

ITEM NO.1

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 extension of time)

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

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

Date : 30-07-2019/ These matters were called on for hearing.
31-07-2019/
01-08-2019

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE DEEPAK GUPTA
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

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W.B., Chhattisgarh
Delhi, NE States

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

Re: State of U.P. (Allahabad High Court)

Following officers are present on behalf of the State of U.P. and Allahabad High Court:-

- (i) Mr. Mayank Kumar Jain, Registrar General
Allahabad High Court
- (ii) Mr. Dinesh Kumar Singh, Principal Secretary,
Law Department, Govt. of U.P.
- (iii) Mr. Randheer Singh, Special Secretary, Law
Department, Govt. of U.P.

Status reports filed have been duly considered.

I. District Judge/Higher Judicial Service

Insofar as the U.P. Higher Judicial Service is concerned, the total number of posts in the cadre is 1437. The working strength as on 30.06.2019 was 896. All the 364 vacant posts are almost filled up, namely, 125 by actual appointments and the remaining 239, which the Principal Secretary, Law Department assures the Court, will be filled up within next thirty days. This will still leave vacancy of 177 posts in the Higher Judicial Service cadre of the State, out of which 72 posts are stated to be temporary in nature being valid up to March, 2020, against some Fast Track Courts scheme.

While the aforesaid 72 posts which are filled up by regular members of the judicial services shall remain in their present status and will be governed by extensions of the scheme beyond 2020, as and when the same is made. The

remaining posts i.e. 114 in number (inclusive of 9 vacancies caused by retirement) need to be filled up at the earliest. The Registrar General of the High Court assures the Court that advertisement for filling up the said 114 posts will be issued within next two weeks and every endeavour will be made to complete the selection process against the said posts by the end of December, 2019. We order accordingly.

II. Civil Judges (Senior Division)

Twenty-eight posts in the cadre are stated to be vacant. The said posts are promotional posts. Promotions are not possible according to the High Court as the incumbents in the feeder cadre i.e. Civil Judge (Junior Division) have not completed the requisite length of service. We request the Full Court of the Allahabad High Court to consider the matter and in the event Full Court feels that all or any of the 28 posts in the vacant cadre Civil Judge (Senior Division) are required to be filled up immediately, the Full Court may consider relaxation of the period of qualifying service and make promotions after complying with the recruitment rules in force.

III. Civil Judge (Junior Division)

Ninety-five posts in the cadre are vacant, out of which 90 are stated to be newly created posts. The Registrar General of the Allahabad High Court submits that the matter is pending before the Judges Committee dealing with the appointments of cadre of Civil Judge (Junior Division). We request the High Court to expedite the matter so that necessary advertisement, etc. can be issued at the earliest and the process be completed as expeditiously as possible.

Re: State of Maharashtra/State of Goa (High Court of Bombay)

Following officers are present on behalf of the States of Maharashtra and Goa and the High Court of Bombay:-

- (i) Mr. Surendra P. Tavade, Registrar General
Bombay High Court
- (ii) Mr. S. Lada, Principal Secretary & Remembrancer of
Legal Affairs (RLA), Law and Judiciary,
State of Maharashtra
- (iii) Mr. Rajendra Gajanan Bhagwat, Deputy Secretary,
Law And Judiciary, State of Maharashtra
- (iv) Mr. Govind Jaiswal, Law Secretary, State of Goa

Re: State of Maharashtra

I. District Judge/Higher Judicial Service

Process of recruitment for 76 posts is presently going on, which includes 43 existing vacancies and the remaining anticipated vacancies up to 31.03.2020. Six posts are available for being filled up by direct recruitment and 10 by Limited Competitive Examination from in-service candidates. The preliminary examination is over and the main written examination is to be held in the month of August, 2019. The Registrar General of the High Court, who is present in the Court, submits that interviews will be held by the first week of September, 2019 and, thereafter, appointments will be made, which, according to the Principal Secretary, Law and Judiciary, should not take more than 15 days after receipt of the recommendations from the High Court.

So far as the remaining 60 posts are concerned, the same are promotional posts. The Registrar General submits

that evaluation of judgments of eligible officers will be completed by the end of July, 2019 and, thereafter, interviews will be held and the entire process is likely to be finalized by the first week of September, 2019, whereafter, according to the Principal Secretary, Law and Judiciary, appointments will be made by the Government within a week from the date of receipt of the recommendations by the High Court.

The process, as indicated above, shall continue and the Court would expect the select list for 76 posts to be published by the end of September, 2019 and appointments be made therefrom against existing vacancies and anticipated vacancies as and when the same occur.

II. Civil Judge (Senior Division)

Presently, recruitment process for 108 posts which includes 20 existing vacancies is going on. Appointments are made from two sources i.e. from in-service officers, who qualified in the Limited Competitive Examination and by regular promotions. Both the processes are stated to be at an advanced stage as indicated in the report of the Registrar General.

Having regard to the stage at which the recruitment process is poised, the Court sees no difficulty in the select list being finalized by the end of October, 2019, and appointments thereafter be made against existing vacancies and other vacancies as they occur from time to time.

III. Civil Judge (Junior Division)

Recruitment to 190 posts in the cadre is presently going on. The result of the preliminary examination has been

declared on 20.06.2019 and the main written examination is scheduled for 18.08.2019. Though the examination is conducted by the Public Service Commission, the Registrar General and the Principal Secretary, Law and Judiciary have submitted that in their estimation, the selection process including appointments should be completed latest by the end of December, 2019. The Court orders accordingly and would expect that appointments against the existing vacancies and other vacancies be made from the select list.

Re: State of Goa

I. District Judge/Higher Judicial Service

In the cadre of District Judges, only one post is lying vacant. It is not proposed to fill up the post and no vacancies are arising in the near future. Therefore, no process for recruitment to be conducted this year.

II. Civil Judge (Senior Division)

There are no vacancies and hence no orders are called for.

III. Civil Judge (Junior Division)

There are 5 vacancies and 1 anticipated vacancy in the cadre and process for recruitment has been initiated. We direct that the said process be completed within the time frame laid down in Malik Mazhar Sultan and Another vs. Uttar Pradesh Public Service Commission and Others (2008) 17 SCC 703.

Re: State of West Bengal/U.T. of Andaman and Nicobar Islands (High Court of Calcutta)

Following officers are present on behalf of the High Court of Calcutta, the State of West Bengal and the U.T. of Andaman and Nicobar Islands:-

- (i) Mr. Rabindra Nath Samanta, Registrar General
Calcutta High Court
- (ii) Mr. Siddharth Roy Chowdhury, Judiciary Secretary,
Govt. of West Bengal
- (iii) Mrs. Madhu K. Garg, Commissioner cum Secretary
(Law), Andaman and Nicobar Islands

Re: State of West Bengal

I. District Judge/Higher Judicial Service

Eighteen vacancies are required to be filled up, 6 from the direct recruit quota and 12 by promotion. Against the direct recruit quota as only 2 persons have qualified, remaining 4 vacancies as per the Judicial Service Rules are required to be filled up by promotion. The number of posts available for promotion has therefore been worked out as 16.

We are told that the selection process so far as the direct recruit quota is concerned will be over by the end of August, 2019 and, thereafter appointments will follow as per the schedule laid down in Malik Mazhar Sultan (supra).

Insofar as the 16 promotional posts are concerned, we are told that *viva-voce*/interviews of the candidates are over and the process of promotion including appointments are likely to be finalized latest by the end of October, 2019. We request the High Court to act accordingly and, if possible, to expedite the process so that the appointments

against both categories can be made even before the date indicated above.

II. Fast Track Courts (Additional District Judge)

The vacancies to be filled up by temporary promotion from the cadre of Civil Judge (Senior Division). At present there are 4 vacancies and total anticipated vacancies up to 31.12.2019 are stated to be 21. The Registrar General of the High Court has submitted that presently interviews are going on and the select list is likely to be published by 31.08.2019, whereafter, appointments will be made against the existing vacancies of 4 and such other vacancies that may arise from time to time. The High Court is requested to act accordingly.

III. Civil Judge (Senior Division)

Against 9 existing vacancies, 32 vacancies in all (including anticipated vacancies) have been notified. List of eligible officers (96) have been drawn up. Appointments are to be made by promotion from the cadre of Civil Judge (Junior Division) on the basis of exercise of judgment evaluation and ACR recordings. The Registrar General of the High Court submits that select list against 32 notified vacancies will be made final by the end of October, 2019. The process of appointments to be completed against the existing vacancies and vacancies occurring from time to time by end of October, 2019, preferably before the Pooja vacations.

IV. Civil Judge (Junior Division)

In this cadre, there are 4 existing vacancies and

the anticipated vacancies up to December, 2019 are 35. The main written examination is over and the results are expected by the end of August, 2019. Thereafter, interviews will be held. We expect the selection process including appointments to be completed by the end of November, 2019.

Re: Andaman & Nicobar Administration

There are no vacant posts in the cadre of either the higher judicial service or the subordinate judicial service. No orders are, therefore, called for.

Re: State of Chhattisgarh (High Court Chhattisgarh)

Following officers are present on behalf of the High Court of Chhattisgarh and State of Chhattisgarh:-

- (i) Mr. Neelam Chand Sankhla, Registrar General
High Court of Chhattisgarh
- (ii) Mr. Ravi Shankar Sharma, Principal Secretary,
Law and Legislative Affairs, State of Chhattisgarh

I. District Judge/Additional District Judge

Sixty-two out of 75 vacant posts have been subjected to a recruitment process. The 13 remaining posts have not been notified by the Government for being filled up for want of basic infrastructure. Forty out of 62 posts are earmarked for being filled up by direct recruitment. 39 appointments have been made on 2.7.2019 and 1 post has been kept vacant as per order of the High Court on administrative side.

Of the remaining 22 vacancies available for being filled up by direct recruitment, no candidate has qualified.

16 in-service judicial officers were allowed to take part in the examination and the results were kept in sealed cover. We are told by the Principal Secretary, Law and Legislative Affairs that none of them has qualified. The said 22 vacancies will now have to be governed by such orders that may be passed on the judicial side by the forum/fora where the cases are pending. The Principal Secretary, Law and Legislative Affairs and the Registrar General of the High Court are directed to inform the concerned Court of the aforesaid developments to enable a fresh appropriate action to be taken to fill up remaining 22 vacancies.

II. Civil Judge (Senior Division)

Sixty-nine posts are in the process of being filled up, which include both existing and anticipated vacancies. We are told that on 2.7.2019, 27 candidates have been appointed. The remaining 42 vacancies have not been filled up for want of eligibility in respect of qualifying service of 5 years. We request the High Court to consider, if any of the aforesaid 42 vacancies are required to be filled up immediately, relaxation of the period of qualifying service and thereafter to take steps to fill up the said posts or any of them, as may be required.

III. Civil Judge Class-II

So far as the post of Civil Judge Class-II is concerned, there is no existing vacancy though a process for recruitment against 39 anticipated vacancies has been initiated and the validity of the same is pending before the High Court on the judicial side. We request the High Court to hear and decide the matter as expeditiously as possible,

so that the process of filling up the 39 anticipated vacancies can recommence and be concluded at an early date.

Re: State of NCT of Delhi (High Court of Delhi)

Following officers are present on behalf of the High Court of Delhi and NCT of Delhi:-

- (i) Mr. D.K. Sharma, Registrar General, High Court of Delhi
- (ii) Mr. Reetesh Kr. Singh (ADJ), Officer on Special Duty, Exams, High Court of Delhi
- (iii) Mr. Sanjay Aggarwal, Principal Secretary, Law, NCTD
- (iv) Mr. Lovleen, Addl. Secretary, Law

I. Delhi Higher Judicial Service

Twenty-one posts are lying vacant out of which 11 have been subjected to recruitment process, the validity of which is an issue in Special Leave Petition (Civil) No.14156/2015 before this Court. In terms of the orders passed by the Court, the process is to be finalised subject to the further orders as the Court may pass. The Registrar General of the High Court is requested to move this Court on the judicial side for final determination of the aforesaid case and thereafter, to take steps for declaration of the result and further steps in the appointment process in tune with such order(s) as may be passed by this Court on the judicial side. Insofar as the remaining 10 vacancies are concerned, it is stated that 3 of the said vacancies are to be filled up against the direct recruitment quota and the remaining 7 by promotions. At this stage, we direct that the 7 vacancies in the Delhi Higher Judicial Service available

for being filled up by the promotional quota be filled up at the earliest, which the Registrar General of the High Court anticipate, should take about three months from today i.e. by the end of October, 2019.

II. Delhi Judicial Service

The total cadre strength is 482 i.e.96 insofar as Civil Judge (Senior Division) is concerned and 386 in respect of Civil Judge (Junior Division). All the 96 posts of Civil Judge (Senior Division) are filled up as on date. Out of the 386 posts of Civil Judge (Junior Division), 205 posts have been filled up. 137 posts have been subjected to a recruitment process, which has been finalised and appointments are going on.

If all the 137 posts for which a select list has been prepared are filled up, there will be 44 vacancies. Leaving aside the sole reserved post which has been kept reserved under the orders of the Delhi High Court, we are told by the Registrar General of the High Court that an advertisement for the remaining 43 posts will be issued tomorrow and the appointment process will be completed in accordance with the time schedule indicated in Malik Mazhar Sultan (supra) i.e. six and half months. We request the Delhi High Court to initiate the process and complete the same as expeditiously as possible.

Re: State of Assam (High Court of Gauhati)

Following officers are present on behalf of the High Court of Gauhati and State of Assam:-

- (i) Mr. Robin Phukan, Registrar General
Gauhati High Court

- (ii) Mr. Sanjeev Sharma, Legal Remembrancer cum
Commissioner & Secretary, Judicial Department

I. Assam Judicial Service (Grade I)

Ten posts in the District Judge cadre against the direct recruit quota are available and the selection process is presently going on. The result of the main examination as per the road map prepared has to be declared on 3.9.2019.

Insofar as the quota against in-service candidates to be filled up by limited departmental competitive examination is concerned, though the number of posts actually available is 1, 9 anticipated vacancies are also in fray. A selection process for the said vacancies is also currently on and the results are expected to be declared by 31.8.2019. The said selection be completed at the earliest and such candidates who may be found to be eligible for appointment on the basis of the examinations held be appointed latest by 30.11.2019.

II. Assam Judicial Service (Grade II)

Six posts in Grade II of the Assam Judicial Service are lying vacant. More vacancies may arise in the event the 10 posts vacant in the cadre of District Judge/Grade-I available against the quota to be filled up by limited departmental competitive examination are successfully filled up. We request the High Court to keep the above in mind. As we are told that some officers in Grade III are likely to complete the qualifying service by the end of August, 2019, the High Court may initiate the recruitment process in anticipation, so that the same may be completed as early as possible, preferably by the end of 2019.

III. Assam Judicial Service (Grade III)

Forty-five officers have been appointed in Grade III of the Assam Judicial Service on 2.7.2019. Recruitment for 25 existing and 13 anticipated vacancies is presently going on. The result of the main written examination is scheduled to be declared on 10.9.2019 and the select list is anticipated to be published prior to the last date as per the schedule indicated in Malik Mazhar Sultan (supra) i.e. 1.11.2019. We request the High Court to act accordingly.

Re: State of Nagaland (High Court of Gauhati)

Following officers are present on behalf of the High Court of Gauhati and the State of Nagaland:-

- (i) Mr. Robin Phukan, Registrar General
Gauhati High Court
- (ii) Mrs. Khanrinla T. Koza, Secretary & Legal
Remembrancer (Law)

I. Nagaland Judicial Service (Grade I)

The 2 available vacancies in Grade I (District Judge cadre) are against the promotional quota, as no candidate in the feeder cadre of Grade II has completed the qualifying service of three years. Keeping in view the nature of the posts in question, we do not deem it appropriate that any relaxation of the qualifying service should be granted.

II. Nagaland Judicial Service (Grade II)

There are no vacant posts lying, so no orders would be called for.

III. Nagaland Judicial Service (Grade III)

Insofar as the vacant posts in Grade III are concerned, we are told by the Registrar General of the Gauhati High Court that the same is subject to a litigation before the High Court, which is pending. We request the High Court to finalize the case as expeditiously as possible, so that the process of appointments against the existing posts in Grade III of the Nagaland Judicial Service can be completed at the earliest.

Re: State of Mizoram (High Court of Gauhati)

Following officers are present on behalf of the High Court of Gauhati and the State of Mizoram:-

- (i) Mr. Robin Phukan, Registrar General
Gauhati High Court
- (ii) Mr. Pi Marli Vankung, Secretary to the
Government of Mizoram, in-charge of Law &
Judicial Parliamentary Affairs Department

I. Mizoram Judicial Service (Grade I)

In view of the fact that there are no vacant posts lying, no orders would be called for.

II. Mizoram Judicial Service (Grade II)

In view of the fact that there are no vacant posts lying, no orders would be called for.

III. Mizoram Judicial Service (Grade III)

Out of 18 vacant posts in Grade III of the Mizoram Judicial Service, 17 have been identified by the High Court

to be not required for being immediately filled up. In view of the above, no orders will be called for.

Re: State of Arunachal Pradesh (High Court of Gauhati)

Following officers are present on behalf of the High Court of Gauhati and the State of Arunachal Pradesh:-

- (i) Mr. Robin Phukan, Registrar General
Gauhati High Court
- (ii) Mr. Ghan Shyam Meena, Law Commissioner

There is no vacancy in the cadre of Grade I or Grade II of the Arunachal Pradesh judicial service. 5 vacant posts are available in Grade III for being filled up by direct recruitment. The process is currently on. The same be expedited and completed as expeditiously as possible.

Re: State of Manipur (High Court of Manipur)

Following officers are present on behalf of the High Court of Manipur and the State of Manipur:-

- (i) Mr. A. Guneshwar Sharma, Registrar General, High Court of Manipur
- (ii) Miss A. Nungshitombi, Secretary, Law

I. Manipur Judicial Service (Grade I)

Seven vacancies are available, out of which 4 are regular and 3 for Family Courts, which have been created under the allocation made by the 14th Finance Commission, valid upto 31.3.2020. Five out of the 7 vacancies are to be

filled up by direct recruitment and remaining 2 by promotion. For direct recruitment, written examination has been held on 27.7.2019 and 28.7.2019. The results are expected to be declared in the middle of September, 2019 and interviews are contemplated in the first week of October, 2019 leading to the finalization of the select list by the end of October, 2019. Appointments are to be made thereafter.

We request the High Court to adhere to the time schedule and direct for completion of the appointment process against the 5 posts in Grade I by the end of November, 2019.

Insofar as the 2 promotional posts are concerned, we are told that there is no candidate who has the prescribed qualifying service. No orders in this regard, therefore, are considered necessary.

II. Civil Judge (Senior Division)/Manipur Judicial Service (Grade II)

Though there are 4 vacancies, there is no candidate who qualifies for the same as the period of service rendered is less than the period of service prescribed for qualifying. We do not pass any orders for relaxation etc.

III. Civil Judge (Junior Division)/Manipur Judicial Service (Grade III)

In addition to the 4 existing vacancies, 4 more vacancies are anticipated. Advertisement for the 8 vacancies has been published on 25.5.2019. Preliminary examination is fixed for 1.9.2019. We request the High Court to expedite the selection process and complete the same as expeditiously as possible.

Re: State of Meghalaya (High Court of Meghalaya)

Following officers are present on behalf of the High Court of Meghalaya and the State of Meghalaya:-

- (i) Ms. Belma Mawrie, Registrar General, Meghalaya High Court
- (ii) Mr. Silevester Khorlyngdoh, Law Secretary

I. Meghalaya Judicial Service (Grade I)

Though 31 vacancies in Grade I of the service are available against the sanctioned strength of 46, the Registrar General of the Meghalaya High Court, who is present in Court submits that the existing/working strength of 15 and the proposed recruitment of 3 more for which advertisement was issued on 12.4.2019 should adequately take care of the need of the Meghalaya judicial service, insofar as Grade I of the service is concerned.

On the basis of the statement of the Registrar General, we direct that the 3 posts advertised on 12.4.2019 be filled up at the earliest.

II. Meghalaya Judicial Service (Grade II)

So far as Grade II of the service is concerned, the Registrar General of the High Court has submitted that 14 officers holding office as on date are adequate and as no officer in the feeder category i.e. Grade III is eligible, the High Court of Meghalaya does not consider it necessary to fill up any Grade II post on ad-hoc basis from the incumbents in Grade III who have not completed the period of qualifying service. Therefore, no orders are required.

III. Meghalaya Judicial Service (Grade III)

Insofar as Grade III is concerned, 6 vacancies available as on date have been advertised on 12.7.2019 read with the Addendum dated 22.7.2019. The said process be completed at the earliest.

Re: State of Tamil Nadu/Union Territory of Puducherry
(High Court of Madras)

Following officers are present on behalf of the High Court of Madras and State of Tamil Nadu:-

- (i) Mr. C. Kumarappan, Registrar General
High Court of Madras
- (ii) Mr. Gopi Ravikumar, Law Secretary, State of
Tamil Nadu, Chennai
- (iii) Mrs. T. Vaidegi, Deputy Secretary, Home (Courts)
Department, State of Tamil Nadu, Chennai
- (iv) Mrs. Juliet Pushpa, Law Secretary, Union Territory
of Puducherry, Puducherry

Re: State of Tamil Nadu

I. District Judge/Higher Judicial Service

As against 288 posts in the cadre of District Judge, 250 judges are working, leaving 38 vacancies. Out of 38 vacancies, while 4 and 3 vacancies are to be filled up from the promotional and limited competitive examination quota, 31 vacancies are earmarked against the Direct Recruitment from Bar quota. In the result of the competitive examination held pursuant to the advertisement dated 13.1.2019, result whereof was published on 28.4.2019, no candidate has qualified. The Registrar General of the High Court, who is present in the

Court, has stated that the High Court would like to wait for some time to enable the members of the Bar to qualify and then resort to a second round of selection, as the first round of selection, in which no candidate was qualified, was initiated in the month of January, 2019. We Direct the Registry of the Madras High Court to invite fresh applications in the month of October, 2019 and complete the process of selection as expeditiously as possible.

The High Court, while filling up the vacancies and complying with this order, will keep in mind that the time-schedule laid down by this Court in Malik Mazhar Sultan (supra), indicates the outer limit that can be taken at each stage of the selection and there is no bar for completion of the same earlier to the said time schedule spelt out in Malik Mazhar Sultan (supra).

II. Civil Judge (Senior Division)

Twenty-seven vacancies in the cadre exist as on 30.7.2019. The report prepared by the learned Amicus Curiae Shri Vijay Hansaria, learned Senior Counsel, indicates that 12 officers, whose cases were deferred, are now before the High Court Committee for consideration and 14 vacancies including 4 anticipated vacancies are required to be filled up. The Registrar General of the High Court, who is present in the Court, states that ongoing/existing panel is available and it is for the Committee of Judges of the High Court to decide as to whether the available panel should be acted upon or fresh panel should be prepared.

We leave it to the High Court to decide the cases of the 12 officers, which have been deferred on account of vigilance reports and are now awaiting consideration. We also leave it to the High Court to decide as to whether the

14 vacancies including 4 anticipated vacancies are to be filled up from the available panel or by preparing fresh panel. In any event, we request the High Court to expedite the matter and complete the process of filling up the vacancies in question on or before the end of September, 2019.

III. Civil Judge (Junior Division)

The note prepared by the learned Amicus Curiae goes to show that the appointment of 213 judicial officers have been made on 17.6.2019. As on date, 17 vacancies exist. However, the High Court has sent the proposal to the Tamil Nadu Public Service Commission (TNPSC) on 5.7.2019 for filling up of 176 posts. The Registrar General has explained the said fact by stating that additional posts have been created in different cadres of the Tamil Nadu Judicial Service and the figure of 176, for which requisition has been sent, has been worked out on that basis. We direct the TNPSC to issue advertisement for the aforesaid 176 posts within two weeks from today and thereafter we direct the completion of the process of selection and appointment in accordance with the schedule within the outer limits of the schedule framed by this Court in Malik Mazhar Sultan (supra), making it clear that the TNPSC and the High Court will make every endeavour to complete the process of selection and appointment as expeditiously as possible.

Re: U.T. of Puducherry

I. District Judge/Higher Judicial Service

Two posts in the cadre of District Judge, 1 against the quota earmarked for being filled up by limited competitive examination and the other by direct recruit

remain vacant as none has qualified in the competitive examination.

II. Civil Judge (Senior Division)

Insofar as Civil Judge Senior Division is concerned, against 8 posts 4 officers from Tamil Nadu Judicial Service are working on deputation. There is no officer from the feeder cadre in Puducherry who has the qualifying service. In these circumstances, we leave it to the High Court to decide as to whether the remaining 4 posts, which are lying unmanned are to be filled by relaxing the eligibility criteria of qualifying service or more officers from Tamil Nadu should be brought to Puducherry on deputation.

III. Civil Judge (Junior Division)

Insofar as the cadre of Civil Judge Junior Division is concerned, as against 10 posts, 6 officers are working, five of whom are from Puducherry and one from Tamil Nadu on deputation. Five posts therefore are technically available, including 9 proposals for creation of additional Courts of Civil Judge Senior Division, which has yet to see the light of the day.

It is stated by the Registrar General of the Madras High Court that the 5 available vacancies along with the posts creation of which has been sought (9), will be filled up once the necessary approval for creation of the 9 additional posts comes to them.

In response to the Court's query, the Law Secretary of the State submitted that the State Government has yet to refer the matter to the Union of India, whose approval is sought for creation of additional posts.

In view of inaction on the part of the State Government and the immediate necessity for creation of these posts, as expressed by the learned Registrar General, we direct the State of Tamil Nadu and Union Territory of Puducherry to act jointly and sanction 9 additional posts for which sanction has been sought. This be done within 30 days from today. Thereafter, the recruitment process for the 5 vacancies available and the 9 additional vacancies to be created, pursuant to the order will be initiated forthwith and completed as expeditiously as possible.

Re: State of Punjab/State of Haryana/U.T. of Chandigarh
(High Court of Punjab & Haryana)

Following officers are present on behalf of the High Court of Punjab & Haryana, the States of Punjab and Haryana and the U.T. of Chandigarh:-

- (i) Mr. Harman Singh Thakur, Registrar General
Punjab & Haryana High Court
- (ii) Mr. S.K. Aggarwal, Law Secretary and Legal
Remembrance, State of Punjab
- (iii) Mr. Sunil Singh, Assistant Liasion Officer,
Union Territory of Chandigargh

Re: State of Punjab

I. District Judge/Higher Judicial Service

We are told that two posts against the direct recruit quota have been filled up on 06.04.2019.

As against 8 vacancies (3 existing and 5 anticipated) to be filled up by promotion, suitability test

has been conducted on 20.07.2019. The learned Registrar General of the High Court has stated that the selection process will be completed by 30.09.2019. Thereafter, we are told by Shri S.K. Agarwal, Law Secretary & Legal Remembrancer, that immediately appointments by promotions will be made.

On the aforesaid basis, we direct that appointments by promotion to the available posts of District Judge be made on or before 15.10.2019.

So far as direct recruitment quota is concerned, advertisement has been issued on 30.05.2019 and the last date for application has been fixed on 31.08.2019. One available vacancy against the quota to be filled up by Limited Competitive Examination is also proposed to be taken up along with the process of direct recruitment. The posts available from the aforesaid two sources be filled up after holding the necessary selection test as expeditiously as possible and, in any case, on or before 31.12.2019.

II. Senior Civil Judge

We are informed that fifty-nine appointments from the selection process initiated in November, 2016 have been made in February, 2019 and further that on 08.04.2019, an advertisement has been issued for filling up of 75 more posts of Senior Civil Judge. The preliminary examination is scheduled to be held on 25.08.2019. Let the preliminary examination be held on the scheduled date and the process be completed within six months from the date of the advertisement.

Re: State of Haryana

I. District Judge/Higher Judicial Service

As against thirteen vacancies (eight existing and five anticipated) to be filled up by promotion, suitability test has been conducted on 20.07.2019. The learned Registrar General of the High Court has stated that the selection process will be completed by 30.09.2019. Thereafter, we are told by Shri S.K. Agarwal, Law Secretary & Legal Remembrancer that immediately appointments by promotions will be made.

The Registrar General of the High Court has informed the Court that eleven vacant posts in the cadre of District Judge to be filled up by direct recruitment and two vacancies in the same cadre to be filled up on the basis of Limited Competitive Examination will be advertised shortly. We direct that such advertisement be issued within two weeks from today and the process of selection and appointment of the thirteen posts be completed on or before 31.12.2019.

II. Senior Civil Judge

No orders are required to be passed as the holding of examination and the results have been challenged before this Court in Writ Petition (Civil) No.565 of 2019.

Re: Union Territory of Chandigarh

No orders are called for.

Re: State of Odisha (High Court of Odisha)

Following officers are present on behalf of the High

Court of Orissa and State of Orissa:-

- (i) Mr. R.K. Patnaik, Registrar General
Orissa High Court
- (ii) Mr. Sashikant Mishra, Principal Secretary (Law)
State of Orissa

I. District Judge/Higher Judicial Service

Pursuant to the order dated 17.01.2019 of this Court, Limited Competitive Examination was held of in-service candidates for filling up twelve available vacancies. None qualified and hence these posts were filled up by regular promotion. Simultaneously, examination was held for filling up of these vacancies against direct recruitment quota. None had qualified. These vacancies have been carried forward. As on today, five (two actual and three anticipated) vacancies are available for being filled up by promotion. Interviews of the eligible officers have been fixed for 17.08.2019. We direct the said process to be completed on or before 30.09.2019.

So far as eight vacancies against the direct recruitment quota and fourteen vacancies against the Limited Competitive Examination quota are concerned, written examination has been held. The rest of the selection process be completed by actual appointments of eligible and suitable candidates on or before 31.12.2019.

II. Civil Judge (Senior Division)

No orders are called for.

III. Civil Judge (Junior Division)

As against fifty-five vacancies in the cadre shown

in the note prepared by the learned *Amicus Curiae*, we have been told that the Public Service Commission has recommended 41 candidates for appointment. According to the Principal Secretary (Law), who is personally present, the said recommendations have been made today. The Principal Secretary (Law) has submitted that in about four weeks' time, the State will finalize the matter. The State is directed to do so after completion of all formalities on or before 31.08.2019.

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

Following officers are present on behalf of the High Court of Madhya Pradesh and State of Madhya Pradesh:-

- (i) Mr. R.K. Vani, Registrar General
High Court of Madhya Pradesh
- (ii) Mr. Satinder Kumar Singh, Principal Secretary,
Department of Law & Legislative Affairs,
Govt. of M.P.

I. District Judge/Higher Judicial Service

Sixty-six officers who had qualified in the suitability test held in the year 2018, are now awaiting consideration for their appointment against the vacancies of the year 2019. The High Court is requested to expedite the matter; make its recommendation, whereafter such of the candidates who are eligible and suitable will be offered appointment by the Government within the earliest possible time frame. The remaining 31 posts have been notified on 18.07.2019 and the last date of receipt for application is fixed 21.08.2019. The written examination is to be held on 21.09.2019. The Registrar General of the High Court and the

Principal Secretary, Department of Law & Legislative Affairs, who are present, have stated that the process of consideration of promotion and actual appointment is expected to be completed by the end of October, 2019. The High Court and the State Government are directed to act accordingly.

As against 13 available posts against the quota to be filled up by Limited Competitive Examination, while 2 candidates have qualified and have been appointed, the remaining 11 unfilled posts are included in the regular promotion cadre for which orders have already been passed.

Insofar as direct recruitment is concerned, 3 out of 6 selected candidates have been appointed and the candidature of the 3 other candidates has been withheld in view of the judicial order passed by this Court. For the existing 55 vacancies, the selection process is on. The main written examination is scheduled to be held on 07.08.2019 and 08.08.2019. The officers present in the Court have stated that they are optimistic that the process including the appointment of eligible and suitable candidates will be completed on or before the end of November, 2019. The State Government and the High Court shall act accordingly.

II. Civil Judge (Senior Division)

Though there are 46 clear vacancies in the cadre, only 17 Civil Judges (Junior Division) have completed the qualifying service. The said appointments against such of the candidates who are eligible for promotion to the post of Civil Judge (Senior Division) to be made forthwith by following the procedure prescribed in the rules.

Insofar as the Civil Judge (Junior Division) cadre

is concerned, there are 410 vacancies as on date. As against 410 vacancies, 112 appointments have been made between March and July, 2019. Selection process in respect of 217 posts is presently on and oral interview is scheduled between 1st and 14th August, 2019. The selection process is expected to be over by the end of September, 2019.

Having considered the matter, we direct that the said selection process including appointments of eligible and suitable candidates be completed on or before 30.09.2019 and appointments be made suitably by the end of October, 2019.

III. Civil Judge (Junior Division)/Class-II

The question of filling up of 193 posts of Civil Judge (Junior Division)/Class-II is presently pending before the High Court on the administrative side, whereafter the State Government will be required to take a decision. The issue pending is with regard to the roster point. The High Court is scheduled to decide the matter on 2.8.2019. We request the High Court to do so and thereafter direct the State Government to finalize the issue within a period of two weeks on receipt of the High Court's decision in the matter. The initiation of the process of recruitment of the aforesaid 193 posts will commence immediately thereafter.

Re: State of Rajasthan (High Court of Rajasthan)

Following officers are present on behalf of the High Court of Rajasthan and State of Rajasthan:-

- (i) Mr. Satish Kumar Sharma, Registrar General
High Court of Rajasthan
- (ii) Mr. Mahavir Prasad Sharma, Principal Law Secretary
Govt. of Rajasthan

I. Higher Judicial Service (District Judge/
Additional District Judge)

No vacancy is available against the promotion quota.

Against the direct recruit quota, 50 vacancies are available and against the quota earmarked for the limited departmental competitive examination, 22 vacancies exist. 48 vacancies against the direct recruit quota and 21 vacancies against the limited departmental competitive examination quota have been subjected to common selection process and the result of the main written examination has been kept in a sealed cover in view of certain interim orders of this Court. The said interim orders of this Court are in respect of the candidature of the judicial officers in the Bar quota. Though an application for clarification of the interim order is stated to have been filed, the matter has not been addressed by the appropriate Bench as yet.

Taking into account the urgency of the matter and the facts of the case, we direct that the result of the examination, insofar as the Bar quota is concerned, may be declared and judicial officers, if any who may have qualified either against the Bar quota or the limited departmental competitive examination quota, may be allowed to take part in the *viva-voce* pending further orders to be passed by the appropriate Bench hearing the writ petition in question i.e. W.P.(C) No.1302/2018.

II. Senior Civil Judge/Civil Judge (Senior Division)

Insofar as the cadre of Civil Judge (Senior Division) is concerned, 110 officers have been recommended

for regular promotion on 14.7.2019. Dr. Manish Singhvi, learned Additional Advocate General for the State of Rajasthan, who is present in the Court along with the Principal Law Secretary states that the necessary notification will be issued after a week. There are 58 further vacancies, which cannot be filled up presently, as there are no eligible officers available and filling up the said vacancies by granting relaxation of the eligibility criteria may affect the feeder category i.e. Civil Judge (Junior Division), where there are already a large number of vacancies. The appointment by promotion against the 58 vacancies may, therefore, be deferred for some time.

III. Junior Civil Judge/Civil Judge (Junior Division)

Insofar as the cadre of Civil Judge (Junior Division) is concerned, 197 vacancies were subjected to selection process. The results of preliminary examination were declared on 30.5.2019. On account of certain judicial orders passed by the High Court ordering for deletion of one question, the selection process has come to a standstill.

The aforesaid matter has been dealt with by us today in S.L.P.(C) Nos.18247-79/2019, wherein orders have been passed. The High Court of Rajasthan shall now proceed in the matter in the light of the order passed in the aforesaid special leave petitions and declare the additional list of selected candidates eligible to sit in the main examination within 7 days from today.

Re: State of Sikkim (High Court of Sikkim)

Following officers are present on behalf of the High Court of Sikkim and State of Sikkim:-

- (i) Mr. N.G. Sherpa, Registrar General
High Court of Sikkim
- (ii) Mr. Jagat Bdr. Rai, Secretary (Law)
Government of Sikkim

I. Higher Judicial Service (District Judge/
Additional District Judge)

The 3 vacancies of District Judge/Additional District Judge cadre, which are available are deputation posts. We have interacted with the Registrar General of the High Court, who has updated us on the total pendency of cases in the State and the volume of work pending before a District Judge/Additional District Judge. No Court manned by an officer of the said cadre i.e. District Judge/Additional District Judge is vacant. The 3 vacancies (to be filled up on deputation) cannot be filled up at the moment on account of lack of suitable officers having the qualifying service. Taking into account what has been stated above, we are of the view that the appointment against the said 3 vacancies can wait for the present.

II. Chief Judicial Magistrate

So far as the cadre of Chief Judicial Magistrate is concerned, there is one vacancy. One officer will become eligible for consideration in September, 2019. We request the High Court to take up the said vacancy and make its recommendations, if required, by suitable relaxation of the condition(s) of eligibility, namely, the qualifying service. Appointment against the vacant post of Chief Judicial Magistrate be made as expeditiously as possible.

III. Civil Judge

Insofar as the cadre of Civil Judge is concerned, the 2 available vacancies have been subjected to a selection process and recommendation has been sent to the Government on 22.7.2019. We direct the State Government to complete all the formalities and issue appointment orders within a month from today.

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

Following officers are present on behalf of the High Court of Andhra Pradesh and State of Andhra Pradesh:-

- (i) Mr. B. Rajasekhar, Registrar General
High Court of Andhra Pradesh
- (ii) Mr. S. Venkateswara Rao, Secretary (Law),
Govt. of Andhra Pradesh

I. Higher Judicial Service (District Judge/
Additional District Judge)

The Registrar General and the Secretary (Law) Government of Andhra Pradesh, who are personally present, have submitted that process for filling up 21 vacancies (including 3 anticipated vacancies) in the cadre of District Judge/Additional District Judge is presently going on and the process is likely to be completed (including appointments) by the second week of September, 2019. We order accordingly and request the High Court and direct the State Government to take all necessary steps in this regard to ensure that the order of this Court with regard to the completion of the process of appointment against the 21 vacancies is completed on or before 15.9.2019.

Six vacancies are available to be filled up against

direct recruit quota. The Registrar General of the High Court has stated that the notification inviting applications from eligible candidates will be issued within a period of 10 days from today. We request the High Court to expedite the process of direct recruitment and complete the same within the shortest possible time. We have considered it inappropriate to fix any time schedule for this exercise in view of the shortage of Judges in the High Court of Andhra Pradesh. The process for filling up of the 1 vacancy available against the limited departmental competitive examination quota and furthermore 1 anticipated vacancy against the said category be initiated along with the process of direct recruitment.

II. Senior Civil Judge/Civil Judge (Senior Division)

Insofar as the cadre of Civil Judge (Senior Division) is concerned out of the 10 vacancies existing as on 30.6.2019, 8 promotions have been made to the cadre of Senior Civil Judge and posting orders have also been issued on 23.7.2019. We are told by the Registrar General of the High Court that a notification has been issued for filling up of 17 more vacancies in the said cadre, which includes anticipated vacancies. The said notification has been issued on 16.7.2019. We request the High Court to complete the said process of filling up the 17 vacancies including the anticipated vacancies within two months from today i.e. by the end of September, 2019.

III. Civil Judge/Civil Judge (Junior Division)

Insofar as the cadre of Civil Judge (Junior Division) is concerned, 38 vacancies (25 actual and 13 anticipated) have been notified and the preliminary examination has been scheduled for 4.8.2019. The High Court

is confident that all stages in that selection process will be completed by 31.12.2019. We order accordingly and direct that appointments be made by the State Government after completion of all formalities forthwith once the recommendations are received from the High Court in this regard.

Re: State of Telangana/High Court of Telangana

Following officers are present on behalf of the High Court of Telangana and State of Telangana:-

- (i) Mr. A. Venkateswara Reddy, Registrar General
Telangana High Court
- (ii) Mr. V. Niranjana Rao, Secretary (Law), Telangana

I. Higher Judicial Service (District Judge/
Additional District Judge)

Six vacancies in all in the cadre of District Judge/Additional District Judge existed as on 30.6.2019. Four are required to be filled up from the quota earmarked for limited departmental competitive examination, whereas the remaining 2 posts are required to be filled up by promotion. Written examination for filling up the 4 vacancies against the limited departmental competitive examination quota is scheduled for 17.8.2019 and 18.8.2019. The Registrar General of the High Court, who is present in the Court, has assured the Court that the process will be completed by 30.9.2019. The Secretary (Law), who is present, is directed to ensure that appointments on the basis of recommendations to be made by the High Court, if eligible candidates are to be included in the empanelled list, be made within two weeks of receipt of the recommendation from the High Court.

Insofar as the 2 vacancies in the promotion quota are concerned, we are told that judgments and ACRs are being evaluated and once the same is complete, interviews will be held. The Registrar General has assured that the selection process will be completed by 30.9.2019. The appointments be made within two weeks of receipt of the recommendations from the High Court.

II. Senior Civil Judge/Civil Judge (Senior Division)

Though there are no vacancies at the moment, vacancies are likely to arise in the event appointment in higher cadre (District Judge/Additional District Judge) is made against the quota of promotion and limited departmental competitive examination. After interacting with the Registrar General of the High Court, we request the High Court to initiate a process for promotion to at least 6 posts in the cadre of Senior Civil Judge on an anticipation that 6 officers in such cadre will be promoted/appointed to the higher cadre requiring 6 incumbents in the feeder cadre of Senior Civil Judge.

III. Civil Judge (Junior Division)

Sixty-seven vacant posts in the cadre of Civil Judge (Junior Division) are presently subjected to a selection process. The result of the preliminary examination has been declared and the main examination is scheduled to be held on 17.8.2019 and 18.8.2019. The Registrar General of the High Court submits that the process is likely to be completed by the end of September, 2019. We order accordingly and direct the State Government to issue the appointment orders after completion of all formalities on the basis of the recommendations of the High Court within one month from the

date of receipt of such recommendations.

Re: State of Tripura (High Court of Tripura)

Following officers are present on behalf of the High Court of Tripura and State of Tripura:-

- (i) Mr. S.G. Chattopadhyay, Registrar General
High Court of Tripura
- (ii) Mr. D.M. Jamatia, Principal Secretary
Govt. of Tripura

I. Higher Judicial Service

Ten vacancies existed as on 30.6.2019 - 3 against the direct recruit quota, 3 against the quota of limited departmental competitive examination and 4 against the quota of promotion. One vacancy against the direct recruit quota, which was advertised in November, 2018, has been filled up on 15.7.2019. No other candidate was found to be suitable. Two available vacancies have been re-advertised on 8.7.2019. The last date for submitting applications is over. 55 candidates have applied, out of which 54 have been found eligible. Written examination is scheduled for 17.8.2019 and 18.8.2019. The said selection process including interviews be completed by the end of October, 2019. The State Government to make consequent appointments without any unnecessary and undue delay after completing all formalities.

Though as on date there is no eligible officer in the feeder cadre of Senior Civil Judge/Civil Judge (Senior Division) for promotion against the quota of limited departmental competitive examination, the Registrar General of the High Court has informed us that 2 officers will become

eligible by the end of August, 2019. If that is so, we do not see why the process for holding a limited departmental competitive examination for filling up at least 2 out of 3 available vacancies against the said quota cannot be initiated in a manner that the said examination is held simultaneously with the direct recruitment examination, which is scheduled for 17.8.2019 and 18.8.2019. The High Court is requested to act accordingly and issue necessary orders/notifications.

The 3 available vacancies against the promotional quota has been subjected to a selection process and it is stated that the evaluation of judgments is going on presently, whereafter interviews will have to be held. The number of officers under consideration being only 3, we request the High Court to complete the process and make its recommendations to the State Government for appointment against the promotional quota latest by September, 2019. The State Government shall ensure that appointments are made against the said recommendations after completion of all formalities within 2 weeks of receipt of the said recommendations.

II. Senior Civil Judge/Civil Judge (Senior Division)

Insofar as 10 vacancies available in the cadre of Senior Civil Judge are concerned, it appears that there is an ongoing process, wherein the evaluation of judgments is under progress. The said process be completed and recommendations in this regard shall be forwarded by the High Court and appointments against the available vacancies shall be made once the vacancies in the feeder cadre i.e. Civil Judge (Junior Division) are filled up.

III. Civil Judge (Junior Division)

In the State of Tripura, the posts in the cadre of Civil Judge (Junior Division) are filled up both by the High Court and the State Public Service Commission in equal proportion (50%). There were 12 vacancies as on 30.6.2019. In the recruitment process initiated by the High Court against 6 vacancies, 4 candidates were found suitable and recommended for appointment to the State Government on 21.6.2019. Appointments are yet to be made. Mr. Jamatia, Principal Secretary, Government of Tripura has assured the Court that appointments against the recommendations for 4 vacancies will be made by the end of August, 2019 after completion of all formalities. The remaining 2 unfilled posts have been re-advertised by the High Court on 8.7.2019. As certain anticipated vacancies are likely to occur in the cadre of Civil Judge (Junior Division), the High Court may defer further process in the selection process pursuant to the advertisement dated 8.7.2019. As and when anticipated vacancies in the higher cadre are filled up by promotion from the cadre of Civil Judge (Junior Division), further action in the matter may be taken by the High Court, which may include publication of a corrigendum to the advertisement dated 8.7.2019.

Of the remaining 6 vacancies to be filled up by the Public Service Commission, it appears that the stage of selection process has matured to the level of interview of the candidates, which is fixed for 3.8.2019. The interview as scheduled be held and select list be prepared and sent to the Government by the Public Service Commission latest by August, 2019. This date has been fixed by the Court in view of the statement made by the Bar that the number of candidates in fray is extremely low. Once the recommendations of the Public Service Commission are made and received by the Government, appointments be made forthwith after completion of necessary formalities i.e. within 30 days of receipt of

the recommendations from the Public Service Commission.

Re: State of Uttarakhand (High Court of Uttarakhand)

Following officers are present on behalf of the High Court of Uttarakhand and State of Uttarakhand:-

- (i) Mr. Hira Singh Bonal, Registrar General
Uttarakhand High Court
- (ii) Mr. D.P. Gairola, Principal Secretary (Law),
Govt. of Uttarakhand

I. District Judge/Additional District Judge

Thirteen vacancies as on 30.6.2019 are available, 6 against the quota of direct recruitment and one against the quota to be filled up by limited competitive examination and 6 posts to be filled up against the promotion quota.

So far as the post earmarked against the direct recruitment quota and limited competitive examination are concerned, the selection process is at a mature stage and we are told by the learned Registrar General of the High Court that the same is likely to be completed by the end of August, 2019. The State shall thereafter make the necessary appointments forthwith and without any delay, latest by 30.09.2019.

So far as promotion to the cadre of District Judge/Additional District Judge is concerned, we are again told that the selection process is likely to be completed by the end of August, 2019 and 5 persons are eligible for being considered once the recommendations of the High Court are made by the end of August, 2019. We direct that consequential appointments be made in the State within two weeks thereafter.

II. Civil Judge (Senior Division)

The High Court shall initiate the process for appointment to the existing vacancies as well as anticipated vacancies and complete the same as early as possible. However, appointments against the recommendations to be made by the High Court, shall only be made after the appointments in the first lot of vacancies (30 posts) in the feeder cadre of Civil Judge Junior Division are made.

III. Civil Judge (Junior Division)

As against the available vacancies, two different selection process has been initiated, one against 30 posts for which advertisement was made on 28.12.2018 and the other against 15 posts by advertisement dated 31.5.2019. The main examination in respect of the 30 posts is scheduled between 12th and 18th September, 2019 and though, the Public Service Commission, which is conducting the said selection, had initially stated that they would complete the process by February-March, 2020. Mr. Gaurav Agrawal, the learned Amicus Curiae submits that *vide* subsequent letter dated 25.7.2019 of the Public Service Commission addressed to the Principal Secretary (Law), the Public Service Commission has stated that the selection process would be completed and recommendations sent by the Public Service Commission to the Government latest by the end of September, 2019.

We order accordingly and direct the State Government to make appointments against the said 30 posts within a month of the date of receipt of the recommendations by the Public Service Commission.

Insofar as the second lot of 15 posts is concerned,

we are told that the preliminary examination is to be held in August, 2019. We direct the Public Service Commission to complete the process by the end of February, 2020 and appointments to be made by the State Government against the recommendations of the Public Service Commission in respect of the aforesaid 15 posts by the end of March, 2020.

The High Court shall also make an assessment of the anticipated vacancies that would be available in the cadre of Civil Judge (Junior Division), following promotions to the next higher cadre and will consider the feasibility of issuing corrigendum to the advertisement dated 31.5.2019, including the additional posts that may have become available for being filled up. Even in the event such corrigendum is issued, the preliminary examination will be held on 1.9.2019, which is the date fixed for holding the preliminary examination in respect of candidates who may have initially applied pursuant to the advertisement dated 31.5.2019.

Re: State of Gujarat (High Court of Gujarat)

Following officers are present on behalf of the High Court of Gujarat and State of Gujarat:-

- (i) Mr. Hasmukhbhai Dalsukhbhai Suthar
Registrar General, High Court of Gujarat
- (ii) Mr. M.G. Dave, I/C Law Secretary,
Govt. of Gujarat

I. District Judge/Higher Judicial Service

Thirty-two vacancies are available for being filled up against the promotion quota, 24 against the direct recruitment quota and 14 against the quota to be filled up by limited competitive examination. The selection process is

presently on in respect of all the vacancies plus 3 further anticipated vacancies, i.e., total 73 vacancies. Taking into account the stage at which the selection process is poised, we order for completion of the process of appointment by promotion against 32/33 posts by the end of September, 2019. So far as the posts to be filled up by direct recruitment and limited competitive examination, the selection process will be completed by the end of November, 2019. The appointments as per the recommendations of the High Court in respect of all categories shall be made by the State Government within 30 days of date of receipt of the recommendations from the High Court.

II. Civil Judge (Senior Division)

Against 65 vacancies actual and anticipated, 95 cases are under consideration. Judgments are being evaluated, selection is on the basis of the evaluation of judgments and service records. The learned Registrar General of the High Court, has assured the Court that the recommendations of the High Court will be made by the end of September, 2019. We order accordingly and direct the State Government to make the appointments within 15 days of date of receipt of the recommendations from the High Court.

III. Civil Judge (Junior Division)

Selection process for 124 vacancies out of 150 is presently going on. The main examination in which 307 candidates appeared, has been held on 7.7.2019. The High Court shall make every endeavour to publish the result of the main examination by the end of September, 2019. Interviews will be held thereafter and on the basis of the interview the final select list will be published on or before 15.10.2019. The recommendations will be made thereafter on the basis of

the select list to be prepared by the High Court and appointments will be made by the Government within one month, i.e., 15.11.2019. The 20 vacancies in the cadre of Civil Judge available as on date along with such vacancies that can be reasonably anticipated to be advertised forthwith, i.e., 15 days from today.

In the State of Gujarat there are certain ad-hoc posts in the cadre of Senior Civil Judge and Civil Judge, against which some officers of the regular cadre have been appointed. The High Court of Gujarat has moved the State for conversion of the said posts to regular posts. The State in an affidavit dated 25.7.2019 filed before this Court, has stated that the said ad-hoc posts (15 in all) will be converted into regular posts. The State of Gujarat is directed to act accordingly, whereafter once the said posts are added to the existing posts of Senior Civil Judge and Civil Judge, steps will be taken for filling up the same substantive appointments.

There is yet another step so far as State judiciary of the State of Gujarat is concerned. From paragraph 4 of the affidavit dated 24.7.2019 filed on behalf of the Registrar General of the High Court, it appears that posts of President and Members of Industrial Court; Judge, Labour Court (Senior Division) and Judge, Labour Court (Junior Division) have been placed under the administrative control of the High Court as far back on 30.12.2013. Some of the said posts are manned by the officers of the regular cadre who have been sent on deputation. As the said posts have been placed under the administrative control of the High Court, it will naturally be open to the High Court to frame appropriate rules for encadrement of the said posts as part of the Gujarat Judicial service in different grades and thereafter to proceed to fill up the said posts on a regular

basis.

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

Following officers are present on behalf of the High Court of Himachal Pradesh and State of Himachal Pradesh:-

- (i) Mr. Virender Singh , Registrar General
High Court of Himachal Pradesh
- (ii) Mr. Yashwant, Law Secretary,
Govt. of Himachal Pradesh

I. District Judge/Higher Judicial Service

As against 4 vacancies in the cadre of District Judge, it is stated that the result of the main written examination held on 30.6.2019 will be published within the next three days. Thereafter, interviews will be required to be held, which we anticipate can be completed by end of August, 2019, including the process of preparation of the select list. The State Government to make appointments within 30 days from the date of receipt of recommendations of the High Court against the 3 posts of District Judge (direct recruit). The newly created posts of Additional District and Sessions Judge be advertised and filled up in accordance with the procedure. This be done forthwith.

II. Civil Judge (Senior Division)

So far as the 2 available posts in the cadre of Civil Judge Senior Division is concerned, the Registrar General of the High Court has stated that the process of selection is at an advanced stage and recommendations will be made to the State within two weeks from today. The State

Government on receipt of recommendations to issue the appointment orders within two weeks, thereafter.

III. Civil Judge (Junior Division)

So far as the cadre of Civil Judge is concerned 4 appointments have been made on 19.7.2019. Advertisement for 10 vacancies (8 actual and 2 anticipated) have been issued on 19.6.2019 read with corrigendum dated 5.7.2019. The Registrar General of the High Court, who is personally present, anticipates that the selection process which is undertaken by the Public Service Commission, will be completed in accordance with the schedule laid down in Malik Mazhar Sultan (supra). We order accordingly.

Re: State of Jammu & Kashmir (High Court of Jammu & Kashmir)

Following officers are present on behalf of the High Court of Jammu & Kashmir and State of Jammu & Kashmir:-

- (i) Mr. Sanjay Dhar, Registrar General
High Court of Jammu & Kashmir
- (ii) Mr. Achal Sethi, Law Secretary
Govt. of Jammu & Kashmir

I. District Judge/Higher Judicial Service

A total of 23 vacancies in the cadre of higher judicial service in the State of Jammu & Kashmir are presently vacant. There are 10 clear vacancies, 7 vacancies of ad-hoc District Judges, which have been filled up by ad-hoc appointments and 6 are anticipated vacancies. The process for filling up 7 vacant posts by direct recruitment from Bar is presently going on and the main written examination is scheduled to be held 15/16.09.2019. The

Registrar General of the High Court submits that the result of the main examination will be declared by the end of October, 2019, and interviews will be conducted and the select list will be prepared by the end of November, 2019. Once the recommendation/select list is forwarded to the State Government by the High Court, the State Government is expected to make the appointments within four weeks i.e. by the end of December, 2019.

The process of filling up of posts by way of promotion commenced from 24.07.2019. The selections are to be made on the basis of ACR recordings, evaluation of judgments and oral interview. We are of the view that the High Court should make every attempt to complete the process by the end of October, 2019, whereafter appointments will be made by the State Government within two weeks from the date of receipt of the recommendations of the High Court.

There are 4 more posts available for direct recruitment from the Bar and 1 post to be filled by means of Limited Competitive Examination. We are told that the matter has been put up before the concerned Committee of the High Court on 16.07.2019 and the orders are awaited. We request the High Court to finalize the matter and issue appropriate notification inviting applications from the eligible candidates within two weeks from today.

II. Civil Judge (Senior Division)

The ongoing process for filling up 24 vacancies in the cadre be finalized, but appointment orders be not issued until the vacancies in the feeder cadre i.e. Civil Judge (Junior Division) are filled up.

III. Civil Judge (Junior Division)

So far as the process of filling up of 42 posts in this cadre is concerned, which is at the final stage, the same will be completed within next two weeks according to the learned Registrar General. We order accordingly. We further direct the Government to issue appointment orders within one month from the date of receipt of the select list of the recommendation. The remaining 24 vacant posts be taken up for recruitment after the issue relating to supervision and control of Dehi Adalats is resolved between the State Government and the High Court.

Re: State of Jharkhand (High Court of Jharkhand)

Following officers are present on behalf of the State of Jharkhand and High Court of Jharkhand:-

- (i) Mr. Ambuj Nath, Registrar General
High Court of Jharkhand
- (ii) Mr. Pradeep Kumar Srivastava, Law Secretary
Govt. of Jharkhand

I. District Judge/Higher Judicial Service

Against the available 20 vacancies to be filled up by direct recruitment, 15 appointments have been made on 23.07.2019. Two cases are pending before the Government awaiting orders of this Court and 3 cases are pending with the High Court pending finalization of the issue relating to reservation. So far as the 2 recommendations pending with the Government are concerned, the same naturally will abide by such orders that this Court may pass. The High Court is requested to finalize its consideration on the 3 cases pending before it on the issue of reservation and, thereafter, forward the names to the Government, on receipt

of which the Government will take prompt action for appointment.

Fifty-nine vacancies are available for being filled up by promotion as well as by the Limited Competitive Examination (quota against the said source has reverted to the promotional quota). Fifty-one officers have been appointed by promotion on 30.05.2019, while 8 are pending for vigilance clearance. The Registrar General of the High Court has assured us that the 8 cases will be dealt with in an appropriate manner and will be finalized within next 2 weeks. We order accordingly. Once the High Court takes its decision in respect of the 8 cases, the said posts will be dealt with by making appointments in accordance with law, by the State Government.

II. Civil Judge (Senior Division)

So far as the cadre of Civil Judge (Senior Division) is concerned, against 56 vacancies, 39 officers have been promoted on 02.05.2019. Eight cases are pending vigilance clearance and 9 posts are vacant as no eligible candidate is available.

Insofar as the 8 cases pending for vigilance clearance are concerned, we request the High Court to finalize the matter within two weeks from today and thereafter further steps be taken up for appointment to the said posts.

III. Civil Judge (Junior Division)

Insofar as this cadre is concerned, the selection process for filling up of 107 vacancies (78 existing and 29 anticipated) is presently under way. The result of the

preliminary examination has been declared and the main written examination is scheduled to be held on 13th - 14th September, 2019. The selection process is conducted by the Jharkhand Public Service Commission and according to the Secretary, Law Department, Government of Jharkhand, the result of the main written examination can be expected to be published in the third week of October, 2019. The interviews, thereafter, will be required to be held of the eligible candidates. We direct the said process to be completed by the end of November, 2019 and appointments to be made within thirty days of the High Court's recommendations/preparation of select list, which, in any case, should be completed on or before 31.12.2019.

Re: State of Karnataka (High Court of Karnataka)

Following officers are present on behalf of the State of Karnataka and High Court of Karnataka:-

- (i) Mr. V. Srishananda, Registrar General
High Court of Karnataka
- (ii) Mr. S.B. Vastramath, Principal Law Secretary
Govt. of Karnataka

I. District Judge/Higher Judicial Service

Five posts available for being filled up by promotion are being subjected to a recruitment process which the learned Registrar General hopes would be completed by end of September, 2019, whereafter appointments will be made by the State Government within fifteen days of receipt of the recommendations of the High Court.

The ongoing process of selection of 26 vacancies available for direct recruit is also going on and viva-voce

has been held between 24th to 29th July, 2019. According to the learned Registrar General, the select list will be published by the end of August, 2019, whereafter the same will be sent to the Government. The Government will make the appointments of the recommended candidates after completion of all formalities within thirty days from the date of receipt of the recommendations from the High Court.

As against 21 vacancies for being filled by Limited Competitive Examination, only 4 officers are eligible as on date. Such ineligibility is in respect of lack of qualifying service. We request the High Court to consider relaxation of the said requirement, whereafter, if the High Court is inclined to relax the said condition, recruitment by Limited Competitive Examination will be held against such number of posts as may be available for such recruitment. The recruitment process once initiated will be completed after undergoing all the stages of process involved, within a period of four months from the date of issuance of notification after completion of all stages of the selection process. We request the High Court to take a decision with regard to the relaxation of condition of qualifying service as expeditiously as possible.

II. Civil Judge (Senior Division)

The process for filling up 85 vacancies in the said cadre is presently on and the learned Registrar General of the High Court has stated that the same will be completed on or before 30.09.2019. The Government on receipt of the recommendations from the High Court will make the appointments, within 15 days from the date of receipt of the said recommendations.

III. Civil Judge (Junior Division)

Against an advertisement dated 12.12.2018, 15 candidates have been recommended for appointment, which appointments are likely to be made by the end of August, 2019 as per the statement made before the Court by the Law Secretary, Government of Karnataka. We order accordingly.

Fifty-six posts notified on 22.07.2019, be filled up as per the schedule laid down in Malik Mazhar Sultan (supra). Three further vacancies of 2015-2016 batch will either be notified or appropriately dealt with by the High Court. Once the consideration of the High Court on the said questions is finalized, we request the High Court to finalize the matter as expeditiously as possible.

Re: State of Kerala (High Court of Kerala)

Following officers are present on behalf of the High Court of Kerala and State of Kerala:-

- (i) Mr. K. Haripal, Registrar General
High Court of Kerala
- (ii) Mr. Arvind Babu, Law Secretary
Govt. of Kerala

I. Higher Judicial Service (District Judge)

Twenty-one vacancies existed as on date. Six vacancies have been filled up by appointing retired Judges as Family Court Judges. For the remaining 15 vacancies, 8 recommendations from the Bar and 6 by way of promotion are pending with the Government. The aforesaid 14 appointments

be finalised by the authority before whom it is pending as expeditiously as possible.

The remaining vacancies including 5 vacancies required to be re-notified as NCA (No Candidate Available) be notified at the earliest and in any case, within 4 weeks from today.

II. Sub-Judge/Chief Judicial Magistrate

Ten officers have been promoted from a panel of 27 and the panel in respect of remaining 17 vacancies is required to be operative for filling up 12 available vacancies. Further, the affidavit of the Registrar General of the High Court would suggest that on account of dearth of officers in the feeder cadre of Munsiff Magistrate, appointments against the aforesaid 12 vacancies should be deferred until vacancies in the lower cadre are filled up. We order accordingly and direct that once the vacancies in the lower cadre are filled up, 12 vacancies in the cadre of Sub-Judge/Chief Judicial Magistrate be filled up forthwith from the existing panel, if the same is still valid and in subsistence.

III. Munsiff Magistrate

Against 47 vacancies, 31 candidates have been selected and they are presently undergoing training with effect from 1.2.2019. The training period is 12 months and on completion thereof, they will be given orders of posting. The High Court is requested to act accordingly. Insofar as the remaining 16 vacancies are concerned, selection for appointment as Munsiff Magistrate under the provisions of the Kerala Judicial Service Rules has been completed and a list has been forwarded to the Government. We are told that the

said list is placed before the appropriate authority of the Government and orders are awaited. We would request the appropriate authority concerned to expedite the matter. In the affidavit of the Registrar General, it has been further stated that notification dated 1.2.2019 has been issued for appointment against 45 vacancies of Munsiff Magistrates, which include anticipated vacancies. The main written examination is to be held at the end of August, 2019. It has been stated that endeavours will be made to complete the selection process by the end of the year 2019. The High Court is requested to ensure the same.

Re: State of Bihar (High Court of Patna)

Following officers are present on behalf of the High Court of Patna and State of Bihar:-

- (i) Mr. B.B. Pathak, Registrar General
High Court of Patna
- (ii) Mr. A.K. Jha, Registrar, High Court of Patna
- (iii) Mr. Deepak Kumar, Chief Secretary, Bihar
- (iv) Mr. Madan Kishore Kaushik, Law Secretary, Bihar
- (v) Mr. Amarendra Kumar, Joint Secretary-cum-Examination
Controller, Bihar, BPSC, Bihar

The issue with regard to filling up of vacancies in the State of Bihar was taken up on 30.7.2019. As the information laid before the Court was scanty and incoherent, the Court had adjourned the matter for today and also called the presence of the Chief Secretary.

At the hearing today, Mr. Vijay Hansaria, learned Amicus Curiae has laid before the Court certain additional information which throws sufficient light as to the position

as on today with regard to filling up of vacancies. Had the said information been made available to the Court on the previous date, orders could have been passed on the said date itself and the presence of the Chief Secretary would not have been required. We do not know as to why on behalf of the High Court of Patna incomplete information was laid before the Court on 30.7.2019 and only on firm insistence of the Court for the information, the same has been made available today. This part of the order be brought to the notice of the Chief Justice of the High Court to enable the Chief Justice to ensure that such lapses do not occur and the person/persons responsible for the lapse in the present case are suitably dealt with.

In the light of the information laid before the Court today, the position that emanates is as follows :

I. District Judge/Higher Judicial Service

Ninety-three vacancies in the cadre of District Judge against the promotional quota was notified on 31.3.2019 and judgments were called for. Midway, the High court took the view that instead of calling for 6 judgments from each officer as per his choice, a new procedure/practice should be devised which would require all the officers under consideration to submit a list of all contested judgments delivered during the last 5 years. From the said judgments the High Court would pick up 10 judgments for each officer for evaluation. The aforesaid change of procedure led to some delay, as the list of judgments delivered by each officer in the zone of consideration for the last 5 years was not immediately available with the officers. However, it appears that judgments have now been received and the process of evaluation of the same is going on. The said process, it is stated on behalf of the High Court, will be completed on or

before 9.8.2019. Thereafter, interviews will start within a week and final result/select list is expected to be published by the end of the month of August, 2019. The High Court shall act accordingly.

Insofar as 35 posts to be filled up by way of limited competitive examination are concerned, it appears from the information laid before the Court that 128 officers are under consideration and they are now required to sit in a written examination, which is scheduled for 18.8.2019. On behalf of the High Court it is stated that the process of evaluation of answer scripts of the written examination is expected to be completed by 9.9.2019, whereafter interviews will be held and competed and the final result/select list is expected to be published by the end of September, 2019.

Insofar as direct recruitment is concerned, 16 vacancies have been notified on 31.3.2019. From the materials laid before this Court it appears that 12 candidates have been selected against the 16 vacancies and their names have been recommended to the Government on 27.7.2019. Out of the 12 candidates, 8 are from Bihar and rest are from other states.

Insofar as the candidates from the State of Bihar are concerned, the State Government is directed to make the necessary appointments within 4 weeks from the date of receipt of the recommendations. In case of candidates who are from outside the State, all endeavour will be made to make the appointments within the same time frame. If, however, police verification, etc. is not received by the State of Bihar in time, the State is directed to pursue the matter and obtain the said verification reports etc. as expeditiously as possible and thereafter, make the appointments in question.

We direct the Chief Secretaries of the States of Uttar Pradesh, Punjab and Union Territory of Delhi, from where the 4 candidates have been selected, to respond immediately to the request for police verification etc. in respect of the candidate selected for appointment, details of whom will be available in such correspondence. The said States shall act in the matter without any delay. To avoid any possible litigation in future, we direct that the seniority of the officers to be appointed will be on the basis of their ranking in the select list and not from the date of appointment.

II. Civil Judge (Senior Division)

There are 145 vacancies in the cadre of Civil Judge (Senior Division) against total sanctioned strength of 411. If promotions are made to the cadre of District Judge, it is anticipated that the vacancies will rise to 272. The process for filling up 272 vacancies was initiated by the High Court on 6.2.2019 and judgments have been requisitioned from the judicial officers. 965 judgments have been collected and these have been distributed amongst 24 Hon'ble Judges for evaluation. Though the Registrar General of the High Court has stated that the final result will be published by 14.8.2019, we do not think that is possible keeping in view the number of judgments which require evaluation. The selection has to be made on the basis of evaluation of judgments and service records. We, therefore, request the High Court to publish the final select list by 31st October, 2019.

III. Civil Judge (Junior Division)

The selection process to fill up 349 vacancies advertised on 28.1.2018 is now at the stage of evaluation of

the answer scripts of the main examination. The Public Service Commission hopes to complete the same and publish the result of the main written examination by the end of September, 2019. The Commission shall act accordingly. The interviews that are required to be held thereafter will be completed and final select will be published before the end of the month of November, 2019. Appointments in terms of the select list will be made by the State Government by the end of December, 2019.

The selection process for 221 vacancies in the cadre of Civil Judge Junior Division, which comprises 28 actual and 193 anticipated vacancies, is presently held up on account of a proposed amendment of Rule 5A(3) of the Bihar Civil Service (Judicial Branch (Recruitment) Rules, 1955. The Court is informed by the Chief Secretary of the State that the matter is pending before the State Cabinet and decision thereon is likely to be taken shortly. Once the necessary decision is taken with regard to the Rules and the Cabinet decides to approve the amendment to the Rule, after the said amendments are notified within 15 days, the selection process for the 221 vacancies will be initiated and completed as per the time schedule laid down in Malik Mazhar Sultan (*supra*).

A peculiar situation has been noticed by the Court in the matter of filling up of the vacancies in the State of Bihar. The lowest cadre, i.e., Civil Judge Junior Division, is facing a shortage of 377 number of posts plus the huge number of anticipated vacancies which are likely to occur by way of promotions. The selection process for 349 posts is presently on and has been directed by the Court to be completed on or before December, 2019. Another selection process for 221 vacancies noticed in the present, will take at least seven months. Even after completion of the aforesaid selection process(es), the selected candidates before being

given appointments will have to complete one year mandatory training. In the present order it has been noticed that the total vacancies in the cadre of District Judge is 153 and in the cadre of Civil Judge Senior Division is 272 (145 actual vacancies and 127 anticipated vacancies). Unless there is a movement from the lower cadre to the next higher cadre, the posts vacant in the cadre of District Judge and Civil Judge Senior Division cannot be filled up. If an upward movement is made from the cadre of Civil Judge Junior Division, the said cadre which is already denuded and working with almost 400 officers less would suffer a further shortage. In the circumstances, the promotions from the lowest cadre to next higher cadre and then to the District Judge cadre will have to be made in a phased manner. We, therefore, direct that the selection process for filling up posts in the cadres of District Judge and Civil Judge (Senior Division) may be completed and select list be prepared. The High Court on the administrative side will chalk out an action plan as to in what manner the upward movement of officers commencing from the lowest cadre should be undertaken to cause the minimum disturbance in the Court functioning. Such action plan will be laid before this Court by the High Court on or before 17.09.2019, whereafter further orders will be passed.

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

(Sarita Purhoit)
A.R. -cum-P.S.

(Deepak Guglani)
Court Master

(Anand Prakash)
Court Master