

ITEM NO.23

COURT NO.1

SECTION III-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.1867/2006

MALIK MAZHAR SULTAN & ANR.

Appellant(s)

VERSUS

U.P. PUBLIC SERVICE COMMISSION THROUGH
ITS SECRETARY & ORS.

Respondent(s)

(With appln.(s) for appropriate orders/directions, clarification/
direction and extension of time)

WITH S.M.W.(C) No.1/2017 (PIL-W)
S.M.W.(C) No.2/2018 (PIL-W)

Date : 06-11-2019 These matters were called on for hearing today.

CORAM :

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HON'BLE MR. JUSTICE DEEPAK GUPTA
HON'BLE MR. JUSTICE SANJIV KHANNA

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By Courts Motion

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Ms. Sujatha Bagadi, Adv.

Mr. T. Vijaya Bhaskar Reddy, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Re: State of Bihar (High Court of Patna)

We have heard Shri Vijay Hansaria, learned Amicus Curiae and Mr. P.H. Parekh, learned senior counsel for the High Court of Patna.

I. District Judge/Higher Judicial Services

The action plan submitted by an affidavit dated 14th September, 2019, by the High Court of Patna is approved. The High Court shall send the list of 93 candidates due for promotion against the promotion quota within a week from

today, whereafter, the appointments be made by the State Government within two weeks from the date of receipt of the said list. The same exercise would also be carried out so far as 35 candidates in Limited Competitive Examination (LCE) quota are concerned.

So far as the appointments against the direct recruit quota is concerned, if required, the concerned authority may act on the basis of the waiting list, if any.

II. Civil Judge (Senior Division)

So far as the vacant posts in the cadre of Civil Judge (Senior Division) is concerned, we would expect the High Court to complete the process within a period of two weeks by recommending the required number of candidates for promotion.

III. Civil Judge (Junior Division)

Insofar as vacant posts of Civil Judge (Junior Division) is concerned, it appears that interviews of 1080 candidates, who have qualified, have been held and completed against 349 vacancies between 21st to 27th October, 2019. The Public Service Commission is directed to complete the process by sending its recommendation to the State Government within four weeks from today. Thereafter, the State Government will make necessary appointments after police verification, etc. within a further four weeks time from the date of receipt of recommendation from the Public Service Commission.

So far as the amendment of the Rules is concerned, learned Amicus Curiae has submitted that amendments have been made and notified on 28th October, 2019. Necessary action on the basis thereof shall now be initiated.

So far as the infrastructure is concerned, we have gone through the detailed note submitted by the learned Amicus Curiae. The State Government is directed to take all necessary steps in this regard so that requisite infrastructure is made available to enable the judicial officers to function in a proper manner. The time frame for making available infrastructure as indicated in the note of the learned Amicus Curiae be adhered to.

So far as the reimbursement of rent is concerned, it has been pointed out that pursuant to the order of this Court dated 17th January, 2019, the State of Odisha has passed an appropriate order, which is in the following terms:

“Sub: Full reimbursement of actual rent paid by the Judicial Officer.

S.R.O. No.252/2019 - In pursuance of direction of Hon'ble Supreme Court of India dated the 17th January, 2019 in Civil Appeal No.1867 of 2006 filed by Malik Mazhar Sultan and Another vs. U.P. Public Service Commission and Others, the State Government after careful consideration have been pleased to decide that full reimbursement of rent to the Judicial Officers of the State is to be made on the basis of a fair rent Certificate issued by the Executive Engineer of the region wherein the accommodation has been taken up on hire by a judicial officer as per the specification of their entitlement category of quarter.

This has been concurred in by Finance Department vide their File No.FIN-CS2-CASE-0001-2019.

By order of the Governor
Sashikanta Mishra
Principal Secretary to Government”

The State of Bihar is directed to examine as to whether a similar order ought to be passed in the case of the judicial officers of the State and act accordingly within a

period of four weeks from today. The order passed by the State of Bihar pursuant to this order be laid before the Court on the next date fixed for hearing.

Re: State of Punjab/State of Haryana (High Court of Punjab & Haryana)

No specific direction would be required except for filling up of vacancies to the post of Civil Judge (Junior Division) for the next year. The schedule framed by this Court for filling up of vacancies be adhered to.

So far as the infrastructure is concerned, we have gone through the detailed note submitted by the learned Amicus Curiae. The State Government is directed to take all necessary steps in this regard so that requisite infrastructure is made available to enable the judicial officers to function in a proper manner. The time frame for making available infrastructure as indicated in the note of the learned Amicus Curiae be adhered to.

Re: State of Haryana

No specific orders of this Court would be called for. So far as the vacancies in the cadre of Civil Judge (Junior Division) is concerned, we are told that Writ Petition (Civil) No.565 of 2019, is pending before this Court which should require final orders.

Post the said writ petition on 13th November, 2019.

Re: State of Odisha (High Court of Odisha)

I. District Judge/Higher Judicial Services

So far as the cadre of District Judge is concerned, the High Court of Odisha would be expected to finalize the

selection against the vacancies available in the LCE quota (14 numbers) for which we are told selection date has been fixed to 16th November, 2019.

So far as the direct recruit quota is concerned, two candidates have been found suitable by the High Court and recommended to the State Government. The State is directed to take necessary steps in this regard by issuing appointment orders after completion of all formalities within four weeks from today.

So far as the infrastructure is concerned, we have gone through the detailed note submitted by the learned Amicus Curiae. The State Government is directed to take all necessary steps in this regard so that requisite infrastructure is made available to enable the judicial officers to function in a proper manner. The time frame for making available infrastructure as indicated in the note of the learned Amicus Curiae be adhered to.

Re: State of Madhya Pradesh (High Court of Madhya Pradesh)

I. District Judge/Higher Judicial Services

Insofar as the cadre of District Judge is concerned, as against 152 vacancies available as on date, we are told that 61 officers have been appointed by the State Government on 14th October, 2019 and written examination for 36 vacancies has been conducted on 21st September, 2019. The note of the learned Amicus Curiae suggests that the said process is likely to be completed by the end of October, 2019. We are told that the result of the selection has been declared on 2nd November, 2019. Further steps in this regard be taken by the High Court by making recommendation within two weeks and

the State of M.P. to issue appointment/promotion orders within two weeks thereafter.

So far as the direct recruitment is concerned, in view of the order dated 23.4.2019 passed by this Court, three vacancies in respect of which appointment has been withheld will now have to remain pending until disposal of Writ Petition Nos.519, 578 and 581 of 2018.

We have also taken note of the fact that in respect of 55 posts now available against direct recruit quota, the process is likely to be completed by November, 2019. We would expect the High Court to complete the said process as per the schedule mentioned above.

So far as the posts in the cadre of Civil Judge (Junior Division) is concerned, we direct that the appointments of the remaining officers out of 157 selected, will be made, subject to police verification within a period of four weeks from today. If such police verification cannot be obtained within the said period, the appointments be made subject to obtaining police verification thereafter.

A sizable number of posts cannot be filled up due to pendency of issue of reservation with the State Government. We direct the State Government to resolve the same by passing appropriate orders within a period of four weeks from today.

So far as the infrastructure is concerned, we have gone through the detailed note submitted by the learned Amicus Curiae. The State Government is directed to take all necessary steps in this regard so that requisite infrastructure is made available to enable the judicial officers to function in a proper manner. The time frame for making available infrastructure as indicated in the note of the learned Amicus Curiae be adhered to.

Re: State of Tamil Nadu (High Court of Madras)

I. District Judge/Higher Judicial Services

Against eighteen vacancies available in the quota of regular promotion, a panel of fourteen names is presently pending before the Promotion Committee of the High Court. Similarly, a panel of two names is pending before the said Promotion Committee for being filled up against the quota of LCE. The High Court is required to expedite the process and complete the same by sending its recommendations to the State Government within four weeks from today. The State Government thereafter will make necessary appointments within two weeks from the date of receipt of the recommendations from the High Court.

The note of learned Amicus Curiae would go to show that there are 30 posts in the cadre of District Judge which are to be filled up against the direct recruit quota. It appears that the said vacancies are yet to be notified. The High Court is requested to notify the same within two weeks and, thereafter, complete the process of selection and appointment as per the schedule laid down by this Court in *Malik Mazhar Sultan case*.

II. Civil Judge (Senior Division)

So far as the vacancies in the cadre of Civil Judge (Senior Division) is concerned, the note of learned Amicus Curiae suggests that against 27 vacancies, a panel of 79 names is presently pending before the Promotion Committee. In this regard, we take note of our previous order by which the said process was directed to be completed latest by September, 2019. Be that as it may, we request the High Court to complete the process of appointment as against the

available vacancies in the cadre of Civil Judge (Senior Division) within two weeks from today by sending the list to the concerned authority in the State Government. Thereafter, the State Government would notify the appointment within two weeks from the date of receipt of the recommendation of the High Court.

III. Civil Judge (Junior Division)

So far as the vacancies in the cadre of Civil Judge (Junior Division) is concerned, we are told that against 176 vacancies notified on 9th September, 2019, preliminary examination is scheduled to be held on 24th November, 2019. We direct the Public Service Commission to complete the process as per the time schedule laid down by this Court in *Malik Mazhar Sultan case*.

Re: Union Territory of Puducherry

We modify our order dated 30.07.2019/31.07.2019/01.08.2019 by requiring the Union of India and not the State Government of Tamil Nadu to take steps for sanction and creation of nine additional posts as mentioned in the said order. We are told by Shri R. Venkataramani, learned senior counsel appearing for the Union Territory of Puducherry that notwithstanding the discrepancy in our order, the Union Territory has approached the Union of India for sanction of the additional posts and the said matter is pending before the competent authority of the Union Government and as per his information the same is in the advanced stage. We direct the said authority in the Union Government to complete the process and notify its decision in the matter within a period of four weeks from today. Thereafter, if additional posts are sanctioned and created, steps will be taken to fill up the

same as per the time schedule laid down in *Malik Mazhar Sultan* case.

So far as the infrastructure is concerned, we have taken note of the suggestions as indicated in the note of the learned Amicus Curiae. The concerned authorities in the State Government are directed to adhere to the time schedule mentioned in the said note for completion of different phases of infrastructural projects in the State and complete the same as per the said schedule.

(Chetan Kumar)
A.R. -cum-P.S.

(Anand Prakash)
Court Master