Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 328 of 2022 Date of Decision: 26.07.2024

1.SMTI NAPHIBANMER LASO
W/o Shri. S. Kharbuli
Resident of Mawlai Mawkynroh,
Shillong, East Khasi Hills District,
Meghalaya

2.SHRI CYPRIAN DKHAR
S/o Shri. J. Nonglang
Resident of Rynjah Lapalang,
Shillong, East Khasi Hills District,
Meghalaya :::Petitioners

-Vs-

1.Khasi Hills Autonomous District
Council (KHADC), East Khasi Hills
District, Meghalaya 793002 represented
by the Secretary (Executive Committee),
KHADC

2.The State of Meghalaya
Represented by its Secretary to the Government
of Meghalaya District Council Affairs Department,
Shillong – 793001

3.The Registrar (Judicial Service) High Court of
Meghalaya, Shillong- 793001, East Khasi Hills
District, Meghalaya

4.Smti. Vyblue of Rest Mawlieh
Magistrate First Class, Subordinate District
Council Court, Nongstoin, West Khasi
Hills District, Meghalaya

5.Smti. Eblincy Lyngdoh Mawnai
Magistrate First Class, Subordinate
District Council Court, Mawkyrwat,
South West Khasi Hills District,
Meghalaya

6.Smti. Kerphidalin Warjri
Magistrate First Class, Subordinate
District Council Court, Nongpoh,
Ri Bhoi District, Meghalaya :::Respondents

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner(s) : Ms. P. Chettri, Adv.
Ms. N. Kharshemlang, Adv.

For the Respondent(s) : Dr. N. Mozika, Sr. Adv. with
Mr. M.L. Nongpiur, Adv. (For R 1)
Mr. N.D. Chullai, AAG with
Ms. Z.E. Nongkynrih,GA (For R 2&3)
Mr. K.C. Gautam, Adv. (For R 4,5&6)

---

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

JUDGMENT AND ORDER

1. The petitioners by the instant writ petition are before this Court praying for quashing the selection process by which the respondents Nos. 4, 5 and 6, have been appointed as Magistrate First Class, Subordinate District Council Court (KHADC) on the ground that the appointment was made over and above the number of vacancies advertised.

2. The brief facts of the case are that the respondent No. 1, by an advertisement dated 06.11.2019, had called for applications for filling up of 3(three) vacant posts of Magistrate First Class, Subordinate District Council Court (KHADC) and on the basis of the written examination conducted, 6(six) candidates had qualified for the interview. After the interview, in the final select list dated 11.01.2021, 3(three) candidates were declared selected and 3(three) candidates i.e. respondents Nos. 4, 5 & 6 were placed in the waiting list. Thereafter, the respondent No. 1, on 19.08.2020, sought approval from the respondent No. 3, for filling up the remaining vacant posts from the waiting list as a special condition, as it was not conducive to conduct fresh examinations because of the situation in the State and country, and in view of the fact

that there were many pending cases that required speedy trial. The respondent No. 3, then approved the said appointments and the respondent No. 2 also by a notification dated 04.02.2022, was pleased to approve the said appointments, and the respondents Nos. 4, 5 & 6, were then conferred powers by the Governor of Meghalaya in exercise of powers under sub-paragraph (1) of Paragraph - 5 of the Sixth Schedule to the Constitution of India. The respondents Nos. 4, 5 & 6 thereafter, were issued appointment orders and joined their respective posts, which is now under challenge.

3. Ms. P. Chettri, learned counsel for the petitioners, has submitted that 3 posts had already been filled up by the respondent No. 1, by appointing the candidates who secured the highest marks in the exam, but on the request of the respondent No. 1, on the ground that some posts were still lying vacant and that the appointment be made on a special consideration from the waiting list, the respondent No. 3, without verifying the facts had approved the said appointments. She further submits that the respondent No. 2, also approved the appointments without holding any fresh exams. The reasons given by the respondents she submits that, due to the COVID pandemic the appointments were done, is incorrect as no COVID restrictions were

imposed and all public offices were functioning smoothly. She further submits that the other reasons given that there were earlier 5(five) posts and 1(one) more post was in the process of being sanctioned, cannot be a ground for the additional appointments, as the respondent No. 1 had by the advertisement advertised only 3(three) vacant posts. On the point of special consideration, it is submitted that though the respondent No. 1, have not framed any recruitment rules till date, however, in cases of public employment there cannot be any special consideration.

4. It has also been contended that there was no fresh advertisement for the other posts and that the respondent No. 1, having filled the vacancies over the number of advertised posts, cannot take a stand that there were a larger number of posts, which she submits is impermissible in law. Reliance has been placed in the case of ***Arup Das & Ors. vs. State of Assam & Ors. (2012) 5 SCC 559,*** to support this argument. It is then submitted that the waiting list prepared does not furnish a source of recruitment and mere inclusion of a candidate's name in the select list, does not confer any right to be appointed, even if some of the vacancies remain unfilled. The action of the respondents she argues, in giving direct recruitment to respondents Nos. 4, 5 & 6, amounts to filling up of future vacancies and that the instant case, is not

one wherein a selected candidate did not join and the waiting list taken recourse to. In support of this argument, the learned counsel has relied upon the case of ***Gujarat State Dy. Executive Engineers' Association vs. State of Gujarat & Ors., 1994 Supp (2) SCC 591***. The learned counsel has also cited the following judgments.

(i) ***Rakhi Ray & Ors. vs. High Court of Delhi, 2010 (2) SCC 637***

(ii) ***Judgment dated 27.06.2022, passed in LPASW No. 186/2018 (High Court of Jammu & Kashmir and Ladakh)***

(iii) ***Judgment dated 19.05.2023, passed in Civil Appeal No. 3062 of 2023 (State of Karnataka vs. Smt. Bharathi S.)***

(iv) ***Judgment dated 05.02.2021, passed in Civil Appeal No. 104 of 2021 (Gajanan Babulal Bansode & Ors. vs. State of Maharashtra & Ors.)***

(v) ***Judgment dated 05.10.2018, passed in Writ Petition (L) No. 1064 of 2017 (Apurba Kumar & Ors. vs. The Institute of Banking Personnel Selection & Ors.) Bombay High Court***

(vi) ***Judgment dated 08.03.2022, passed in Civil Writ Petition (Original Application) No. 4729/2019 (Roshan Lal vs. H.P. Power Corporation Limited & Ors.) High Court of Himachal Pradesh***

5. The learned counsel in closing her arguments has submitted that the action of the respondent No. 1, is violative of Articles 14 and 16 of the Constitution of India and has encroached upon the right of the petitioners and other advocates, who could have participated if a new advertisement had been issued. The fact that the respondents Nos. 4, 5 & 6, have served for 2 years, she submits cannot be an excuse as they have been illegally appointed and cannot claim equity. She lastly submits that without any recruitment rules, the respondent No. 1, has no power or authority to directly recruit the respondents Nos. 4, 5 & 6, from the waiting list. She therefore, prays that the appointments of the respondents Nos. 4, 5 & 6 be quashed and the respondent No. 1, be directed to issue fresh advertisement for 3(three) vacancies in the posts of Magistrate First Class, Subordinate District Council Court (KHADC).

6. Dr. N. Mozika, learned Senior counsel assisted by Mr. M.L. Nongpiur, learned counsel for the respondent No. 1, submits that in the District Council Courts, KHADC, over a period of time till August 2021, a total of 9(nine) Judicial posts were sanctioned, i.e. 1(one) Post of Judge, 2(two) Posts of Additional Judges, and 6(six) posts of

Magistrate First Class. It is submitted that, as 2(two) of the Magistrate First Class were promoted to the post of Additional Judges, the working strength in the year 2019 was, 1 Judge, 2 Additional Judges and 1 Magistrate First Class, with the remaining 5 posts of Magistrate First Class lying vacant. In 2019 he submits, the Executive Committee KHADC decided to fill up only 3 posts of Magistrate First Class out of the 5 vacant posts on the understanding that, as 1 more post of Magistrate First Class would be sanctioned soon, 3 vacancies then would be advertised together, and as such only 3 posts were advertised on 06.11.2019. The proposed 1 post of Magistrate First Class he submits, was thereafter sanctioned vide letter dated 19.08.2021.

7. The learned Senior counsel then submits that on the conclusion of the selection process, 6(six) candidates were qualified and placed in the select list and after obtaining approval from the Governor of Meghalaya and the High Court, 3 candidates securing the highest marks were given appointment, whereas the remaining 3 were placed in the waiting list. It is submitted that in the meantime, considering the huge pendency of cases in the District Council Courts and the need for strengthening the system and to meet the demand for constitution of outlying benches of the Subordinate District Council Courts in 3

Administrative Districts i.e. West Khasi Hills, Ri-Bhoi and South West Khasi Hills, and also considering the prevailing COVID-19 situation, which was then at its peak, the respondent No. 1 took a decision that it was not conducive to conduct fresh examinations for filling up the 3 vacant posts, and therefore decided that the 3 remaining vacant posts be filled up from the 3 wait listed candidates in the select list dated 11.01.2021. As such he submits, this policy decision was taken by the respondent No. 1 in view of the prevailing circumstances, wherein there was a pressing need to appoint new Magistrates, coupled with the fact that holding of fresh examinations would be a time consuming process. Thereafter, he submits, as the select list had already been extended till 31.03.2022, approvals were sought from the High Court as a special consideration in view of the prevailing situation, which was received on 27.10.2021, and also from the Governor of the State of Meghalaya for approval, and for conferment of powers as provided under Paragraph 5(1) of the Sixth Schedule which was then duly accorded.

8. Accordingly, he submits office orders were then issued on 28.02.2022 and 04.03.2022, appointing the respondents No. 4 5 & 6, as Magistrate First Class, and the said respondents thereafter, joined their respective posts and are discharging their duties satisfactorily till today.

The learned Senior counsel then reiterates his submissions that the entire exercise of filling the existing and anticipated vacancies, was due to the exceptional circumstances and emergent situation prevailing then, and were made pursuant to a considered policy decision of the Executive Committee, KHADC. It is further submitted that the appointments from the waiting list were made to the existing and anticipatory vacancies and not to future vacancies, inasmuch as, 2(two) posts were existing and 1(one) post was an anticipated vacancy, as the process for creation and sanction of the said additional post had already been undertaken. It has been stressed by the Senior counsel that the appointments were thus made as a special consideration for the reasons afore stated. The respondents Nos. 4, 5 & 6, he contends are otherwise fully qualified for the posts and it is not the case of the petitioners, that the respondents Nos. 4, 5 & 6, are not qualified and it is also not the case of the petitioners, that there were any irregularities in the examination or interview process, and in fact the only case put up by the petitioners, is that 3(three) posts were advertised, whereas 6(six) appointments have been given, from the same selection process. It is also been contended that the appointments were granted following the due process and after approvals had been obtained from the High Court

and after conferment of powers under Paragraph - 5(1) of the Sixth Schedule to the Constitution of India, by the Governor of Meghalaya.

9. The learned Senior counsel then submits that the respondents No. 4, 5 & 6, as on date have been discharging their duties for about 2 years and have gained valuable experience, and as such if their appointments are invalidated at this stage, the same shall be against public interest. The learned Senior counsel in support of his arguments has placed reliance on the following decisions, wherein the Supreme Court, has held that the State can deviate from the advertisement and make appointments in exceptional circumstances, and that unseating the selected candidates who have served for some time, would be contrary to public interest. The cases are:-

i) ***Prem Singh & Ors. vs. Haryana State Electricity Board & Ors. (1996) 4 SCC 319***

ii) ***Sivanandan CT & Ors. vs. High Court of Kerala & Ors. Neutral Citation: 2023 INSC 709***

iii) ***Vivek Kaisth & Ors. vs. State of Himachal Pradesh & Ors. Neutral Citation: 2023 INSC 1007.***

10. On behalf of the respondents No. 2 and 3, Mr. N.D. Chullai, learned AAG with Ms. Z.E. Nongkynrih, learned GA has endorsed the submissions made by the learned Senior counsel on behalf

of the respondent No. 1, and further submits it was true that at that point of time, in view of the pandemic, it was not conducive to conduct a fresh examination to fill up the 3(three) vacant posts. As such, he submits the State respondents accorded the approval for appointment of the wait listed candidates. He further submits that the KHADC is an autonomous body, and the State Government does not question its competence in the conduct of its duties and functions.

11. The learned AAG has further submitted that the petitioners had taken part in the same selection process, but had not qualified, whereas the respondents No. 4, 5 and 6 were successful in the selection process. The fact that the petitioners had participated in the selection process, he submits has not been disclosed by the petitioners themselves, but the same has been revealed by the additional affidavit filed on behalf of the respondent No. 1. He therefore contends that, the petitioners herein, are also guilty of suppression of facts and on this ground alone, the writ petition deserves to be dismissed. He finally submits that, it is not the case of the petitioners that the appointments given to the respondents No. 4, 5 and 6, was by way of favoritism, nepotism or anything done by them to gain appointment illegally, inasmuch as, they had participated in the selection process, and were

successful, though initially placed in the waiting list. The learned AAG has also reiterated the submissions that unseating the respondents No. 4, 5 and 6 at this stage, would not be in public interest.

12. Mr. K.C. Gautam, learned counsel for the respondents No. 4, 5 and 6 while adopting the submissions made by the counsels on behalf of the other respondents, submits that the writ petition suffers from delay and laches on part of the petitioners, inasmuch as, the petitioners waited for over 6(six) months from the date of issuance of appointment letters to the private respondents before approaching this Court. He further submits that the petitioners could have immediately approached this Court, and craved leave to file other documents at the later stage, but they chose not to do so, and in the meantime, the answering respondents had assumed office and started discharging the judicial functions including hearing of cases and passing of orders. The learned counsel has also placed reliance on the same cases, cited by the learned Senior counsel on behalf of the respondent No. 1, and submitted that after the lapse of over 2(two) years, it would be contrary to public interest to unseat the answering respondents.

13. Having heard the learned counsel for the parties, as submitted, the only question before this Court is whether the actions of

the respondent No. 1, in affording appointments to candidates over and above the advertised vacancies, is justifiable or whether the said decision is visited with arbitrariness and illegality.

14. Before addressing the case at hand, it is noteworthy to keep in mind that the District Council Courts have been set up under the mandate of Paragraph – 4 of the Sixth Schedule to the Constitution of India, wherein the District Councils have been invested with powers to constitute courts for the trial of suits and cases between the parties who belong to the Scheduled Tribe; and these judicial officers who are then appointed into such courts are conferred with powers under Paragraph – 5(1) of the Sixth Schedule by the Governor. In matters of appointment of such judicial officers, the District Council is the appointing authority, and as has been pointed out by the learned counsel for the petitioner, the recruitment rules have not yet been published, but as apprised to this Court, the same are awaiting approval by the Governor. As such, these Courts occupy a very special place in the system of administration of justice in these hills.

15. In the normal course of recruitment in public employment, as per practice and procedure, once the advertised vacancies as published have been filled up, there is no question of recourse being

taken to fill up further vacant posts, from the same selection process, and in this regard, heavy reliance has been placed by the writ petitioner on the case of ***Arup Das & Ors. vs. State of Assam (supra)***, wherein it has been held that an authority cannot make any selection/appointment beyond the number of posts advertised, even if there were a larger number of posts available, than those advertised. It is also settled law that a select list cannot be treated as a reserve list for the purposes of issuance of appointment, so that vacancies can be filled up by taking the names from the list, as and when required, and that further no authority or Government can fill up vacancies for the future. Accordingly, against this backdrop, this Court is to examine the decision and action of the respondent No. 1, in appointing the respondents No. 4, 5 and 6, against the posts, which had not been advertised by the advertisement dated 06.11.2019.

16. As noted from the discussions made herein above, the reasons given by the respondent No. 1, for the appointments is threefold, first is that the holding of fresh examinations for 3(three) posts was not feasible and conducive, due to the COVID pandemic in 2021, which was at its peak, secondly, due to the demand, benches of the District Council Courts were to be commissioned in three outlying

districts namely, West Khasi Hills, South West Khasi Hills and Ri-Bhoi District, and thirdly, due to the need for speedy trials of cases. To this end, as submitted, a considered policy decision had been taken by the respondent No. 1, under what has been termed as exceptional circumstances, in an emergent situation.

17. The most important factor to be considered therefore, is whether under these circumstances, the deviation from the advertisement was permissible. In the case of ***Arup Das & Ors. vs. State of Assam & Ors. (supra)***, the Supreme Court while discussing this issue in Para – 20 thereof, had held as follows.

> ***"20. Even the decision in Prem Singh case which had been strongly relied upon by Mr Joydeep Gupta in support of his claim that the State had a right to deviate from the advertisement published by it, has to be considered in the light of the circumstances in which the same was made. While holding that if the requisition and advertisement are for a certain number of posts only, the State cannot make more appointments than the number of posts, this Court went on to hold that the State could deviate from the advertisement and make appointments in posts falling vacant thereafter in exceptional cases or in an emergent situation, and, that too, by taking a policy decision in that behalf."***

18. In the case of ***Prem Singh & Ors. vs. Haryana State Electricity Board & Ors.(supra)***, which has also been discussed, in the above noted case, at Para – 25, the Supreme Court has with regard to clear and anticipated vacancies, but not to future vacancies, and also with regard to exceptional circumstances, has held as follows.

> ***"25. From the above discussion of the case-law it becomes clear that the selection process by way of requisition and advertisement can be started for clear vacancies and also for anticipated vacancies but not for future vacancies. If the requisition and advertisement are for certain number of posts only the State cannot make more appointments than the number of posts advertised, even though it might have prepared a select list of more candidates. The State can deviate from the advertisement and make appointments on posts falling vacant thereafter in exceptional circumstances only or in an emergent situation and that too by taking a policy decision in that behalf. Even when filling up of more posts than advertised is challenged the court may not, while exercising its extraordinary jurisdiction, invalidate the excess appointments and may mould the relief in such a manner as to strike a just balance between the interest of the State and the interest of persons seeking public employment. What relief should be granted in such cases would depend upon the facts and circumstances of each case."***

19. Further, in the case of ***Vivek Kaisth & Anr. vs. State of Himachal Pradesh & Ors.(supra)***, with regard to unseating judicial officers, who have already served in Para – 44 and 45, the Supreme Court has held as follows.

> ***"44. What is also important for our consideration at this stage is that the appellants in the present case have been working as judicial officers now for nearly 10 years. They are now Civil Judge (Senior Division). These judicial officers now have a rich experience of 10 years of judicial service behind them. Therefore, unseating the present appellants from their posts would not be in public interest. Ordinarily, these factors as we have referred above, would not matter, once the very appointment is held to be wrong. But we also cannot fail to consider that the appellants were appointed from the list of candidates who had successfully passed the written examination and viva voce and they were in the merit list. Secondly, it is nobody's case that the appellants have been appointed by way of favouritism, nepotism or due to any act which can even remotely be called as "blameworthy". Finally, they have now been working as Judges for ten years. There is hence a special equity which leans in favour of the appellants.***
>
> ***45. In a recent Constitution Bench decision of this Court in Sivanandan C.T. v. High Court of Kerala though the finding arrived at by this Court was that the Rules of the game were changed by the High Court of Kerala by prescribing minimum***

marks for the viva voce, which were not existing in the Rules and therefore in essence the appointment itself was in violation of the Rules, yet considering that those persons who had secured appointments under this selection have now been working for more than 6 years it was held that it would not be in public interest to unseat them. It was stated in SCC para 55 as under: -

"55. The question which now arises before the Court is in regard to the relief which can be granted to the petitioners. The final list of successful candidates was issued on 6-3-2017. The candidates who have been selected have been working as District and Sessions Judges for about six years. In the meantime, all the petitioners who are before the Court have not functioned in judicial office. At this lapse of time, it may be difficult to direct either the unseating of the candidates who have performed their duties. Unseating them at this stage would be contrary to public interest since they have gained experience as judicial officers in the service of the State of Kerala. While the grievance of the petitioners is that if the aggregate of marks in the written examination and viva-voce were taken into account, they would rank higher than three candidates who are respondents to these proceedings, equally, we cannot lose sight of the fact that all the selected candidates are otherwise qualified for judicial office and have been working over a length of time. Unseating them would, besides being harsh, result in a situation where the higher judiciary would lose the services of duly qualified

candidates who have gained experience over the last six years in the post of District Judge."

And therefore, one of the directions in the said case was as under: (Sivanandan C.T. case, SCC para 57)

"57. … 57.6. In terms of relief, we hold that it would be contrary to the public interest to direct the induction of the petitioners into the Higher Judicial Service after the lapse of more than six years. Candidates who have been selected nearly six years ago cannot be unseated. They were all qualified and have been serving the district judiciary of the State. Unseating them at this stage would be contrary to public interest. To induct the petitioners would be to bring in new candidates in preference to those who are holding judicial office for a length of time. To deprive the State and its citizens of the benefit of these experienced judicial officers at a senior position would not be in public interest."

The case at hand is on a similar footing if not better than the petitioners in the above case."

20. Similarly, in the case of ***Sivanandan CT & Ors. vs. High Court of Kerala & Ors.(supra)***, at Para – 53, it has been held as follows.

"53. The question which now arises before the Court is in regard to the relief which can be granted to the petitioners. The final list of successful candidates was issued on 6 March 2017. The candidates who have been selected have been working as District and Sessions Judges for about six years. In the meantime, all the petitioners who are before the Court have not functioned in judicial office. At this lapse of time, it may be difficult to direct either the unseating of the candidates who have performed their duties. Unseating them at this stage would be contrary to public interest since they have gained experience as judicial officers in the service of the State of Kerala. While the grievance of the petitioners is that if the aggregate of marks in the written examination and viva-voce were taken into account, they would rank higher than three candidates who are respondents to these proceedings, equally, we cannot lose sight of the fact that all the selected candidates are otherwise qualified for judicial office and have been working over a length of time. Unseating them would, besides being harsh, result in a situation where the higher judiciary would lose the services of duly qualified candidates who have gained experience over the last six years in the post of District Judge."

21. In the case of ***Gujarat State Dy. Executive Engineers' Association vs. State of Gujarat & Ors.*** reported in ***1994 Supp (2) SSC 591***, which has been relied by the petitioner, with regard to the waiting list not being a source of recruitment, at Para – 11 thereof however, it has been held as follows.

> ***"11. The entire appointment of direct recruits, therefore, from the waiting list was not proper. But these persons have been appointed and are working now at least for five years. It would, therefore, be unjust and harsh to quash their selection at this stage. Therefore, while refraining from quashing the appointment made in pursuance of the direction issued by the High Court, we are of the opinion that the waiting list for one year cannot furnish source of recruitment for future years, except in very exceptional cases. It is, however, necessary to add that non-holding of examination at the instance of the Government could not result in reducing the quota of direct recruits to be worked out on the principle for determination of such vacancies. Therefore, if vacancies had collected between 1983 and 1993 due to interim orders passed by the courts, and they have not been taken into account when the examination for 1993 was held then it would be expedient to direct the Government to work out the same immediately and send the requisition to the Commission for holding selection for if the next examination is going to be held within one year***

from today. We may clarify that it is nobody's case that the quota rule has broken. Therefore the direction is being issued to protect the quota of direct recruits during 1983 to 1993 in the peculiar facts of the present case."

[Emphasis supplied]

22. From an examination of the above noted decisions, what emerges is that such deviations are permissible when exceptional circumstances are prevalent, or the same is resorted to meet an emergent situation. Further, it is also clear that, such appointments would be permissible for clear vacancies and anticipated vacancies, but not future vacancies. In the case at hand, by applying the above conditions and contingencies, it can safely be held that, the deviation from the advertisement was caused by the events as narrated earlier, for which a considered policy decision, was taken to address the situation and as such, the same calls for no interference. On the aspect of the vacancies, for which appointments were made from the waiting list, the same were against two existing vacancies, and one was against an anticipated vacancy, which was under the process of being sanctioned and was thereafter sanctioned vide letter dated 19.08.2021, and as such, the appointments were not made against future vacancies.

23. The other decisions cited by the learned counsel for the petitioner being of limited application, to the facts of the present case, and on a different footing, are not discussed or elaborated upon.

24. Apart from the discussions made herein above, another factor that deserves consideration is the fact that the respondents No. 4, 5 and 6, are qualified candidates who have come through a selection process, and have been discharging their duties for over 2(two) years now, and unseating them at this stage, will surely not be in public interest. Coupled with this is also the fact that, the petitioners though not disclosing in the writ petition, are unsuccessful candidates who did not even clear the written examination, and by displacing the respondents No. 4, 5 and 6, would not mean that they would be in contention or qualified to be appointed against the said posts. It is also to be noted that, there has been no allegation of any favoritism or nepotism or that the selection process was vitiated in any manner to render the selection invalid, but the only challenge is that there was a deviation from the advertisement.

25. As such, in the considered view of this Court, the appointment of the respondents No. 4, 5 and 6, in the circumstances aforestated, which was made due to compelling circumstances and on

the basis of a policy decision, and also in consideration of the fact that these officers are presently manning positions in outlying benches of the District Council Courts, which are special in nature for the past 2(two) years, their appointments are upheld and the writ petition accordingly dismissed.

26. No order as to costs.

Judge