

Dharmendra Kumar Singh & Ors Vs The Hon'ble High Court Of Jharkhand & Ors

Court: Supreme Court Of India

Date of Decision: Jan. 15, 2025

Acts Referred: Constitution of India, 1950 " Article 233(2)

Jharkhand Superior Judicial Services (Recruitment, Appointment and Condition of Service) Rule, 2001 " Rule 4, 5, 8(b)

Hon'ble Judges: B. V. Nagarathna, J; Satish Chandra Sharma, J

Bench: Division Bench

Advocate: Vijay Hansaria, Akhilesh Kumar Pandey, Shalini Chandra, Abhishek Kumar Pandey, Kavya Jhawar, Nandini Rai, Nandita Misra, Ajit Kumar Sinha, Ashwarya Sinha, Saurabh Jain, Tulika Mukherjee, Beenu Sharma, Venkat Narayan

Final Decision: Allowed

Judgement

Satish Chandra Sharma, J

1. The present appeal is arising out of judgment dated 29.06.2022 passed by High Court of Jharkhand in Writ Petition (C) No. 3771/2019, by which the

High Court has declined to entertain the relief for quashment of notification dated 30.05.2019 whereby the private respondents have been appointed to

the post of District Judge in the Jharkhand Superior Judicial Service on promotion in the State of Jharkhand.

2. The facts of the case reveal that appellant No. 1 was initially appointed as Munsif [Civil Judge (Junior Division)] and was promoted on 23.07.2014

in the cadre of Civil Judge (Senior Division) and appellant Nos. 2 and 3 who were initially appointed as Civil Judge (Junior Division) were promoted to

the cadre of Civil Judge (Senior Division) on 20.04.2016. In the combined gradation list of judicial officers in the State of Jharkhand, the names of

appellant Nos. 1, 2 and 3 find place at serial Nos. 141, 195 and 204 respectively. The High Court of Jharkhand issued a notification dated 19.05.2018

for appointment in the Jharkhand Superior Judicial Service and the appellants participated in the selection process. The rules governing the field known

as Jharkhand Superior Judicial Services (Recruitment, Appointment and Condition of Service) Rule, 2001, provides for a process of appointment to the

service and Rules 4 and 5 of the said Rules, read as under:

4. APPOINTMENT TO THE SERVICE: Appointment to the Service, which shall in the first instance ordinarily be to the post of Additional District Judge, shall

be made by the Governor, in consultation with High Court:

(a) by direct recruitment of persons as recommended by the High Court for such appointment under clause (2) of Article 233 of the Constitution of India;

(b) by promotion from amongst the Sub-Judges (Civil Judge, Senior Division) on the basis of merit-cum-seniority and passing a suitability test and;

(c) by promotion on the basis of Limited Competitive Examination of club Judges (Civil Judge, Senior Division) having not less than 5 years service in the same

cadre.

5. Of the total post in the cadre of service:-

(i) 65% shall be filled in by promotion from amongst the Sub Judges (Civil Judge, Senior Division) on the basis of merit-cum-seniority and passing a suitability

test as may from time to time be prescribed by the High Court.

(ii) 10% shall be filled in by promotion (by way of selection) strictly on the basis of merit through a limited Competitive examination of Sub Judges (Civil Judge,

Senior Division) having not less than 5 years service and also having due regard to his service records in the past.

Provided, if candidates are not available for 10% quota, or are not able to qualify in the examination, then vacant post shall be filled up by regular promotion.

(iii) 25% shall be filled in by direct recruitment from the Bar on the basis of written test and viva-voce conducted by the High Court.

(iv) The suitability test as provided in Clause (i) above shall comprise of:-

(a) Interview of 20 Marks,

(b) 60 Marks shall be earmarked on the basis of Service Profile depending on the remarks earned by the Officer in his A.C.R. during last 10 (ten) years of service,

which may include the Service as Civil Judge (Junior Division).

The marking pattern shall be as follows for this section:-

Outstanding - 6 Marks.

Very Good - 5 Marks.

Good - 4 Marks.

Satisfactory - 3 Marks.

Average - 2 Marks.

Poor - 1 Mark.

(c) Evaluation of Judgement - 10 Marks.

(d) Maximum of 10 Marks shall be earmarked on the basis of 1 mark against each year of completion of Service as Civil Judge (Senior Division) by the Officer.

The candidate obtaining minimum 40 Marks in aggregate shall be treated suitable for appointment on promotion.

However, the intense seniority in the Cadre of

Superior Judicial Service of such suitable candidates/Officers shall be determined in terms of Rules 8(b) of these Rules.

3. The aforesaid rules provide for promotion by Limited Competitive examination, promotion from Civil Judge (Senior Division) and by Direct

Recruitment. The quota for Direct Recruitment is 25%, the quota for promotion based upon merit-cum-seniority and passing of suitability test is 65%

and the remaining is to be filled up by Limited Competitive examination. It is undisputed fact that the cut off marks for determining suitability of a

candidate for promotion was fixed as 40 marks and undisputedly appellants have obtained more than 40 marks, however, the persons junior to them

were promoted by preparing a merit list and by promoting those who have more marks than the appellants. The appellants' writ petition was

dismissed by the High Court on the ground that the appellant No. 1 got 50 marks, appellant No. 2 got 50 marks and appellant no. 3 got 43 marks and

the last selected candidate got 51 marks.

4. At the outset, learned counsel for the appellant has straight away drawn the attention of this Court towards the judgment delivered by a Three

Judge Bench of this Court in the case of Ravikumar Dhansukhlal Maheta and Another Vs. High Court of Gujarat and Others 2024 SCC

Online SC 972 to contend that in similar circumstances in respect of similar criteria, this Court has held that the suitability of each candidate has to be

tested on his own merit and a comparative assessment cannot be made and the promotion cannot be solely based upon merit list. ¶, Para 141 of the

judgment delivered by this Court reads as under:

¶141. We summarise our final conclusion as under:

(A) What has been conveyed, in so many words, by this Court in All India Judges' Association

(3) (supra) is that the suitability of each candidate should be tested on their own merit. The aforesaid decision does not speak about comparative merit for the

65% promotional quota. In other words, what is stipulated is the determination of suitability of the candidates and assessment of their continued efficiency with

adequate knowledge of case law.

(B) For the 65% promotional quota this Court in All India Judges' Association (3) (supra) did not state that after taking the suitability test, a merit list should be

prepared and the judicial officers should be promoted only if they fall in the said merit list. It cannot be said to be a competitive exam. Only the suitability of the

judicial officer is determined and once it is found that candidates have secured the requisite marks in the suitability test, they cannot be thereafter ignored for

promotion.

(C) However, we clarify that for the 65% promotional quota, it is for a particular High Court to prescribe or lay down its own minimum standard to judge the

suitability of a judicial officer, including the requirement of comparative assessment, if necessary, for the purpose of determining merit to be objectively adjudged

keeping in mind the statutory rules governing the promotion or any promotion policy in that regard.

(D) We find no fault with the promotion process adopted by the High Court of Gujarat as the same fulfils the twin requirements stipulated in paragraph 27 of All

India Judges' Association (3) (supra) being : -

(I) The objective assessment of legal knowledge of the judicial officer including adequate knowledge of case law and;

(II) Evaluation of the continued efficiency of the individual candidates.

(E) The four components of the Suitability Test as prescribed under the recruitment notice dated 12.04.2022 comprehensively evaluate (i) the legal knowledge

including knowledge of the case law through the objective MCQ - based written test AND (ii) the continued efficiency by evaluation of the ACRs, average

disposal and past judgments of the concerned judicial officer.

(F) We are of the view that if the contention of the petitioners were to be accepted then it would completely obliterate the fine distinction between the two

categories of promotion in the cadre of District & Sessions Judge by way of 65% promotion on the basis of Merit-cum-Seniority and 10% promotion

strictly on the basis of merit. In other words, the 65% quota for promotion will assume the character of the 10% quota for promotion by way of a departmental

competitive examination which is distinct in its nature since the latter is strictly based on merit.

(G) Deviating from the process of promotion duly followed by the High Court of Gujarat since 2011 would cause grave prejudice to those judicial officers who lost

out in the previous selections to the Higher Judicial Service despite having scored higher marks in the suitability test since, judicial officers who were relatively

senior were promoted to the cadre of District & Sessions Judges. Accepting the argument of the petitioners would completely flip the process and displace the

respondents once again, for a contrary reason.

5. In light of the aforesaid judgment, as the appellants have successfully qualified the suitability test, they could not have been deprived of their

legitimate right of promotion only on account of lower placement in the merit list. At this juncture, it has been brought to the notice of this Court that

the appellants have been subsequently promoted and the issue now remains in respect of their seniority alone. In view of the judgment rendered by

this Court in the case of Ravikumar Dhansukhlal Maheta and Another (supra), the appellants are certainly entitled for promotion from the same

date the other officers from the select list prepared by the High Court of Jharkhand have been appointed to the post of District Judge in terms of

notification dated 30.05.2019.

6. Resultantly, the Civil Appeal is allowed and the orders passed by the High Court of Jharkhand is set aside. The appellants shall be entitled for

notional promotion from the date other officers have been promoted to the post of District Judge in terms of notification dated 30.05.2019. They shall

also be entitled for all consequential service benefits, including, seniority, increments, notional pay fixation etc., however, they shall not be entitled for

any back wages.