IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.3163 of 2022
CNR No.ODHC010069402022

Sangram Keshari Jena and Others ..... ***Petitioners***

Represented By Adv.-
Mr. Asok Mohanty, Sr. Advocate
along with
Mr. Debashis Pattanaik, Advocate,
Ms. Lopamudra Pradhan, Advocate &
Ms. Soumya Subhadarsini Mohanty, Advocate
(For Opposite Parties No.1 to 15 & 18 to 24)

Mr. Prafulla Kumar Rath, Sr. Advocate
along with Ms. Sagarika Sahoo, Advocate
(For Petitioner Nos.16, 17, 25 & 26)

-versus-

State of Odisha and Others ..... ***Opposite Parties***

Represented By Adv.-
Mr. Debaraj Mohanty, AGA
(For Opposite Party Nos.1 to 3)
Mr. Rabi Narayan Mishra, Advocate
(For Opposite Party No.4)
Mr. Prasanna Ku. Parhi, DSGI
(For Opposite Party No.5)

W.P.(C) No.25471 of 2022
CNR No.ODHC010653732022

Sangram Kehsari Jena and Others ..... ***Petitioners***

Represented By Adv.-
Mr. Asok Mohanty, Sr. Advocate
along with
Mr. Debashis Pattanaik, Advocate
along with Ms. Lopamudra Pradhan, Advocate
& Ms. Soumya Subhadarsini Mohanty,
Advocate
(For Opposite Parties No.1 to 3 & 5 to 16)

Mr. Prafulla Kumar Rath, Sr. Advocate
along with Ms. Sagarika Sahoo, Advocate
(For Petitioner Nos.4 & 18)

-versus-

State of Odisha and Others ..... ***Opposite Parties***

Represented By Adv.-
Mr. Debaraj Mohanty, AGA
(For Opposite Party Nos.1 to 3)
Mr. Rabi Narayan Mishra, Advocate
(For Opposite Party No.4)
Mr. Prasanna Ku. Parhi, DSGI
(for Opposite Party No.5)

W.P.(C) No.31102 of 2022
CNR No.ODHC010791872022

Gurujit Mishra ..... ***Petitioner***

Represented By Adv.-
Mr. Susanta Kumar Rout, Advocate

-versus-

State of Odisha and Others ..... ***Opposite Parties***

Represented By Adv.-
Mr. Debaraj Mohanty, AGA
(For Opposite Party Nos.1 to 3)
Mr. Rabi Narayan Mishra, Advocate
(For Opposite Party No.4)
Mr. Prasanna Ku. Parhi, DSGI
(For Opposite Party No.5)

W.P.(C) No.5196 of 2023
CNR No.ODHC010132752023

Nityananda Mohanty ..... ***Petitioner***

Represented By Adv.-
Mr. Prafulla Ku. Rath, Sr. Advocate,
assisted by Ms. Sagarika Sahoo, Advocate

-versus-

State of Odisha and Others ..... ***Opposite Parties***

Represented By Adv.-
Mr. Debaraj Mohanty, AGA
(For Opposite Party Nos.1 to 3)
Mr. Rabi Narayan Mishra, Advocate
(For Opposite Party No.4)
Mr. Prasanna Ku. Parhi, DSGI
(For Opposite Party No.5)

CORAM:
THE HON'BLE MR. JUSTICE MANASH RANJAN PATHAK
AND
THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA

Date of hearing : 06.08.2026 :: Date of judgment : 11.09.2026

Aditya Kumar Mohapatra, J. Since the aforesaid batch of Writ Petitions raise substantially identical and inter-linked questions of fact and law concerning the terms of engagement, remuneration, absorption/regularisation, and disengagement of persons who were appointed as Court Managers in the High Court of Orissa and in the District Courts of the State, such Writ Petitions were clubbed and were heard analogously, at length and on various dates, and are, accordingly, disposed of by this common judgment. For the sake of expedience W.P.(C) No.3163 of 2022 is treated as the lead matter, and the facts discussed and analysed in this judgement are, unless otherwise indicated, drawn from the pleadings therein and are equally applicable, mutatis mutandis, to the connected matters.

2. The Petitioners in the lead matter, W.P.(C) No.3163 of 2022, have, inter alia, sought a direction to Opposite Party Nos.1 to 3 to grant annual increments on the contractual scale of Rs.55,000/- at the rate of 10% with effect from 01.04.2015 and release the

consequential arrears with interest at 18% per annum; a declaration that Rules 3, 6, 12, 18 and 19 of the 'Odisha Senior Court Manager and Court Manager of the High Court and District Courts (Method of Recruitment and Conditions of Service) Rules, 2020' (hereinafter "2020 Rules") are unreasonable and violative of Articles 14 and 16 of the Constitution; quashing of the letter dated 01.06.2020 issued by the Law Department, Government of Odisha; regularisation of their services as Court Managers in an appropriate Group-A cadre under the O.R.S.P. Rules, 2017, with protection of their contractual salary and annual increments; and counting of their service from the respective dates of initial appointment for the purpose of all consequential service benefits.

In W.P.(C) No.25471 of 2022, as well as in W.P.(C) Nos.31102 of 2022 and W.P.(C) No.5196 of 2023, the Petitioners have, substantially on the same cause of action as W.P.(C) No.3163 of 2022, also challenged the orders of disengagement dated 30.08.2022, the notices and consequential results relating to the recruitment process initiated in July-August, 2022, and have sought their reinstatement and restoration of service with continuity for the period of disengagement, besides a restraint against any further direct recruitment to the posts in question.

FACTUAL MATRIX OF THE CASE

3. The genesis of the present controversy lies in the recommendations of the 13th Finance Commission which, with a view to improving the justice delivery system in the country, recommended the creation of the post of "Court Manager", two such posts for every High Court and one post for each District Court, to assist the Hon'ble Judges and the Principal District and Sessions Judges in discharge of their administrative functions. The Finance Commission earmarked a grant of Rs.1,630 lakh for the State of Odisha for the five-year period 2010–2015, expressly subject to an evaluation of the impact of the scheme on expeditious disposal of cases after the year 2015, although the fund itself was allocated only for the period 2010-2015.

4. Pursuant thereto, the Government of Odisha, Home Department, by Resolution No.31978/HS, dated 21.07.2011, created 32 posts of Court Managers (30 for the District Judgeships across the State and 2 for the High Court). The said Resolution, a copy of which is available at Annexure-2, stipulated at paragraph 3 the terms and conditions governing the creation and filling up of the posts. In furtherance of the said Resolution, the High Court of Orissa issued Advertisement No.1 dated 08.08.2011, at Annexure-3, inviting applications for engagement of 32 Court Managers, clearly stipulating

therein the eligibility criteria, the terms of appointment, the consolidated remuneration of Rs.45,000/- per month, the entitlement to travelling allowance as admissible to 2nd Grade officers, and that the tenure would not extend beyond 31.03.2015.

5. The selection process undertaken pursuant to a module format, at Annexure- A/4 to the Counter Affidavit filed by the Opposite Party No.4, which was approved by a Committee comprising the Chief Justice and two Judges of this Court, assessed each candidate out of a total of 100 marks, of which 75 marks were allocated for career evaluation (MBA: 40 marks, IT qualification: 40 marks, Law qualification: 5 marks), 15 marks for practical computer application knowledge and 10 marks for viva-voce. Upon selection, the Petitioners completed one month's training at the Odisha Judicial Academy and were directed to join their respective places of posting vide Notification No.283 and 284, dated 02.05.2012, at Annexure-5 and 5/A respectively, and assigned their functions, duties and responsibilities vide letter No.4145(20), dated 18.05.2012, and Office Order No.4944, dated 28.06.2012, at Annexure-6 and 6/A respectively.

6. As the scheme period under the 13th Finance Commission was to expire on 31.03.2015, the Government of India, Ministry of

Law & Justice, by letter dated 02.12.2014, at Annexure-9, informed the Chief Secretaries of the State Governments that any commitment on account of Court Managers beyond 31.03.2015 would be the liability of the respective States from their own resources and, after evaluation, if the State Government and the High Court concerned felt the need for continuation of the Court Managers, appropriate budgetary provision shall be made in the State Budget from 2015-16 onwards. The High Court, considering the exigency and continuing utility of the Court Managers, by letter dated 14.01.2015, at Annexure-10, recommended their continuance beyond 31.03.2015 on the existing terms and conditions on a contractual basis with consolidated remuneration. Meanwhile, the High Level Monitoring Committee ("HLMC"), by decision dated 14.11.2014, and the State Government, Home Department, by Resolution dated 17.01.2015, enhanced the consolidated remuneration of Court Managers from Rs.45,000/- to Rs.55,000/- per month with effect from 01.04.2014. Consequently, by letter dated 09.04.2015, the State Government agreed to continue the contractual engagement of the Court Managers, with the existing terms and conditions, for the financial year 2015-16 (i.e., beyond 31.03.2015).

7. Thereafter, the contractual engagement of the Court Managers was extended by the State Government from time to time, in different spells of six months each, or until their absorption as per rules, whichever was earlier, invariably upon the recommendation of the High Court. It is on record that the High Court, by letter dated 08.01.2016, at Annexure-17, recommended regularisation of the services of the Court Managers, and further, by communication dated 27/28.06.2016, at Annexure-18, recommended creation of 30 additional regular posts. The State Government sought further clarification/details in this regard by letter dated 13.07.2017, at Annexure-19.

8. It is noted that the Odisha Group-B Posts (Contractual Appointment) Rules, 2013 ("the 2013 Rules") was initially notified on 17.01.2014, in exercise of the power conferred by the proviso to Article 309 of the Constitution and in supersession of the respective recruitment rules, orders and instructions applicable to initial appointment to certain Group-B posts of the State. Rule 3 thereof stipulates the applicability of the Rules to direct recruitment to such Group-B posts as the Government may decide by notification. However, Rule 3(3) expressly excludes from the operation of the Rules appointments made under (i) Temporary Plan Schemes

(including those under Centrally Sponsored Plan Schemes and Externally Aided Projects), (ii) Temporary Establishment, and (iii) Tenure-Based Posts, subject to a proviso permitting persons appointed on contractual basis under such excluded schemes, if below 45 years of age, to participate in the recruitment process under Rule 5 for any Group-B post, with relaxation of the upper age limit. Rule 4 categorises all contractual engagements made prior to the commencement of the Rules into two categories, viz. Category I consisting of contractual engagements made against posts created with the concurrence of the Finance Department without following the recruitment procedure/the O.R.V. Act and the rules thereunder regulating recruitment for the regular posts, and Category II, which includes contractual employment via manpower service provider agencies and Finance Department concurrence. It is pertinent to note that the 2013 Rules did not, in themselves, lay down any provision for automatic regularisation of the persons falling in the excluded category under Rule 3(3), or under the category described in Rule 4(a), save the limited relaxation contemplated under Rule 8.

9. Later, an amendment to the 2013 Rules was issued on 12.09.2017. Significantly, the High Court, by letter dated 22.11.2017, at Annexure-20, recommended a pay scale of Rs.15,600 - Rs.39,100

(Grade Pay Rs.5,400) with ancillary benefits. The Minister of Law and Justice, Government of India, by communication dated 24.10.2017, at Annexure-22, suggested creation of a permanent cadre for Court Managers, taking into consideration the recommendation of the High Court; and the High Court reiterated its proposal for regularisation by letter dated 22.12.2017.

10. It has further been brought on record, by the Additional Affidavit filed on behalf of Opposite Party No. 4, that the 2013 Rules were subsequently repealed vide Notification No.29076 dated 16.10.2022, at Annexure-E/4 thereto. Significantly, the Government, in the General Administration & Public Grievances Department ("G.A. & P.G Department"), by Notification No.31968 dated 14.11.2022, laid down the Standard Operating Procedure ("SOP") governing fixation of pay of contractual appointees regularised under the Odisha Group-B, C and D posts. Clause-2 of the said SOP specifically clarifies that, in order to be considered for regularisation under the Rules, the date of initial appointment should be after 12.11.2013 in the case of Group-C and D employees, and after 17.01.2014 in the case of Group-B employees, being the respective dates of commencement of the corresponding Rules.

11. Be that as it may, the Hon'ble Supreme Court, in I.A. No.279 of 2010 in W.P.(C) No. 1022 of 1989 [***All India Judges Association and Others v. Union of India and Others***, reported in ***(2025) 10 SCC 75***], by order dated 02.08.2018, at paragraph 12(ix), observed and directed as follows;

> *"...The services of any person already working as a Court Manger in any district should be regularised by the State Government as we are of the consider view that their assistance is needed for a proper administrative set up in a Court."*

Pursuant to the said direction, the Law Department, Government of Odisha, framed the 'Odisha Senior Court Manager and Court Manager of the High Court and District Courts (Method of Recruitment and Conditions of Service) Rules, 2020', which were notified vide Notification No.77 dated 04.03.2020, at Annexure-24, in the Odisha Gazette No.463 dated 04.03.2020.

12. Rule 3 of the 2020 Rules stipulated the service of Court Managers to consist of two categories/grades, namely, Category-1: Senior Court Manager (in Group-B) and Category-2: Court Manager (in Group-B), both classified as Group-B posts, without the Rules themselves mandatorily specifying a scale of pay. Similarly, Rule 6 thereof makes specific provision for absorption of the existing

contractual Court Managers. Rule 6(1) provides that existing Court Managers, who were recruited on contractual basis pursuant to the Resolution dated 21.07.2011 and who had completed six years of service in the said post, may be considered for absorption in the newly created posts, subject to their continued utility and passing of a suitability test to be conducted by a Committee constituted for the purpose by the Chief Justice. Rule 6(2) provides that, notwithstanding anything contained in the Rules, the criteria regarding age and other conditions of eligibility for direct recruitment shall not apply for appointment by way of absorption. Rule 6(4) provides that, upon absorption of such existing Court Managers under sub-rule (1), the remaining vacant posts, if any, shall be filled up by way of direct recruitment in accordance with the procedure prescribed under Rule 7. Rule 12 provides for probation and training in the Judicial Academy for persons appointed. Rule 18 and Rule 19, inter alia, deal with seniority/other incidental service matters.

13. Later on, by Notification/letter dated 01.06.2020, (impugned as Annexure-25), the Law Department fixed the scale of pay for the post of Court Manager at Level-9 (Rs.35,400 - Rs.1,12,400) of the revised pay matrix, that being the lowest/initial rung of the Group-B scale under the State's pay structure. This

fixation of pay scale, together with Rules 3, 6, 12, 18 and 19 of the 2020 Rules, constitutes the principal subject-matter of challenge in the lead writ petition. It is also on record that the Petitioners had earlier approached this Court in W.P.(C) No.10326 of 2020 seeking annual increments with effect from 2014. The said writ petition came to be disposed of on 08.02.2021, without the specific relief of increments being granted, and, as such, no further increment was in fact released pursuant thereto.

14. Pursuant to Rule 6 of the 2020 Rules, the High Court initiated the process of assessing suitability of the 32 existing contractual Court Managers for absorption against the newly created regular posts. A notice for the recruitment/suitability test was issued on 15.07.2022, at Annexure-44. Later, vide its letter dated 04.08.2022, the High Court increased the duration of the written test from 30 minutes to 60 minutes. The test, totalling 100 marks and comprising of Project Writing (30 marks), Office Note justifying the commencement of such project (20 marks), Interview/Personality test (40 marks) and Performance Report from District Judge/Registrar, High Court during contractual period (10 marks), was held on 06.08.2022. The result of such test was declared by notice dated 07.08.2022 and only three candidates were found to have qualified in

that round. In order to afford a further opportunity, a second round of written test and viva-voce examination was conducted, pursuant to notice dated 11.08.2022, at Annexure-46, on 20.08.2022, the result whereof was declared on 20.08.2022, and eight more candidates were finally qualified in this round.

15. Therefore, *in toto*, 11 out of the 32 existing Court Managers were found successful and qualified in the suitability test in terms of Rule 6 of the 2020 Rules and were accordingly absorbed/regularised and posted in different districts (one candidate among the successful 11 having, however, not joined). The remaining candidates, having been found unsuccessful, had their contractual engagement disengaged with effect from 30.08.2022, vide the High Court's Office Order No.13488 dated 30.08.2022, at Annexure-50.

It is this process, the notices for the suitability test, the marking pattern adopted, the results declared, and the consequential disengagement of the unsuccessful candidates, that forms the specific subject-matter of challenge in the three connected writ petitions, namely, W.P.(C) No.25471 of 2022, W.P.(C) No.31102 of 2022 and W.P.(C) No.5196 of 2023.

16. In the meanwhile, during the pendency of the present batch of writ petitions, the High Court placed an affidavit dated

09.01.2025 before the Hon'ble Supreme Court in the very proceedings referred to above (I.A. No.135045 of 2023 in Writ Petition (C) No. 1022 of 1989), disclosing the framing of the 2020 Rules, the suitability tests conducted, and the consequential absorption and disengagement of the Court Managers. The Hon'ble Supreme Court in ***All India Judges Association*** (*supra*), while finally disposing of the said proceedings by order dated 16.05.2025, after considering the 2020 Rules framed by the State of Odisha and similar rules framed by other States, held, at paragraph 46.6, as follows:

> *"Insofar as the Court Managers, who are already working either on contractual or consolidated pay basis or on ad hoc basis, are concerned, their services shall be continued and regularised subject to their passing the suitability test as will be provided in the rules to be framed by the respective High Courts and approved by the respective State Governments."*

17. Further, by the same order dated 16.05.2025, the Hon'ble Supreme Court directed all High Courts to frame or suitably amend the rules governing recruitment and conditions of service of Court Managers, taking into consideration the 'Gauhati High Court, Appointment and Condition of Service (Assam) Rules, 2018' (referred to therein as the "Assam Rules of 2018"). In view of the said direction, the Law Department, Government of Odisha, was requested by the High Court, vide letter dated 15.07.2025, to cancel the then-ongoing

recruitment process for the post of Court Manager (notice dated 15.07.2025 having been earlier issued in that regard). It is submitted, in the written notes of submission by the Opposite Party No.4, that draft Rules titled 'the Odisha Court Managers (Method of Recruitment and Conditions of Service) Rules, 2025' ("2025 Rules"), are presently pending consideration and approval before the State Government.

CONTENTIONS URGED ON BEHALF OF THE PETITIONERS

18. Heard Sri. Asok Mohanty and Sri. P. K. Rath, learned Senior Counsels, assisted by learned counsels appearing for the Petitioners. The learned senior counsels for the Petitioners, drawing upon the pleadings in the Writ Petitions, the Rejoinder Affidavits filed in reply to the Counters of the Opposite Parties, and the written notes of submissions, have broadly urged the following contentions:

i. Grounds of challenge to the pay-fixation;

i. That the fixation of pay scale at Level-9 (Rs.35,400 – Rs.1,12,400), by the Law Department, Government of Odisha, vide its letter dated 01.06.2020, at Annexure-25, for the post of Court Manager is arbitrary, unreasonable and contrary to the nature of duties, qualifications and responsibilities attached to the said post, thereby violating the principle of equal pay for equal work.

ii. That the impugned decision of the Law Department is not in conformity with the recommendation of the High Court, which had proposed a higher Group-A-equivalent scale of pay (Rs.15,600 - 39,100 with Grade Pay Rs.5,400) vide letter dated 22.11.2017, at Annexure-20, and thus suffers from non-application of mind.

iii. That the impugned action, i.e. the fixation of pay at Level-9, is violative of Articles 14 and 16 of the Constitution of India inasmuch as the Petitioners have been subjected to hostile discrimination vis-à-vis similarly placed Government employees and Court Managers appointed in other States. Moreover, the fixation of pay scale ought to have been referred to the Pay Commission since it is the competent authority in that regard. As such, the unilateral administrative decision taken in this behalf is procedurally improper and legally unsustainable.

iv. That, despite possessing higher qualifications (MBA/IT/Law) and discharging supervisory and managerial functions, the Petitioners have been placed at a pay scale equivalent to lower ministerial posts, such as Assistant Section Officers in the High Court and Upper Division Clerks in the District Courts, both of whom have a lower entry qualification, resulting in an irrational and unreasonable classification. Also, placing the Petitioners in a pay scale lower than

the ministerial staff whom they are required to supervise creates serious administrative anomalies affecting hierarchy, discipline and accountability.

v. That, several other States have regularised their Court Managers in the Group-A cadre with higher pay scales, and denial of similar benefit to the Petitioners in Odisha amounts to hostile discrimination.

vi. That, the denial of annual increments to the Petitioners, despite such benefit being extended to other contractual employees of the State Government, is arbitrary and unjustified, entitling the Petitioners to increments and arrears with effect from 01.04.2015 onwards.

vii. That, after expiry of the 13th Finance Commission scheme in 2015, the continued engagement of the Petitioners was directly under the State Government, and they were therefore entitled to annual increments in line with the general policy of the State applicable to its contractual employees. Denial of such increments, for over eight years, clearly amounts to arbitrary conduct on behalf of the Opposite Parties, more particularly when similar benefits have been extended to other contractual and outsourced employees of the State.

ii. Grounds of challenge to the 2020 Rules;

i. That, the provisions of the 2020 Rules, particularly Rules 3, 6, 12, 18 and 19, are arbitrary, unreasonable, and violative of Article 14 of the Constitution of India.

ii. That, the requirement of undergoing a fresh suitability test for regularisation, despite long years of continuous and satisfactory service (since 2012) and having earlier undergone a due selection process, is arbitrary and contrary to the directions of the Hon'ble Supreme Court dated 02.08.2018, which, according to the Petitioners, contemplated regularisation of "existing" Court Managers without a further test.

iii. That, the imposition of probation and training requirements under Rule 12 of the 2020 Rules, despite the Petitioners having already rendered long years of service, is unreasonable and without rational basis.

iv. That, the classification of the post of Court Manager as a Group-B service is arbitrary and does not take into account the qualifications, experience and nature of duties of the incumbents, thereby rendering the impugned Rules liable to be quashed.

v. That, subjecting the Petitioners to the rider of completing six years of service in the said post and passing the suitability test, to get regularised/absorbed in the post of Court Manager, is clearly against

the direction in order dated 02.08.2018 of the Hon'ble Supreme Court in ***All India Judges Association*** (*supra*).

iii. Averments made in the Rejoinder Affidavits;

i. That, despite the direction in the order dated 02.08.2018 of the Hon'ble Supreme Court in ***All India Judges Association*** (*supra*) for regularisation of existing Court Managers, the State of Odisha framed the 2020 Rules requiring a fresh suitability test for regularisation, which, according to the Petitioners, is contrary to the binding direction of the Supreme Court, especially when they had already undergone a proper selection process at the time of their initial appointment in 2012 and had rendered more than 10 years of continuous service without increments.

ii. That, the marking scheme adopted for the suitability test held in August 2022 is arbitrary and violates settled principles that viva-voce marks ought not to exceed a reasonable percentage (fifteen percentage, as per several decisions of the Supreme Court) of the total marks. Further, conducting the viva-voce immediately after the written test, without prior declaration of the written-test result, indicates undue haste and a lack of transparency in the process. As result, only a limited number of candidates (11 out of 32) were

declared successful, and many experienced Court Managers were excluded.

iii. That, the disengagement of 20 Court Managers with effect from 30.08.2022, vide order No.13488 of the Registrar General In-charge, at Annexure-50, despite the pendency of the litigation, is illegal and contrary to the extension orders, at Annexure-48, and the earlier assurances held out to the Petitioners. It has been averred that such action violates the Petitioners' fundamental rights under Articles 14, 16 and 21 of the Constitution, particularly the right to livelihood and dignity, inasmuch as they were terminated after long years of service.

iv. That, the Petitioners contend discrimination by comparing their case with similarly situated employees such as System Officers/System Assistants engaged, and regularised, under the 'Orissa High Court (Method of Recruitment and Condition of Service of Senior System Officer, System Officer and System Assistant under e-Courts Service) Rules, 2013', without being subjected to any suitability test. It was urged that imposing additional conditions such as fresh tests, probation and lower pay scales upon Court Managers, while extending regularisation without such conditions to the e-Courts

personnel, amounts to hostile discrimination and violates Articles 14 and 16 of the Constitution.

v. That the Petitioners' duties are essentially administrative and supervisory in nature, including having been assigned duties as convenor of the District Court Building Committee and as nodal officer of the District Court Management System Committee by various letters of the Court, thereby justifying a higher pay and Group-A status.

iv. Regarding the suitability test conducted in August, 2022;

i. That, the expression "suitability test" in Rule 6, not being defined therein and the rule not having prescribed the manner and criteria of conducting such test, must be understood in the context of the directions of the Hon'ble Supreme Court dated 02.08.2018 and 16.05.2025. In fact, since the State Government did not carry out the regularisation exercise as per the previous two orders, the Supreme Court, once again vide its order dated 16.05.2025, directed to absorb the existing Court Managers by conducting suitability test in accordance with the Assam Rules of 2018.

ii. Additionally, in light of several pronouncements of the Hon'ble Supreme Court laying down the principle that a Selection Committee, which is not expressly authorised under the governing

Rules, cannot prescribe its own substantive criteria or norms for selection or suitability, the Selection Committee, being a delegated body, did not possess the right of legislation and was only required to conduct the suitability test. Instead, it has exceeded its jurisdiction by equating the existing Court Managers with the recruitment criteria for Direct Recruitees under Rule-7.

iii. That, as per the interim order dated 28.03.2022 of this Court, passed in the lead matter, the absorption test conducted on 11.08.2022 will be subject to the result of the present case and, the appearance of the Petitioners in the said test will be without prejudice to their right of absorption, a direction can be given to absorb the Petitioners, especially since 22 posts of Court Managers are still vacant.

19. In view of the aforesaid contentions, the learned senior counsels for the Petitioners submitted that the 2020 Rules and the subsequent actions taken thereunder, including the pay-scale notification, the suitability test, its results, and the disengagement orders, are illegal, arbitrary and contrary to the directions of the Supreme Court, and pray for quashing of these actions, restoration of their services, grant of increments, and regularisation with appropriate (Group-A) pay, asserting that their long and satisfactory service is itself sufficient for absorption without further testing.

CONTENTIONS URGED ON BEHALF OF THE OPPOSITE PARTIES

20. Heard Sri. P. K. Muduli, the learned Additional Government Advocate, for the Opposite Party Nos.1 to 3, along with Sri. R. N. Mishra, learned counsel appearing for the Opposite Party Nos.4 & 5. The learned counsels for the Opposite Parties have resisted the Writ Petitions by drawing upon the Counter Affidavits (filed by Opposite Party No. 3 and Opposite Party No.4), the Additional Affidavit (filed by Opposite Party No.4), and the Written Note of Submissions filed by the Opposite Party-State and the Opposite Party No.4. Their contentions may be summarised as follows;

i. Regarding the nature of engagement being purely temporary and tenure-based;

i. That, the Petitioners, being fully aware of the terms and conditions of engagement as specified in the advertisement, applied directly and participated voluntarily in the selection process for contractual appointment, agreeing to the consolidated pay and other terms mentioned in the advertisement, with full knowledge that the period of appointment would not extend beyond 31.03.2015.

ii. That, the posts of Court Managers were created purely as a temporary, scheme-based arrangement pursuant to the

recommendations of the 13th Finance Commission, which ended on 31.03.2015. It was contended that the Petitioners engagement, in such circumstance, was purely contractual and such engagement does not confer any vested or enforceable right of regularisation, pay parity, increments, or continuation in service. In fact, even the subsequent extensions granted by the State from time to time were purely administrative in character and did not alter the fundamentally contractual nature of their appointment.

iii. That, the Petitioners, having accepted the offer of engagement and furnished undertakings accepting its terms, cannot be permitted at a belated stage to turn around and challenge the very foundation upon which they were engaged. Especially, since they had already derived the benefit of the engagement. By virtue of the principles of acquiescence, waiver and estoppel, the Petitioners are estopped from challenging the same at a belated stage.

ii. Regarding the quantum of the Finance Commission grant and remuneration;

i. That the financial allocation of Rs.1,630 lakh by the 13th Finance Commission for the Court Managers for the five years 2010-15 was not only for the salary of the Court Managers but also for the salary and limited travelling allowance expenses payable to 2nd Grade

officers of the State, office expenses and other establishment expenses for working of the Court Managers in all the Judgeships. It is therefore incorrect to contend that the consolidated salary payable was fixed at a much lesser amount having regard to the total quantum of the grant sanctioned for the 32 posts over five years. Accordingly, The Petitioners' own calculation, projecting a monthly entitlement of Rs.84,000/-, is erroneous and misconceived.

ii. That, the resolution creating the posts made it clear, from the very beginning, that the entitlement of Court Managers, so far as travelling allowance was concerned, was such as payable to officers of 2nd Grade of the State and this position was never varied.

iii. Non-applicability of the Odisha Group-B Posts (Contractual Appointment) Rules, 2013;

i. That, the Odisha Group-B Posts (Contractual Appointment) Rules, 2013, were framed to regulate recruitment and service conditions for certain contractual Group-B posts. However, Rule 3(3) expressly excludes appointments made under Temporary Plan Schemes, Temporary Establishments, and Tenure-based posts. Since the engagement of the Court Managers was made under such a temporary/tenure-based scheme, it falls outside the purview of the 2013 Rules, and the provisions thereof, including the amended

provision for annual increment relied upon by the Petitioners, are not applicable to them.

ii. That, in any event and independently, as elaborated in the Additional Affidavit filed by Opposite Party No. 4, Rule 4(a) of the 2013 Rules, when read with the subsequent SOP dated 14.11.2022 issued by the G.A. & P.G. Department, at Annexure-F/4, confines the applicability of the 2013 Rules to contractual appointments made after the commencement of the said Rules, i.e., after 17.01.2014 in the case of Group-B employees. The Petitioners were, however, admittedly selected and initially appointed on a contractual basis as far back as 06.03.2012, nearly two years before the 2013 Rules came in to force. On this ground also, the 2013 Rules (and the amendment thereto at Annexure-16) cannot be made applicable to the Petitioners' case under any stretch of imagination. Moreover, the 2013 Rules have, in the meanwhile, been repealed vide Notification No. 29076 dated 16.10.2022, at Annexure-E/4. Moreover, the 2013, Rules were later repealed by the 2022, Rules which contemplates that only persons appointed on or after 17.01.2014 can be regularised therein and, persons appointed prior to 17.01.2014 fall within the category contemplated under Rule 4 and can be regularised only in

accordance with Rule 8. Hence, the 2013 Rules could not be invoked in the Petitioners' case.

iv. Regarding the claim for annual increments and other service benefits;

i. That the Petitioners, having been initially engaged on a purely temporary and contractual basis with consolidated remuneration, are neither governed by the 2013 Rules, nor entitled to benefits such as annual increments, D.A., H.R.A., medical allowances, N.P.S., or other service benefits available to regular State Government employees.

ii. Although the Hon'ble Supreme Court, in All India Judges Association (supra), vide order dated 02.08.2018, observed that services of existing Court Managers should be regularised, it is clarified that the Petitioners' initial engagement was not made through any statutory recruitment rules, reservation policy, written examination, or rigorous selection process, but only through career assessment and a limited computer test/general assessment, owing to the temporary and scheme-based nature of the posts. Nevertheless, considering their utility, the State Government finally framed the 2020 Rules to provide a structured framework for assessment and possible absorption into the regular cadre.

iii. That, the claim of the Petitioners for enhanced remuneration, arrears, and benefits under the 7th Pay Commission is wholly untenable, as such benefits are applicable only to regular Government servants holding sanctioned posts under statutory rules. It was stated that the enhancement of remuneration from Rs.45,000/- to Rs.55,000/- was a policy decision of the State and does not create any right in favour of the Petitioner to further revision. In fact, it was also contended that the plea of "equal pay for equal work" is also inapplicable in view of the clear distinctions in the recruitment process, nature of duties, tenure, and legal status between the Petitioners and regular Government employees.

iv. That, the representations made by the Petitioners claiming payment of increments do not entitle them to any annual increment or arrear dues on this count, nor do such representations entitle them to any annual increment as available to regular employees of the Government. Further, though the Petitioners had made a prayer for payment of increments from 2014 in their earlier Writ Petition, W.P.(C) No.10326 of 2020, and that prayer having not been allowed while disposing of the said writ petition on 08.02.2021, such a prayer shall be deemed to have been raised and refused, in light of the decision of the Hon'ble Supreme Court in ***Mysore State Road***

Transport Corporation v. Babajan Conductor and Anr., reported in ***(1977) 2 SCC 355***.

v. Regarding the Petitioners' claim of parity with Court Managers of other States and with e-Courts/System Officer cadre;

i. It has been stated that the reliance placed by the Petitioners on the availability of funds and comparison with Court Managers of other States is misconceived, as the financial assistance under the 13th Finance Commission was meant for multiple heads including infrastructure and administrative expenses, and service conditions vary across States based on distinct policy considerations.

ii. That, neither was there any recommendation by the 13th Finance Commission for any uniform consolidated remuneration for Court Managers throughout the country under the scheme till March 2015, nor has the Hon'ble Supreme Court directed a uniform scale of pay for the Court Managers. It was contended that the method of recruitment and selection for appointment, whether at the initial stage of contractual engagement or at the stage of absorption, is not necessarily identical across State Governments. Even the scale of pay of regular employees holding the same post differs from State to State. As such, the Petitioners' claim of pay parity with counterparts

in other States, and for absorption in the Group-A cadre on that basis is irrelevant wholly untenable.

iii. That, the Petitioners also cannot claim parity with the employees recruited under the e-Courts Services of the Court, who were regularised under the relevant Rule, because the nature of duty of such System Officers/System Assistants is altogether different from the nature of duty of Court Managers. Such a claim of negative equality cannot be legally accepted in the present context.

vi. Regarding the Petitioners' claim for higher pay-fixation;

i. That, the duty and responsibility of the Court Managers, as provided in the 2020 Rules, is substantive and not merely supervisory in nature; the claim for higher pay founded on entrustment of certain ancillary duties, viz. convenor of the District Building Committee and nodal officer of the District Court Management System Committee, is not tenable since the Court Managers are not entrusted with exclusive administrative files and lack the capacity to handle the core work of the judicial establishment. Therefore, such ancillary entrustment of minimum responsibility cannot entail a claim for higher pay.

ii. That, the performance of the Court Managers does not commensurate with any assumed higher duty chart. On the contrary,

while claiming pay of a regular scale, the Petitioners have simultaneously expressed reluctance to discharge the duties of regular/contractual engagement, which is an inherently contradictory stand that itself demonstrates their unwillingness to perform the regular work.

iii. That, as regards the qualification of the Petitioners, the claim that higher qualifications (MBA/IT/Law) entitle them to a higher pay scale is without basis, since such qualifications represented only the minimum eligibility requirement at the time of the initial recruitment test, as directed by the 13th Finance Commission itself. Since the Petitioners were never selected through any rigorous written examination for the contractual post (but only through career assessment, limited computer test and general assessment), they cannot claim parity or seniority in scale of pay with employees of other categories who were selected through a rigorous written, computer and viva-voce test.

iv. That, the Hon'ble High Court had, in the course of formulating the 2020 Rules, placed a draft before the State seeking approval under Article 309, and had obtained the views of the O.P.S.C. and the G.A. & P.G. Department for concurrence, the latter having opined that

regularisation of contractual employees is permissible only upto the pay revised Grade Pay of Rs.4,200/-.

v. That, the recommendation of the High Court for the pay scale of Rs.15,600-39,100 with Grade Pay Rs.5,400, vide letter dated 22.11.2017 at Annexure-20, was specifically made in relation to the 30 new regular posts of Court Managers proposed to be created, and not for the existing contractual Court Managers (i.e. the Petitioners) who were engaged on contractual basis and were required to be assessed for absorption, subject to suitability. Such recommendation was not intended for Court Managers absorbed subject to a suitability test, and the absorption of contractual employees at any higher scale in Group-A service would, in any event, be beyond the purview of the applicable rules of the State.

vi. Accordingly, the Law Department rightly created the post of Court Managers in the Group-B cadre at Level-9, and such notification of the creation of posts with the said pay scale cannot be termed contrary to law or to the recommendation of the Court.

vii. In defence of the validity of the 2020, Rules;

i. In terms of Rule 6(2) of the 2020 Rules, the age criteria and other conditions of eligibility for direct recruitment do not apply for appointment by way of absorption, a provision the vires of which

have not, in fact, been challenged by the Petitioners in the course of hearing. It was submitted that the Opposite Parties, in their Counter Affidavit, have explained that Rule 6(2) is not ultra vires, but is rather in consonance with Articles 14 and 16 of the Constitution.

ii. It has been stated that the provisions of the 2020 Rules do not suffer from any illegality and all the provisions of the Rules are in accordance with established constitutional principles and that Rule 6 of the aforesaid Rules, the provision for probation and training in the Judicial Academy under Rule 12, are in accordance with law and not against the mandate of the Hon'ble Supreme Court and that adequate and proper scale of pay has been given to the post of Court Managers, and its inclusion in the Group-B cadre is also in accordance with law.

iii. That, it is further contended that the Committee constituted by the Hon'ble Chief Justice under Rule 6 was fully competent to determine the modalities of the suitability test. According to Opposite Party No.4, the assessment was an in-house exercise involving the existing Court Managers, no outsider was involved, two opportunities were afforded to the candidates, and there is no allegation or material suggesting discrimination or bias. The absence of an express prescription of each modality in Rule 6, therefore, does

not, according to the Opposite Party, invalidate the assessment undertaken by the Committee.

iv. That, similar provisions for regularisation, subject to continued utility and a suitability assessment by the High Court concerned, are found in Clause 5(b) of the Assam Rules of 2018, which also prescribes procedure for regularisation subject to continued utility and suitability, to be assessed by the High Court by way of appraisal of service records and interview including a written test. The 2020 Rules of Odisha, therefore, do not in any way violate the rights of the Court Managers.

viii. Regarding the conduct and legality of the suitability test and disengagement;

i. The suitability test, conducted strictly in accordance with Rule 6 of the 2020 Rules, framed as per the proviso to Article 309 of the Constitution, were meant to enable the existing Court Managers, continuing on contractual basis, to be absorbed against the regular posts, in terms of the direction of the Hon'ble Supreme Court to regularise such existing contractual Court Managers.

ii. That, Rule 5(b) of the Assam Rules of 2018 itself contemplates assessment of suitability by the High Court. It is therefore contended that, once the competence of the Committee constituted by the Chief

Justice is accepted, the modalities adopted by it cannot be assailed merely because they are not expressly set out in Rule 6, particularly in the absence of any allegation of discrimination or bias.

iii. That, the committee constituted for conducting the suitability test was fully competent and within its jurisdiction to decide the modalities of the suitability test. Since no outside agency was involved in conducting the test, since the Petitioners were given a second opportunity to appear in the test, and no discrimination or bias of any sort has been alleged, the validity of the suitability test remains wholly intact.

iv. That, the Petitioners appeared in the tests conducted on two occasions but did not manage to qualify. Rule 6(4) of the 2020 Rules envisages that upon absorption of existing Court Managers under sub-rule (1), the remaining vacant posts, if any, shall be filled up by way of direct recruitment in accordance with the procedure prescribed under Rule 7. Accordingly, those Court Managers found unsuccessful in the suitability tests were disengaged vide the High Court's Office Order No.13488, dated 30.08.2022. It was submitted that direct recruitment is permissible only against the vacant posts. Accordingly, in consonance with Rule 6(4), the Principal Secretary to Government, Law Department, was requested to recommend to

the OPSC to conduct recruitment to the remaining 22 vacant posts of Court Managers, vide the High Court's letter No.8039 dated 29.04.2024.

v. That, the argument by the Petitioners that the marking system adopted by the Committee for the suitability test is not sustainable since no such provision is expressly found in the 2020 Rules itself. As such, a recruitment/assessment exercise was conducted to judge the suitability of the existing contractual employees against the regular posts, as distinguished from an open direct recruitment by an external recruiting body. For this reason, a second chance was extended to unsuccessful candidates to participate and qualify. To bolster such submission, reliance has been placed on the decision of the Hon'ble Supreme Court in ***Civil Appeal No. 2634 of 2013***, decided 07.11.2024, and on ***Municipal Corporation of Delhi v. Surendra Singh and Others***, reported in ***(2019) 8 SCC 67***.

vi. That, the entire selection process/documents with the result sheet were produced before this Hon'ble Court in a sealed cover, which this Court has perused. If the Petitioners, in the viva-voce test carrying 40 marks conducted on 06.08.2022 and 20.08.2022, secured the prescribed minimum qualifying marks, i.e. 16 marks, being 40% of the total marks allotted, then the very foundation of the Writ

Petitions would be undermined and the Petitioners would have no locus to challenge the marking system.

vii. The submission of the Petitioners that they have a right to continue against the contractual posts, their tenure not having expired, is a mistake of fact, since, in view of the creation of the 32 regular posts (under Annexure-25 to W.P.(C) No. 3163 of 2022), the contractual/tenure-based posts do not exist any further.

viii. It has been contended that certain Petitioners (viz., Petitioner Nos. 6, 8, 12, 14, 17, 19 and 23) though shown to have been selected and joined pursuant to the suitability test, have remained continuing as Petitioners in the writ petition, which should not be permitted.

ix. That, although the prayer to quash the suitability tests, the results thereof and the order of disengagement has been made, the successful persons who have qualified and are continuing in service have not been arrayed as Opposite Parties to the writ petitions. As such, the non-impleadment of the selected/regularised Court Managers is fatal, being hit by the vice of non-joinder of necessary parties, and no relief can be granted in such a scenario.

ix. Regarding the effect of the final order of the Hon'ble Supreme Court dated 16.05.2025;

i. That, the Hon'ble Supreme Court, after considering the 2020 Rules and other Rules framed by different States, passed the final order in ***All India Judges Association*** (*supra*) and, at paragraph 46.6, directed that regularisation of Court Managers is subject to a suitability test, as extracted in the factual matrix above. Furthermore, the framing of the 2020 Rules, the suitability tests conducted thereunder, and the consequential absorption and disengagement had already been disclosed before the Hon'ble Supreme Court via an affidavit dated 09.01.2025, and that the final order dated 16.05.2025, particularly paragraph 44(ii), (iii) and (vi), validates the action taken by the Opposite parties.

ii. It was stated that in view of the fact that the 2025 Rules are presently being considered before the State Government, the order of disengagement was a natural, logical and consequential outcome. In such circumstances, the Petitioners, having participated in the selection process without demur and having failed to qualify, are estopped from questioning the validity of the suitability tests and the results thereof, particularly when 11 candidates successfully qualified and were extended the benefit of absorption.

iii. That, in view of twenty-one (and, on a later count following the second round of tests, twenty) Court Managers having failed the

suitability test and their contract period not having been extended further, the Hon'ble High Court issued termination/disengagement letters to the said Court Managers/Petitioners, Since such Petitioners have not been working thereafter, they are not entitled to the benefit of regularisation of their service.

21. In view of the aforesaid contentions, the learned AGA submitted that the impugned policy decisions, including the Government letter dated 01.06.2020, do not suffer from any illegality or arbitrariness warranting interference and, that the reliefs sought by the Petitioners are contrary to settled principles of service jurisprudence and contractual employment, and similar claims having already been rejected earlier (including in W.P.(C) No.10326 of 2020), the present batch of Writ Petitions are liable to be dismissed for want of merit and in the absence of any fresh cause of action.

ANALYSIS OF THE COURT

22. Having considered the entirety of pleadings in the present batch of Writ Petitions, the rival submissions in the shape of Counters, Rejoinders and Written Notes of Submissions, along with all the other materials placed on record including the wide array of contentions advanced by both sides and, keeping in mind the overall prayer made

by the Petitioners, this Court is of the view that the controversy at hand is required to be examined in a somewhat narrower compass. As such, before proceeding to weigh the merits of the several contentions so urged, it is pertinent, at the outset, to examine the two questions that lie at the foundation of the process impugned in the connected batch of Writ Petitions; *firstly*, whether the Committee constituted by the then Hon'ble Chief Justice under Rule 6(1) of the 2020 Rules possessed the authority to design the very scheme of assessment that it went on to apply, and, *secondly*, whether the scheme actually devised and applied answers to the description of a "suitability test" as that expression is to be understood both from the terms of Rule 6(1) itself and be tested against the touchstone of the direction of the Hon'ble Supreme Court in ***All India Judges Association*** (*supra*). On a careful analysis of the factual backdrop of the case, this Court is of the view that the aforesaid two questions, amongst the several other contentions put forth in the present matter, strike at the root of the process by which twenty of the thirty-two existing Court Managers came to be found unsuccessful and were subsequently disengaged, and their resolution is dispositive of the reliefs claimed in the connected writ petitions.

23. Before proceeding to the questions that arise for determination, it would be apposite to briefly recapitulate the course of events which have brought the parties before this Court. The genesis of the matter lies in the creation of 32 posts of Court Managers by the Government of Odisha on 21.07.2011 pursuant to the 13th Finance Commission recommendations, followed by an advertisement dated 08.08.2011 and selection of the Petitioners, who joined in service on 02.04.2012, as Court Managers, after undergoing the prescribed selection process and training. Their services, initially contemplated for the period of the Finance Commission scheme, were thereafter repeatedly continued by the competent authorities, their remuneration was enhanced from Rs.45,000/- to Rs.55,000/- per month with effect from 01.04.2014 and the High Court, on successive occasions, recommended their continued engagement, regularisation and, later, creation of additional posts and a regular cadre. The matter assumed a newer dimension and significance upon the judgment of the Hon'ble Supreme Court in, ***All India Judges' Association v. Union of India*** (*supra*), reported in ***(2018) 17 SCC 555***, dated 02.08.2018, whereby the services of persons already working as Court Managers were directed to be regularised. The State thereafter framed the 2020 Rules which, inter alia at Rule 6, contemplated absorption of existing

Court Managers subject to their "continued utility and passing of a suitability test". The Petitioners approached this Court initially in 2020 and again in the present proceedings in 2022, questioning the denial of increments and the framework governing their absorption. During the pendency of the Writ Petition, the Committee constituted under Rule 6(1) conducted the suitability exercise in August, 2022 on a 100-mark pattern. Following such exam, eleven Court Managers were regularised, while the remaining Court Managers were disengaged with effect from 30.08.2022. The legality of that exercise and the consequential disengagement constitutes the immediate subject-matter of the present batch of connected Writ Petitions.

24. It is also pertinent to note at this stage that during the pendency of these proceedings, the Hon'ble Supreme Court, on 16.05.2025, finally disposed of the proceedings in ***All India Judges' Association*** (*supra*), issuing further directions concerning the framing of rules, the status of existing Court Managers and the manner in which their suitability is to be assessed, thereby furnishing an important subsequent development bearing directly upon the controversy before this Court. The aforesaid pronouncement of the Hon'ble Supreme Court assumes particular significance in the context

of the controversy before this Court and, accordingly, merits a detailed consideration.

25. Earlier, the 13th Finance Commission had proposed the engagement of professionally qualified, MBA-degree holders as Court Managers to render administrative assistance to judicial officers, thereby freeing judges to devote greater time to core adjudicatory functions. Pursuant thereto, the Ministry of Finance had issued guidelines allocating funds and prescribing the functions, responsibilities and qualifications of Court Managers. In practice, however, appointments across High Courts were made largely on contractual or ad hoc bases, without formal service rules. As such, the Hon'ble Supreme Court had earlier, in its judgment dated 02.08.2018 in the very same proceedings [***All India Judges' Association v. Union of India***, reported in ***(2018) 17 SCC 555***], directed regularisation of persons already working as Court Managers. Moreover, the Second National Judicial Pay Commission (SNJPC) examined the continuing ad hoc nature of engagement of Court Managers in its Report dated 04.02.2022, noted wide inter-State disparity in pay and status, and recommended a supplemental directive from this Court for creation of a regular cadre. Despite these developments, affidavits filed by the States and High Courts before the Hon'ble Apex Court revealed that

Rules had been finalised and approved in some jurisdictions, remained pending State approval in others, and had not even been framed in a few instances, resulting in the filing of the batch of IAs seeking uniformity, higher pay scale, Class-I Gazetted status, regularisation and structured career progression for Court Managers. The relevant paragraph 31 of the aforesaid judgement is quoted below for better appreciation;

> "***31.*** *No doubt that this Court in the said judgment was discussing the issue of infrastructure in subordinate courts, however, while doing so, this Court also discussed about the necessity of appointing Court Managers to be a part of the "Court Complex". It will be relevant to refer to the following directions issued by this Court in the said case:*
>
> > *"**12.9** Professionally qualified court managers, preferably with an MBA degree, must also be appointed to render assistance in performing the court administration. The said post of Court managers must be created in each judicial district for assisting Principal District and Sessions Judges. Such Court Managers would enable the District Judges to devote more time to their core work, that is, judicial functions. This, in turn, would enhance the efficiency of the District Judicial System. These court managers would also help in identifying the weaknesses in the court management systems and*

recommending workable steps under the supervision of their respective judges for rectifying the same. ***The services of any person already working as a Court Manager in any district should be regularised by the State Government as we are of the considered view that their assistance is needed for a proper administrative set up in a Court.***"

26. The Hon'ble Supreme Court, after examining the position prevailing across the country and specifically noticing the Assam Rules of 2018, reiterated the importance of Court Managers and the earlier direction for regularisation and, at paragraph 27 thereof, framed the following issue;

"***27.*** *Having considered the submissions of the learned amicus curiae as well as the submissions made by various learned Senior Counsel and learned counsel appearing on behalf of various High Courts, State Governments and intervenors/petitioners, the issue we frame for our consideration is as to* ***"whether in light of the 13th Finance Commission, SNJPC Report and the judgment of this Court in the present proceedings dated 2nd August 2018, any further direction needs to be issued to various High Courts and State Governments for framing and implementation of rules for the Court Managers"***."

(Emphasis supplied)

27. Tracing the legislative and administrative history, the Supreme Court found that despite the elaborate 2010 guidelines and the specific 2018 direction for regularisation, most High Courts had continued to appoint Court Managers only on contractual or *ad hoc* terms, and several States had even moved to discontinue the post citing paucity of funds (at paragraphs 30 and 35-36 thereof). Reiterating that service conditions across the judicial systems ought to be broadly uniform, the Hon'ble Supreme Court, at paragraph 37, held that the framework for Court Managers likewise required uniformity. Having examined the Assam Rules of 2018 in detail, including the delineation of duties and reporting lines under Rule 14, the Hon'ble Supreme Court agreed with the SNJPC's assessment that these Rules, having made provisions for regularisation, benefits and allowances, the method of recruitment and training, and the duties and responsibilities of Court Managers, were the most comprehensive and adopted them as the template to be followed, subject to modification for local exigencies (at paragraph 39-42). The relevant paragraphs are quoted hereinbelow.

> "***37.*** *We are of the considered view that since this Court has been consistently observing that the service conditions of all the Judges in the entire country should be uniform, it is also necessary that the system as approved by this Court for*

providing the services of the Court Managers to the courts to enhance the efficiency of administration of justice also needs to be largely uniform throughout the country.

38. *At the cost of repetition, we observe that* ***this Court has already emphasized the need of the Court Managers to assist the District Judges in administrative works so that the Judges can devote their time to their core functions, that is, adjudication of cases. In that view of the matter, it becomes imperative that this Court reiterates its earlier directions so that the rules with regard to service conditions of the Court Managers are framed and approved in a time-bound manner.***

39. *We have perused the Assam Rules of 2018. The said Rules provide for regularization of the services of the Court Managers and provide for the other benefits and allowances. The said Rules also specify the method of recruitment and training required to be undergone by the Court Managers. Most importantly, the said Rules also enlist the various duties and responsibilities of the Court Managers in Rule 14…*

40. *Thus, it can be seen that the Assam Rules of 2018 clearly outline the role of the Court Managers in assisting the Registrar General and the District Judges. The said Rules also set out that the Court Managers are to work as per the assignments given by the Registrar General or the District Judge. Further, Schedule-I of the Assam Rules of 2018 goes into much more detail about the duties and the work of the Court Managers…*

***

42. *We find that* ***the Assam Rules of 2018 should be considered as the model rules when the other High Courts frame their rules. Needless to state that the High Courts and the State Governments can always make certain changes and modifications in order to take care of certain exigencies which may be peculiar to their particular High Court and the particular State.***"

(Emphasis Supplied)

28. Thereafter, at paragraph 43, the Hon'ble Supreme Court reiterated that the services of Court Managers already in employment ought to be regularised, observing that having served for years, their removal at that stage would cause great hardship. At the same time, the Apex Court recognised that a suitability test could be undertaken to separate those who were functioning properly from those who were not. The paragraph 43 is reproduced herewith;

"***43.*** *We further find that the directions issued by this Court in the judgment dated 2nd August 2018 in the present proceedings with regard to the regularization of the services of the Court Managers who were already in employment needs to be reiterated.* ***The Court Managers having served for years, after rendering their services for such a long period; if they are not made permanent and are to be thrown away at this stage, it would cause a great hardship to them. We are also in agreement with the submission of the learned amicus curiae that for separating the***

deadwood, a suitability test can be conducted so that the Court Managers who are functioning properly are continued and only such Court Managers who are not found suitable should be discontinued. The rules in this regard can be formulated accordingly."

(Emphasis supplied)

29. Finally, while issuing its operative directions, the Hon'ble Apex Court has observed at paragraph 44(i) that a direction has been issued to all High Courts to frame or amend the rules governing recruitment and conditions of service of Court Managers by taking the Assam Rules of 2018 as the model. Paragraph 44(iii) and (vi) respectively clarify that the minimum rank/class of the Court Managers should be that of a Class-II Gazetted Officer for basic pay, allowances and other service benefits and, that the existing Court Managers working on contractual, consolidated-pay or ad hoc basis shall be continued and regularised subject to their passing the suitability test "as will be provided in the rules to be framed by the respective High Courts and approved by the respective State Governments". At paragraph 44(vii) further states that such Court Managers would be entitled to regularisation from the date of their initial appointment, with continuity in service, though without arrears on account of the difference in salary until actual regularisation.

Likewise, paragraph 44(viii) directs that the process of regularisation shall commence and be completed within three months from the date of approval of the rules by the respective State Governments. The relevant portions of the aforesaid direction are extracted hereunder;

"***VI. CONCLUSION AND DIRECTIONS***

44. *In the result, the present batch of IAs and Writ Petition are disposed of in the following terms:*

(i) We direct that all the High Courts in the country shall frame or amend the rules providing for recruitment and conditions of service of Court Managers, by taking the Assam Rules of 2018 as the model Rules, and submit it to the State Government for approval within a period of 3 months from the date of this judgment. Needless to state that the High Courts and the State Governments would be at liberty to make suitable modifications/changes so as to suit their peculiar needs*;*

(ii) *We further direct that upon receipt of the rules framed or amendments thereof by the High Courts, the respective State Governments shall finalise and grant approval to the same within a further period of 3 months;*

(iii) *We clarify that the minimum rank/class of such Court Managers should be of a Class-II Gazetted Officer for the purpose of basic pay, allowances and other service benefits;*

***

(vi) <u>Insofar as the Court Managers, who are already working either on contractual or consolidated pay basis or on ad hoc basis are concerned, their services shall be continued and regularized subject to their passing the suitability test as will be provided in the rules to be framed by the respective High Courts and approved by the respective State Governments</u>*;*

(vii) *We clarify that such of* ***<u>the Court Managers who are already working would be entitled to regularization from the date of their initial appointment.</u>*** *We further clarify that the benefits of such a regularization though would entitle them for continuity in service for all the purposes including terminal benefits, they would not be entitled for the arrears, if any, on account of difference between salary for the period from the date on which they are working till the date of their actual regularization;*

(viii) *We direct that the process of regularization of the Court Managers shall commence and be completed within a period of 3 months from the date of approval of the rules by the respective State Governments;…"*

(Emphasis Supplied)

30. The aforesaid directions, read as a whole, assume considerable significance in the context of the present matter. They not only reaffirm the entitlement of existing Court Managers to a rule-governed process leading to regularisation, but also expressly locate the

suitability test within the rules to be framed or amended by the respective High Courts and approved by the State Governments. The subsequent analysis must, therefore, examine the August, 2022 exercise not merely by reference to Rule 6 of the 2020 Rules in isolation, but also in the light of the binding framework subsequently articulated by the Hon'ble Supreme Court and the direction to take the Assam Rules of 2018 as the model for the governing rules.

31. It is clear from the aforesaid deliberation that the Assam Rules, 2018 have been regarded as the model Rules governing the absorption of existing Court Managers. The records of the present case further indicate that the impugned exercise/examination conducted in August, 2022 was undertaken pursuant to the 2020 Rules. In these circumstances, it would be apposite to undertake a brief comparative analysis of the two sets of Rules.

32. On a perusal of both the Rules, it is evident that they are both instruments drafted under the proviso to Article 309 of the Constitution of India, and follow a common template; for regularising pre-existing contractual Court Managers while simultaneously opening a direct-recruitment stream. Structurally, the Assam Rules of 2018 create a single-tier cadre of Court Manager, Group A, Grade I, whereas the 2020, Rules create a two-tier cadre of Senior Court

Manager and Court Manager, both Group B, with promotion from the latter to the former governed by a separate merit-cum-seniority-cum-suitability test mechanism under Rule 16 thereof. That said, both sets of Rules address absorption of existing contractual incumbents in near-identical language; "subject to their continued utility" and both expressly confine the absorption exercise to a one-time measure, after which residual vacancies are filled only by direct recruitment.

33. The substantive divergence lies in the qualifying service period and the rigour of the suitability check. Rule 5(b) of Assam Rules of 2018 requires only 2 years of prior contractual service and conditions absorption on "continued utility and suitability (to be assessed by the High Court)". This implies that the assessment is left to the High Court's own discretion without prescribing a formal test or committee. By contrast, Rule 6(1) of the 2020 Rules of the State of Odisha requires a substantially longer 6 years of prior contractual service and conditions absorption on "continued utility and passing of suitability test to be conducted by the Committee constituted for the purpose by the Chief Justice", i.e. a more structured, examination-based mechanism with an institutionally constituted Committee. The 2020 Rules additionally carries an express saving clause in the shape of Rule 6(2), dis-regarding the age and other direct-recruitment

eligibility criteria in the event of appointment by way of absorption of existing candidates, a clarification which the Assam Rules of 2018 do not contain. Further, the 2020 Rules, under Rule 13, expressly regulate the inter-se seniority of Court Managers "appointed by direct recruitment through absorption" as per the merit list maintained by the High Court during their contractual appointment, and, in absence thereof, as per the date of joining, and where the dates of joining are identical, on the basis of seniority in terms of age.

The relevant provisions of the Assam Rules of 2018 are quoted hereinbelow for better appreciation;

"***5. Method of Recruitment:-***

(a) *Recruitment to the cadre of Court Manager shall be made by direct recruitment only, except as provided in clause (b).*

(b) *The existing Court Managers, who were earlier recruited, on contractual basis, following the procedure of recruitment as provided under Gauhati High Court (Appointment and Condition of Service of Court Managers) (Assam) Rules, 2012, and who have completed 2 (two) years of service, may be absorbed in the newly created posts of Court Managers, on the commencement of these rules, subject to their continued utility and suitability (to be assessed by the High Court) and they shall be entitled to the pay and allowances and other facilities as admissible to the post of Court Managers provided under these rules.*

(c) *The exercise for absorption of the existing Court Managers, shall be for one time only.*

(d) *After absorption of such of the existing Court Managers, the remaining vacant posts shall be filled up by direct recruitment following the procedure as mentioned under rule 6.*"

Likewise, the relevant provisions of the 2020 Rules are also reproduced henceforth for better appreciation;

6. Absorption of existing Court Managers:-

(1) *The existing Court Managers, who were recruited on contractual basis pursuant to the Resolution of the Government of Odisha in the Home Department No.31978/HS, dated the 21st July,2011 and completed 6 (six years) of service in the said post, may be considered for absorption in the newly created posts of Court Managers, on commencement of these rules, subject to their continued utility and passing of suitability test to be conducted by the Committee constituted for the purpose by the Chief Justice.*

(2) *Notwithstanding anything contained in these rules, the criteria regarding age and other conditions of eligibility for direct recruitment shall not apply for appointment by way of absorption.*

(3) *The absorption of the existing Court Managers under sub rule (1) shall be for one time only.*

(4) *After absorption of any such existing Court Managers under Sub rule (1), the remaining vacant posts, if, any shall be*

filled up by direct recruitment following the procedure mentioned in rule 7."

34. Against the aforesaid comparative backdrop, the relevant provisions of the 2020 Rules may now be examined in greater detail, particularly the manner in which Rule 6 regulates the absorption of existing Court Managers and prescribes the conditions governing such absorption. On a perusal of Rule 6(1) thereof which provides for "Absorption of existing Court Managers", extracted above, it is clear that existing Court Managers, initially recruited pursuant to the Home Department Resolution dated 21.07.2011 and having completed six years of service, "may be considered for absorption… subject to their continued utility and passing of a suitability test to be conducted by a Committee constituted for the purpose by the Chief Justice". Rule 6(2), in turn, excludes the ordinary age and other eligibility requirements applicable to direct recruitment under Rule 7. The scheme therefore makes a conscious distinction between absorption of existing Court Managers and fresh direct recruitment.

35. It is necessary to notice, with some care, what this provision confers. Rule 6 confers, in express terms, the function of conducting a suitability test upon a Committee to be constituted by the Chief Justice. It is equally important to notice what Rule 6 does not

expressly provide. While it requires a suitability test and entrusts its conduct to a Committee to be constituted by the Chief Justice, the Rule does not itself prescribe a detailed examination pattern consisting of specified subjects or exercises, does not allocate marks among different components of the assessment, does not prescribe a particular weightage for an interview or personality test, and does not itself stipulate the qualifying marks by reference to the particular 100-mark structure subsequently adopted. The verb "conduct" directs itself to the administration of an assessment already ascertained. Without more, it does not carry within it the anterior and distinct function of devising what that assessment is to consist of. The question, therefore, is not whether the Committee could assess suitability at all. It plainly could, the rules are clear on that. The question is whether, in the course of undertaking that assessment, it could itself create the substantive parameters by which suitability of the Court Managers would be conclusively assessed.

In Re: Suitability Test;

36. This textual difficulty is reinforced, and in this Court's view rendered conclusive, upon a comparison of Rule 6(1) with Rule 16(1) read with Rule 16(4) of the very same 2020 Rules. Rule 16(1) similarly conditions promotion of a Court Manager to the post of

Senior Court Manager upon merit, seniority, and "passing of suitability test to be conducted by the Committee constituted by the Chief Justice." Unlike Rule 6, however, Rule 16 goes further and, at Rule 16(4) titled "Promotion and Reservation", expressly lays out a 100-mark detailed scheme. Thus, wherever the rule-making authority, in framing these very Rules, intended the Committee to apply a scored, component-wise test, it said so in explicit terms and supplied the scheme itself, the components and the weightage, leaving no discretion to the Committee to devise its own marking pattern. The nearly identical phrase "…suitability test to be conducted by the Committee constituted by the Chief Justice…" recurs in Rule 6(1) as "…suitability test to be conducted by the Committee *constituted for the purpose* by the Chief Justice…", but conspicuously without the corresponding sub-rule that, in Rule 16, does the work of prescribing the scheme. On a plain reading of the scheme, such an omission by the rule-makers cannot be treated as an inadvertent silence to be filled at the discretion of the Committee. Instead, applying the principle *expressio unius est exclusio alterius*, it must be read as a deliberate withholding, by the very authority competent to prescribe such a scheme, of the power to import a scheme of its own making into the Rule 6 absorption exercise. It is the considered view of this Court that

had the rule-making authority intended the Rule 6 Committee to possess the same latitude it explicitly conferred under Rule 16(4), then it would have been explicitly stated therein. The absence thereof serves as a clear bar on the Committee to impart unto it the very power it was not conferred in the first place. Having so done, the Committee exceeded its jurisdiction prescribed under the Rules.

37. The silence/omission of the rule-maker, especially when at a later stage it has been demonstrated in Rule 16(4) precisely how a Committee-administered "suitability test" is to be reduced to a marking scheme, also disposes of any suggestion that the expression "suitability test", of its own force, inherently connotes/empowers the committee to carve out a scored, multi-component examination. If it did, Rule 16(4) would have been otiose. The fact that the rule-making authority thought it necessary to separately spell out the marking scheme for the Rule 16 suitability test confirms, *a contrario*, that the unadorned expression "suitability test" occurring in Rule 6(1) was not, without more, understood by the rule-maker itself to carry a marking structure resembling the Direct Recruitment scheme under Rules 7 to 9, or at Rule 16. Additionally, it must also be borne in mind that the marking scheme devised under Rule 16(4) is not of the Committee's own devising. Rather, it is fixed, in terms, by the Rule itself. The

Committee's function under Rule 16, precisely as under Rule 6, remains confined to conducting an assessment whose content has already been ascertained by the rule-making authority, at Rule 16(4) under Rule 16 but nowhere under Rule 6. It is not the Committee that arrived at the individual components of the scheme of the suitability test or the distribution of weightage amongst each of the components, instead, it is the Rule itself. Rule 16 therefore furnishes no instance, anywhere in the 2020 Rules, of a Committee exercising an inherent or delegated power to originate the substantive content of a suitability test.

Defining a 'Suitability Test'

38. The expression **"suitability test"** is not susceptible of a wholly abstract or strait-jacket definition, since its precise content must necessarily depend upon the nature and requirements of the post, the governing statutory rules and the applicable service or promotion policy. Nevertheless, the contours of the expression can be somewhat gathered from the decisions of the Supreme Court in ***Ghan Sham Sunder v. State of Punjab***, reported in ***(2004) 9 SCC 508***, and ***Ravikumar Dhansukhlal Maheta v. High Court of Gujarat***, reported in ***2024 INSC 436***. In ***Ghan Sham Sunder*** (*supra*), while considering

the absorption of Auxiliary Constables into the regular cadre, the Hon'ble Supreme Court observed that when persons who have rendered service in a non-regular capacity are to be finally absorbed into the regular cadre, their suitability may legitimately be adjudged before such absorption, and that "efficiency is the prime criterion for absorption in government service" (at paragraph 3 thereof). Significantly, while directing that the appellants undergo the prescribed test, the Hon'ble Supreme Court permitted their suitability to be adjudged at a **"**much lesser standard**"**, having regard to the fact that they had already rendered more than seven years of service, thereby recognising that the assessment of suitability may legitimately take into account the circumstances and experience of the persons being so assessed (at paragraph 4). The relevant portion of the aforesaid judgement is quoted hereinbelow;

> "***3. <u>It cannot be disputed as a proposition of law that while absorbing any person or a group of persons after some years of service either as work-charged or those who are not recruited in accordance with the rules in force, to get their suitability adjudged before finally absorbing them in the regular cadre</u>****. It is too well known that* ***<u>efficiency is the prime criterion for absorption in government service</u>****...*
>
> ... ...

4. ***In these circumstances, we dispose of this appeal with a direction that these appellants may be required to appear at the test as per the circular of 1995 and since they have already rendered service from 1992 for about more than 7 years their suitability may be adjudged at a much lesser standard than what has been indicated in the circular of 1995****. We are making this deviation notwithstanding the circular taking into account that they could have been appointed as Constables prior to 1995 without being subject to any suitability test and several others like them have been appointed as Constables though they are claimed to be senior to the appellants. We hope and trust that the appropriate authority will hold the test in the spirit of the direction given by us. The test in question may be held within two months from today.*"

(**Emphasis Supplied**)

39. Similarly, in ***Shri Parvez Qadir v. Union of India***, reported in ***(1975) 4 SCC 318***, the Hon'ble Supreme Court has observed that as long as the norms which have been adopted are correlated and relevant to the adjudgment of the suitability of the officers to be recruited to a service (the Indian Forest Service in the said case), it is not for the Court to lay down which of the methods has to be adopted for adjudging the suitability. Relevant extract from

paragraph 17 of the judgment in ***Shri Parvez Qadir***, (*supra*) is extracted herewith;

> "***17.*** *……..**It is not for this Court to lay down which of the methods has to be adopted for adjudging suitability as long as the norms which have been adopted are correlated and relevant to the adjudgment of the suitability of the officers to be recruited to the Indian Forest Service*……."
>
> (**Emphasis Supplied**)

40. Later, in the context of promotion to the Higher Judicial Service in ***Ravikumar Dhansukhlal Maheta*** (*supra*), the concept of a suitability test was once again considered by the Hon'ble Supreme Court. At paragraphs 123-124, referring to its earlier pronouncement in ***All India Judges' Association (3) v. Union of India & Ors.*** reported in ***(2002) 4 SCC 247***, the Hon'ble Apex Court explained that the purpose of introducing an assessment of suitability was to ensure that a certain minimum standard, objectively adjudged, was maintained in the Higher Judicial Services. While the precise methodology was left to the respective High Courts, the assessment was required to be objective and directed towards determining whether the candidate possessed the requisite qualities for the for the said post. The Apex Court, at paragraphs 123 and 124, identified, as broad parameters, whether the candidate possessed legal knowledge,

had displayed continued efficiency during service in the feeder cadre, and possessed adequate knowledge of case law. It was further clarified that "merit", in this context, signifies an assessment of qualities relevant to the post, and is not synonymous with marks obtained in a competitive examination. In paragraph 129, the Supreme Court emphasised that in the context of the 65% promotional quota, the object of the suitability test was to ascertain a minimum standard of suitability and, that the marks obtained in such assessment were not necessarily proportional to the comparative merit or suitability of the candidates. In fact, suitability may be assessed by reference to multiple aspects of a candidate's merit (at paragraph 134).

41. From the aforesaid deliberation, it follows that a 'suitability test' is an objectively structured and prescribed process of assessment, employing criteria having a rational nexus with the nature, functions and requirements of the post, for the purpose of determining whether an eligible candidate possesses the requisite standard of competence, efficiency, merit and fitness to be appointed/promoted to, absorbed into, or otherwise entrusted with the duties of that post. Therefore, the essential object of a suitability test is to ascertain the candidate's fitness for the post, rather than necessarily to determine his or her relative position vis-à-vis every other

candidate. The precise content, methodology and threshold of such assessment, however, remain dependent upon the governing statutory framework and the nature of the post. Accordingly, the assessment may take different forms and may, where the governing frameworks so provide, involve comparative assessment as well. It also follows that the criteria adopted to adjudge suitability bear a rational nexus with the nature and requirements of the post. Suitability, therefore, is ultimately a determination of fitness founded upon an objective assessment of the attributes relevant to the post, while a suitability test is the prescribed mechanism by which it is ascertained whether the candidate has attained the standard of competence, efficiency and fitness considered necessary for the discharge of the functions of that post.

42. So far as the "continued utility" of the Court Managers, prescribed as a criterion under Rule 6, is concerned, the record demonstrates that the High Court had, on an earlier occasion, expressly assessed and recognised their utility. It was noted that, upon the administrative burden of the Civil Court Registrars being entrusted to the Court Managers, the Registrars were able to devote greater attention to the exercise of the powers of the Sessions Courts in relation to the fast-track trial of offences against women, resulting in

the disposal of 1,342 cases within a period of two years. Accordingly, by its letter dated 14.01.2015, at Annexure-10, the High Court requested the State Government to continue the engagement of the Court Managers from its own resources beyond 31.03.2015. This position is further borne out by the High Court's letter dated 31.03.2015, at Annexure-13, wherein the Principal Secretary to the Government was informed that the Court Managers had not only eased the administrative burden upon the Judicial Officers but had also contributed to the disposal of cases. The record, therefore, leaves little room for doubt that there existed a clear and continuing requirement for the services of Court Managers, thereby satisfying the criterion of "continued utility" contemplated under Rule 6.

43. In construing the authority of an administrative committee, the source of its power and the purpose for which it is constituted are of central importance. A Committee constituted for a specified purpose derives its authority from the instrument constituting it and the statutory or regulatory framework within which it operates. The fact that an assessment necessarily requires the adoption of some procedure does not, by itself, confer an unrestricted power to create substantive criteria having legal consequences beyond the procedural task entrusted to the Committee. In the present case, the Committee

was constituted for the purpose of assessing the suitability of persons who were already working as Court Managers and who fell within the class specifically contemplated by Rule 6. The exercise was thus not an ordinary recruitment exercise for a pool of prospective candidates. The Petitioners had already been selected and engaged, had undergone the selection process prescribed at the inception of their engagement, had completed the requisite period of service and had continued in service for several years pursuant to successive extensions granted by the competent authorities. Rule 6 introduced a mechanism for determining their suitability for absorption into the regular cadre; it did not convert the exercise into a fresh recruitment process.

44. The distinction between an assessment of suitability and a fresh selection process is not merely semantic. In the former, the authority is required to determine whether an existing incumbent possesses the requisite suitability for absorption, having regard to the governing framework. In the latter, the recruiting authority ordinarily determines, by reference to a prescribed selection scheme, comparative merit amongst applicants for appointment. The consequences, therefore, are also materially different. A fresh recruitment process determines entry into service, whereas the Rule 6 exercise operates upon persons already identified by the Rules as the

class eligible to be considered for absorption. Thus, Rule 6 has been incorporated in the rulebook as an one-time measure only for absorption of existing contractual Court Managers, subject to their satisfying the suitability test based on their performance and, pursuant to the judgement of the Hon'ble Supreme Court of India. Such provision is completely distinct from Rule 7

45. This distinction assumes further importance because failure in the suitability process had direct and serious consequences for the Petitioners. The result of the exercise was not merely an internal appraisal or an administrative evaluation of performance. Those who qualified were absorbed, whereas those who did not qualify were disengaged. The criteria adopted for the test therefore operated as substantive conditions governing access to regular service and, ultimately, continuation in employment. As such, a committee entrusted with assessing suitability could not, merely by adopting a convenient procedure, enlarge its own mandate so as to prescribe new substantive conditions which had not been laid down by the competent rule-making authority.

46. The material on record shows that the suitability test conducted in August 2022 was structured as a 100-mark exercise comprising Project Writing carrying 30 marks, an Office Note

justifying commencement of such project carrying 20 marks, Interview/Personality Test carrying 40 marks, and Performance Report from the District Judge/Registrar during the contractual period carrying 10 marks. The first round was held on 06.08.2022 and the results were declared on 07.08.2022. A subsequent second round of written test and viva-voce was thereafter held on 20.08.2022, pursuant to a further notice dated 11.08.2022, resulting in four additional candidates qualifying. Ultimately, 11 of the 32 existing Court Managers were found successful.

47. The issue before the Court is not whether each of these individual components is, in isolation, incapable of being relevant to an assessment of suitability. Nor is the Court required to pronounce upon the comparative merits of the candidates on the basis of the sealed-cover material. The legal difficulty arises from the manner in which the assessment framework itself came to be formulated. The record, as presently placed, does not disclose that the detailed 100-mark scheme, its component-wise allocation, or the consequential qualifying methodology emanated from an amendment to the Rules or from a rule-making authority competent to prescribe such substantive conditions.

48. The adoption of a 40-mark Interview/Personality Test is particularly illustrative of the nature of the exercise undertaken. Once a particular component is assigned a substantial proportion of the total marks, it ceases to be a mere procedural device and becomes a substantive determinant of the candidate's fate. The same is true of the allocation of 30 marks to Project Writing and 20 marks to an Office Note. Such allocation reflects an assessment as to what qualities should determine suitability, the relative importance of those qualities and the extent to which they should influence the ultimate result. Those are matters which ordinarily belong to the governing rules or to the authority competent to prescribe the conditions of absorption. Therefore, it would be inapt to equate the Committee's authority to conduct a suitability assessment with an unrestricted authority to design a fresh examination regime. The former is expressly contemplated by Rule 6, while the latter requires a source of authority which must be found either in the Rules themselves or in a lawful delegation. In the absence of such source, the Committee cannot, by its own formulation, create a condition which has the effect of determining whether an existing Court Manager shall be absorbed into or disengaged from service.

49. Additionally, on perusal of the record, it is evident that the Petitioners were not persons who had entered into service/engaged without any process of selection or evaluation. Pursuant to the advertisement issued in 2011, applications were invited from persons possessing the prescribed qualifications and experience. Following the advertisement, the Petitioners underwent a selection process conducted under the supervision of the High Court and were later selected. In fact, the material placed on record indicates that the original recruitment module itself was a 100-mark assessment, comprising marks for MBA qualification, IT, Law qualification, practical computer application knowledge and general assessment. The selected candidates thereafter joined on 02.04.2012 and underwent training at the Odisha Judicial Academy. Thus, the Petitioners' eligibility for the work of Court Manager had already been tested at the point of their initial entry and was thereafter capable of being evaluated/assessed through their actual performance in service.

50. Now, this aforesaid circumstance does not, by itself, establish an indefeasible right to regularisation. It does, however, materially inform the character of the Rule 6 exercise. When a class of existing incumbents has already undergone a structured recruitment

process/evaluation, served in the appointed post for several years, undergone institutional training and continued in service on the recommendation/extension of the competent authorities, a subsequent exercise described as a 'suitability test' must be understood as an assessment for the limited purpose contemplated by the Rule. It cannot, without a clear source of authority, be treated as a wholesale re-selection of the incumbents through a newly devised examination scheme and, it cannot be understood in the sense that eligibility is to be re-tested as prescribed in Rule 7 for fresh and direct recruitment candidates. The suitability assessment is to be understood in the spirit of the judgement of the Hon'ble Supreme Court of India and the same is to be carried out by adopting any reasonable test without subjecting the candidates to the test prescribed under Rule 7. Such assessment of suitability of the existing contractual employees ought to be in the shape of a test to find out their past performance, competence and character, keeping in view the nature of the job they are required to perform satisfactorily after regularised.

51. This Court is fortified in its view by the law laid down by the Hon'ble Supreme Court in ***Umesh Chandra Shukla v. Union of India***, reported in (***1985) 3 SCC 721***, wherein the Supreme Court held that, in the absence of authority under the governing Rules, the High

Court could not, by resorting to moderation, alter the prescribed norms of selection. The addition of moderation marks, which had the effect of bringing otherwise ineligible candidates within the zone of consideration, was held to amount, in substance, to an amendment of the Rules themselves. It was further made clear that no fresh disqualification or qualifying requirement could be introduced by the High Court or the Selection Committee merely on the basis of the marks obtained at the examination, unless such power was traceable to the governing Rules. The underlying principle which emerges therefrom is that a Selection Committee, in the absence of authority under the governing Rules, cannot introduce substantive qualification criteria altering the prescribed conditions of selection. The selection process must, therefore, remain anchored to the framework prescribed by the Rules, and any substantive departure therefrom cannot be sustained on the basis of an assumed or inherent power. The relevant paragraphs of the aforesaid decision is extracted hereinbelow;

> *"**13.** The question for consideration is whether the High Court in the circumstances of this case had the power to add two marks to the marks obtained in each paper by way of moderation. It is no doubt, true that the High Court is entrusted with the duty of conducting the competitive examination under Rule 13 of the Rules.…The High Court*

had not found any defect in the question papers or any irregularities in the valuation of the answer books. It may be that some candidates had obtained high marks in some papers and by reason of their not obtaining the required marks in the other papers or 60% and above in the aggregate they may not have become qualified for the Viva Voce test. In our opinion this alone would not be sufficient to add any marks by way of moderation. ***It is relevant to note the mandatory character of clause (6) in the Appendix to the Rules which says only such candidates will be called for Viva Voce who have obtained 50% marks in each written paper and 60% in the aggregate except in the case of candidates belonging to the Scheduled Castes/Tribes in whose case the qualifying marks will be 40% in each written paper and 50% in the aggregate. Addition of any marks by way of moderation to the marks obtained in any written paper or to the aggregate of the marks in order to make a candidate eligible to appear in the Viva Voce test would indirectly amount to an amendment of clause (6) of the Appendix. Such amendment to the Rules can be made under Article 234 only by the Lt. Governor (Administrator) after consulting the High Court in that regard****. In the instant case by resolving to add two marks to the marks obtained in each answer book by a candidate (sic) has virtually amended the Rules by substituting 48% in the place of 50% which is required to be secured in each written paper and 58% in the place of 60% which is required to be secured in the*

aggregate in the case of candidates not belonging to Scheduled Castes/Tribes and 38% in the place of 40% in each written paper and 48% in the place of 50% in the aggregate in the case of candidates belonging to Scheduled Castes/Tribes…. ***We are of the opinion that the list prepared by the High Court after adding the moderation marks is liable to be struck down.*** *The first contention urged on behalf of the petitioners has, therefore, to be upheld. We, however, make it clear that the error committed by the High Court in this case following its past practice is a bona fide one and is not prompted by any sinister consideration.*

14. *With regard to the second contention, namely, that the High Court had no power to eliminate the names of candidates who had secured less than 600 marks in the aggregate after the Viva Voce test, reference has to be made to Rules 17 and 18 of the Rules which provide that the Selection Committee shall call for Viva Voce test only such candidates who are qualified at the written test as provided in the Appendix and that the Selection Committee shall prepare the list of candidates in order of merit after the Viva Voce test.* ***There is no power reserved under Rule 18 of the Rules for the High Court to fix its own minimum marks in order to include candidates in the final list****…****we are of the view that no fresh disqualification or bar may be created by the High Court or the Selection Committee merely on the basis of the marks obtained at the examination because clause (6) of the Appendix itself has***

laid down the minimum marks which a candidate should obtain in the written papers or in the aggregate in order to qualify himself to become a member of the Judicial Service*.... **We are of the view that the Selection Committee has no power to prescribe the minimum marks which a candidate should obtain in the aggregate different from the minimum already prescribed by the Rules in its Appendix.**...**We, therefore, quash the list prepared by the Selection Committee and direct that a fresh list shall be prepared in order of merit** on the basis of the aggregate of the marks obtained by the candidates at the written examination and at the Viva Voce test without taking into consideration the moderation marks added by the High Court and without reference to the decision of the Selection Committee that candidates who had obtained less than 600 marks in the aggregate should not be included in that list.*"

(Emphasis Supplied)

52. The aforesaid principle applies with, if anything, greater force in the present case. In ***Umesh Chandra Shukla*** (*supra*), the Selection Committee and the High Court were operating within an existing and detailed statutory scheme, the Delhi Judicial Service Rules, 1970, which prescribed the written examination, the qualifying requirements, the viva voce test and the manner in which the selection list was to be prepared. The impermissible exercise therein was to supplement or modify that existing scheme by introducing additional

requirements. In the present case, by contrast, there was no antecedent examination or assessment scheme governing the exercise contemplated under Rule 6(1). The Committee was, therefore, not merely supplementing or modifying an existing statutory mechanism, instead, it proceeded to construct the operative mechanism of assessment itself. Such a function, in the absence of an enabling provision, is one which this Court is unable to locate within the four corners of Rule 6(1).

53. The same principle was reiterated in ***Durgacharan Misra v. State of Orissa***, reported in ***AIR 1987 SC 2267***, wherein the Supreme Court enumerated the broader principle that where the governing Rules prescribe the parameters of an assessment, the Selection Committee cannot supplement those Rules by introducing an additional substantive qualifying requirement. The Hon'ble Apex Court held that, in the absence of any provision in the governing Rules prescribing a minimum qualifying requirement for the viva voce, the Selection Committee could not introduce such a requirement on its own, as the same would amount, in substance, to an alteration of the Rules. Reference may be had to the relevant paragraphs of the aforesaid decision reproduced hereinbelow;

"*7. The rule-making authorities have provided a scheme for selection of candidates for appointment to judicial posts.* ***Rules 16 prescribes the minimum qualifying marks to be secured by candidates in the written examination****. It is 30 per cent of the total marks in all the papers. The candidates who have secured more than that minimum would alone be called for viva voce test.* ***The Rules do not prescribe any such minimum marks to be secured at the viva voce test****. After the viva voce test, the Commission shall add the marks of the viva voce test to the marks in the written examination…*

***

11. In the light of these decisions the conclusion is inevitable that the Commission in the instant case also has no power to prescribe the minimum standard at viva voce test for determining the suitability of candidates for appointment as Munsifs*.*

***

14. But the crux of the matter is whether the Judge present at the viva voce test has the power to add anything to the Rules of recruitment. He may advice the Commission as to the special qualities required for judicial appointment. His advice may be in regard to the range of subjects in respect of which the viva voce shall be conducted. It may also cover the type and standard of questions to be put to candidates: or the acceptance of the answers given thereof. But his advice cannot run counter to the statutory rules*.*

15. *The Rules have been framed under the proviso to Article 309 read with the Article 234 of the Constitution. Article 234 requires that the appointment of persons other than District Judge to the Judicial Service of State shall be made by the Governor of the State. It shall be in accordance with the Rules made by the Governor in that behalf after consultation with the State Service Commission and with the State High Court. The Rules in question have been made after consultation with the Commission and the State High Court.* ***The Commission which has been constituted under the Rules must, therefore faithfully follow the Rules. It must select candidates in accordance with the Rules. It cannot prescribe additional requirements for selection either as to eligibility or as to suitability. The decision of the Commission to prescribe the minimum marks to be secured at the viva voce test would, therefore, be illegal and without authority***."

(Emphasis Supplied)

54. The same principle finds expression in ***P.K. Ramachandra Iyer v. Union of India***, reported in ***(1984) 2 SCC 141***, specifically in paragraph 44, wherein the Supreme Court held that a Selection Committee, the ASRB therein has no inherent jurisdiction to lay down norms of selection, and, the power to fix any additional qualification must be drawn from the overarching Rules explicitly, since exercising such powers by mere implication may lead result in irreparable or

irreversible harm. Paragraph 44 of the aforesaid decision is quoted hereinbelow;

> "***44.*** *……On a combined reading of Rules 13 and 14, two things emerge. It is open to the Board to prescribe minimum marks which the candidates must obtain at the written test before becoming eligible for viva voce test….****Neither Rule 13 nor Rule 14 nor any other rule enables the ASRB to prescribe minimum qualifying marks to be obtained by the candidate at the viva voce test. On the contrary, the language of Rule 14 clearly negatives any such power in the ASRB when it provides that after the written test if the candidate has obtained minimum marks, he is eligible for being called for viva voce test and final merit list would be drawn up according to the aggregate of marks obtained by the candidate in written test plus viva voce examination. The additional qualification which ASRB prescribed to itself namely, that the candidate must have a further qualification of obtaining minimum marks in the viva voce test does not find place in Rules 13 and 14, it amounts virtually to a modification of the rules. By necessary inference, there was no such power in the ASRB to add to the required qualifications If such power is claimed, it has to be explicit and cannot be read by necessary implication for the obvious reason that such deviation from the rules is likely to cause irreparable and irreversible harm****. It however does not appear in the facts of the case before us that because of an allocation of 100 marks for viva voce*

test, the result has been unduly affected. We say so for want of adequate material on the record. In this background we are not inclined to hold that 100 marks for viva voce test was unduly high compared to 600 marks allocated for the written test. ***But the ASRB in prescribing minimum 40 marks for being qualified for viva voce test contravened Rule 14 inasmuch as there was no such power in the ASRB to prescribe this additional qualification, and this prescription of an impermissible additional qualification has a direct impact on the merit list because the merit list was to be prepared according to the aggregate marks obtained by the candidate at written test plus viva voce test****. Once an additional qualification of obtaining minimum marks at the viva voce test is adhered to, a candidate who may figure high up in the merit list was likely to be rejected on the ground that he has not obtained minimum qualifying marks at viva voce test. To illustrate, a candidate who has obtained 400 marks at the written test and obtained 38 marks at the viva voce test, if considered on the aggregate of marks being 438 was likely to come within the zone of selection, but would be eliminated by the ASRB on the ground that he has not obtained qualifying marks at viva voce test.* ***This was impermissible and contrary to rules and the merit list prepared in contravention of rules cannot be sustained***."

(Emphasis Supplied)

55. Likewise, in ***Dr. Krushna Chandra Sahu v. State of Orissa***, reported in ***(1995) 6 SCC 1***, particularly paragraph 33, referring to its earlier decision in ***State of A.P. v. V. Sadanandam***, reported in ***1989 Supp (1) SCC 57*** and ***P.K. Ramachandra Iyer*** (*supra*) the Hon'ble Supreme Court held that an assessment criterion not authorised by the governing Rules was arbitrary and without authority or jurisdiction and that the Selection Committee/Board does not have the authority to lay down the selection criteria unless specifically authorised in that regard by the relevant Rules under Article 309, since it is the function of the rule-making body to prescribe the basis of selection. The relevant portions of the aforesaid decision in ***Dr. Krushna Chandra Sahu*** (*supra*) are quoted hereinbelow;

> **"*31.*** *Now, power to make rules regulating the conditions of service of persons appointed on Government posts is available to the Governor of the State under the proviso to Article 309 and it was in exercise of this power that the present rules were made. If the statutory rules, in a given case, have not been made, either by Parliament or the State Legislature, or, for that matter, by the Governor of the State, it would be open to the appropriate Government (the Central Government under Article 73 and the State Government under Article 162) to issue executive*

instructions. However, if the rules have been made but they are silent on any subject or point in issue, the omission can be supplied and the rules can be supplemented by executive instructions (See: Sant Ram Sharma v. State of Rajasthan [AIR 1967 SC 1910 : (1968) 1 SCR 111 : (1968) 2 LLJ 830] .)

32. *In the instant case, the Government did neither issue any administrative instruction nor did it supply the omission with regard to the criteria on the basis of which suitability of the candidates was to be determined. The members of the Selection Board, of their own, decided to adopt the confidential character rolls of the candidates who were already employed as Homoeopathic Medical Officers, as the basis for determining their suitability.*

33. The members of the Selection Board or for that matter, any other Selection Committee, do not have the jurisdiction to lay down the criteria for selection unless they are authorised specifically in that regard by the Rules made under Article 309. It is basically the function of the rule-making authority to provide the basis for selection *...*

34. The Selection Committee does not even have the inherent jurisdiction to lay down the norms for selection nor can such power be assumed by necessary implication.

...

36. It may be pointed out that rule-making function under Article 309 is legislative and not executive as was laid down by this Court in B.S. Yadav v. State of

Haryana [1980 Supp SCC 524 : 1981 SCC (L&S) 343 : AIR 1981 SC 561] . For this reason also, the Selection Committee or the Selection Board cannot be held to have jurisdiction to lay down any standard or basis for selection as it would amount to legislating a rule of selection.

39. ***On the basis of these decisions, we are inclined to say that in order to assess the suitability or real worth of a candidate for the post of junior teacher in the college, the basis, namely, the character rolls, adopted by the Selection Board was wholly arbitrary besides being without authority or jurisdiction***."

(Emphasis Supplied)

56. At this stage, the reliance placed by the Opposite Parties on the decision of the Hon'ble Supreme Court in Civil Appeal No.2634 of 2013, decided on 07.11.2024, by the Constitution Bench in ***Tej Prakash Pathak v. Rajasthan High Court***, bearing ***2024 INSC 847***. The Opposite Parties are, to an extent, on sound ground in citing it for the general proposition that an appointing or recruiting authority may, in the absence of Rules to the contrary, devise a procedure of selection suitable to a post, including the setting of benchmarks at different stages of that process. However, on perusal of para 30 of the decision, it can be seen that the Constitution Bench has observed that "should be stipulated before the commencement of the recruitment

process…", precisely because the vice guarded against was the alteration of the rules of the game once the recruitment/assessment had already been set in motion. Applied to the facts at hand, this ratio does not assist the Opposite Parties since any latitude impliedly or expressly being conferred by Rule 6(1) on the Committee to determine the actual method of suitability assessment, which, for the reasons already given, this Court has considerable difficulty locating, had to be fixed in the rules, at the threshold, and could not thereafter be recast mid-course. Yet, the Petitioners, having already been engaged and performing the work of a court manager on being selected as Court Managers through the earlier test, were made to undergo another full-fledged selection test which is in conflict with the spirit of the selection method suggested by the Hon'ble Supreme Court, to regularise their service or absorb them into service.

57. Similarly, the Opposite Parties have also relied on ***Municipal Corporation of Delhi v. Surendra Singh***, reported in ***(2019) 8 SCC 67***, for the more general proposition that an in-house assessment of existing employees need not mirror the formality of an open, direct-recruitment examination, does not carry the matter further. That decision, on the facts pleaded by the Opposite Parties themselves, does not appear to concern the distinct question presented

here, i.e., whether a body entrusted merely with conducting a test possessed the power to design that test's criteria for assessment in the first place. As such, reliance on such an authority does not advance the Opposite Parties' contention.

58. The record further discloses that the High Court had, well before the 2020 Rules, repeatedly considered the question of their regularisation and the institutional need for Court Managers. In 2016, the High Court, vide its letter dated 27/28.06.2016, at Annexure-18, recommended regularisation of the existing Court Managers and, separately, recommended creation of 30 additional posts over and above the 32 Court Managers then working. In 2017, vide its letter dated 22.12.2017, at Annexure-23, the High Court informed the Law Ministry that steps had been taken to regularise the existing 32 Court Managers and to create additional 30 posts with scale of pay meant for Group-A posts. These materials are relevant not as an independent source of entitlement, but as contemporaneous evidence of the institutional understanding that the existing Court Managers constituted an established body of personnel whose continued services were being considered for absorption.

59. The significance of these materials becomes more pronounced when juxtaposed with the manner in which the 2022 test

was conducted. The 2020 Rules are silent as to the detailed mode of selection and allocation of marks for the one-time suitability exercise under Rule 6. Yet the Committee proceeded to prescribe a 100-mark scheme in which 50 marks were assigned to written exercises, 40 marks to interview/personality test and 10 marks to the performance report. The record further indicates, as contended by the Petitioner and not disputed by the Opposite Parties, that on 06.08.2022 the written test was conducted between 10:30 a.m. and 11:30 a.m., while the viva-voce commenced at 12:00 noon, before the result of the written test had been declared. These circumstances do not, by themselves, establish mala fides, but they do reinforce the central point that the Committee was operating upon a detailed methodology of its own making, despite the governing Rule not prescribing the component-wise allocation of marks. Such methodology adopted by the Committee entrusted with the work of assessment of suitability appears to have lost sight of the spirit and mandate of the Hon'ble Supreme Court's directives in ***All India Judges Association*** (*supra*) with regard to absorption of Court Managers already working.

60. The Opposite Parties have claimed that the Petitioners, having once appeared in the test, cannot then question the same. However, the Petitioners' participation in the test cannot be treated as

an unqualified acceptance of the process, since, by the order dated 28.03.2022 passed in the lead Writ Petition, this Court permitted the absorption process to proceed but expressly recorded that the Petitioners could participate in the process "without prejudice to their rights and contentions" and that such absorption process would remain subject to the outcome of the Writ Petition. Participation pursuant to such an order cannot reasonably be characterised as a voluntary abandonment of the very challenge which the Petitioners have brought before this Court. In fact, their participation preserved, rather than extinguished, their legal challenge to the process. However, since the right of the Petitioners to seek regularisation of their service directly flows from the judgement of the Hon'ble Supreme Court of India and under Rule 6 of the 2020 Rules, it cannot be simply brushed aside and ignored.

61. Additionally, such contention of the Opposite Parties cannot, in the circumstances of the present case, cure a defect going to the legality of the process itself. Participation in an examination may, in an appropriate case, be relevant where a candidate seeks to challenge a condition which was known in advance but elects to participate without objection and challenges the result only after being unsuccessful. That principle, however, cannot be mechanically

invoked where the challenge is directed to the competence of the authority to prescribe the impugned condition or methodology. A process, which is otherwise not in conformity with law, does not become lawful or gains subsequent validity merely because an affected person participates in it. Such nuance assumes particular significance in the present case, since the Petitioners', who were existing Court Managers required to be considered under a specific absorption provision, participation in the assessment of suitability was not an election to confer jurisdiction upon the Committee. Nor could their participation validate a substantive examination scheme if the authority constituting the Committee had not authorised it and the governing Rules did not prescribe it. In the case at hand, the Petitioners' voluntary participation in an assessment test is neither under challenge nor is it disputed. Rather, it is the Committee's want of authority to design this particular assessment of suitability as prescribed in the Rules which are under scrutiny. A defect of jurisdiction of that character renders the resultant act not merely irregular but a nullity, and a nullity is not cured by the acquiescence, express or implied, of those subjected to it. Consent cannot confer a jurisdiction that the parent Rule never conferred in the first instance

and the parent Rules cannot be read and given an interpretation in isolation of the judgement of the Apex Court of this country.

62. The same reasoning also answers the Opposite Parties' contention that a second opportunity was granted to unsuccessful candidates, since affording a further opportunity may demonstrate an attempt to mitigate the effect of the first exercise, but it does not address the antecedent question whether the framework adopted for the assessment was itself lawfully prescribed. A second application of an unauthorised methodology does not cure the defect in the methodology in the first place. The methodology adopted by the Committee is far from the objective sought to be achieved by the Hon'ble Supreme Court through its judgement in ***All India Judges Association*** (*supra*). Mere grant of multiple chances to the Petitioners would not cure such initial defect going to the root of the matter.

63. Now, we shift focus to the subsequent development before the Hon'ble Supreme Court, which assumes significance in assessing the legal framework governing Court Managers. In ***All India Judges Association*** (*supra*), the Hon'ble Apex Court, while finally disposing of the proceedings on 16.05.2025, directed, insofar as Court Managers already working on contractual, consolidated-pay or *ad hoc* basis were concerned, that their services should be continued and regularised

subject to their passing the suitability test as would be provided in the rules to be framed by the respective High Courts and approved by the respective State Governments. The same order further directed the High Courts to frame or suitably amend the rules governing recruitment and conditions of service of Court Managers, taking into consideration the Assam Rules of 2018. Such a direction is crucial for the present evaluation not because it mandates mechanical adoption of every provision of the aforesaid Rules, but because it identifies the Assam Rules of 2018 as the relevant model to be taken into consideration in the formulation of the governing framework.

64. The direction of the Supreme Court thus places the suitability assessment within a rule-based framework. The expression **"as will be provided in the rules to be framed by the respective High Courts and approved by the respective State Governments"** is also of particular relevance since, it indicates that the conditions and method by which the suitability of the incumbent Court Managers is to determine regularisation, are matters to be provided through the governing rules, rather than left to be substantively created by an ad hoc committee at the stage of implementation.

65. Measured against this touchstone and Paragraph 46.6 of the Hon'ble Supreme Court's order dated 16.05.2025, extracted at

paragraph 17 above, it follows that the regularisation of existing Court Managers is conditioned upon their passing the suitability test **"as will be provided in the rules"** to be framed by the respective High Courts and approved by the respective State Governments. The suitability test which the Apex court had in contemplation, on the plain language of paragraph 46.6, is, therefore, one that finds its source in a rule framed by the High Court and approved by the State Government, and not one improvised, outside the body of any rule, by an internal Committee. The scheme applied to the August, 2022 test was never itself embodied in any rule framed or approved in the manner paragraph 46.6 contemplates. It existed only in the notices dated 15.07.2022 and 11.08.2022 issued by the Committee itself. On this ground too, therefore, apart from the question of the Committee's authority under Rule 6(1) considered above, the process actually undergone by the Petitioners in August, 2022 cannot be equated with the "suitability test" that the Hon'ble Supreme Court's own order contemplates as the condition for regularisation. The Opposite Party No.4 has, however, pointed out that the 2020 Rules and the very suitability exercise subsequently undertaken were disclosed before the Hon'ble Supreme Court in an affidavit dated 09.01.2025 and contended that the final order dated 16.05.2025, including paragraph 44(ii), (iii) and (vi),

validates the action already taken. That submission does not, by itself, dispense with the requirement that the particular assessment applied in August 2022 must have a lawful source in the governing Rules. Mere disclosure of an action before the Hon'ble Supreme Court is not, without more, an independent source of authority for the Committee to devise the substantive criteria.

66. Now, so far as the Assam Rules of 2018 are concerned, Rule 5(b) thereof contemplates regularisation of existing Court Managers subject to continued utility and suitability. The relevance of the Assam Rules of 2018 lies in the fact that they demonstrate a structured rule-based mechanism by which suitability is to be evaluated. Ergo, the question before this Court is not whether the Odisha assessment must reproduce the Assam procedure word for word, since the Hon'ble Apex Court did not direct a verbatim transplantation thereof, rather, if the process adopted by the State was consistent with the governing principle underlying that direction, i.e., the suitability of existing Court Managers is to be assessed within a framework prescribed by Rules and in a manner consonant with the model which the Supreme Court specifically directed the High Courts to take into consideration.

67. The difficulty in the present case is that the Committee appears to have proceeded directly to formulate the detailed architecture of the assessment. The 100-mark scheme, the division between Project Writing, Office Note, Interview/Personality Test and Performance Report were treated as the basis upon which the existing Court Managers were separated into those who would be absorbed and those who would not. If such substantive criteria were not prescribed by Rule 6 or by a competent rule-making authority, the Committee's exercise would amount to more than an assessment under the Rule. It would amount to the creation of the very norms by which the statutory assessment was to be carried out. Such an approach cannot be sustained merely on the ground that a suitability test necessarily requires some methodology. Administrative convenience cannot substitute for legal authority. Where the consequence of the methodology is to determine the entitlement of an existing employee to absorption and to bring his or her engagement to an end, the criteria employed must have a discernible legal foundation.

68. This Court is conscious of the fact that the Petitioners have challenged several provisions of the 2020 Rules. It is, however, unnecessary for the disposal of the present batch of matters to pronounce upon the vires of every provision of those Rules. Learned

senior counsels appearing for the Petitioners very fairly conceded that they would not insist on pursuing their challenge to the vires of the Rules. The present challenge can be resolved on the narrower ground that, even assuming Rule 6 to be valid and even accepting that a suitability test was permissible, the assessment must nevertheless be conducted in accordance with law and within the limits of the authority conferred by the Rule. Moreover, the subsequent proposal, as mentioned in the written notes of submission by the Opposite Party No.4, of the 'Odisha Court Managers (Method of Recruitment and Conditions of Service) Rules, 2025' is also relevant in this limited context. The fact that a fresh rule-making exercise was undertaken after the Supreme Court directed the High Courts to frame or suitably amend their rules indicates that the normative framework remained a matter for consideration by the competent authorities. It would be incongruous, therefore, to sustain a process in which an ad hoc Committee, in advance of such rule-making, itself determined the substantive content of the suitability exercise with consequences as serious as absorption or disengagement existing Court Managers without the approval of the High Court through its Full Court.

69. As regards the other challenges raised by the Petitioners, namely, the fixation of the pay scale at Level-9 (Annexure-25) and the

challenge to the vires of Rules 3, 12, 18 and 19 of the 2020 Rules, this Court is of the considered view that these issues stand on a distinct footing and involve questions concerning the validity of the Rules and the exercise of executive policy-making powers, which are beyond the limited issue arising for consideration in the present batch. Since the findings recorded above dispose of the specific grievance of the disengaged Petitioners in the connected matters in its entirety, and since the pay-fixation grievance raised in the lead matter, W.P.(C) No.3163 of 2022, does not depend for its resolution upon anything decided above, this Court refrains from expressing any opinion on the vires of Rules 3, 12, 18 and 19 of the 2020 Rules, or on the correctness of the pay fixation at Annexure-25, leaving the Petitioners in the lead matter at liberty to agitate that grievance, if so advised, in appropriate proceedings.

70. The remaining contentions urged by the Petitioners touching upon pay and cadre parity with Court Managers in other States and with the e-Courts cadre stand on a similar footing. Parity of this kind ordinarily calls for a comparative assessment of recruitment method, qualification, and nature of duty across the compared categories, an exercise this Court does not consider necessary to undertake. The disengagement that principally aggrieves the

Petitioners in the connected matters having already been held to be illegal on the grounds recorded above, those contentions are, accordingly, left open, without any final expression of opinion therein.

In Re: Verification of the relevant records pertaining to the absorption of Court Managers

71. In course of hearing of the writ applications, the Registrar General of this Court was requested to produce the documents pertaining to the decision taken by this Court with regard to the absorption of existing Court Managers. Learned Registrar General of this Court produced certain documents for perusal of this Bench. On perusal of the note sheets and order dated 18.12.2020, it appears that the then Hon'ble Chief Justice of this High Court reconstituted the internal committees of the Court. At Serial No.28 of the list containing different internal committees of this Court, it is observed that a Committee has been constituted by the then Hon'ble Chief Justice titled "Existing Court Managers' Absorption Committee". Such Committee consists of a Chairman and two other members, who are Hon'ble Judges of this Court. The Hon'ble the then Chief Justice has signed the constitution of such Committee on 18th December, 2020. It is relevant to mention here that such constitution of the Committee neither refers to the rule or any specific power having been conferred

upon such Committee to lay down the criteria for absorption of the existing Court Managers.

71.1. A copy of the minutes of the meeting of the Committee for absorption of the existing Court Managers held on 20th April, 2021 was also provided to this Court for perusal. On perusal of the aforesaid minutes of the meeting dated 20th April, 2021, it appears that the Committee under Rule-6 of the Rules, 2020 discussed the issue. The minutes further reveals that the Registrar General of this Court placed the draft modalities for absorption of the existing Court Managers in compliance with the instruction imparted by the Committee in the earlier meeting dated 13.04.2021. Upon perusal of such draft modalities, the Committee so constituted resolved to modify the draft modalities to the following extent:-

(i) There shall be a written examination on Project Writing and an Office Note justifying the commencement of such project.

(ii) While the write up against Project shall carry 30 marks, the Office Note shall carry 20 marks.

(iii) The time of the written examination shall be half an hour.

All other modalities mentioned in the draft remains unaltered.

Accordingly, the committee, vide its Resolution dated 20.04.2021, fixed the date of written and viva-voce examination to be

held on 14.05.2021 and the Registrar General was instructed to communicate the modalities to the incumbent Court Managers.

71.2. A detailed modality following which the test of assessment of continued utility and suitability of the contractual Court Managers, for their absorption in the newly created post of Court Managers under Rule-6 of the Rules, 2020, has also been attached to the minutes of the meeting dated 20.04.2021. On perusal of the detailed modalities, it appears that the assessment/test was designed to be of 100 Marks, distributed in the following manner:-

Sl. No.	**Subject**	**Duration**	**Marks**	**Minimum pass Marks**
1.	Project Writing	30 Minutes	30	50% (15 marks)
	Office Note justifying the commencement of such project.		20	50% (10 marks)
2.	Interview/Personality Test	--	40	40% (16 marks)
3.	Overall Assessment of Performance Reports received from the District Judges/Registrar of the High Court during their contractual engagement	--	10	50% (05 marks)

71.3. A copy of the notes and order under the signature of the Registrar General of this Court dated 13.07.2022 was also placed on record. Such notes and order, though prepared by Registrar General of this Court, have been addressed to the above referred committee. Such notes and order further reveal that the modalities for assessment of continued utility and suitability of the existing contractual Court Managers for their absorption against the newly created post of Court Managers under Rule-6 of the Rules, 2020 has been finalized by the aforesaid committee, as evidenced from minutes of the meeting of the Committee dated 20.04.2021. It does not reflect anywhere that such modalities have been approved by either the Hon'ble Chief Justice or the Full Court of this Court. By virtue of the aforesaid notes and order, the learned Registrar General of this Court has informed the Hon'ble Committee that in view of the sudden outbreak of Covid-19 and consequential imposition of lockdown from 05.05.2021 to 19.05.2021, it was not feasible to conduct written and viva-voce examination as the same involves movement of 32 numbers of candidates from different districts. Accordingly, a suggestion was given to the Committee to defer the assessment/suitability test. It further reveals that one Sangram Keshari Jena and others, who are existing Court Managers, have filed a writ petition bearing W.P.(C)

No.3163 of 2022 before this Hon'ble Court. The order of a Division Bench of this Court dated 28.03.2022, in the aforesaid Writ Petition, is quoted hereinbelow for better appreciation:-

> "*As far as the absorption of existing Court Managers is concerned, it can proceed and will be subject to the outcome of the writ petition. It will be open to the Petitioners to participate in the said process without prejudice to their rights and contentions.*"

The learned Registrar General of this Court submitted a revised proposal for conduction of the test. Such proposal, it appears, has been duly approved by the Committee on 13.07.2022.

71.4. Pursuant to the aforesaid decision of the Hon'ble Committee rescheduling the written and the viva-voce examination to assess the continues utility/suitability of the existing candidates working as Court Managers, the learned Registrar, Examination issued notices to the 31 Court Managers discharging their duties as such in different districts of the State. They were intimidated to appear in the written and viva-voce examination scheduled to be held on 06.08.2022 at 10.30 A.M. in the premises of Orissa High Court, Cuttack for assessment of their continued utility and suitability for absorption against the newly created posts of Court Manager.

A careful examination of the relevant records placed before this Court by the Registrar General, this Court observes that the modalities for assessment of the continued utility/suitability of the existing Court Managers were prepared by the Hon'ble Committee itself. As such, it is clear that the said modalities do not have the concurrence of either Hon'ble the Chief Justice or the Full Court of this Court.

72. We have also perused the letter of the Government issued under the signature of the Additional Secretary to Government, Home Department, Government of Odisha in August, 2022. The said letter has been addressed to the Registrar General of this Court under the subject heading "Matters of Court Managers". By virtue of the aforesaid letter, the Additional Secretary to Government, Home Department has communicated the decision of the Government of Odisha to extend the tenure of the contractual engagement of the 31 Court Managers engaged in the Orissa High Court and District Courts for a further period of 6(six) months w.e.f. 18.07.2022 or till the posts of Court Managers are filled up on regular basis, whichever is earlier, on the same terms and conditions as agreed earlier. Thus, it is not disputed that the tenure of the existing Court Managers would have continued till 17.01.2023 or till the posts of Court Managers are filled

up on regular basis, whichever is earlier. The Petitioners who had appeared in the test conducted for assessment of their continued utility/suitability test were not found suitable on the basis of the result of the test conducted by the Hon'ble Committee as has been referred to hereinabove. Therefore, while appointing the persons who were selected by the Hon'ble Committee, the services of the Petitioners were terminated by virtue of the impugned disengagement letters. On a careful analysis of the aforesaid scenario, we are of the considered view that even though the existing Court Managers, who are Petitioners before this Court, were not found suitable by the Hon'ble Committee, they would have continued in service on the basis of their contractual appointment and extension thereof from time to time, till 17.01.2023. This is because the posts which they were holding on contractual basis were not filled up on regular basis till the end of their contractual period. Therefore, in view of the extension order at Annexure-48 of the lead matter, i.e., the extension letter issued in August 2022, the Petitioners would have continued in service up to 17.01.2023. Moreover, before the termination letters were issued to the Petitioners, they were never noticed. This Court is also of the considered view that irrespective of the failure on the part of the Petitioners to come out successful in the suitability test and for

absorption of the Petitioners against the regular posts of Court Manager, the Petitioners would have continued against the contractual posts till the period their appointment was valid, i.e., the later extension up to 17.01.2023. In such factual backdrop, we have no hesitation at all in coming to a conclusion that the termination letters which were issued to the Petitioners and which have been assailed in the present batch of Writ Petitions are illegal. Additionally, this Court also holds that the Petitioners would have continued against their contractual post till 17.01.2023, had their services not been terminated illegally and prematurely.

CONCLUSION

73. Once the assessment process itself is found to suffer from the above legal infirmity, it is neither necessary nor appropriate for this Court to examine the individual performance of each Petitioner in the written examination, project, office note, interview or personality test. Such an exercise would effectively require the Court to substitute itself for the competent authority and to assess suitability on the basis of a methodology which has already been found unsustainable. As such, the sealed-cover material relied upon by the Opposite Parties does not alter this conclusion, since the question before the Court is anterior to the comparative outcome reflected in that material. After

all, this Court is not recording the finding that the Petitioners necessarily possess the requisite suitability for absorption, instead, it is holding that their suitability must be determined through a legally authorised process.

74. Shifting focus to the impugned order of disengagement dated 30.08.2022 at Annexure-49, it is evident that it derives its immediate foundation from the Petitioners' failure to qualify in the suitability exercise. The record indicates that the remaining Court Managers were disengaged after the completion of the test and that the result of the suitability process formed the basis for distinguishing those who were absorbed from those whose contractual engagement was brought to an end. Once the underlying assessment process is found legally unsustainable, the consequential disengagement cannot be allowed to stand independently on the same foundation.

75. Moreover, regarding the arrear salary/consolidated remuneration payable to the Petitioners so disengaged, it is not disputed that the contractual engagement of the existing Court Managers, including the Petitioners, stood extended by the State Government, Home Department, vide letter No.26423/HS dated 01.08.2022, for a further period of six months with effect from 18.07.2022, as is evident from a copy of the letter at Annexure-48 to

the lead matter, or till the posts of Court Managers were filled up on a regular basis, whichever was earlier, on the same terms and conditions as agreed earlier. It is thus evident that the impugned disengagement of the said Petitioners, brought about vide Office Order No.13488 dated 30.08.2022 with effect from 30.08.2022, took effect during the subsistence of their extended contractual tenure, and not upon its natural expiry, and has now been found unsustainable on the grounds recorded above. In these circumstances, this Court is of the view that the Petitioners so disengaged shall be entitled to arrear salary/consolidated remuneration, at the same rate as was payable to them immediately prior to their disengagement on 30.08.2022 till their contractual engagement by virtue of the extension would have conferred, i.e. up to 17.01.2023.

76. Consequently, the following directions are hereby issued;

i. The notices dated 15.07.2022 and 11.08.2022, the results of the suitability test declared on 07.08.2022 and 20.08.2022, and the consequential Office Order No.13488 dated 30.08.2022 disengaging the unsuccessful Court Managers, are quashed, qua the present Petitioners.

ii. Ergo, the Petitioners so disengaged shall stand continued in service, on the same contractual/consolidated terms on which they

stood engaged immediately prior to 30.08.2022, with continuity, until such time as contemplated under their latest contractual extension, i.e., up to 17.01.2023.

iii. It is directed that the Opposite Parties shall, upon verification of the respective orders of contractual engagement/extension applicable to each of the disengaged Petitioners, compute and release to such Petitioners the contractual remuneration which would have accrued to them for the unexpired period of their respective contractual tenure, following their disengagement on 30.08.2022. Such payment shall be confined to the contractual/consolidated remuneration and other monetary components, if any, which the concerned Petitioners were entitled to receive under the terms governing their engagement immediately prior to 30.08.2022.

iv. It is additionally directed that the Opposite Parties shall complete the aforesaid exercise of verification and computation and release the amounts found payable to the concerned Petitioners within a period of eight weeks from the date of production of a certified copy of this judgment before the competent authority.

v. It is also borne from the record that the Petitioner No.10 in the lead matter, late Sri Dipti Prakash Mohanty, expired on

31.12.2022, during the pendency of the present proceedings. For this reason, the arrear salary/consolidated remuneration together with such other terminal or consequential dues as may be admissible to him under the terms of his engagement, for the period from 30.08.2022 till the date of his demise or the end of his contractual term as per the extension, whichever is earlier, shall be paid to his legal heir(s), upon due verification of their entitlement in accordance with law.

vi. Insofar as the question of absorption/regularisation of the Petitioners is concerned, this Court is of the considered view that, having regard to the directions issued by the Hon'ble Supreme Court in ***All India Judges Association*** (*supra*), and the findings recorded hereinabove, the precise modalities and parameters governing the suitability assessment of the existing Court Managers ought to emanate from the competent rule-making authority and not from the decision of the Hon'ble Committee constituted for conducting such assessment. In such view of the matter, the question of formulation of precise modalities for assessing the suitability of the existing Court Managers be determined and laid down by the Hon'ble high Court. Accordingly, the learned Registrar General of this Court is directed to place the matter

before the Hon'ble High Court in the administrative side for consideration, so that an appropriate framework may be evolved in conformity with the directions and the spirit of the Hon'ble Supreme Court's judgement. The fresh suitability assessment of the Petitioners shall accordingly be undertaken only upon such modalities being duly approved and concurred by the Hon'ble High Court.

77. For the avoidance of doubt, it is hereby clarified that the payment of arrear remuneration directed hereinabove at paragraphs 74(iii) and (v) is not an award of arrears arising out of regularisation, nor does it represent any difference between the contractual remuneration and the salary attached to a regular post. It is confined to the contractual remuneration otherwise payable during the subsisting period of the contractual engagement which was brought to an end, prior to the expiry of such tenure, solely on the basis of the impugned suitability exercise, which has now been quashed. Consequently, the aforesaid direction shall not be construed as running contrary to the clarification contained in paragraph 44(vii) of the judgment of the Hon'ble Supreme Court in ***All India Judges Association*** (*supra*).

78. It is also made clear that the continuation of the Petitioners in terms of paragraph 74(ii) herein shall not, by itself, be construed as

a declaration that every such Petitioner is entitled to automatic absorption/regularisation. The question of their suitability for absorption shall be determined only through the fresh and legally sustainable process contemplated herein and in accordance with the applicable rules and the binding directions of the Hon'ble Supreme Court

79. Lastly, it is further clarified that nothing in this judgment shall affect or unsettle the absorption/regularisation already granted to the eleven candidates found successful in the said process. As such, the objection of the Opposite Parties as to non-joinder of such candidates no longer survives.

80. The present batch of Writ Petitions is, accordingly, disposed of along with all pending Interlocutory Applications, if any. Original records produced before this Court be returned to the respective custodians through the Registry. There shall be no order as to costs.

(*Aditya Kumar Mohapatra*)
Judge

Manash Ranjan Pathak, J. I agree.

(*Manash Ranjan Pathak*)
Judge

Signature Not Verified
Digitally Signed
Signed by: DEBASIS AECH
Designation: SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT
Date: 11-Sep-2026 17:22:09

Orissa High Court, Cuttack,
The 11th September,2026/Debasis Aech, Secretary