointed. In the year, 2008, out of 19 vacancies, 7 persons have been selected

:7:

by the High Court. There was controversy as to recruitment process whether it is by the High Court or by the Public Service Commission. It is stated by the learned counsel for the High Court that 50% are to be selected by the High Court and remaining 50% are to be selected by the Public Service commission. Learned counsel for the State on the other hand states that the entire selection process is with the High Court. Let selection be made in accordance with law keeping in view direction given in the order dated January 4, 2007.

State/High Court of Orissa

The process has already been undertaken by the High Court as well as at the State level. Let all actions be taken as expeditiously as possible in terms of order dated January 4, 2007.

U.T./High Court of Puducherry

Let latest status report be filed within a period of four weeks.

State/High Court of Punjab

Process has already been completed.

State/High Court of Rajasthan

We have heard learned counsel for the parties.

As far as cadre of District Judge is concerned, it is

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stated that there were 29 vacancies in the year, 2007. From the affidavit in reply filed by the High Court, it is stated that a substantive writ petition was filed in this Court against the 2003 selections and interim order was passed with regard to notification issued in the year, 2003 and the process for selection had been undertaken for that year. We do not know as to what is the position in subsequent years.

Learned counsel for the High Court states that some time may be granted so as to enable the High Court to file appropriate affidavit. Let such affidavit with latest status report be filed within eight weeks from today.

Regarding Civil Judge (Sr. Division) in the year, 2008, there are 23 vacancies. As per affidavit of the High Court, it is under the consideration of the High Court. Let process be expedited and completed, preferably within three months.

As regards Civil Judge (Jr. Division), in respect of 69 vacancies in the year, 2008, it is stated that the Public Service Commission is yet to advertise the posts. In our opinion, it would be appropriate if the State is directed so that appropriate steps shall be taken by the Public Service Commission to expedite the process by taking initial steps for advertising the posts and taking further progress in the matter.

Regarding draft rules, it is stated that the amended draft rules which will be finally amended by the High Court

:9:

have been forwarded to the State Government on August 12, 2008.

Learned counsel for the State states that the amended rules have been received by the State Government. In our opinion, it would be appropriate if we direct the State Government to issue notification within a period of two months.

I.A. No. 39 is, accordingly, dismissed.

State/High Court of Chattisgarh:

It appears that the High Court has not taken effective steps for the purpose of filling up vacancies in any Cadre for the year 2007. But with regard to the year 2008, the High Court appears to have taken some steps. Let said process be undertaken immediately but at the same time, the High Court will take immediate steps for the purpose of filling up vacancies in all cadres for 2007, if it is not undertaken, and 2008 by combining vacancies, if it is not filled up in 2008.

State/High Court of Delhi:

We have heard learned counsel for the parties.

It is stated on behalf of the State that Delhi Judicial Services Rules framed by the High Court of Delhi are lying with the State Government and within a period of one week, they will be notified. Similarly, the Delhi Higher Judicial Services Rules which have been framed by

:10:

the High Court are also lying with the High Court and they will be notified within a period of six weeks.

With regard to the appointment in the Cadre of Civil Judge (Senior Division), for 28 vacancies for the year 2007, it is stated that 27 appointments have already been notified for the year 2007. All the vacancies for the year 2008 are under process to be filled up.

State/High Court of Gujarat:

So far as the Cadre of Civil Judge (Junior Division) is concerned, it was stated that there are 150 vacancies. The number of candidates selected is 105. But the High Court has recommended for 98 candidates. The police verification and medical test are in progress. It is, therefore, directed that steps should be taken immediately making appointment as expeditiously as possible preferably within a period of three months. With regard to the Civil Judge (Senior Division) as well as District Judge, let appropriate steps be taken by the High Court as well as by the State expeditiously preferably within a period of three months.

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State/High Court of Haryana:

Mr. M.S. Sullar, Sessions Judge, Law Secretary-cum-Legal Rememberancer for the State of Haryana is present in Court.

It appears that the High Court as well as the State Government have taken steps. Let the process to continue and appointments be made immediately for the vacant posts.

State/High Court of Himachal Pradesh:

Mr. A.C. Dogra, Law Secretary, Govt. of Himachal Pradesh is present in Court.

We have heard learned counsel for the parties.

Prayer-A in I.A.No.40 is granted.

State/High Court of Jammu & Kashmir:

By our last order, we had directed the Law Secretary for the State of Jammu and Kashmir to remain personally present in Court. Learned counsel for the State states that he is unable to remain present. In our opinion, the order passed by this Court should be complied with. Let Law Secretary remain present on 29th September, 2008 at 10.30 p.m. in Court.

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State/High Court of Jharkhand:

We have heard learned counsel for the parties.

As far as the filling up of vacancies in the Cadre of Civil Judge (Senior Division) is concerned, it appears that there are 22 vacancies. Let High Court take appropriate steps as expeditiously as possible to fill in those vacancies preferably within a period of three months subject to judicial order, if any. As far as Civil Judge (Junior Division) is concerned, there were 52 vacancies in 2007 and the High Court has requested the Public Service Commission by communication dated December 07, 2006 for

doing the needful to fill up the vacancies. There are also 65 vacancies in 2008. It was also stated that the Public Service Commission had issued an advertisement on April 30, 2008 for filling up of those vacancies. It, therefore, appears that about five months are over. Keeping in view the order passed by this Court on January 04, 2007, let Public Service Commission, State Government as well as the High Court expedite the process so as to make selection and appointments as early as possible, preferably, within a period of three months.
State of Kerala:

We have heard learned Amicus Curiae as well as learned counsel for the State. Nobody appears on behalf

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of the High Court of Kerala. An affidavit is filed by the Registrar (Subordinate Judiciary) of the High Court of Kerala on August 19, 2008. It was stated that as per letter dated December 19, 2007, the High Court had requested the Hon'ble Supreme Court of India for variation of the time schedule by extending time up to July 31, 2008 for completing the selection process.

Again a request was made by a letter dated July 16, 2008 for extension of time schedule up to January 31, 2009.

Let Registrar General, remain present on October 14, 2008 at 10.30 a.m. in Court.

Let Registry send a copy of this part of the order to the Chief Justice of the High Court of Kerala. Let State Government also clarify with regard to vacancies and, particularly, position in the Cadre of Civil Judge (Junior Division).

State/High Court of Madhya Pradesh:

With regard to the Cadre of District Judge (Direct Recruitment), it appears that there are about 20 vacancies. It was

stated that an advertisement had been issued on August 4, 2008 and the process has already been

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undertaken. Let process be expedited. In view of this, I.A.No.43 is disposed of.

State/High Court of Maharashtra:

Adequate steps have been taken. So far as the appointment in the Cadre of Civil Judge (Junior Division) is concerned, it was stated that there are 162 vacancies and 155 candidates were selected. It was also stated that 29 names were recommended for appointment and they were pending before the State Government. 126 candidates have already been appointed. The Learned counsel appearing for the State of Government has stated at the Bar that he has taken instructions on telephone from the officer concerned. He has stated that even those names were also cleared. If it is so, the State will take immediate steps so that the appointments may be made. In 2008 there are total 67 vacancies. Let the High Court, the State as well as the Public Service Commission take appropriate steps immediately.

State/High Court of Tamil Nadu:

We have heard learned counsel for the parties. With regard to the appointment of District Judges (Direct Recruitment) as well as promotions, it was stated that new Rules framed in 2007 are pending before the Administrative Committee of the High Court. Learned

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counsel appearing for the High Court stated that some time may be granted so that a further affidavit is filed with the latest status report. Let such affidavit be filed within a period of eight weeks. Let process be expedited.

With regard to the appointment in the Cadre of Civil Judge (Junior Division), it was stated that the calculation was made on the basis of position as would be prevailing on December 31, 2008. On that basis selection of 201 posts of Civil Judges is going on. The examination has been held and the results are likely to be declared and the entire process would be completed by November, 2008. Let it be undertaken immediately.

State/High Court of U.P.:

Mr. Syed Mazhar Abidi, Principal Secretary, Judicial and Legal Remembrancer, Government of U.P., Lucknow is present in Court.

We have heard learned counsel for the parties. So far as the appointment to the post of District Judges (Direct Recruitment) is concerned, it was stated that out of 82 vacancies 41 candidates have been found qualified. Steps have been taken for the purpose of appointing them. Let appointments be made as expeditiously as possible, preferably within a period of three months.

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Regarding 76 vacancies in the quota of District Judges (accelerated promotion) it is the case of the High Court that since none of the eligible officers could obtain 50% qualifying marks, those posts were added to the promotion quota of 50%. That is how in the promotion quota 245 promotions have been made. The argument on behalf of the High Court is that it is in consonance with the Rules of 1975 as amended from time to time. Prima facie, the stand of the High Court does not appear to be in consonance with the decision of this Court in All India Judges' Association & Ors. vs. Union of India & Ors. 2002 (4) SCC 247. Let an appropriate affidavit explaining its stand be filed by the High Court within a period of six weeks from today.

Regarding appointment to the posts of Civil Judge (Senior

Division) is concerned, it was stated that in the year 2007 there were 216 vacancies but none was found qualified having completed requisite five years service. In 2008 the vacancies were 227 in number and only 19 were qualified and accordingly appointed. It is also stated that since the other candidates were not found having requisite service of 5 years, the period of qualifying service was reduced from 5 years to 4 years and accordingly 134 candidates were treated as qualified and interviewed. Out of them 130 have already been selected.

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Here also, prima facie, the stand of the High Court does not appear to be in consonance with the above judgment. Let the High Court clarify its stand on this aspect also.

With regard to the Cadre of Civil Judge (Junior Division) there were 339 vacancies in 2007 for which Examination was held in September, 2007. It is stated that the result is awaited. It is also stated that there was a litigation and a writ petition was filed in the High Court of Judicature at Allahabad and some order was passed. Learned counsel for the Public Service Commission who is a party respondent in the main matter states that in view of the some order now passed by the High Court a final decision in the matter will be taken shortly. It may be noted that as per the order passed by this Court on January 4, 2007, results are to be declared by the Public Service Commission within a period of 45 days of conducting the examination. Here the Public Service Commission has taken more than one year. Let Public Service Commission file an appropriate affidavit within a period of four weeks explaining the circumstances leading to the delay.

State of Uttarakhand:

With regard to selection of Civil Judge (Junior Division) it was stated that the examination has already

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been held. The interview is scheduled to be held on 29/30 th
September, 2008. Let an appropriate decision be taken
expeditiously.

List the matter on 30th September, 2008 for considering
the cases of the States of West Bengal and Karnataka.

.....J
[C.K. THAKKER]

.....J
[D.K. JAIN]

NEW DELHI,
SEPTEMBER 23, 2008.