

ITEM NO.1

COURT NO.1

SECTION PIL-W

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

Writ Petition(s)(Civil) No(s).310/1996

PRAKASH SINGH & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA

Respondent(s)

I.A.No.25307/2018 - Clarification/direction
I.A.No.130514/2017 -Clarification/direction
I.A.No.47/2015 - Exemption from filing O.t.
I.A.No.46/2015 - Intervention application
I.A.No.60411/2017 - Permission to appear and argue in person

WITH

CONMT.PET.(C) No.92/2007 In W.P.(C) No.310/1996 (PIL-W)
CONMT.PET.(C) No.240/2007 In W.P.(C) No.310/1996 (PIL-W)
W.P.(C) No.417/2010 (PIL-W)
W.P.(C)No.42/2011({PIL-W)
W.P.(C) No.317/2013 (PIL-W)
(FOR ON IA 80193/2013
FOR ON IA 21241/2014)
W.P.(C) No.286/2013 (PIL-W)
W.P.(C) No.335/2013 (PIL-W)
CONMT.PET.(C) No.235/2014 In W.P.(C) No. 310/1996 (PIL-W)
(and FOR PERMISSION TO APPEAR AND ARGUE IN PERSON ON IA 2/2015
FOR ON IA 3/2015 FOR ON IA 4/2015 FOR ON IA 5/2016
FOR PERMISSION TO APPEAR AND ARGUE IN PERSON ON IA 6/2016)
CONMT.PET.(C) No.177/2015 In W.P.(C) No.310/1996 (PIL-W)
T.C.(C) No.75/2015 (XVI-A)
T.C.(C) No.76/2015 (XVI-A)
CONMT.PET.(C) No.1037/2018 in W.P.(C) No.310/1996 (PIL-W)
(FOR ADMISSION and IA No.57958/2018-EXEMPTION FROM FILING O.T.
[TO BE TAKEN UP ALONGWITH ITEM NO. 1 I.E. W.P.(C)NO.310/1996])

Date : 03-07-2018 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s) Mr.Colin Gonsalves, Sr.Adv.
Mr.Choudhary Ali Zia Kabir, Adv.
Ms.Jyoti Mendiratta, Adv.

Petitioner-in-person

Mr. Prashant Bhushan, Adv.
Mr.Rohit Kumar Singh, Adv.
Mr.Shakti Vardhan, Adv.
Mr.Amiy Shukla, Adv.

M/S. Legal Options, AOR

Mr. Prakash Kumar Singh, AOR

Mr. Ambhoj Kumar Sinha, AOR

Dr. Kailash Chand, AOR

Mr.Shekhar G.Devasa, Adv.
Mr.G.R.Mohan, Adv.
Mr.Manish Tiwari, Adv.
Mr.Luv Kumar, Adv.
For M/S. Devasa & Co., AOR

For Respondent(s)
(For UOI)

Mr.K.K.Venugopal, AG
Mr.Maninder Singh, ASG
Ms.V.Mohana, Sr.Adv.
Mr.S.Wasim A.Qadri, Adv.
Ms.Binu Tamta, Adv.
Mrs.Pruna Priyadarshani, Adv.
Mr.B.V.Balram Das, AOR

Mr.Gopal Sankaranarayanan, Adv.
Mr.A.K.Upadhyay, Adv.
Mr.Shrutanjay B., Adv.

Mr.Abhinav Mukerji, AAG
Mrs.Bihu Sharma, Adv.
Ms.Purnima Krishna, Adv.

Mr.S.S.Shamsbery, AAG
Mr.Ankit Raj, Adv.
Ms.Indira Bhakar, Adv.
Ms.Ruchi Kohli, Adv.

Mr.Anil Grover, AAG
Ms.Noopur Singhal, Adv.
Mr.Satish Kumar, Adv.
Mr.Sanjay Kumar Visen, Adv.

Mrs.Ashwariya Bhati, AAG
Mr. Pradeep Misra, AOR
Mr.Suraj Singh, Adv.

Ms.Nidhi Gupta, AAG

Mr. B. Balaji, AOR
Mr.Pawan Upadhyay, Adv.

**Mr.Sarvjit Pratap Singh, Adv.
Ms. Sharmila Upadhyay, AOR**

**Mr.Pratap Venugopal, Adv.
Ms.Surekha Raman, Adv.
Ms.Niharika, Adv.
Ms.Kanika Kalaiyarasan, Adv.
From M/S. K J John And Co., AOR**

**Mr.Bhupesh Narula, Adv.
Mr.K.V.Jagdishvaran, Adv.
Ms. G. Indira, AOR**

Mr. B. Krishna Prasad, AOR

**Ms.Aruna Mathur, Adv.
Mr.Avneesh Arputham, Adv.
Ms.Anuradha Arputham, Adv.
Ms.Simran Jeet, Adv.
For M/S. Arputham Aruna And Co, AOR**

**Ms.Rachana Srivastava, Adv.
Ms.Monika, Adv.**

M/S. Corporate Law Group, AOR

**Mr.Shikhar Garg, Adv.
Mr.Mudit, Adv.
Mr. P. V. Yogeswaran, AOR**

Mr. G. N. Reddy, AOR

Mr. Sanjay Kumar Visen, AOR

Mr. Rohit K. Singh, AOR

**Mr. V. G. Pragasam, AOR
Mr.S.Prabu Ramasubramanian, Adv.
Mr.S.Manuraj, Adv.**

**Mr. Gopal Singh, AOR
Mr.Manish Kumar, Adv.**

Mr. Ashok Kumar Singh, AOR

Mr. Balaji Srinivasan, AOR

Mr. V. N. Raghupathy, AOR

Mr. Rajiv Nanda, AOR

**Ms.Neha Sangwan, Adv.
Ms.Sanjana N., Adv.**

Mrs.Monisha Suri, Adv.
Mr. Chirag M. Shroff, AOR

Mr. G. Prakash, AOR
Mr.Jishnu M.L., Adv.
Mrs.Priyanka Prakash, Adv.
Mrs.Beena Prakash, Adv.

Ms. Hemantika Wahi, AOR
Ms.Puja Singh, Adv.
Ms.Mamta Singh, Adv.
Ms.Vishakha, Adv.

Ms.Deepa Kulkarni, Adv.
Mr. Nishant Ramakantrao Katneshwarkar, AOR

Mr. Tapesh Kumar Singh, AOR
Mr.Mohd.Waquas, Adv.
Mr.Aditya Pratap Singh, Adv.

Mr. Ajay Choudhary, AOR

Ms. Kamakshi S. Mehlwal, AOR
Mr.Sanveer Mehlwal, Adv.
Ms.Geetanjali Mehlwal, Adv.

Mr.G.M.Kawoosa, Adv.
Mr. M. Shoeb Alam, AOR

Mr.T.N.Rama Rao, Adv.
Mr.Hitesh Kumar Sharma, Adv.
Mr.T.Veera Reddy, Adv.

Ms. Uttara Babbar, AOR
Ms.Akanksha Choudhary, Adv.
Ms.Bhavana D., Adv.

Mr. Aniruddha P. Mayee, AOR

Mr. D. S. Mahra, AOR

Mr. Chandra Prakash, AOR

Mr. C. K. Sasi, AOR

Mr. Ranjan Mukherjee, AOR
Mr.K.V.Kharlyngdoh, Adv.
Mr.Daniel Stone Lyngdoh, Adv.

Ms. Rachana Srivastava, AOR

Mr.Sarad Kumar Singhania, Adv.
Mr. Milind Kumar, AOR

Mr. Kamal Mohan Gupta, AOR

Mr. Kuldip Singh, AOR

Ms. Liz Mathew, AOR

Mr. M. T. George, AOR

Ms. Sushma Suri, AOR

Ms. Pragati Neekhara, AOR

Mr. Merusagar Samantaray, AOR

Mr. Salvador Santosh Rebello, Adv.

Ms. Lhingneivah, Adv.

Ms. Snehapravu Tendulkar, Adv.

Ms. K. Enatoli Sema, AOR

Mr. Edward Belho, Adv.

Mr. Amit Kumar Singh, Adv.

Mr. K. Luikang Michael, Adv.

Mr. Anip Sachthey, AOR

Mr. M. Yogesh Kanna, AOR

Ms. Sujatha Bagadhi, Adv.

Ms. Kaveeta Wadia, AOR

Mr. P. V. Dinesh, AOR

Mrs. Anil Katiyar, AOR

Mr. Gunnam Venkateswara Rao, AOR

Mr. P. Parmeswaran, AOR

M/S. S. Narain & Co., AOR

Mr. Kamendra Mishra, AOR

Mr. T. V. George, AOR

Mr. Jayesh Gaurav, Adv.

Mr. Gopal Prasad, AOR

Mr. Rajesh Srivastava, AOR

Ms. Sumita Hazarika, AOR

Mr. P. Venkat Reddy, Adv.

**Mr.Prashant Tyagi, Adv.
For M/S. Venkat Palwai Law Associates, AOR**

**Mr.Atul Jha, Adv.
Mr.Sandeep Jha, Adv.
Mr. Dharmendra Kumar Sinha, AOR**

Mr. Ashok Mathur, AOR

Mr. Tara Chandra Sharma, AOR

Mr. Radha Shyam Jena, AOR

Mr. Mohanprasad Meharia, AOR

Mr. Anuvrat Sharma, AOR

Mr. Lakshmi Raman Singh, AOR

Ms. Anitha Shenoy, AOR

Mr. T. Harish Kumar, AOR

Mr. R. Ayyam Perumal, AOR

Mr. Anil Shrivastav, AOR

Mr. Abhishek, AOR

**Mr. Shuvodeep Roy, AOR
Mr.Sayooj Mohandas M., Adv.
Mr.Naman Kamboj, Adv.**

**Mr. Shuvodeep Roy, AOR
Mr.Rituraj Biswas, Adv.**

**Mr.Suhaan Mukerji, Adv.
Ms.Astha Sharma, Adv.
Mr.Harsh Hiroo Gursahani, Adv.
Mr.Amit Verma, Adv.
Mr.Vishal Prasad, Adv.
For M/S. Plr Chambers And Co., AOR**

**Mr.Guntur Prabhakar, Adv.
Ms.Pruna Singh, Adv.**

**Mr.Leishangthem Roshmani Kh., Adv.
Ms.Haibam Babina, Adv.**

**Ms.Prachi Mishra, Adv.
Mr.Arjun Garg, Adv.
Ms.Pragya Garg, Adv.**

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

I.A.No.25307 of 2018

Heard Mr.K.K.Venugopal, learned Attorney General for Union of India along with Mr.Maninder Singh, learned Additional Solicitor General, Mr.Prashant Bhushan, learned counsel for the petitioner and Mr.Gopal Sankaranarayanan, learned counsel for the intervenor.

This is an application for modification of the judgment in Prakash Singh and others vs. Union of India & others, (2006) 8 SCC 1. In the said judgment the Court has prescribed a minimum tenure for Director General of Police. Direction No.2 given in the said judgment, which is relevant for the present purpose, reads thus:

“(2) The Director General of Police of the State shall be selected by the State Government from amongst the three seniormost officers of the Department who have been empanelled for promotion to that rank by the Union Public Service Commission on the basis of their length of service, very good record and range of experience for heading the police force. And, once he has been selected for the job, he should have a minimum tenure of at least two years irrespective of his date of superannuation. The DGP may, however, be relieved of his responsibilities by the State Government acting in consultation with the State Security Commission consequent upon any action taken against him under the All India Services (Discipline and Appeal) Rules or following his conviction in a court of law in a criminal offence or in a case of corruption, or if he is otherwise incapacitated from discharging his duties.”

It is submitted by Mr.K.K.Venugopal, learned Attorney General, that out of 29 States, only 5 States, namely, the States of Karnataka, Tamil Nadu, Telangana, Andhra Pradesh and Rajasthan have approached the Union Public Service Commission for

empanelment. The other States have not followed the direction. It is further urged by him that some of the States are adopting a method of appointing acting Director Generals of Police whereas such a concept is not perceptible from an analysis of the decision in Prakash Singh's case(supra). We have also been apprised by Mr.Venugopal that some Director Generals of Police are initially appointed on acting basis and thereafter, they are made permanent just before the date of their superannuation as a consequence of which they continue till the age of 62 years.

Mr.Prashant Bhushan, learned counsel appearing for the petitioner would contend that the whole approach of the States is absolutely unacceptable. He further submits that this Court has directed that the Director General of Police will continue for at least two years irrespective of the date of superannuation.

Mr.Gopal Sankaranarayanan, learned counsel for the intervenor would submit that the Union Public Service Commission should act as per the directions of this Court and it is the duty of the Union Public Service Commission and the States to see that the candidates who come within the zone of consideration have two years to go so that there will be a fair competition.

Having heard learned counsel for the parties, we pass the following directions:

- (a) All the States shall send their proposals in anticipation of the vacancies to the Union Public Service Commission, well in time at least three months prior to the date of retirement of the incumbent on the post of Director General of Police;

(b) The Union Public Service Commission shall prepare the panel as per the directions of this Court in the judgment in Prakash Singh's case(supra) and intimate to the States;

(c) The State shall immediately appoint one of the persons from the panel prepared by the Union Public Service Commission;

(d) None of the States shall ever conceive of the idea of appointing any person on the post of Director General of Police on acting basis for there is no concept of acting Director General of Police as per the decision in Prakash Singh's case(supra);

(e) An endeavour has to be made by all concerned to see that the person who was selected and appointed as the Director General of Police continues despite his date of superannuation. However, the extended term beyond the date of superannuation should be a reasonable period. We say so as it has been brought to our notice that some of the States have adopted a practice to appoint the Director General of Police on the last date of retirement as a consequence of which the person continues for two years after his date of superannuation. Such a practice will not be in conformity with the spirit of the direction.

(f) Our direction No.(c) should be considered by the Union Public Service Commission to mean that the persons are to be empanelled, as far as practicable, from amongst

the people within the zone of consideration who have got clear two years of service. Merit and seniority should be given due weightage.

(g) Any legislation/rule framed by any of the States or the Central Government running counter to the direction shall remain in abeyance to the aforesaid extent.

The present directions shall be followed scrupulously by the Union of India and all the States/Union Territories. If any State Government/Union Territory has a grievance with regard to these directions, liberty is granted to them to approach this Court for modification of the instant order.

I.A.stands disposed of accordingly.

Rest of the matters

List after two weeks.

(Chetan Kumar)
AR-cum-PS

(H.S.Parasher)
Assistant Registrar