

2813

By Regd Post

By Regd. Post

From,

Ram Prasad,
Deputy Registrar(M),
High Court of Judicature at,
Allahabad.

To,

The Registrar,
Ch. Charan Singh University,
Meerut.

94
7

No. 18345 /IV-3599/Admin.(A)/Allahabad: dated 22-12-18

Sub: Verification of Mark-Sheets & Degree of LL.M qualification in the case of
Mr. Rajnesh Kumar, Addl. Civil Judge(S.D.)/A.C.J.M., Saharanpur.

Sir,

With reference to aforementioned subject, I am directed to send herewith copies of Post-Graduation Mark-sheets and Degree of LL.M awarded to Mr. Rajnesh Kumar, Addl. Civil Judge(S.D.)/A.C.J.M., Saharanpur in the examination of 2007 having Roll No. L0557609 by Ch. Charan Singh University, Meerut for verification from your official record.

Therefore, you are requested to get verified aforesaid Mark-sheet as well as Degree from your University official record and submit your report regarding authenticity of attached Mark-sheet & Degree as soon as possible for kind perusal of this Hon'ble High Court.

Any delay in furnishing requisite report must be avoided.

Encl. Copies of Mark-sheet & LL.M Degree.

Yours faithfully

R.P.
4/12/2018
Deputy Registrar

S.O.(Admin. A1)/D.R.(M.)

May kindly see letters No. 16054/IV-F-82(Loose)/Admin. (A)/Allahabad: dated 01.11.18 and 16345//IV-F-82(Loose)/Admin.(A)/Allahabad: dated 14.11.18(placed below) through which three advance increment have been sanctioned to the Officer & May like to issue?

Jain
30/11/18 (A.O.)
Bandy
30.11.18 S.O.

By Regd. Post

From,

Mayank Kumar Jain(H.J.S.),
I/C Registrar General,,
High Court of Judicature at,
Allahabad.

Request 25

o/c

To,

The Additional Director (Treasuries)
Camp Office, New Treasury Building,
Kutchery Road, Allahabad.

46

No: 16054 /IV- F-82 (loose)/Admin.(A)/Allahabad: Dated 01.11.18
Sub: Grant of three advance increments to Judicial officers who have acquired
post graduate degree of L.L.M from a recognized University.

Sir,

With reference to Government's Order No. G.O. No. 1363/II-4-2009-45(12)/91 TC, dated 13.05.2009, G.O. No. 1705/II-4-2011-45(12)/91 TC, dated 03.01.2012, and G.O. No. 02/2015/355/II-4-2015-45(12)/91 T.C dt. 27-03-2015 read with recently issued G.O. No. 8/2018/279/II-4-2018-45(12)/91T.C. Dated 13.04.2018 & G.O. No. 15/2018/940/II-4-2018-45(12)/91T.C. Dated 18.09.2018 (copy enclosed for ready reference), on the above subject, I am directed to say that on consideration of above G.Os., the Court has been pleased to order that three advance increments with dearness allowance be allowed to the following eligible officers who possess qualification of LL.M from a recognized University before or after joining the service and whose qualification of LL.M. have been included in their service records(his/her posting is mentioned against their names), subject to the verification of their LL.M Degrees from the concerned Universities, either from 21.03.2002 or w.e.f. the initial date of joining in U.P. Nyayik Sewa/ U.P.H.J.S. or from the date of acquisition of qualification of LL.M, whichever is later on:-

Sr. No.	Name of the Officer	Designation & place of posting	Date of admissibility for grant of three advance increments
1	Hon'ble Mr. Justice A.N. Mittal, (Retired) (for service in H.J.S.)	The then Director, Institute of Judicial Training & Research, Lucknow, elevated as Judge, High Court, Allahabad	21/03/02
2	Hon'ble Justice Dr. Vijay Laxmi, (Retired) (for service in H.J.S.)	Retired as District Judge, Muzaffarnagar then elevated as Judge, High Court, Allahabad	21/03/02
3	Hon'ble Justice Bharat Bhushan, (Retired) (for service in H.J.S.)	The then District Judge, Ghaziabad, elevated as Judge, High Court, Allahabad	21/03/02
4	Sri Ram Manohar Narayan Mishra	A.D.J., Allahabad	21/03/02
5	Sri Anil Kumar Singh-I	A.D.J., Aligarh	21/03/02
6	Sri Jai Jai Ram Pandey	Retired District Judge, Balrampur	21.03.02

Request 95

7	Sri Brijesh Chandra Saxena	Retd. D.J., Jalaun	21/03/02
8	Pradeep Kumar Srivastava	District Judge, Gautambuddha Nagar	21/03/02
9	Sri Mahesh Chandra Sharma	Retired A.D.J., Saharanpur	21/03/02
10	Dr. Ram Hit Prasad	Retd. A.D.J., Hardoi	21/03/02
11	Sri Pramod Kumar Goel	Ex. D.J., Maharajganj	21/03/02
12	Sri Pankaj Mishra	A.D.J., Meerut	21/03/02
13	Sri Ramesh Tiwari	D.J., Bijnor	21/03/02
14	Sri Ram Nageena Yadav	Addl. Director, Institute of Judicial Training & Research, Lucknow	21.03.02
15	Sri Vijay Kumar Azad	A.D.J., Balrampur	21/03/02
16	Sri Atul Chaudhary	Civil Judge(Sr. Div.), Lakhimpur-Kheri	18/04/09
17	Sri Abhinitam Upadhyay	Secretary, D.L.S.A., Aligarh	14/06/06
18	Sri Harendra Bahadur Singh	Spl. Judge (Pre. Cor. Act), Lucknow	01/05/03
19	Sri Abhay Pratap Singh	Civil Judge(S.D.)/F.T.C, Moradabad	19/12/09
20	Sri Ram Bilash Singh	A.D.J., Varanasi	03/02/04
21	Sri Manoj Kumar Mishra	A.D.J., Muzaffar Nagar	27/12/03
22	Sri Mohd. Niyaj Ahmad Ansari	A.D.J./FTC, Jaunpur	15/06/06
23	Sri Munna Prasad	Addl. Chief Judicial Magistrate, Bulandshahar	16/06/06
24	Sri Mohinder Kumar	Dy. Director, Institute of Judicial Training and Research, Lucknow	16/06/06
25	Mr. Kalpraj Singh	Addl. Chief Judicial Magistrate, Firozabad	03/07/09
26	Sri Ashok Kumar-XII	Addl. Chief Judicial Magistrate, Meerut	18/12/09
27	Smt. Lovely Jaiswal	Addl. Chief Judicial Magistrate, Mirzapur	23/12/09
28	Sri Abhishek Kumar Chaturvedi	ACJM(Railway), Aligarh	28/08/09
29	Sri Pawan Kumar Srivastava	Addl. District & Sessions Judge, Pratapgarh	19/06/06
30	Sri Vidya Bhushan Pandey	Addl. Civil Judge(S.D.), Amroha	30/06/09
31	Sri Neel Kant Mani	Civil Judge(S.D.),	20/04/09

Request 25

	Tripathi	Sambhal at Chandausi	
32	Sri Vinay Kumar	A.D.J., Kushinagar, Padrona	12/09/15
33	Sri Hari Prasad	A.C.J.M., Lakhimpur Kheri	07/04/11
34	Sri Sanjay Shankar Pandey	A.D.J., Lucknow	26/01/04
35	Sri Samar Pal Singh	Principal Judge, Family Court, Baghpat	31/08/13
36	Sri Gagan Kumar Bharti	A.D.J., Sitapur	21/08/06
37	Smt. Veena Narayan	Principal Judge, Family Court, Hapur	26/10/15
38	Sri Raj Bahadur Ram Dev Yadav	A.D.J., Kanpur Dehat	19/06/07
39	Mrs. Madhu Dogra	Secretary, District Legal Service Authority, Pratapgarh	14/08/14
40	Sri Gaurav Kumar	A.D.J., Lucknow.	15/03/11
41	Sri Ashok Kumar Singh- VII	A.D.J., Jaunpur	08/12/11
42	Mrs. Kiran Bala	Principal Judge, Family Court, Ghaziabad	31/08/12
43	Sri Rakesh Kumar-III	Chief Investigation officer/Lokayukta, Lucknow	15/03/11
44	Sri Kamesh Shukla	Addl. Legal Advisor, Governor's Secretariat, Lucknow	11/12/09
45	Sri Devendra Singh-I	Spl. Judge (Pre Cor. Act), Bareilly	08/09/14
46	Pooja Vishwakarma	Addl. Civil Judge (S.D.), Meerut	07/08/09
47	Smt. Swati	Addl. Chief Judicial Magistrate, Hapur	11/12/09
48	Sri Sanjay Singh-I	Addl. District & Sessions Judge, Aligarh	24/12/15
49	Sri Pushpender Singh	OSD(J)/CPC, High Court, Allahabad	23/05/12
50	Sri Madan Lal Nigam	A.D.J., Basti	21/03/02
51	Shri Rakesh Kumar Shukla	Spl. Secy. & Addl. L.R. (Jud.), Government of U.P., Lucknow	21/03/02
52	Sri Akhilesh Dubey	A.D.J., Unnao	21/03/02
53	Sri Subhash Chandra	Retd. D.J., Bijnor	21/03/02
54	Sri Padmaker Mani	A.D.J., Lucknow	21/03/02

	Tripathi		
55	Sri Damodar Singh	Retired A.D.J. Faizabad	21/03/02
56	Smt. Poonam	Addl. Civil Judge(S.D.), Saharanpur	20/04/09
57	Sri Vinod Kumar-V	A.D.J., Rampur	15/06/06
58	Sri Mahendra Srivastava	A.D.J., Ghaziabad	20/12/03
59	Mr. Kiriti Kunal	Addl. Civil Judge(S.D.), Aligarh	18/05/09
60	Sri P.K. Jayant	Joint Registrar(Judicial) State Public Service Tribunal, Lucknow	17/06/06
61	Sri Siya Ram Chaurasia	A.C.J.M., Bareilly	17/06/06
62	Sri Rajnesh Kumar	Civil Judge(S.D.), Saharanpur	20/04/09
63	Sri Vayu Nandan Mishra	Secretary, District Legal Services Authority, Hardoi	18/04/09
64	Sri Mridul Kumar Mishra	A.D.J., Bhadohi	22/12/03
65	Sri Kush Kumar	Addl. Chief Judicial Magistrate, Lalitpur	06/01/14
66	Sri Naresh Kumar	A.D.J., Gonda	31/03/11
67	Sri Atul Singh	A.D.J., Agra	17/07/12
68	Smt. Poonam Rajput	A.D.J, Muzaffarnagar	04/04/14
69	Smt. Chhaya Nain	A.D.J., Farrukhabad	13/09/07
70	Sri Shailoj Chandra	A.D.J., Hamirpur	14/08/09
71	Sri Randheer Singh	Spl. Sec. & Addl. L.R. (Jud./Legis.) Government of U.P., Lucknow	30/05/07
72	Sri Kuldeep Singh-I	Addl. Civil Judge(S.D.), Meerut	05/02/11
73	Sri Vikas Goyal	A.D.J., Saharanpur	26/12/12
74	Smt. Rashmi Singh	Chief Judicial Magistrate, Sitapur	07/08/09
75	Sri Yajuvendra Vikram Singh	Addl. Civil Judge(S.D.), Meerut	28/04/11
76	Sri Narendra Bahadur Yadav	Principal Judge, Family Court, Varanasi	18/03/11
77	Sri Padam Narain Mishra	Addl. Director(Law), Directorate of Rev. & Spl. Intelligence, Lucknow	13/01/12
78	Sri Divakar Dwivedi	Legal Advisor, Excise Commissioner U.P.,	26/02/14

Request 95

		Allahabad	
79	Sri Saurabh Dwivedi	Addl. Chief Judicial Magistrate, Shahjahanpur	21/05/09
80	Ms. Kavita Nigam	A.D.J., Raebareli	01/12/17
81	Sri Shiv Kumar Tiwari	A D.J., Meerut	08/05/09
82	Ms. Parul Jain	A.D.J., Etah	19/02/18
83	Dr. Vijay Kumar	A.D.J., Etawah	19/02/18
84	Sri Surendra Pal Goyal	Retired A.D.J., Azamgarh	21/03/02

I, therefore, request you to kindly take necessary action in the matter for issuing necessary authority in favour of concerned officer mentioned above.

Encl-As stated above.

with regards,

Yours faithfully,

Mayank K. Jain
1.11.18
I/C Registrar General

17

No. 1655 /IV- F-82 (loose)/Admin.(A)/Allahabad: Dated

01.11.18.

Copy forwarded to:

1. The District Judges, Allahabad/ Aligarh/ Balrampur/ Gautambuddha Nagar/ Saharanpur/ Maharajganj/ Jalaun/ Meerut/ Bijnor/ Lucknow/ Lakhimpur-kheri/ Moradabad/ Varanasi/ Muzaffarnagar/ Jaunpur/ Bulandshahar/ Firozabad/ Mirzapur/ Pratapgarh/ Amroha/ Sambhal at Chandausi/ Kushinagar/ Baghpat/ Sitapur/ Hapur/ Kanpur-Dehat/ Ghaziabad/ Bareilly/ Basti/ Unnao/ Faizabad/ Rampur/ Hardoi/ Bhadohi/ Lalitpur/ Gonda/ Agra/ Farrukhabad/ Hamirpur/ Shahjahanpur/ Rae-Bareilly/ Etah/ Etawah/ Azamgarh with request to inform the officer concerned, as mentioned above, posted in your Judgeship accordingly.
2. Hon'ble Mr. Justice A.N. Mittal, Former Judge, Allahabad High Court, Chairman, State Law Commission, M.Kanshi Ram Green (Eco) Park, Administrative Block-B, Old Jail Road, Lucknow(U.P.)- 226005.
3. Hon'ble Justice Dr. Vijay Laxmi, Former Judge, Allahabad High Court R/o 23, Railway Road, District- Hapur(U.P.)- 245101.
4. Hon'ble Justice Bharat Bhushan, Former Judge, Allahabad High Court R/o Q-278, Jalvayu Vihar, Sector-21, Noida, Gautambudh Nagar - 201301.
5. The Principal Secretary(Law) & L.R., Government of U.P., Lucknow.
6. The Director, Institute of Judicial Training & Research, Lucknow.
7. Sri Rakesh Kumar-III, Chief Investigation officer/Lokayukta, Lucknow.
8. Sri Pushpender Singh, OSD(J)/CPC, High Court, Allahabad.
9. Sri P.K. Jayant, Joint Registrar(Judicial), State Public Service Tribunal, Lucknow.
10. Sri Padam Narain Mishra, Addl. Director(Law), Directorate of Rev. & Spl. Intelligence, Lucknow.
11. Sri Divakar Dwivedi, Legal Advisor, Excise Commissioner U.P., Allahabad
12. Sri Kamesh Shukla, Addl. Legal Advisor, Governer's Secretariat, Lucknow.
13. Sri Jai Jai Ram Pandey, retd. District Judge, R/o- 7/15/268 C,

Request 95

- Girijapuram Colony, Prikrama Marg, Janaura, District- Faizabad-224001.
14. Sri Brijesh Chandra Saxena, retired District Judge, R/O 279/1, Golden Green Park, Bisalpur Road, Bareilly (U.P.).
 15. Sri Mahesh Chandra Sharma, retd. A.D.J., R/O- 67 Swami Pada, Meerut-250002.
 16. Dr. Ram Hit Prasad, Retd. H.J.S., R/o- 1/6-A Gomti Nagar Extention, Sector-1, Vardan Khand, Gomti Nagar, Lucknow-226010.
 17. Sri Pramod Kumar Goel, retd. H.J.S., R/O A-97, Sector-2, Near Vrindavan and Panchvati Enclaves, Shatabdi Nagar, Delhi Road, Meerut(U.P.)-250001.
 18. Sri Subhash Chandra, retd. H.J.S., R/o 1102-03, Marvel Homes, B-17, Sector 61, Noida(G.B. Nagar).
 19. Sri Damodar Singh, retd. H.J.S., R/o Bhagwanpur(Godivanpur), near welcome tent House, Post- Bhagwanpur, P.S. Lanka, Varanasi(U.P.).
 20. Sri Surendra Pal Goyal, retired H.J.S., Presiding officer, Addl. Court, Muzaffar Nagar.

Rd
1/11/2018
Deputy Registrar(M)

A.R. (Admin. A1)/D.R. (M.)

May kindly see the minutes dated 09.10.2018 of Hon'ble Committee, approved by Hon'ble the Acting Chief Justice on 25.10.18(placed below) & may issue after the signature of Ld. I/C Registrar General?

Jain B.
31-10-18 (R.O.)

Goel
31-10-18

S.O. Khatal
31-10-18 AR

Registrar (D) (B)

May like to place the file before I/C Registrar General for kind perusal and issuance?

Rd
1/11/2018
DR

Ld Registrar General

May like to issue

A 0713
01/11/18

Request 95

By Regd. Post

CORRIGENDUM

From,

Ram Prasad,
Deputy Registrar(M),
High Court of Judicature at,
Allahabad.

To,

The Additional Director (Treasuries),
Camp Office, New Treasury Building,
Kutchery Road, Allahabad.

16345

No. 16345 /IV- F-82 (loose)/Admin.(A)/Allahabad: Dated 14-11-2018

Sub: Grant of three advance increments to Judicial officers who have acquired post graduate degree of L.L.M from a recognized University.

Sir,

With reference to subject mentioned above, I am directed to say that in Court's letter no. 16054/IVF-82 (loose)/Admin.(A) /Allahabad dated 01.11.2018, designation of following Judicial Officers/Higher Judicial Officers were wrongly mentioned due to inadvertence . The same may be read as given below.

Name of the officer and Sr. Nos. in the list given with letter dated 01.11.2018	Designation & place of posting as mentioned in letter dated 01.11.2018	Actual Designation & place of posting
Smt. Lovely Jaiswal (Sr. No. 27)	Addl. Chief Judicial Magistrate, Mirzapur	Civil Judge(S.D.), Mirzapur
Sri Gaurav Kumar (Sr. No. 40)	A.D.J., Lucknow	Judge, Spl. Court, CBI, Lucknow
Sri Rajnesh Kumar (Sr. No. 62)	Civil Judge(S.D), Shaharanpur	Addl. Civil Judge (S.D.)/A.C.J.M., Shaharanpur
Sri Kush Kumar (Sr. No. 65)	Addl. Chief Judicial Magistrate, Lalitpur	Addl. Chief Judicial Magistrate, Mahroni-Lalitpur
Sri Narendra Bahadur Yadav(Sr. No. 76)	Principal Judge, Family Court, Varanasi	A.D.J., Varanasi
Sri Shiv Kumar Tiwari (Sr. No. 81)	Addl. District & Sessions Judge, Meerut	Addl. Civil Judge (S.D.) /A.C.J.M., Meerut

Yours faithfully,

Rd
14/11/2018
Deputy Registrar

(Contd...)

Request 95

151
6

No. 16346 /IV- F-82 (loose)/Admin.(A)/Allahabad: Dated 14-11-2018

Copy forwarded for information and necessary action in continuation of Court's endorsement no. 16055//IV-F-82 (loose)/Admin.(A)/Allahabad: Dated 01.11.18 to:

1. The District Judge, Mirzapur.
2. The District Judge, Lucknow.
3. The District Judge, Shaharanpur.
4. The District Judge, Lalitpur.
5. The District Judge, Varanasi .
6. The District Judge, Meerut.

Rfd
14/11/2018
Deputy Registrar

A.R.(Admin. A1)/D.R.(M.)

Designation of above judicial Officers have been amended, which were wrongly mentioned in Court's letter dated 01.11.2018 due to inadvertence, May issue?

Jawls
14/11/18 (R.O.)
Dr. Jaiswal
14.11.18
AR

From,

Rajnesh Kumar,
Civil Judge, Senior Division,
Saharanpur.

To,

The Registrar General,
Hon'ble High Court of Judicature at
Allahabad.

Through,

The District Judge,
Saharanpur.

Sub.: **Grant of three advance increments from the date of joining the judicial service & to be continued on promotion on the basis of G.O. dated 13.04.2018 in respect of LL.M. Degree.**

Sir,

With reference to the subject abovementioned it is humbly submitted that -

1. My Previous representations on the abovementioned subject have been rejected on the ground that LLM degree was not mentioned in the application form of UP Judicial service and communicated to me vide letter no. 11857/IV-3599/Admin.(A) Allahabad Dated 26.08.2013 & no. 10970/IV-3599/Admin.(A) Allahabad Dated 20.08.2015.

2. This fact of LLM degree was not possible to be mentioned in the application form of UP Judicial service because at the time of submission of the form I had not completed LLM degree. I got LLM degree dated 30.06.2008 before the date of appointment and form was filled up in the year 2006.

3. I have already submitted the representation on 20.05.2017 vide endorsement no. 698-I-17- Saharanpur dated 22.05.17 in this respect after the Judgement of Hon'ble Allahabad high court passed in Writ petition no. (S.B.) 1496/15 dated 03.05.17 & Writ petition no. (S.B.) 678/14 dated 08.05.17 with all relevant papers and judgements.

4. The government of U.P. has issued fresh G.O. no. 8/2018/279/Two-4-2018-45(12)/91T.C. Appointment Section-4 Lucknow Dated April 13, 2018 to comply with the directions of the Hon'ble court given in the abovementioned writs.

5. Hon'ble court in the abovementioned writs has quashed the G.O. dated 03.01.12 which required the mentioning of LLM degree in the

Mony
4.5.18

Request 95

Reg. No 7507
File No IV-3599
Serial No 80
7.5.18 8.5.18

Bindu 8.8.18 Bindu 15.5.18

7/5/18
Total page (20)
B14
20.4.18

812

30 APR 2018

34
D.R.L.M. ve

D.R.(R.R.) Admin
S.O. Admin, AI
R.R.
13/7/2018
J.R.

Ms Sarita
9.8.18

~~S.O. Admin~~

S.O. (A.R. (Admin-A))

As per order of Hon'ble Committee,
approved by Hon'ble the Chief Justice
on 31/07/18. Clarification has been
sought from the Court. vide this
Court letter no. 11255/17 F82 (loose)
Admin. (A) Allahabad dated 07.08.
18. May await for reply!

laib
09/08/18

K. B. Singh (R.O.)
09.08.18

Request 95

application form though that G.O. was not applicable to the applicant because of the reason mentioned in para no. 2.

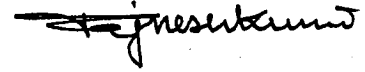
6. I joined the judicial service on April 20, 2009 vide Hon'ble Court notification no. 267/AR(S) 2009 dated Allahabad: April 17, 2009. I got promoted as additional civil judge S.D. /ACJM vide Hon'ble Court notification no. 2156/JR(S) 2015 Dated: Allahabad October 15, 2015 and took charge in the forenoon of 16.10.15. I got LLM degree dated 30.06.2008 before the date of appointment. I fulfil all the requirements mentioned in G.O. dated 13.05.2009 & 13.04.2018 relating to the subject.

It is, therefore, kindly requested to place my representation before the Hon'ble Court for kind consideration so that three advance increments might be granted to me from the date of joining (20.04.09) and be continued on promotion (16.10.15) in the light of G.O. dated 13.04.2018 issued in compliance of the order of the Hon'ble Court passed in the abovementioned writs.

With regards.

Dated : 21.04.2018

Your's faithfully



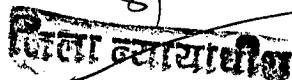
(Rajnesh Kumar)

Civil Judge, Senior Division,
Saharanpur
I.D. UP 1581

Enclosures:-

1. Attested copy of charge taken on 20.04.09 at joining.
2. Attested copy of charge taken on 16.10.2015 on promotion.
3. G.O. Dated 13.04.2018.
4. G.O. Dated 13.05.2009.
5. Application dated 20.05.17.

कार्यालय जिला जज, सहारनपुर
संक्र. 666/1/18 दिनांक 21-04-18
ब्रह्मचरित



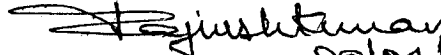
21-04-18

Request 35

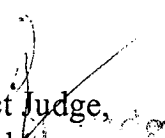
CHARGE CERTIFICATE (TAKING OVER)

Certified that the office of the Additional Civil Judge, (Jr. Div.), Court No. -3, Budaun, was transferred under the orders of Hon'ble Court's Notification No. 267/AR(S)/2009 Dated: Allahabad: April 17, 2009, as herein denoted in the forenoon of April 20, 2009.

RELIEVING OFFICER :


(Rajesh Kumar) 20/04/09

COUNTERSIGNED

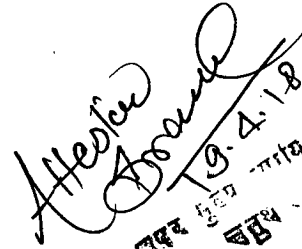

District Judge,
Budaun
BUDAUN

Office of the District Judge, Budaun :

No. 470 / I / Budaun ; Dated : April 20 , 2009

Copy forwarded to the following for information and necessary action :-

- 1- The Registrar General, High Court of Judicature at Allahabad.
- 2- The Joint Registrar, (Computer) High Court of Judicature at Allahabad.
- 3- The Joint Registrar (Services), High Court of Judicature at Allahabad.
- 4- The Deputy Registrar (Services), High Court of Judicature at Allahabad.
- 5- The Secretary, Appointment Section- 4, Civil Secretariate, Lucknow.
- 6- The Senior Treasury Officer, Budaun.
- 7- The Officer concerned.


19-4-18
19-4-18
19-4-18

पदभार ग्रहण प्रमाण-पत्र

Request-35

प्रमाणित किया जाता है कि माननीय उच्च न्यायालय, इलाहाबाद की विज्ञप्ति संख्या- 2156/जे0आर0 (एस)/2015 दिनांकित: इलाहाबाद: अक्टूबर 15, 2015 के अनुसार न्यायिक सेवा में अपर सिविल जज, सीनियर डिवीजन/अपर मुख्य न्यायिक मजिस्ट्रेट, सहारनपुर के पद पर पदोन्नति पर मेरे द्वारा न्यायालय अपर सिविल जज, सीनियर डिवीजन, द्वितीय, सहारनपुर का पदभार आज दिनांक 16.10.2015 को पूर्वाह्न में ग्रहण किया गया।

[Signature]
16.10.15

पदभार ग्रहण अधिकारी

(रजनेश कुमार)

अपर सिविल जज, सीनियर डिवीजन, द्वितीय,
सहारनपुर।

आई0डी0 नम्बर- यू0पी0- 1581

प्रतिहस्ताक्षरित,

[Signature]
जिला न्यायाधीश
सहारनपुर
16-10-15

कार्यालय जिला जज, सहारनपुर।

पत्रांक 1336/II/15 to 1336/II/111/15 दिनांक 16-10-15

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

1. महानिबन्धक, माननीय उच्च न्यायालय इलाहाबाद।
2. महालेखाकार, उत्तर प्रदेश इलाहाबाद।
3. संयुक्त निबन्धक, कम्प्यूटर, माननीय उच्च न्यायालय, इलाहाबाद।
4. उपनिबन्धक सेवार्ये माननीय उच्च न्यायालय इलाहाबाद।
5. सचिव, नियुक्ति अनुभाग-4, सचिवालय, उ0प्र0 शासन लखनऊ।
6. प्रमुख सचिव, न्यायिक अनुभाग, उ0प्र0 शासन।
7. संयुक्त निदेशक, कोषागार, निदेशालय, शिविर कार्यालय नवीन कोषागार भवन प्रथम तल, कचहरी रोड, इलाहाबाद।
8. सैक्शन आफिसर (एडमिन-ए-3 सैक्शन), माननीय उच्च न्यायालय, इलाहाबाद।
9. वरिष्ठ कोषाधिकारी, सहारनपुर।
10. जनपद न्यायाधीश, सहारनपुर।
11. सम्बन्धित अधिकारी।

[Signature]
1) मुख्य प्रशासनिक अधिकारी,
सहारनपुर।

[Signature]
19.10.15
अपर मुख्य न्यायिक मजिस्ट्रेट
सहारनपुर

प्रेषक,

दीपक त्रिवेदी,
अपर मुख्य सचिव,
उत्तर प्रदेश शासन।

सेवा में,

महानिबन्धक,
मा0 उच्च न्यायालय,
इलाहाबाद।

नियुक्ति अनुभाग-4

लखनऊ: दिनांक: 13 अप्रैल, 2018

विषय:- रिट याचिका संख्या-1649(एस बी)/2013 नीलकान्त मणि त्रिपाठी व 29 अन्य बनाम उ0प्र0 राज्य व अन्य में पारित आदेश दिनांक 08-05-2017, रिट याचिका संख्या-678(एस बी)/2014 अभय प्रताप सिंह-II बनाम उ0प्र0 राज्य व अन्य में पारित आदेश दिनांक 08-05-2017 तथा रिट याचिका संख्या-1496 (एस बी)/2015 संजय शंकर पाण्डेय बनाम उ0प्र0 राज्य व अन्य में पारित आदेश दिनांक 03-05-2017 के अनुपालन में उ0प्र0 न्यायिक सेवा के एलएल0एम0 उपाधिधारक अधिकारियों को 03 अग्रिम वेतनवृद्धियाँ स्वीकृत किये जाने के सम्बन्ध में।

महोदय,

प्रथम राष्ट्रीय न्यायिक वेतन आयोग (शेट्टी आयोग) द्वारा की गयी संस्तुतियों के क्रम में मा0 उच्चतम न्यायालय के आदेश दिनांक 21-03-2002 के अनुपालन में उ0प्र0 राज्य के स्नातकोत्तर उपाधिधारक न्यायिक सेवा के चयनित अभ्यर्थियों को शासन के आदेश संख्या-1363/दो-4-2009-45(12)/91टी0सी0, दिनांक 13 मई, 2009 तथा सपठित शासन के पत्र संख्या-1705/दो-4-2011-45(12)/91टी0सी0, दिनांक 03-01-2013 द्वारा मा0 शेट्टी आयोग की संस्तुति को दिनांक 21-03-2002 से स्वीकार करते हुए विधि में स्नातकोत्तर उपाधिधारक उ0प्र0 राज्य के न्यायिक सेवा में चयनित अभ्यर्थियों को 03 अग्रिम वेतनवृद्धियाँ प्रदान की गयी थीं।

2- इसी प्रकार रिट याचिका संख्या-सी-19/2012 भरत कुमार शान्तिलाल ठक्कर बनाम गुजरात राज्य व अन्य में मा0 सर्वोच्च न्यायालय द्वारा पारित निर्णय दिनांक 01-04-2014 के क्रम में महानिबन्धक, उच्च न्यायालय, इलाहाबाद के पत्र दिनांक 15-11-2014 के द्वारा उपलब्ध करायी गयी संस्तुति के दृष्टिगत दिनांक 21-03-2002 के पूर्व चयनित एवं चयन के समय विधि की स्नातकोत्तर उपाधि (एलएल0एम0) धारित करने वाले उत्तर प्रदेश न्यायिक सेवा एवं उत्तर प्रदेश उच्चतर न्यायिक सेवा (सीधी भर्ती) के अधिकारियों को भी शासन के आदेश संख्या-2/2015/355/दो-4-2015-45(12)/91 टी0सी0, दिनांक 27-03-2015 द्वारा 03 अग्रिम वेतनवृद्धियों का लाभ प्रदान किया गया था।

3- इस सम्बन्ध में मा0 उच्च न्यायालय, इलाहाबाद, खण्डपीठ लखनऊ में योजित विषयगत तीनों रिट याचिकाओं में पारित निर्णय दिनांक 08-05-2017 एवं 03-05-2017 के प्रस्तर-60 में निम्न व्यवस्था दी गयी :-

60. Accordingly, letter dated 03.01.2012 is quashed and the Government Orders dated 13.05.2009 and 27.03.2015 require clarification/modification to the extent they deny the benefit of three advance increments to those judicial officers who have

1- यह शासनादेश इलेक्ट्रानिकली जारी किया गया है, अतः इस पर हस्ताक्षर की आवश्यकता नहीं है।

2- इस शासनादेश की प्रमाणिकता वेब साइट <http://shasanadesh.up.nic.in> से सत्यापित की जा सकती है।

acquired/acquire higher qualification of LL.M. after joining the service, therefore, we direct that :-

- i. The benefit of three advance increments shall also be admissible to the petitioners as well as all other similarly situated judicial officers in the State of U.P.
- ii. The judicial officers who acquire the degree of LL.M. before joining the service shall be entitled to three additional increments from the date of joining the service or from the date of implementation of the Government Order, as the case may be, while those who have acquired/acquire the same after joining the service shall be entitled to these increments from the date of acquisition of the higher qualification of LL.M.
- iii. The additional increments shall continue to be drawn by the judicial officers on their further promotion and/or placement in higher pay scale, as the case may be.

The writ petitions are decided accordingly. No order as to costs.

4- उपर्युक्त आदेश दिनांक 03-05-2017 में मा0 न्यायालय के आदेशानुसार शासन द्वारा जारी किये गये अनुपालन आदेश संख्या-6/2018/149/दो-4-2018-45(12)/91 टी0सी0, दिनांक 03-04-2018 एवं तत्क्रम में जारी शुद्धि-पत्र संख्या-7/2018/149 ए/दो-4-2018-45(12)/91 टी0सी0, दिनांक 04-04-2018 को सम्यक् विचारोपरान्त मा0 न्यायालय के आदेश के अनुरूप न होने के कारण उसे एतद्वारा निरस्त करते हुए मुझे यह कहने का निदेश हुआ है कि मा0 न्यायालय के उक्त निर्णय दिनांक 03-05-2017 (जिसमें दिनांक 08-05-2017 को प्रदत्त दोनों आदेश समाहित हैं), के समादर में बिन्दुवार अनुपालन करते हुए श्री राज्यपाल निम्नानुसार संशोधित/पुनरीक्षित आदेश जारी किये जाने की सहर्ष स्वीकृति प्रदान करते हैं:-

- (1) ऐसे न्यायिक अधिकारी, जो उत्तर प्रदेश न्यायिक सेवा में आने के उपरान्त विधि में स्नातकोत्तर उपाधि प्राप्त करते हैं, उन्हें 03 अग्रिम वेतनवृद्धि का लाभ अनुमन्य होगा।
- (2) ऐसे न्यायिक अधिकारी, जो सेवा में आने के पूर्व एलएल0एम0 की उपाधि रखते हैं, उन्हें सेवा में आने के दिनांक से अथवा शासनादेश लागू होने के दिनांक से, जो भी लागू हो, अथवा ऐसे न्यायिक अधिकारी, जो सेवा में आने के उपरान्त एलएल0एम0 की उपाधि प्राप्त कर लेते हैं, उन्हें उपाधि प्राप्त करने के दिनांक से 03 अतिरिक्त वेतनवृद्धियाँ देय होंगी।
- (3) उपर्युक्त अतिरिक्त वेतनवृद्धियों का लाभ सम्बन्धित न्यायिक अधिकारियों की पदोन्नति/उच्च वेतनमान में जाने पर, जो भी स्थिति हो, मिलता रहेगा।

5- यह आदेश वित्त विभाग के अशा0 संख्या-वे.आ. 2-206/दस-2018, दिनांक 13-04-2018 में प्राप्त उनकी सहमति से निर्गत किये जा रहे हैं।

भवदीय,

(दीपक त्रिवेदी)

अपर मुख्य सचिव

संख्या-8/2018/279(1)/दो-4-2018. तददिनांक।

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-

- (1) महालेखाकार, लेखा एवं हकदारी, प्रथम एवं द्वितीय, 30प्र0, इलाहाबाद।
- (2) महालेखाकार, ऑडिट, प्रथम एवं द्वितीय, 30प्र0, इलाहाबाद।
- (3) प्रमुख सचिव, न्याय विभाग, उत्तर प्रदेश शासन।
- (4) निदेशक, कोषागार निदेशालय, 30प्र0, लखनऊ।
- (5) निदेशक, पेंशन निदेशालय, इन्दिरा भवन, लखनऊ।
- (6) निदेशक, वित्तीय प्रबन्ध प्रशिक्षण एवं शोध संस्थान, 24/3, इन्दिरा नगर, लखनऊ।
- (7) संयुक्त निदेशक, शिविर कार्यालय, कोषागार निदेशालय, नवीन कोषागार भवन, कचेहरी रोड, इलाहाबाद।
- (8) समस्त अपर/संयुक्त निदेशक, कोषागार एवं पेंशन, 30प्र0 ।
- (9) समस्त कोषाधिकारी, 30प्र0 ।
- (10) वित्त (सामान्य) अनुभाग-1, 2 व 3, 30प्र0 सचिवालय।
- (11) वित्त (व्यय-नियन्त्रण) अनुभाग-5/ वित्त(वेतन-आयोग) अनुभाग-2, 30प्र0 सचिवालय।
- (12) इरला चेक अनुभाग/इरला चेक (वेतन पर्ची) प्रकोष्ठ, 30प्र0 सचिवालय।
- (13) समस्त जनपद न्यायाधीश, उत्तर प्रदेश।
- (14) गार्ड फाईल।

आज्ञा से,

(अनिता श्रीवास्तव)

विशेष सचिव

संख्या-1363/दो-4-2009-45(12)/91टीसी

प्रेषक,

कुंवर फतेह बहादुर,
प्रमुख सचिव,
उत्तर प्रदेश शासन।

सेवा में,

महानिबंधक,
मा0 उच्च न्यायालय,
इलाहाबाद।

नियुक्ति अनुभाग-4 लखनऊ: दिनांक: 13 मई, 2009

विषय:-प्रथम राष्ट्रीय न्यायिक वेतन आयोग (शेर्टी कमीशन) द्वारा की गयी संस्तुतियों के क्रम में मा0 उच्चतम न्यायालय के आदेश दिनांक 21.3.2002 के अनुपालन में उ0 प्र0 राज्य के स्नातकोत्तर उपाधिधारक न्यायिक सेवा के चयनित अभ्यर्थियों को तीन अग्रिम वेतन वृद्धियां प्रदान किए जाने के संबंध में।

महोदय,

उपर्युक्त विषयक मा0 शेर्टी आयोग की रिपोर्ट वाल्यूम-2/ संस्तुति संबंधी पैरा-8.48 में पेज-590 पर निम्नलिखित संस्तुति की गयी है:-

8.48 If selected candidates are having a higher qualification like post Graduation in Law, We recommend that three advance increments be given as it is allowed by the Delhi Administration. It is an acknowledged fact that Post-Graduation in Law is a difficult course and it is better to reward appropriately such candidates.

2- इससंबंध में मुझे यह कहने का निदेश हुआ है कि मा0 उच्चतम न्यायालय के आदेश दिनांक 21.3.2002 के अनुपालन में उपरोक्त संस्तुति को दिनांक 21.3.2002 से स्वीकार करते हुए विधि में स्नातकोत्तर उपाधिधारक उ0 प्र0 राज्य के न्यायिक सेवा में चयनित अभ्यर्थियों को 3 अग्रिम वेतन वृद्धि प्रदान किये जाने की श्री राज्यपाल महोदय सहर्ष स्वीकृति प्रदान करते हैं।

3- उपरोक्त आदेश वित्त विभाग के अ0शा0सं0-वे0आ0-2-517/दस-2009, दिनांक 13.5.2009 में प्राप्त उनकी सहमति से निर्गत किये जा रहे हैं।

भवदीय,

(कुंवर फतेह बहादुर)
प्रमुख सचिव।

Request-95

From.

Rajnesh Kumar,
II Additional Civil Judge, Senior Division/A.C.J.M.,
Saharanpur.

To,

The Registrar General,
Hon'ble High Court of Judicature at
Allahabad.

Through,

The District Judge,
Saharanpur.

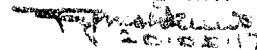
Sub.: Grant of three advance increments from the date of joining the judicial service on the basis of LL.M. Degree.

Sir,

With reference to the subject abovementioned, it is humbly submitted that, vide Hon'ble High Court notification no. 267/AR(S) 2009 dated Allahabad- April 17, 2009 I joined the judicial service on 20.04.2009 as Addl. C. J. (J.D.), Budaan. Vide Hon'ble High Court notification no. 2156/JR(S) 2015 Dated: Allahabad: Oct. 15, 2015, I got promoted as Additional Civil Judge S.D./ACJM and took charge in the forenoon of 16.10.2015. At the time of submission of the application for appearing in the competitive examination I had not completed my LL.M. Before joining the service I had completed my LL.M. Degree, which is part of my service records. The Hon'ble High Court of Judicature at Allahabad while quashing the government letter dated 03.01.2012 on the abovementioned subject, has held in Sanjay Shankar Pandey Vs. State of U.P. through Principal Secretary, Deptt. of appointment and Anr S.B. No. 1496/2015 dated 03.05.2017, that

- i. The benefit of three advance increments shall also be admissible to the petitioners as well as all other similarly situated judicial officers in the State of U.P.,
- ii. The judicial Officers who acquire the degree of LL.M before joining the service shall be entitled to three additional increments from the date of joining the service or from the date of implementation of the Government Order as the case may be, while those who have acquired/acquire the same after joining the service shall be entitled to these increments from the date of acquisition of the higher qualification of LL.M,
- iii. The additional increments shall continue to be drawn by the judicial officers on their further promotion and/or placement in higher pay scale, as the case may be.

In Abhay Pratap Singh II Vs. State of U.P. through Principal Secretary, Deptt. of appointment and Anr S.B. No. 678/2014, dated 08.05.2017, The Hon'ble Allahabad High Court (Lucknow Bench) has held - " We make it clear that the advance increment in light of the Shetty Commission report under Clause 8.48 and in the light of Government Order dated 03.05.2009 is admissible to all eligible judicial Officer, irrespective of the facts as to whether before entering into the


20.05.17

Request 95

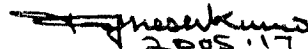
service while submitting the application for appearing in the competitive examination the information was furnished or not"

It is, therefore, kindly requested to place my representation before the Hon'ble Court for kind consideration so that three advance increments might be granted to me accordingly in the light of the abovementioned order of the Hon'ble Court.

With regards,

Dated : 20.05.2017

Your's faithfully


2005.17
(Rajnesh Kumar)

II Additional Civil Judge, Senior Division/A.C.J.M.,
Saharanpur

I.D. - UP 1581

Enclosures:-

1. Attested photocopy of Final Degree of LL.M.
2. Attested photocopy of Marksheet of LL.M. 1st year.
3. Attested photocopy of Marksheet of LL.M. 2nd year.
4. Attested copy of charge taken on 20.04.2009 at joining.
5. Attested copy of charge taken on 16.10.2015 on promotion.
6. Photocopy of the Government letter dated 03.01.2012.
7. Copy of Judgement dated 03.05.2017 passed by Hon'ble High Court of Judicature at Allahabad (Lucknow Bench).
8. Copy of Judgement dated 08.05.2017 passed by Hon'ble High Court of Judicature at Allahabad (Lucknow Bench).

कार्यालय जिला जज, सहारनपुर

पत्रांक 690-I-17 दिनांक 22-5-17

बयसहित

9
जिला न्यायाधीश



22-5-17

Request 93

क्रमांक / Serial No.

501540

नामांकन सं. / Enrolment No.

17920664

अनुक्रमांक / Roll No.

2055669

विधि चरण सिंह विश्वविद्यालय वाराणसी



विधि निष्णात

प्रमाणित किया जाता है कि रजनीश कुमार
 आत्मज/आत्मजा श्री एम.च-६ एवं श्रीमती सुदेशिनी
 को इस विश्वविद्यालय से सन् २००६ की परीक्षा में विधि निष्णात की
 उपाधि द्वितीय श्रेणी में प्रदत्त की गयी है।

MASTER OF LAWS

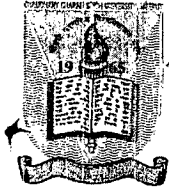
This is to certify that Rajendra Kumar
 son/daughter of shri Cham Chand and Smt. Sudeshina
 has been conferred the Degree of **MASTER OF LAWS** of this
 University in the Examination of 2007 and that he/she was
 placed in Second Division.

Photo Copy attached
 Drawn
 19.5.17
 ७७७ मुद्रण विभाग
 वाराणसी

CHAUDHARY CHARAN SINGH UNIVERSITY, MEERUT

Dated 30.06.2008

S.P. Osha
 कुलपति
 Vice-Chancellor



Reg No. 95

Sl. No. 0089881

CH. CHARAN SINGH UNIVERSITY, MEERUT
(Formerly Meerut University)
STATEMENT OF MARKS

Examination / Year LL.M. (I) B.P. - 2005

Candidate's Name : RAJNESH KUMAR

Roll No. : L0558088

Father's Name : PREM CHAND

Enrol No. : M 9210614

Mother's Name : SUDESHNA

Institution's Name : MEERUT COLLEGE, MEERUT

NAME OF THE COURSE	CODE No.	MARKS		MARKS OBTAINED		TOTAL
		Max.	Min.	THEORY	PRACTICAL	
LEGAL HISTORY OF ENGLAND AND INDIA	101	100		47		
CONSTITUTIONAL LAW OF INDIA	102	100		50		
JURISPRUDENCE	201	100		56		
LEGISLATION PRINCIPLES METHODS & INTERPRETATION	202	100		49		

TOTAL	MAX. MARKS	MIN. MARKS	MARKS OBT.	RESULT
	400	200	202	PASS

Photo copy attested
19-8-17
शपथ सहायक न्यायिक मोजस्ट्रेट
बहुध सहायक न्यायिक

In case of any discrepancy between the entries in the marksheet issued & in the University record, the University record shall be final.

Date : 13/08/07

(See on back)

Registrar
C.C.S. University, Meerut

Page No 95



CH. CHARAN SINGH UNIVERSITY, MEERUT

STATEMENT OF MARKS

Sl. No 2K8 432704

Examination / Year LL.M. FINAL B.P.-2007

Candidate's Name : RAJNESH KUMAR

Roll No. : L0557609

Father's Name : PREM CHAND

Enrol No. : M 9210614

Mother's Name : SUDESHNA

Institution's Name : MEERUT COLLEGE, MEERUT

NAME OF THE COURSE	CODE No.	MARKS		MARKS OBTAINED		TOTAL
		Max.	Min.	THEORY	PRACTICAL	
GENERAL PRINCIPLES OF CONTRACT	310	100		61		
SPECIFIC CONTRACTS	311	100		59		
COMPANY LAW AND PARTNERSHIP	412	100		54		
NEGOTIABLE INSTRUMENTS CARRIAGE OF GOOD & INSUR.	413	100		51		

	MAX. MARKS	MIN. MARKS	MARKS OBT.	RESULT
TOTAL	400	200	225	
PREV. TOTAL	400	200	202	SECOND
GRAND TOTAL	800	400	427	

Photo copy attested
19-5-17

बिना प्रश्न कायम राजकुंठ
बहुध सुहायक

In case of any discrepancy between the entries in the marksheet issued & in the University record, the University record shall be final.

CHECKED BY:	
1. Full Signature	2. Full Signature
Full Name	Full Name

Date :

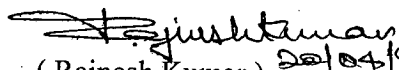
18/03/07

Registrar
C.C.S. University, Meerut
C.C.S. University Meerut


Request 95

CHARGE CERTIFICATE (TAKING OVER)

Certified that the office of the Additional Civil Judge, (Jr. Div.), Court No. -3, Budaun, was transferred under the orders of Hon'ble Court's Notification No. 267/AR(S)/2009 Dated: Allahabad: April 17, 2009, as herein denoted in the forenoon of April 20, 2009.

RELIEVING OFFICER : 
(Rajnesh Kumar) 20/04/09

COUNTERSIGNED


District Judge,
Budaun
BUDAUN

Office of the District Judge, Budaun :

No. 470 / I / Budaun ; Dated : April 20 , 2009

Copy forwarded to the following for information and necessary action :-

- 1- The Registrar General, High Court of Judicature at Allahabad.
- 2- The Joint Registrar, (Computer) High Court of Judicature at Allahabad.
- 3- The Joint Registrar (Services), High Court of Judicature at Allahabad.
- 4- The Deputy Registrar (Services), High Court of Judicature at Allahabad.
- 5- The Secretary, Appointment Section- 4, Civil Secretariate, Lucknow.
- 6- The Senior Treasury Officer, Budaun.
- 7- The Officer concerned.

Photo copy attached
19-4-17
बुधवार सुबह न्यायिक सचिवालय
बुधवार सुबह न्यायिक सचिवालय

पदभार ग्रहण प्रमाण-पत्र

Request 55

प्रमाणित किया जाता है कि माननीय उच्च न्यायालय, इलाहाबाद की विज्ञप्ति संख्या- 2156/जे0आर0 (एस)/2015 दिनांकित: इलाहाबाद: अक्टूबर 15, 2015 के अनुसार न्यायिक सेवा में अपर सिविल जज, सीनियर डिवीजन/अपर मुख्य न्यायिक मजिस्ट्रेट, सहारनपुर के पद पर पदोन्नति पर मेरे द्वारा न्यायालय अपर सिविल जज, सीनियर डिवीजन, द्वितीय, सहारनपुर का पदभार आज दिनांक 16.10.2015 को पूर्वान्ह में ग्रहण किया गया।

पदभार ग्रहण अधिकारी

(रजनेश कुमार)

अपर सिविल जज, सीनियर डिवीजन, द्वितीय,
सहारनपुर।

आई0डी0 नम्बर- यू0पी0- 1581

प्रतिहस्ताक्षरित,

जिला न्यायाधीश
सहारनपुर
16-10-15

कार्यालय जिला जज, सहारनपुर।

पत्रांक. 1336/II/15 to 1336/II/15 दिनांक 16-10-15

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

1. महानिबन्धक, माननीय उच्च न्यायालय इलाहाबाद।
2. महालेखाकार, उत्तर प्रदेश इलाहाबाद।
3. संयुक्त निबन्धक, कम्प्यूटर, माननीय उच्च न्यायालय, इलाहाबाद।
4. उपनिबन्धक सेवायें माननीय उच्च न्यायालय इलाहाबाद।
5. सचिव, नियुक्ति अनुभाग-4, सचिवालय, उ0प्र0 शासन लखनऊ।
6. प्रमुख सचिव, न्यायिक-अनुभाग, उ0प्र0 शासन।
7. संयुक्त निदेशक, कोषागार, निदेशालय, शिविर कार्यालय नवीन कोषागार भवन प्रथम-तल, कचहरी रोड, इलाहाबाद।
8. सैक्शन आफिसर (एडमिन-ए-3 सैक्शन), माननीय उच्च न्यायालय, इलाहाबाद।
9. वरिष्ठ कोषाधिकारी, सहारनपुर।
10. जनपद न्यायाधीश, सहारनपुर।
11. सम्बन्धित अधिकारी।

1/ मुख्य प्रशासनिक अधिकारी,
सहारनपुर।

Photo Copy attested
19-10-17
मुख्य न्यायिक मजिस्ट्रेट
सहारनपुर

प्रेषक,

योगेश्वर राग मिश्र,
संयुक्त सचिव,
उ० प्र० शासन।

सेवा में,

महानिबन्धक,
मा० उच्च न्यायालय,
इलाहाबाद।

Page 95

नियुक्ति अनुभाग-4

लखनऊ दिनांक 03 जनवरी, 2012

विषय--

प्रथम राष्ट्रीय न्यायिक वेतन आयोग (शेड्टी कमिशन) द्वारा की गयी संस्तुतियों के क्रम में मा० उच्चतम न्यायालय के आदेश दिनांक 21.3.2002 के अनुपालन में उ० प्र० राज्य के स्नातकोत्तर उपाधि धारक न्यायिक/उच्चतर न्यायिक सेवा के चयनित अभ्यर्थियों को 03 अग्रिम वेतन वृद्धि प्रदान किये जाने के सम्बन्ध में।

महोदय,

उपर्युक्त विषय पर पूर्व में जारी शारानादेश संख्या-363/दो-4-2009-45(12)/91टी.सी. दिनांक 13.5.2009 में शेड्टी आयोग की संस्तुतियों के अनुरूप यह स्पष्ट क्रिया जा चुका है कि 03 अतिरिक्त वेतन वृद्धि का लाभ चयन के समय स्नातकोत्तर उपाधि धारक न्यायिक/उच्चतर न्यायिक सेवा के अभ्यर्थियों/अधिकारियों को प्राप्त होगा। फिर भी आपके विभिन्न पत्रों में वांछित 05 बिन्दुओं के संदर्भ में बिन्दुवार वस्तुस्थिति स्पष्ट करते हुए मुझे यह कहने का निर्देश हुआ है कि निम्नलिखित सारिणी में दिये गये यथोचित उत्तरानुसार अग्रतर आवश्यक कार्यवाही सुनिश्चित करने का कष्ट करें।

क्रमांक	मा० उच्च न्यायालय का प्रश्न	उत्तर
1.	क्या दिनांक 21.3.2002 को स्नातकोत्तर उपाधि धारक सेवारत एवं सेवानिवृत्त सभी न्यायिक अधिकारियों को 03 अतिरिक्त वेतन वृद्धि प्रदान की जायेगी?	हाँ
2.	क्या दिनांक 21.3.2002 के बाद एल.एल.एम. उपाधिधारक न्यायिक अधिकारियों को भी 03 अतिरिक्त वेतन वृद्धि प्रदान की जायेगी।	चयन के समय ही दिनांक 21.3.2002 एवं उसके बाद एल.एल.एम. उपाधि धारक उक्त अधिकारियों को ही उक्त सुविधा प्राप्त होगी
3.	क्या केवल ऐसे न्यायिक/उच्चतर न्यायिक अधिकारियों को जिन्होंने चयन के समय अपने आवेदन पत्र में जो कि लोक सेवा आयोग एवं उच्च न्यायालय, इलाहाबाद को प्रस्तुत किया गया था में स्नातकोत्तर उपाधि का जिक्र किया था उन्हें ही 03 अतिरिक्त वेतन वृद्धि प्रदान की जायेगी?	जी हाँ।

4.	क्या 03 अतिरिक्त वेतन वृद्धि ऐसे न्यायिक/उच्चतर न्यायिक सेवा के सीधी भर्ती के अधिकारियों को ही देय होगी जो दिनांक 21.3.2002 एवं उसके बाद चयन के समय एलएल.एम. डिग्री रखते थे?	जी हाँ
5.	क्या उक्त शासनादेश संख्या-1363 /दो-4-2009-45(12)/91टी.सी. दिनांक 13.5.2009 में प्रदत्त 03 अतिरिक्त वेतन वृद्धि की सुविधा के साथ मंहगाई भत्ता भी देय होगा।	जी हाँ, चूंकि मंहगाई भत्ता वेतन का भाग होता है अतः ऐसे अग्रिम वेतन वृद्धि पर मंहगाई भत्ता अनुभूत होगा।

भवदीय,

(योगेश्वर-राम मिश्र)
संयुक्त सचिव।

Page 45

Request 95

Reserved

1. Case :- SERVICE BENCH No. - 1496 of 2015

Petitioner :- Sanjay Shankar Pandey

Respondent :- State Of U.P. Thru. Prin. Secy., Deptt. Of Appointment & Anr.

Counsel for Petitioner :- Anwar Ashfaq, Rina Pandey

Counsel for Respondent :- C.S.C., Gaurav Mehrotra, U.N. Mishra

2. Case :- SERVICE BENCH No. - 1628 of 2015

Petitioner :- Lovely Jaiswal

Respondent :- State Of U.P. Through Prin. Secy. Appointment Lko. & Ors.

Counsel for Petitioner :- Avinash Chandra

Counsel for Respondent :- C.S.C., U.N. Mishra

3. Case :- SERVICE BENCH No. - 1869 of 2015

Petitioner :- Pawan Kumar Srivastava

Respondent :- State Of U.P. Through Prin. Secy. Appointment Lko. & Ors.

Counsel for Petitioner :- Alok Saran, Avinash Chandra

Counsel for Respondent :- C.S.C., U.N. Mishra

And

4. Case :- SERVICE BENCH No. - 392 of 2016

Petitioner :- Atul Chaudhary

Respondent :- State Of U.P. Thru Prin. Secy. (Appointment) Civil Sectt. & Ors.

Counsel for Petitioner :- Avinash Chandra

Counsel for Respondent :- C.S.C., U.N. Misra

Hon'ble Shri Narayan Shukla, J.

Hon'ble Sheo Kumar Singh-I, J.

(Delivered by Sheo Kumar Singh-I, J.)

1. Hon'ble the Supreme Court of India while dealing the matter of All India Judges' Association vs. Union of India – (2002) 4 SCG 247 had issued several directions for the improvement of service conditions including reasonable hike in the pay scales of the judicial officers. The recommendation made by the First National Judicial Pay Commission popularly known as "Shetty Commission" in this regard, including for grant

of three advance increments to judicial officers having post graduate degree in Law, were also accepted.

2. While recommending uniform pattern of eligibility conditions and pay structure throughout the country in the Judicial Services, 'Shetty Commission' considered the desirability of granting 'Additional Benefit for Higher Qualification'. The Commission referred to the Service Rules and conditions of service prevailing in different States at the entry level and took notice in para 8.46 of its Report Vol-II of the fact that except Delhi and Rajasthan, in none of the States additional benefit to a selected candidate possessing higher qualification was admissible. The Commission thereafter made the following recommendations in paras 8.48 and 8.49 of the report (Vol-II):-

8.48 If selected candidates are having a higher qualification like Post-Graduation in Law, we recommend that three advance increments be given as it is allowed by the Delhi Administration. It is an acknowledged fact that Post-Graduation in Law is a difficult course and it is better to reward appropriately such candidates.

3. The State of U.P. vide Government Order dated 13.05.2002 issued a direction to implement the recommendations of Hon'ble the Apex Court to be effective from the date of 21.03.2002 extending the benefit of three advance increments to the officers who are selected in the service after the above date. Hon'ble the Supreme Court in the cited decision directed all the States of India to implement these recommendations and grant the benefit of three advance increments to those officers who possess higher qualification but the reluctant executive started misinterpreting the Shetty Commission's recommendations to mean that this benefit is extended only to those officers who are selected and joined the services after the date of implementation. Aggrieved by the order, the present petitioners, while filing aforesaid writ petitions under Article 226 of the Constitution of India, have prayed to issue a writ, order or direction in the nature of certiorari

Request 95

quashing the impugned order so far as it affects the right of the petitioners for grant of three advance increments and with further direction in the nature of mandamus commanding the opposite parties to granted three advance increments to the petitioners on the basis of Shetty Commission with effect from the date of their acquiring LL.M degree with further prayer to grant these three increments on every promotion or revised pay scale as granted by the State of Delhi.

4. The brief facts giving rise to filing of the aforesaid writ petitions are that after award of LL.M degree, the petitioners moved an application for grant of three advance increments as admissible in accordance with the recommendations of Shetty Commission which was accepted by the Hon'ble Supreme Court but they were denied by the subsequent Government letters dated 03.01.2012 and 27.03.2015, thus, the aforesaid writ petitions.

5. The State Government vide order dated 13.05.2009 provided the selected officers of the U.P. State Judicial Service having post graduate degree in Law for entitlement of these increments with effect from 21.03.2002 but subsequently the Government Order dated 13.05.2009 was modified by the Government Order dated 27.03.2015 clarifying the position that the officers who were appointed prior to 21.03.2002 in U.P. State Judicial Service and at the time of their selection having LL.M degree are entitled to get three advance increments. Some of the judicial officers completed their LL.M degree after the above cut off date and applied for sanction of three advance increments as admissible in accordance with the recommendations of the Shetty Commission but the respondents declined to extend the benefit on the ground that those who have been awarded LL.M degree after entering into the service are not entitled for the allowance.

6. The petitioners have challenged the order on the ground that the clarification issued by the Government is unreasonable and violative of Article 14 of the Constitution of India.

7. In the Counter Affidavit it has been narrated that the admissibility of above three advance increments is applicable to those officers who were selected after the cut of date and not with respect to the judicial officers who are already in service. The Government has further clarified vide order dated 03.01.2012 that the candidates who had duly filled in the application form the factum of possessing post graduate degree of Law at the time of selection, filling the application form, would be entitled for three advance increments.

8. A common question that arises for consideration in all these writ petitions includes the admissibility of grant of three advance increments to the judicial officers who have got LL.M degree and come within the following categories:-

- i. The officers who were selected after 21.03.2002 and have LL.M degree, and
- ii. The officers who took permission from the competent authority for LL.M and after taking permission, the degree was awarded during the service period.

9. In the present case the degree of Master of Law would certainly bring efficiency in discharging duties by the judicial officers in comparison to those officers who do not possess such degree. The question that arises for our consideration is as to whether the classification sought to be made between the judicial officers who possessed LL.M degree at the time of joining service and those who obtain the same subsequent to their appointment come within the reasonable classification based upon an intelligible criteria or not. A distinction has been made by the respondents between the persons appointed before entering into service from the date of implementation and those who acquired higher qualification while in

Request 95

service. This distinction seems to be illusory and unwarranted and in our view frustrates the basic policy of benefiting the officers who have higher qualification. A similar situation was considered by Hon'ble the Apex Court in the case of **P.K. Ramchandra Iyer and others v. Union of India – AIR 1984 SC 541** in which it was held that right to equality in pay scale amongst two similar classes of employees performing identical or similar duties and carrying out same functions with the same measure of responsibility having same academic qualifications are entitled for equal pay. While examining the reasonable classification the Court before forming an opinion shall consider various factors like nature of duties; functions, measures of responsibility and educational qualifications etc. Applying these yardsticks, we find no tangible distinction amongst the judicial officers possessing higher qualification of LL.M whether obtained degree before or after joining the judicial service. If the degree of Masters of Law or higher education brings efficiency and improves quality of discharging duties by a judicial officer, we fail to understand as to why such a qualitative advantage will not be achieved by an officer who does LL.M after joining the service.

10. The justification advanced by the State Government in its affidavit has been based on Para 8.48 of the Shetty Commission by interpreting the words "if selected candidates are having a higher qualification like post graduation in Law". In other words, it was interpreted by the executive of the State that the word 'higher qualification' should be possessed by the officer at the time of his/her selection. The above plea as raised by the learned counsel for the respondents/CSC, in our considered view, is wholly unwarranted and unjustified on the ground that firstly Shetty Commission has nowhere recommended that three advance increments are not to be granted to those officers who acquire higher qualification.

6

while in service. Secondly, the direction should not be interpreted in negative prospects. The beneficial legislation or Government Orders be interpreted in the way to fulfill and achieve the goal for which it was issued. The phrase "selected candidates having higher qualification" does not and cannot mean that if higher qualification is acquired by the selected candidates after their appointment, it would not improve their efficiency with better knowledge of Law. Thirdly, the judicial officers having post graduate degree in Law before appointment and those who acquire such degree after joining the service, constitute one homogeneous class and the artificial classification to discriminate against the latter category of officers does not satisfy the test of equality within the meaning of Articles 14 and 16 of the Constitution of India.

11. The Government Order dated 13.05.2009 further specifieswe recommend that three advance increments be given as it is allowed by the Delhi Administration. It is an acknowledged fact that post graduation in Law is difficult course and it is better to reward appropriately such candidates. The purpose of the Shetty Commission was of equal pay and service conditions of the judicial officers throughout the country and the State has accepted this allowance in parity with Delhi Administration.

12. The Government of India, Ministry of Law, Justice and Company Affairs, Department of Justice, Jaisalmer House, Mansingh Road, New Delhi, vide order no.17/17014/1/98-JO3 dated 24.06.2002 has issued an order to grant this benefit in the following terms:-

In pursuance of the Hon'ble Supreme Court order dated 1.2.2002 dismissing SLP No.1462/2002 titled as Union of India v. S.K. Kaushik & Ors. filed by the Union of India against the High Court of Delhi judgment dated 3.8.2001 in LPA No.390/01 and others identical cases wherein the Hon'ble Delhi High Court had directed Union of India to grant of three advance increments to the petitioner, Sh. S.K. Kaushik Judicial Officer w.e.f. 1.1.1986 and all other similarly situated judicial officers throughout their employment as

Request 95

7

judicial officer, and in case the petitioner is placed in a higher or revised pay scale, he will get three advance increments in that higher/revised pay scale in Higher Judicial Service and the arrears payable to the petitioner will be duly worked out and paid to him. I am directed to convey sanction of the Central Government to the grant of 3 advance increments to the petitioner Sh. S.K. Kaushik, a judicial officer w.e.f. 1.1.1986 and arrears accrued to him and to all other similarly situated judicial officers throughout their employment as judicial officer as per the orders dated 20.02.2001 of the Hon'ble High Court.

13. The need and importance of higher education and professional qualifications have been recognised by the Fourth Pay Commission. In para 29.8 at page 29, Vol. 1 of the Fourth Pay Commission report it has been recommended that the government employees who could acquire higher professional qualifications would be useful in their official working and contribute to their efficiency. The recommendations of the Fourth Pay Commission were accepted by the Government of India on 15.2.1986 and it was duly accepted by the Union of India. It was the general consensus that attaining a higher qualification in a particular field undoubtedly results in broadening the outlook of an individual and increase in knowledge thereby directly bringing efficiency which alone was the object of recommendations made by the Fourth Pay Commission. There was no reason why the same ought not to have been accepted by the respondents. It may be pertinent to mention that such incentives have already been given to doctors and other government employees: Denial of similar incentives to the petitioners/ judicial officers in the matter of increments on acquiring or in recognition to the higher qualification would amount to discrimination.

14. It has further been submitted by learned counsel for the petitioners that State of Uttarakhand has also recommended the facility of payment of three advance increments to the officers w.e.f. 01.11.1999 and all those officers who had degree at the time of entering into the service or had

degree before entering into the service or they were awarded degree after entering into the service and during continuance of the service are entitled for payment of this allowance. The copy of the order passed by the Secretary, Law Department, Uttarakhand Government dated 27.03.2008 has been placed before us.

15. The Government of Himachal Pradesh, Home Department, vide order dated 17.07.2014 has clarified that this advance increment is also admissible to the judicial officers who acquire post graduation degree in Law i.e. LL.M after joining the service. The relevant order is quoted below:-

"In continuation of this Department's notification of even number dated 29th August, 2008 and as corrigendum to notification of even number dated 2.3.2009, the Governor, Himachal Pradesh, in exercise of the powers conferred by Section 3 read with Section 4 of the Himachal Pradesh Judicial Officers (Pay, Allowances and Conditions of Service) Act, 2003 is pleased to grant with immediate effect three advance increments to the Judicial Officers, who acquire post graduate degree in Law i.e. LL.M. after joining service."

16. Writer's Building, Kolkata has also sanctioned the advance increment for having or acquiring higher qualification in Law for the Members of West Bengal Judicial Service, which is as under:-

"I am directed by the order of the Governor to say that all members belonging to the West Bengal Judicial Service having/acquiring higher qualification like post graduation in Law are entitled to get three advance increments with effect from 01.11.1999 as per recommendations of the Shetty Commission duly accepted by Hon'ble Apex Court. This order issues with the concurrence of the Finance Department of West Bengal vide their U/O No.165. Group I (Pay) dated 18.01.2008."

17. A similar benefit has been provided to the Members of Judicial Service in the State of Kerala vide judgment and order dated 16.12.2014 in Writ Petition No.25828 of 2012 with following terms:-

"It is beyond dispute that by virtue of the various orders issued by the Apex Court, the State is bound to implement the said recommendation of the Pay Commission in its letter and spirit. It is

Reg. No. 95

evident from the report that the said recommendation was intended to reward those who have obtained post graduation which is considered to be a difficult course. Further, in Exhibit P6 judgment, this Court has held that the said recommendation was intended to recognise and honour the higher qualified Judicial Officers to enable them to serve better and improve the quality of the justice delivery system. The relevant portion of the said judgment reads thus:

"From the contents of the recommendation as well as the G.O., it is evident that the intention was to recognise and honour the higher qualifications of the Judicial Officers, which was considered as a wealth to the entire judiciary and to serve better justice delivery system. It cannot be said that the GO was issued by the Government only to attract more persons having more higher qualifications, as the purpose of the recommendation made by the Shetty Commission was to appreciate the persons who are having higher qualifications, which in turn may serve in future to attract persons having such higher qualifications as well and thus to improve the quality."

If the recommendation was intended to recognise and honour the higher qualified Judicial Officers to enable them to serve better and improve the quality of the justice delivery system, I fail to understand how a classification can be made between the Judicial Officers who have obtained post graduation before and after their entry into the service. The object sought to be achieved being the honouring and recognising of the higher qualified Judicial Officers, the classification of Judicial Officers as those obtained post graduation before and after their entry in the service cannot be held to be on an intelligible differentia. The State, in the circumstances, is bound to extend the benefit of Exhibits P3 and P4 orders to all the Judicial Officers who have obtained post graduation while in service also.

In the result, the writ petitions are allowed and the respondents are directed to extend the benefit of Exhibits P3 and P4 orders to all Judicial Officers in the State who have obtained post graduation while in service also. This shall be done within a period of three months from the date of receipt of a copy of this judgment."

18. Learned counsel for the State has raised the other allowance admissible to the judicial officers in accordance with Shetty Commission report.

19. We are not concerned with other allowance or pay scale. This Court is concerned with the facts and reliefs as prayed by the petitioners in these petitions for the admissibility of three advance increments for the officers who possess LL.M degree. Perusal of the Government Order dated 13.05.2009 makes it clear that there is no distinction between the

officers who had LL.M degree before entering into the service or who acquire LL.M degree after entering into the service. It is clarification dated 03.01.2012 and 27.03.2015 creating controversy and making distinction with arbitrariness which is violative of principles as laid down in Article 14 of the Constitution of India.

20. It is settled law that when the action of the State instrumentality is not as per rules or regulations and not supported by the Government order, the Court must exercise its jurisdiction to declare such an act to be illegal and invalid.

21. In *Sirsi Municipality Vs. Cecelia Kom Francis Tellis*, AIR 1973 SC 855, the Supreme Court observed that "the ratio is that the rules or the regulations are binding on the authorities."

22. Similarly, a Constitution Bench of the Hon'ble Supreme Court in *Sukhdev Singh & Ors. Vs. Bhagatram Sardar Singh Raghuvanshi & Anr.*, AIR 1975 SC 1331, has observed as under:-

"The statutory authorities cannot deviate from the conditions of service. **Any deviation will be enforced by legal sanction of declaration by Courts to invalidate actions in violation of rules and regulations.** The existence of rules and regulations under statute is to ensure regular conduct with a distinctive attitude to that conduct as a standard. The statutory regulations in the cases under consideration give the employees a statutory status and impose restrictions on the employer and the employee with no option to vary the conditions.....In cases of statutory bodies there is no personal element whatsoever because of the impersonal character of statutory bodies.....**the element of public employment or service and the support of statute require observance of rules and regulations.** Failure to observe requirements by statutory bodies is enforced by courts by declaring (action) in violation of rules and regulations to be void. This Court has repeatedly observed that whenever a man's rights are affected by decision taken under statutory powers, the Court would presume the existence of a duty to **observe the rules of natural justice and compliance with rules and regulations imposed by statute.**" (Emphasis added).

23. Similar view has been taken by the Supreme Court in *Ambica Quarry Works etc. Vs. State of Gujarat & Ors.*, AIR 1987 SC 1073; and

Request 95

Commissioner of Police, Bombay Vs. Gordhandas Bhanji, AIR 1952 SC

16. In both the cases, the Apex Court relied upon the judgment of the House of Lord in Julius Vs. Lord Bishop of Oxford, (1880) 5 AC 214, wherein it was observed as under:-

"There may be something in the nature of thing empowered to be done, something in the object for which it is to be done, something in the title of the person or persons for whose benefit the power is to be exercised, which may couple the power with a duty, and make it the duty of the person in whom the power is reposed, to exercise that power when called upon to do so."

In Commissioner of Police (supra), the Apex Court observed as under:-

"Public authorities cannot play fast and loose with the powers vested in them, and persons to whose detriment orders are made are entitled to know with exactness and precision what they are expected to do or forbear from doing and exactly what authority is making the order.....An enabling power of this kind conferred for public reasons and for the public benefit is, in our opinion, coupled with a duty to exercise it when the circumstances so demand. If is a duty which cannot be shirked or shelved nor it be evaded, performance of it can be compelled."

In Dr. Meera Massey Vs. Dr. S.R. Mehrotra & Ors., AIR 1998 SC 1153, the Apex Court observed as under:-

"If the laws and principles are eroded by such institutions, it not only pollutes its functioning deteriorating its standard but also exhibits.....wrong channel adopted.....If there is any erosion or descending by those who control the activities all expectations and hopes are destroyed. If the institutions perform dedicated and sincere service with the highest morality it would not only up-lift many but bring back even a limping society, to its normalcy."

24. The Supreme Court has taken the same view in Ram Chand & Ors. Vs. Union of India & Ors., (1994) 1 SCC 44, and held that "the exercise of power should not be made against the spirit of the provisions of the basic policy, otherwise it would tend towards arbitrariness."

25. Therefore, it is evident from the aforesaid judgments of the Hon'ble Apex Court that whenever any action of the authority is in violation of the provisions of the statute or the action is constitutionally illegal, it cannot

claim any sanctity in law, and there is no obligation on the part of the Court to sanctify such an illegal act. Wherever the statutory provision is ignored, the Court cannot become a silent spectator to such an illegal act, and it becomes the solemn duty of the Court to deal with the persons violating the law with heavy hands. (Vide Mrs. Dr. Chanchal Goyal Vs. State of Rajasthan, AIR 2003 SC 1713; M.D., U.P. Land Development Corporation & Anr. Vs. Amar Singh & Ors., AIR 2003 SC 2357; State of Haryana & Anr. Vs. Tilak Raj & Ors., AIR 2003 SC 2658; Haryana Tourism Corporation Ltd. Vs. Fakir Chand & Ors., AIR 2003 SC 4465; Sultan Sadik Vs. Sanjay Raj Subba & Ors., AIR 2004 SC 1377; and A. Umarani Vs. registrar, Co-operative Societies & Ors., 2004 AIR SCW 4462).

26. In Ramniklal N. Bhutta & anr. Vs. State of Maharashtra & ors., AIR 1997 SC 1236, the Hon'ble Apex Court observed as under:-

"The power under Art. 226 is discretionary. It will be exercised only in furtherance of justice and not merely on the making out of a legal point. the interest of justice and public interest coalesce. They are very often one and the same. The Courts have to weight the public interest vis-a-vis the private interest while exercising the power under Art. 226.... indeed any of their discretionary powers."

27. In view of the above, we are of the considered opinion that every statutory provision requires strict adherence, for the reason that the statute creates rights in favour of the citizens, and if any order is passed de hors the same, it cannot be held to be a valid order and cannot be enforced. As the statutory provision creates legal rights and obligations for individuals, the statutory authorities are under a legal obligation to give strict adherence to the same and cannot pass an order in contravention thereof, treating the same to be merely decoration pieces in his office.

28. So far as the challenge to the cut off date is concerned, it should not be forgotten that while fixing the cut off date, the Authority has to

Page 95

consider various aspects of the case and there is very limited scope of judicial interference in such matters. It is settled proposition of law that a cut off date can be introduced, but it is not permissible to do in such an artificial manner that it may discriminate the similarly situated persons. Cut off date may be introduced by creating a fiction but while doing so, the consequences must be examined thoroughly and the date must have some nexus to the object sought to be achieved. Generally it should be prospective but may have retrospective effect also.

29. If the State cannot bear the financial burden to meet a particular requirement, it may be a sufficient cause to fix a particular cut off date and even to make the law with retrospective effect. However, the basis must be shown to have a nexus with the object of classification as well as of legislative exercise. If the choice of fixing a particular date is shown to be wholly arbitrary and introduces discrimination, which violates the mandate of Article 14 of the Constitution, the classification can be struck down for the reason that a purpose of choice unrelated to the object sought to be achieved cannot be accepted as valid. If fixing of a cut off date is not devoid of rational consideration and wholly not whimsical and the Authorities had not acted malafide with a view to deprive a particular section of employees of such benefits and the cut off date has been fixed on the recommendation of the Expert Committee/Board or on proper consideration by the Authority concerned, it may meet the test of reasonableness and cannot be held arbitrary. While examining the cases like the instant, the Court has to be very conscious because judicial review is not permissible unless the Court is satisfied that the cut off date is "very wide off the reasonable mark or so capricious or whimsical as to permit judicial interference." In all such matters, the Government/ Authority has to fix a particular date for

computing the eligibility and if the date so adopted meets the test of reasonableness, it cannot be invalidated merely on the ground that it may adversely affect some persons. In such a case the rational behind the Policy has to be examined as to whether it is beneficial to all or intended to be punitive to some or to discriminate on irrational grounds.

30. When the policy and order provide for a particular thing and benefit, the authority has to follow the same and cannot be permitted to act in contravention of the same. It has been hitherto uncontroverted legal position that where a statute requires to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods or mode of performance are impliedly and necessarily forbidden. The aforesaid settled legal proposition is based on a legal maxim "Expressio unius est exclusio alterius", meaning thereby that if a statute provides for a thing to be done in a particular, then it has to be done in that manner and in no other manner and following other course is not permissible. (Vide Taylor Vs. Taylor, (1876) 1 Ch.D.426; Nazir Ahmed Vs. King Emperor, AIR 1936 PC 253; Deep Chand Vs. State of Rajasthan, AIR 1981 SC 1527; Patna Improvement Trust Vs. Smt. Lakshmi Devi, AIR 1963 SC 1077; State of Uttar Pradesh Vs. Singhara Singh & Ors., AIR 1964 SC 358; Chettiam Veetil Ammad Vs. Taluk Land Board & ors., AIR 1979 SC 1573; State of Bihar Vs. J.A.C. Saldanna, AIR 1980 SC 327; State of Mizoram Vs. Biakchhawna, (1995) 1 SCC 156; J.N.Ganatra Vs. Morvi Municipality Morvi, AIR 1996 SC 2520; Haresh Dayaram Thakur Vs. State of Maharashtra & ors., (2000) 6 SCC 179; Dhanajaya Reddy Vs. State of Karnataka etc. etc., (2001) 4 SCC 9; Commissioner of Income Tax, Mumbai Vs. Anjum M.H. Ghaswala & ors., (2002) 1 SCC 633; Prabha Shankar Dubey Vs. State of Madhya Pradesh, AIR 2004 SC 486; and Ram Phal Kundu Vs. Kamal Sharma, AIR 2004 SC 1657.

Request 23

31. In M/S Erusian Equipment & Chemicals Ltd. Vs. State of West Bengal & Anr., AIR 1975 SC 266, the Supreme Court observed that where a Government activity involves public element, the "citizen has a right to claim equal treatment", and when "the State acts to the prejudice of a person, it has to be supported by legality." Functioning of a "democratic form of Government demands equality and absence of arbitrariness and discrimination".

32. Similarly, in Ramana Dayaram Shetty Vs. The International Airport Authority of India & ors., AIR 1979 SC 1628, the Apex Court observed that the activities of the government had a public element and if it framed a policy, it must do so fairly without discrimination and without unfair procedure. Whenever the government dealt with the public, whether by way of giving certain relaxation or special benefit, the government could not act arbitrarily at its sweet will but must act in conformity with standards or norms, without being arbitrary, irrational or irrelevant. If the government departed from such standard or norm in any particular case or cases its action was liable to be struck down unless it could be shown that the departure was not arbitrary but was based on some valid principle which was not irrational, unreasonable or discriminatory. The Court further held as under:-

"Every action of the executive Government must be in form of reason and should be free from arbitrariness. That is the very essence of rules of law and its bare minimum requirement."

33. Thus, a decision taken in an arbitrary manner contradicts the principle of legitimate expectation and the plea of legitimate expectation relates to procedural fairness in decision making and forms a part of the rule of non-arbitrariness, as denial of administrative fairness is Constitutional anathema. The basic requirement of Article 14 is fairness in action by the State. (Vide E.P. Royappa Vs. State of Tamil Nadu, AIR 1974

SC 555; Smt Maneka Gandhi Vs. Union of India & Anr. AIR 1978 SC 597; Kasturi Lal Lakshmi Reddy Vs. State of Jammu & Kashmir, AIR 1980 SC 1992; Dwarkadas Marfatia & Sons Vs. Board of Trustees of the Port of Bombay, AIR 1989 SC 1642; Mahabir Auto Stores Vs. Indian Oil Corporation, AIR 1990 SC 1031; Ku. Shrilekha Vidyarthi Vs. State of U.P. & ors., AIR 1991 SC 537; and Ghaziabad Development Authority Vs. Delhi Autho & General Finance Pvt. Ltd. & Ors., AIR 1994 SC 2263.

34. The rule of law prohibits arbitrary action and command the authority concerned to act in accordance with law. Every action of the State or its instrumentalities should not only be fair, legitimate and above-board but should be without any affection or aversion. It should neither be suggestive of discrimination nor even apparently give an impression of bias, favouritism and nepotism or negation of right accrued by the policy or order. (Vide Haji T.M. Hassan Rawther Vs. Kerala Financial Corporation, AIR 1988 SC 157).

35. In the State of Andhra Pradesh Vs. Nalla Raja Reddy & ors., AIR 1967 SC 1458, the Constitution Bench of the Apex Court observed as under:-

"official arbitrariness is more subversive of doctrine of equality than the statutory discrimination. In spite of statutory discrimination, one knows where he stands but the wand of official arbitrariness can be waved in all directions indiscriminately."

36. Similarly, in S.G.Jaisinghani Vs. Union of India & ors., AIR 1967 SC 1427, the Constitution Bench of the Apex Court observed as under:-

"In the context it is important to emphasize that absence of arbitrary power is the first essence of the rule of law, upon which our whole Constitutional System is based. In a system governed by rule of law, discretion, when conferred upon Executive Authorities, must be confined within the clearly defined limits. Rule of law, from this point of view, means that the decision should be made by the application of known principle and rules and in general such decision should be predictable and the citizen should know where he is, if a decision is taken without any principle or without any rule,

it is unpredictable and such a decision is antithesis to the decision taken in accordance with the rule of law."

37. In a case where as a result of a decision taken by the Government the other party is likely to be adversely affected, the State authorities have to exercise their powers bonafidely and not arbitrarily. (Vide Amarnath Ashram Trust Society Vs. Governor of U.P., AIR 1998 SC 477).

38. There is no manner of doubt that the public authorities and the Government are bound to act reasonably and fairly and each action of such authorities must pass the test of reasonableness and whenever action taken is found to be lacking bonafide and made in colourable exercise of the power, the Court should not hesitate to strike down such unfair and unjust proceedings. (Vide Delhi Transport Corporation Vs. D.T.C. Mazdoor Congress & Ors., AIR 1991 SC 101; and Hansraj H. Jain Vs. State of Maharashtra & ors. (1993) 3 SCC 634).

39. In essence, the action/order of the State or State instrumentality would stand vitiated if it lacks bona fides as it would only be a case of colourable exercise of power. The Rule of Law is the foundation of a democratic society.

40. Courts being custodians of law have a solemn duty to uphold the rule of law under all circumstances by directing the authorities concerned to act in accordance with law. If the rule of law is not enforced, it will surely become a casualty in the process, a costly consequence to be zealously averted by all, and at any rate, by the Court. (Vide Salkia Businessmen's Association & Ors. Vs. Howrah Municipal Corporation & Ors., (2001) 6 SCC 688).

41. Wherever arbitrariness or unreasonableness is found, there is a denial of Rule of Law. The Rule of Law means absolute supremacy or

predominance of regular law as opposed to the influence of arbitrary power and excludes the existence of arbitrariness, of prerogative or even of wide discretionary authority on the part of the State or its instrumentality. (Vide State of Madhya Pradesh & Anr. Vs. Thakur Bharat Singh, AIR 1967 SC 1170). A decision taken by the authority under the policy or Statute has to be made by the application of principles of rules, and, in general, such decision should be predictable and the citizen should know where he stands. If a decision is taken without any principle or without any rule, it is unpredictable and such a decision is the antithesis to a decision taken in the rule of law. The term Rule of Law connotes the undisputed supremacy of law and envisage a state of things in which every one respects the law and where law has to be followed by everyone collectively and individually by the citizens as well as by the State. The Rule of Law permeates the entire fabric of the Constitution and indeed forms one of its basic features. (Vide Bachan Singh Vs. State of Punjab, AIR 1982 SC 1325).

42. In I.R. Coelho (dead) by LRs Vs. State of Tamil Nadu, (2007) 2 SCC 1, the Apex Court held as under:-

"The State is to deny no one equality before the law.....Economic growth and social equity are the two pillars of our Constitution which are linked to the right of an individual (right to equal opportunity), rather than in the abstract.....Equality, rule of law, judicial review and separation of powers form parts of the basic structure of the Constitution. Each of these concepts are intimately connected. There can be no rule of law, if there is no equality before the law. These would be meaningless if the violation was not subject to the judicial review."

43. The petitioners claimed that in light of Shetty Commission report and Apex Court's order, a legitimate expectations arose in their favour for grant of such a benefit for which they were deprived by an unreasonable and arbitrary order/classification by the executive which is negation of

benefit which was accrued in their favour and against the principle of Legitimate Expectation. The legal maxim "salus populi est suprema lex" (regard for public welfare is the highest law) comes to an aid. The doctrine can be pressed if a person satisfies the Court that he has been deprived of some benefit or advantage which earlier he had in the past been permitted by the decision-maker to enjoy or he has received the assurance from the decision-maker that such benefit shall not be withdrawn without giving him an opportunity of advancing reasons for contending that it should not be withdrawn. (Vide A. Mahudswaran & Ors. Vs. Govt. of T.N. & Ors., (1996) 8 SCC 617; Mrs. Dr. Meera Massey & Ors. Vs. Dr. S.R. Mehrotra & Ors. (1998) 3 SCC 88; National Buildings Construction Corporation Vs. S. Raghunathan & Ors., (1998) 7 SCC 66; State of West Bengal & Ors. Vs. Niranjan Singha, (2001) 2 SCC 326; State of Bihar Vs. S.A. Hasan & Anr., (2002) 3 SCC 566; Dr. Chanchal Goyal (Mrs.) Vs. State of Rajasthan, (2003) 3 SCC 485; J.P. Bansal Vs. State of Rajasthan & Anr., (2003) 5 SCC 134; Hira Tikoo Vs. Union Territory, Chandigarh, AIR 2004 SC 3649; Ram Pravesh Singh Vs. State of Bihar & Ors., (2006) 8 SCC 381; Confederation of Ex-Servicemen Association Vs. Union of India & Ors., AIR 2006 SC 2945; and Secy, State of Karnataka & Ors. Vs. Uma Devi & Ors., AIR 2006 SC 1806).

44. In Union of India & Ors. Vs. Hindustan Development Corporation & Ors, AIR 1994 SC 988 the Supreme Court held as follows:-

"On examination of some of these important decisions it is generally agreed that legitimate expectation gives the applicant sufficient locus standi for judicial review and that the doctrine of legitimate expectation is to be confined mostly to right of a fair hearing before a decision which results in negating a promise or withdrawing of an undertaking is taken. **The doctrine does not give scope to claim relief straight way from the administrative authorities as no crystallized right as such is involved. The protection of such legitimate expectation does not require the fulfilment of the expectation where an overriding public interest requires otherwise.** In other words where a person's

legitimate expectation is not fulfilled by taking a particular decision then decision-maker should justify the denial of such expectation by showing some overriding public interest." (Emphasis added).

45. In Punjab Communications Ltd Vs. Union of India & Ors., AIR 1999

SC 1801, the Supreme Court held as follows:-

".....the doctrine of legitimate expectation in the substantive sense has been accepted as part of our law and that the decision-maker can normally be compelled to give effect to his representation in regard to the expectation based on previous practice or past conduct unless some overriding public interest comes in the way..... reliance must have been placed on the said representation and the representee must have thereby suffered detriment.....The more important aspect, in our opinion, is whether the decision-maker can sustain the change in policy by resort to Wednesbury principles of rationality or whether the court can go into the question whether the decision-maker has properly balanced the legitimate expectation as against the need for a change. In the latter case the court would obviously be able to go into the proportionality of the change in the policy.....The choice of the policy is for the decision-maker and not for the Court.....The protection for substantive legitimate expectation was based on Wednesbury unreasonableness. In sum, this means that the judgment whether public interest overrides the substantive legitimate expectation of individuals will be for the decision-maker who has made the change in the policy and the courts will intervene in that decision only if they are satisfied that the decision is irrational or perverse."

46. While deciding the said case, reliance was placed by the Apex Court on its earlier judgments in M.P. Oil Extraction Vs. State of Madhya Pradesh, (1997) 7 SCC 592; and National Buildings Construction Corporation Vs. S.Raghunathan, (1998) 7 SCC 66.

47. The doctrine of legitimate expectation has a meaning that the statements of policy or intention of the Government or its Department in administering its affairs should be without abuse or discretion. The policy statement could not be disregarded unfairly or applied selectively for the reason that unfairness in the form of unreasonableness is akin of violation of natural justice. It means that said actions have to be in conformity of Article 14 of the Constitution, of which non arbitrariness is a second facet. Public Authority cannot claim to have unfettered discretion in public law as

Request 35

the authority is conferred with power only to use them for public good. Generally legitimate expectation has essentially procedural in character as it gives assurance of fair play in administrative action but it may in a given case be enforced as a substantive right. But a person claiming it has to satisfy the Court that his rights had been altered by enforcing a right in private law or he has been deprived of some benefit or advantage which he was having in the past and which he could legitimately expect to be permitted to continue unless it is withdrawn on some rational ground or he has received assurance from the decision making Authority which is not fulfilled, i.e., the kind of promissory estoppel.

48. Change of policy should not violate the substantive legitimate expectation and if it does so it must be as the change of policy which is necessary and such a change is not irrational or perverse.

49. This doctrine being an aspect of Article 14 of the Constitution by itself does not give rise to enforceable right but it provides a reasonable test to determine as to whether action taken by the Government or authority is arbitrary or otherwise, rational and in accordance with law.

50. In *Kuldeep Singh Vs. Government of NCT of Delhi*, AIR 2006 SC 2652, the issue of legitimate was considered observing that the State actions must be fair and reasonable. Non-arbitrariness on its part is significant in the field of governance. The discretion should not be exercised by the State instrumentality whimsically or capriciously but a change in policy decision, if found to be valid in law, any action taken pursuant thereto or in furtherance thereof should not be invalidated.

51. Similarly in *Ashok Smokeless Coal India (P) Ltd. & Ors. Vs. Union of India & Ors.*, (2007) 2 SCC 640, the Court held as under:-

Principles of natural justice will apply in cases where there is some right which is likely to be affected by an act of administration. Good administration, however, demands observance of doctrine of reasonableness in other situations also where the citizens may legitimately expect to be treated fairly. Doctrine of legitimate expectation has been developed in the context of principles of natural justice."

52. It is also settled law that government having taken a decision in accordance with law should not be permitted to challenge the same solely with a view to resile from the consequences of its earlier decision or order. [Vide Commissioner of Police Vs. Govardhan Das, AIR 1952 SC 16; and State of Assam Vs. Raghava Gopalachari, (1972) SLR 44 (SC)].

53. Similarly in Ramana Dayaram Shetty Vs. The International Airport Authority of India & ors., AIR 1979 SC 1628, the Apex Court observed that every action of the executive Government must be informed by reasons and should be free from arbitrariness. That is the very essence of rule of law and its bare minimum requirement.

54. The spirit of the recommendation of the Shetty Commission was to grant advance increment to those candidates having higher qualification i.e. post graduation in Law. There is a positive recommendation and it should be interpreted in a positive way. The State instrumentality may not negate the fruits of the Shetty Commission or interpret in such a way to deny the advance increment as made admissible to those having higher qualification. The exercise of power of interpretation should not be made against the spirit of the provisions of the order otherwise it would tend towards arbitrariness.

55. Learned counsel for the petitioners has also raised the question of equal pay on the ground of equal qualification and equal work. The principle of equal pay for equal work is not an abstract doctrine and can be enforced by reading it into the doctrine of equality enshrined in Articles 14 and 16 of the Constitution of India. The said principle has been followed in

Page 25

various pronouncements of Hon'ble the Apex Court, some of which are quoted below:-

- I. Randhir Singh v. Union of India -[1982 (1) SCC 618]
- II. Jaipal v. State of Haryana – MANU/SC/0160/2000
- III. Canteen Mazdoor Sabha v. Metallurgical & -Engineering, Consultants (India) Ltd. - MANU/SC/3434/2007

56. The question of legitimate expectation has also been raised by the petitioners and in light of the Shetty Commission which was duly approved by Hon'ble the Apex Court and later on the Government of India applied the principle for payment of three advance increments to those who have higher educational qualification raised a legitimate expectation in the mind of all those officers who have higher qualification to have the benefit extended to them by the Judicial Commission. The similar view has been taken by the 4th Commission while recommending the equal pay on equal footings.

57. In Secretary, State of Karnataka vs. Uma Devi (supra), the Constitution Bench referred to the claim of the employees based on the doctrine of legitimate expectation and observed as under :

"The doctrine can be invoked if the decisions of the administrative authority affect the person by depriving him of some benefit or advantage which either (i) he had in the past been permitted by the decision-maker to enjoy and which he can legitimately expect to be permitted to continue to do until there have been communicated to him some rational grounds for withdrawing it on which he has been given an opportunity to comment; or (ii) he has received assurance from the decision-maker that they will not be withdrawn without giving him first an opportunity of advancing reasons for contending that they should not be withdrawn."

58. Uttar Pradesh is a big State, having big population, a big number of pending cases, a big number of disposal also, big number of judicial officers and employees in the Court and a big number of problems also. Denial of equality with the officers who have similar higher education and differentiating in the manner to deny the rights which have been accrued

to them on unreasonable ground is not reasonable criteria for rational classification. The State of U.P. should lead leading role not only in growth and development but also in applying the principle and facilities to the employees of the State similar to the pattern which has been adopted by the Government of India. We hope and trust that the benefit which has been extended by the Government of India to the officers within Delhi Administration, be also extended to the officers in the State of U.P. on similar footings specially in the circumstance when States like West Bengal, Kerala, Delhi, Uttarakhand etc. have applied the policy as framed by the Shetty Commission and directed by the Supreme Court. The record reveals that while clarifying the Government Order, the Principal Secretary has distinct it and made a discrimination by an arbitrary order on unjustified and unreasonable grounds.

59. Considering the above submissions, we are of the view that the letter dated 03.01.2012 addressed to the Registrar General, High Court of Judicature at Allahabad, has no sanctity and is unwarranted and required to be quashed. The letter dated 27.03.2015 clarifies the position that those who had higher degree as on 21.03.2002 while entering into service or had degree prior to this, are entitled for the benefit of three advance increments. There is again not denial of this benefit to the officers who acquire degree after entering into the service.

60. Accordingly, letter dated 03.01.2012 is quashed and the Government Orders dated 13.05.2009 and 27.03.2015 require clarification/modification to the extent they deny the benefit of three advance increments to those judicial officers who have acquired/acquire higher qualification of LL.M after joining the service, therefore, we direct that -

Page 95

- i. The benefit of three advance increments shall also be admissible to the petitioners as well as all other similarly situated judicial officers in the State of U.P.
- ii. The judicial officers who acquire the degree of LL.M before joining the service shall be entitled to three additional increments from the date of joining the service or from the date of implementation of the Government Order, as the case may be, while those who have acquired/acquire the same after joining the service shall be entitled to these increments from the date of acquisition of the higher qualification of LL.M.
- iii. The additional increments shall continue to be drawn by the judicial officers on their further promotion and/or placement in higher pay scale, as the case may be.

The writ petitions are decided accordingly. No order as to costs.

Order Date :- 03.05.2017

(Sheo Kumar Singh-I, J.) (Shri Narayan Shukla, J.)

A. Katiyar

Court No. - 2

Page 95

Case :- SERVICE BENCH No. - 678 of 2014

Petitioner :- Abhay Pratap Singh-Ii

Respondent :- State Of U.P. Through Prin. Secy. Appointment Lko. & Another

Counsel for Petitioner :- Mukteshwar Mishra, Divaker Srivastava

Counsel for Respondent :- C.S.C., Manish Kumar, U.N. Mishra

Hon'ble Shri Narayan Shukla, J.

Hon'ble Sheo Kumar Singh-I, J.

By means of aforesaid writ petitions filed under Article 226 of the Constitution of India, the petitioners have assailed the Government Order dated 13.05.2009 issued by the Government of U.P. Appointment Anubagh-4; in which it has been provided that three advance increment consequent upon Post Graduation and higher degree will be applicable only to those officers who possessed higher degree at the time of appointment on 22.03.2002 or thereafter and they had mentioned the same in their application form submitted to the U.P. Public Service Commission. The classification for grant of benefit of advance increments to the Judicial Officers who possess higher qualification /education by making category (a) who acquired higher education (LLM) before 22.03.2002, or (b) who acquired higher education during the service, or (c) who did not mention their higher qualification in their application forms submitted to the Public Service Commission or the High Court, as the case may be, and denial to some of them, though they had higher qualification, was neither contemplated in the recommendation of the Shetty Commission Report nor has any reasonable classification and order passed or G.O. issued by clarifying in categories is unreasonable, irrational and in violative of Article 14 of the Constitution of India. The Shetty Commission while recommending three advance increments had not created any bar or rider that it should be granted to those officers who acquire higher education, while in service and subsequent to their appointment. There is no bar that the said increments should not be made admissible to the candidates or officers, who did not mention their higher qualification in their application forms while submitting to the Public Service Commission because the higher education or qualification of LLM was not the minimum eligibility criteria for submission of application form.

In both the writ petitions, the petitioners have prayed for issuing a direction in the nature of certiorari, in so far it deprives the Judicial Officers who have earned their higher education prior to 22.03.2002 or after appointment, or who did not mention in application form while submitting before the Commission. Since, the letter dated 03.01.2013 addressed to the Registrar General, High Court of Judicature at Allahabad, which is in the form of clarification has no reasonable criteria and classified the Judicial Officers on unreasonable ground, though they have similar qualification and similar duties and responsibilities, having no sanctity, requires to be quashed and hereby quashed. We make it clear that the advance increment in light of the Shetty Commission Report under Clause 8.48 and in light of Government Order dated 03.05.2009 is admissible to all eligible Judicial Officer, irrespective of the facts as to whether before entering into the service while submitting the application for appearing in the competitive examination, the information was

Request 95

furnished or not.

The bunch of the writ petitions on similar issue was under consideration before this Court in Writ Petition No. 1496 (SB) of 2015 (Sanjay Shankar Pandey vs. State of U.P. Thru. Prin.Secy. Deptt. Of Appointment & Anr.), which was decided vide order dated 03.05.2017 in following terms:-

- i. The benefit of three advance increments shall also be admissible to the petitioners as well as all other similarly situated judicial officers in the State of U.P.
- ii. The judicial officers who acquire the degree of LL.M before joining the service shall be entitled to three additional increments from the date of joining the service or from the date of implementation of the Government Order, as the case may be, while those who have acquired/acquire the same after joining the service shall be entitled to these increments from the date of acquisition of the higher qualification of LL.M.
- iii. The additional increments shall continue to be drawn by the judicial officers on their further promotion and/or placement in higher pay scale, as the case may be.

Since the controversy has already been decided vide order passed in bunch of writ petitions, we feel it appropriate to decide the aforesaid writ petitions in terms of the order passed in above mentioned writ petitions.

Accordingly, the writ petitions are allowed in terms of order passed in Writ Petition No. 1496 (SB) of 2015. No order as to cost.

Order Date :- 8.5.2017

amit

(Sheo Kumar Singh-I, J) (Shri Narayan Shukla, J.)

27-2-17
13-6-2017
15-6-17
Encl. (22) page

19.6.17 Request 95
U 912
8599
70
12-7-17 11-2-12
Bindu
8-8-18
22/9/17

From: Rajnesh Kumar,
II Additional Civil Judge, Senior Division/A.C.J.M.,
Saharanpur.

To: The Registrar General,
Hon'ble High Court of Judicature at
Allahabad.

Through: The District Judge,
Saharanpur.

Sub.: Grant of three advance increments from the date of joining the judicial service on the basis of LL.M. Degree.

Sir,

With reference to the subject abovementioned, it is humbly submitted that, vide Hon'ble High Court notification no. 267/AR(S) 2009 dated Allahabad- April 17, 2009 I joined the judicial service on 20.04.2009 as Addl. C. J. (J.D.), Budaun. Vide Hon'ble High Court notification no. 2156/JR(S) 2015 Dated: Allahabad: Oct. 15, 2015, I got promoted as Additional Civil Judge S.D./ACJM and took charge in the forenoon of 16.10.2015. At the time of submission of the application for appearing in the competitive examination I had not completed my LL.M. Before joining the service I had completed my LL.M. Degree, which is part of my service records. The Hon'ble High Court of Judicature at Allahabad while quashing the government letter dated 03.01.2012 on the abovementioned subject, has held in Sanjay Shankar Pandey Vs. State of U.P. through Principal Secretary, Deptt. of appointment and Anr S.B. No. 1496/2015 dated 03.05.2017, that

- i. The benefit of three advance increments shall also be admissible to the petitioners as well as all other similarly situated judicial officers in the State of U.P.,
- ii. The judicial Officers who acquire the degree of LL.M before joining the service shall be entitled to three additional increments from the date of joining the service or from the date of implementation of the Government Order as the case may be, while those who have acquired/acquire the same after joining the service shall be entitled to these increments from the date of acquisition of the higher qualification of LL.M.
- iii. The additional increments shall continue to be drawn by the judicial officers on their further promotion and/or placement in higher pay scale, as the case may be.

in Abhay Pratap Singh II Vs. State of U.P. through Principal Secretary, Deptt. of appointment and Anr S.B. No. 678/2014, dated 08.05.2017, The Hon'ble Allahabad High Court (Lucknow Bench) has held - " We make it clear that the advance increment in light of the Shetty Commission report under Clause 8.48 and in the light of Government Order dated 03.05.2009 is admissible to all eligible judicial Officer, irrespective of the facts as to whether before intering into the

24y
Q

703
13-6-17

6247

D.R. (R) Admin
So Admin A.I
15/6/2017
DR

15 JUN 2017

A.R. (Admin H)
16/6/17
D.R. (Admin H)

Mrs. Sonita
22.9.17

20.05.17

A.R. (Admin AI) / D.R. (M)

A ltr no. 10820 / V F 82 / Admin
(AI): dated 8.9.17 has already
been issued to Govt. of U.P. for
issuance of Govt. order in the
light of judgement dated 03.5.17.
May await for supply of the
Government?

Senils
6.10.17 (R.10)

Original
06.10.17
AR.

Yes
Bd
6/10/2017
DR.

H

Request 95

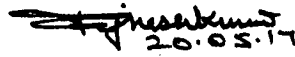
service while submitting the application for appearing in the competitive examination the information was furnished or not"

It is, therefore, kindly requested to place my representation before the Hon'ble Court for kind consideration so that three advance increments might be granted to me accordingly in the light of the abovementioned order of the Hon'ble Court.

With regards.

Dated : 20.05.2017

Your's faithfully


20.05.17
(Rajnesh Kumar)

II Additional Civil Judge, Senior Division/A.C.J.M.,

Saharanpur

I.D. - UP 1581

Enclosures:-

1. Attested photocopy of Final Degree of LL.M.
2. Attested photocopy of Marksheet of LL.M. 1st year.
3. Attested photocopy of Marksheet of LL.M. 2nd year.
4. Attested copy of charge taken on 20.04.2009 at joining.
5. Attested copy of charge taken on 16.10.2015 on promotion.
6. Photocopy of the Government letter dated 03.01.2012.
7. Copy of Judgement dated 03.05.2017 passed by Hon'ble High Court of Judicature at Allahabad (Lucknow Bench).
8. Copy of Judgement dated 08.05.2017 passed by Hon'ble High Court of Judicature at Allahabad (Lucknow Bench).

कायालय जिला जज, सहारनपुर
क्रमांक 690-I-17 दिनांक 22-5-17
अप्रसारित

9
जिला न्यायाधीश

सहारनपुर

22-5-17

क्रमांक / Serial No.

501540

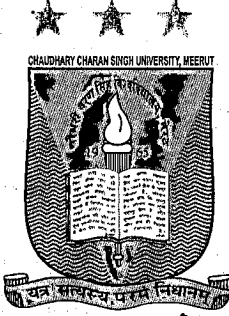
नामांकन सं. / Enrolment No.

1792/6614

अनुक्रमांक / Roll No.

20557609

चौधरी चरण सिंह विश्वविद्यालय मेरठ



विधि निष्णात

Request 35

प्रमाणित किया जाता है कि राजेश कुमार
आत्मज/आत्मजा श्री प्रेमचंद एवं श्रीमती सुदेशना
को इस विश्वविद्यालय से सन् 2006 की परीक्षा में विधि निष्णात की
उपाधि द्वितीय श्रेणी में प्रदत्त की गयी है।

MASTER OF LAWS

This is to certify that Rajesh Kumar
son/daughter of 'shri Prem Chand and Smt. Sudeshna
has been conferred the Degree of **MASTER OF LAWS** of this
University in the Examination of 2007 and that he/she was
placed in Second Division.

Photo copy attested
19.2.17

CHAUDHARY CHARAN SINGH UNIVERSITY, MEERUT

Dated 30.06.2008

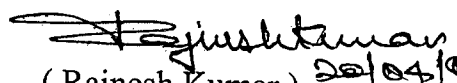
उपर मुख्य प्राचार्य के निदेश पर
बहुमंडल संज्ञा सं. 19/2/17

S. P. Osha
कुलपति
Vice-Chancellor


Request 95

CHARGE CERTIFICATE (TAKING OVER)

Certified that the office of the Additional Civil Judge, (Jr. Div.), Court No. -3, Budaun, was transferred under the orders of Hon'ble Court's Notification No. 267/AR(S)/2009 Dated: Allahabad: April 17, 2009, as herein denoted in the forenoon of April 20, 2009.

RELIEVING OFFICER : 
(Rajnesh Kumar) 20/04/09

COUNTERSIGNED


District Judge,
Budaun
BUDAUN

Office of the District Judge, Budaun :

No. 470 / I / Budaun ; Dated : April 20 , 2009

Copy forwarded to the following for information and necessary action :-

- 1- The Registrar General, High Court of Judicature at Allahabad.
- 2- The Joint Registrar, (Computer) High Court of Judicature at Allahabad.
- 3- The Joint Registrar (Services), High Court of Judicature at Allahabad.
- 4- The Deputy Registrar (Services), High Court of Judicature at Allahabad.
- 5- The Secretary, Appointment Section- 4, Civil Secretariate, Lucknow.
- 6- The Senior Treasury Officer, Budaun.
- ✓ 7- The Officer concerned.

Photo copy attached
Budaun
19-5-19
अपय मुख्य न्यायिक सहायक
चतुर्थ सहायक

पदभार ग्रहण प्रमाण-पत्र

Page 25

प्रमाणित किया जाता है कि माननीय उच्च न्यायालय, इलाहाबाद की विज्ञप्ति संख्या- 2156/जे0आर0 (एस)/2015 दिनांकित: इलाहाबाद: अक्टूबर 15, 2015 के अनुसार न्यायिक सेवा में अपर सिविल जज, सीनियर डिवीजन/अपर मुख्य न्यायिक मजिस्ट्रेट, सहारनपुर के पद पर पदोन्नति पर मेरे द्वारा न्यायालय अपर सिविल जज, सीनियर डिवीजन, द्वितीय, सहारनपुर का पदभार आज दिनांक 16.10.2015 को पूर्वाह्न में ग्रहण किया गया।

पदभार ग्रहण अधिकारी

(रजनेश कुमार)

अपर सिविल जज, सीनियर डिवीजन, द्वितीय,
सहारनपुर।

आई0डी0 नम्बर- यू0पी0- 1581

प्रतिहस्ताक्षरित,

जिला न्यायाधीश
जिला न्यायाधीश
सहारनपुर
16-10-15

कार्यालय जिला जज, सहारनपुर।

पत्रांक 1336/II/15 to 1336/II/11/15 दिनांक 16-10-15

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

1. महानिबन्धक, माननीय उच्च न्यायालय इलाहाबाद।
2. महालेखाकार, उत्तर प्रदेश इलाहाबाद।
3. संयुक्त निबन्धक, कम्प्यूटर, माननीय उच्च न्यायालय, इलाहाबाद।
4. उपनिबन्धक सेवायें माननीय उच्च न्यायालय इलाहाबाद।
5. सचिव, नियुक्ति अनुभाग-4, सचिवालय, उ0प्र0 शासन लखनऊ।
6. प्रमुख सचिव, न्यायिक अनुभाग, उ0प्र0 शासन।
7. संयुक्त निदेशक, कोषागार, निदेशालय, शिविर कार्यालय नवीन कोषागार भवन प्रथम तल, कचहरी रोड, इलाहाबाद।
8. सैक्शन आफिसर (एडमिन-ए-3 सैक्शन), माननीय उच्च न्यायालय, इलाहाबाद।
9. वरिष्ठ कोषाधिकारी, सहारनपुर।
10. जनपद न्यायाधीश, सहारनपुर।
11. सम्बन्धित अधिकारी।

Photo copy attached
19-8-17

अपर मुख्य न्यायिक मजिस्ट्रेट
चतुर्थ सहारनपुर

1/ मुख्य प्रशासनिक अधिकारी,
सहारनपुर।

प्रेषक:

योगेश्वर राम मिश्र,
संयुक्त सचिव,
उ० प्र० शासन।

सेवा में,

महानिबन्धक,
भा० उच्च न्यायालय,
इलाहाबाद।

नियुक्ति अनुभाग--4

लखनऊ: दिनांक 03 जनवरी, 2012

विषय-- प्रथम राष्ट्रीय न्यायिक वेतन आयोग (शेडूटी कमीशन) द्वारा की गयी संस्तुतियों के क्रम में भा० उच्चतम न्यायालय के आदेश दिनांक 21.3.2002 के अनुपालन में उ० प्र० राज्य के स्नातकोत्तर उपाधि धारक न्यायिक/उच्चतर न्यायिक सेवा के चयनित अभ्यर्थियों को 03 अतिरिक्त वेतन वृद्धि प्रदान किये जाने के सम्बन्ध में।

महोदय,

उपर्युक्त विषय पर पूर्व में जारी शारानादेश संख्या-363/दो-4-2009-45(12)/91टी.सी. दिनांक 13.5.2009 में शेडूटी आयोग की संस्तुतियों के अनुरूप यह स्पष्ट किया जा चुका है कि 03 अतिरिक्त वेतन वृद्धि का लाभ चयन के समय स्नातकोत्तर उपाधि धारक न्यायिक/उच्चतर न्यायिक सेवा के अभ्यर्थियों/अधिकारियों को प्राप्त होगा। फिर भी आपके विभिन्न पत्रों में वांछित 05 बिन्दुओं के संदर्भ में बिन्दुवार वस्तुस्थिति स्पष्ट करते हुए मुझे यह कहने का निर्देश हुआ है कि निम्नलिखित शारिणी में दिये गये यथोचित उत्तरानुसार अग्रेतर आवश्यक कार्यवाही सुनिश्चित करने का कष्ट करें।

क्रमांक	भा० उच्च न्यायालय का प्रश्न	उत्तर
1.	क्या दिनांक 21.3.2002 के स्नातकोत्तर उपाधि धारक सेवारत एवं सेवानिवृत्त सभी न्यायिक अधिकारियों को 03 अतिरिक्त वेतन वृद्धि प्रदान की जायेगी?	नहीं
2.	क्या दिनांक 21.3.2002 के बाद एल.एल.एम. उपाधिधारक न्यायिक अधिकारियों को भी 03 अतिरिक्त वेतन वृद्धि प्रदान की जायेगी।	चयन के समय ही दिनांक 21.3.2002 एवं उसके बाद एल.एल.एम. उपाधि धारक उक्त अधिकारियों को ही उक्त सुविधा प्राप्त होगी
3.	क्या केवल ऐसे न्यायिक/उच्चतर न्यायिक अधिकारियों को जिन्होंने चयन के समय अपने आवेदन पत्र में जो कि लोक सेवा आयोग एवं उच्च न्यायालय, इलाहाबाद को प्रस्तुत किया गया था में स्नातकोत्तर उपाधि का जिक्र किया था उन्हें ही 03 अतिरिक्त वेतन वृद्धि प्रदान की जायेगी?	जी हाँ।

26-11-2009

4.	क्या 03 अतिरिक्त वेतन वृद्धि ऐसे न्यायिक/उच्चतर न्यायिक सेवा के सीधी भर्ती के अधिकारियों को ही देय होगी जो दिनांक 21.3.2002 एवं उसके बाद चयन के समय एल.एल.एम. डिग्री रखते थे?	जी हाँ
5.	क्या उक्त शासनादेश संख्या-1363 /दो-4-2009-45(12)/91टी.सी. दिनांक 13.5.2009 में प्रदत्त 03 अतिरिक्त वेतन वृद्धि की सुविधा के साथ मंहगाई भत्ता भी देय होगा।	जी हाँ, चूंकि मंहगाई भत्ता वेतन का भाग होता है अतः ऐसे अग्रिम वेतन वृद्धि पर मंहगाई भत्ता अनुमन्य होगा।

भवदीय,



(योगेश्वर-राम मिश्र)

संयुक्त सचिव।

Request 95

1

Reserved

1. **Case :- SERVICE BENCH No. - 1496 of 2015**
Petitioner :- Sanjay Shankar Pandey
Respondent :- State Of U.P. Thru. Prin.Secy.,Deptt.Of Appointment & Anr.
Counsel for Petitioner :- Anwar Ashfaq,Rina Pandey
Counsel for Respondent :- C.S.C.,Gaurav Mehrotra,U.N. Mishra
 2. **Case :- SERVICE BENCH No. - 1628 of 2015**
Petitioner :- Lovely Jaiswal
Respondent :- State Of U.P. Through Prin. Secy. Appointment Lko. & Ors.
Counsel for Petitioner :- Avinash Chandra
Counsel for Respondent :- C.S.C.,U.N.Mishra
 3. **Case :- SERVICE BENCH No. - 1869 of 2015**
Petitioner :- Pawan Kumar Srivastava
Respondent :- State Of U.P. Through Prin. Secy. Appointment Lko. & Ors.
Counsel for Petitioner :- Alok Saran,Avinash Chandra
Counsel for Respondent :- C.S.C.,U.N.Mishra
- And**
4. **Case :- SERVICE BENCH No. - 392 of 2016**
Petitioner :- Atul Chaudhary
Respondent :- State Of U.P. Thru Prin.Secy.(Appointment)Civil Sectt.& Ors.
Counsel for Petitioner :- Avinash Chandra
Counsel for Respondent :- C.S.C.,U.N. Misra

Hon'ble Shri Narayan Shukla, J.
Hon'ble Sheo Kumar Singh-I, J.

(Delivered by Sheo Kumar Singh-I, J.)

1. Hon'ble the Supreme Court of India while dealing the matter of All India Judges' Association vs. Union of India – (2002) 4 SCC 247 had issued several directions for the improvement of service conditions including reasonable hike in the pay scales of the judicial officers. The recommendation made by the First National Judicial Pay Commission popularly known as "Shetty Commission" in this regard, including for grant

of three advance increments to judicial officers having post graduate degree in Law, were also accepted.

2. While recommending uniform pattern of eligibility conditions and pay structure throughout the country in the Judicial Services, 'Shetty Commission' considered the desirability of granting 'Additional Benefit for Higher Qualification'. The Commission referred to the Service Rules and conditions of service prevailing in different States at the entry level and took notice in para 8.46 of its Report Vol-II of the fact that except Delhi and Rajasthan, in none of the States additional benefit to a selected candidate possessing higher qualification was admissible. The Commission thereafter made the following recommendations in paras 8.48 and 8.49 of the report (Vol-II):-

8.48 If selected candidates are having a higher qualification like Post-Graduation in Law, we recommend that three advance increments be given as it is allowed by the Delhi Administration. It is an acknowledged fact that Post-Graduation in Law is a difficult course and it is better to reward appropriately such candidates.

3. The State of U.P. vide Government Order dated 13.05.2002 issued a direction to implement the recommendations of Hon'ble the Apex Court to be effective from the date of 21.03.2002 extending the benefit of three advance increments to the officers who are selected in the service after the above date. Hon'ble the Supreme Court in the cited decision directed all the States of India to implement these recommendations and grant the benefit of three advance increments to those officers who possess higher qualification but the reluctant executive started misinterpreting the Shetty Commission's recommendations to mean that this benefit is extended only to those officers who are selected and joined the services after the date of implementation. Aggrieved by the order, the present petitioners, while filing aforesaid writ petitions under Article 226 of the Constitution of India, have prayed to issue a writ, order or direction in the nature of certiorari

quashing the impugned order so far as it affects the right of the petitioners for grant of three advance increments and with further direction in the nature of mandamus commanding the opposite parties to granted three advance increments to the petitioners on the basis of Shetty Commission with effect from the date of their acquiring LL.M degree with further prayer to grant these three increments on every promotion or revised pay scale as granted by the State of Delhi.

4. The brief facts giving rise to filing of the aforesaid writ petitions are that after award of LL.M degree, the petitioners moved an application for grant of three advance increments as admissible in accordance with the recommendations of Shetty Commission which was accepted by the Hon'ble Supreme Court but they were denied by the subsequent Government letters dated 03.01.2012 and 27.03.2015, thus, the aforesaid writ petitions.

5. The State Government vide order dated 13.05.2009 provided the selected officers of the U.P. State Judicial Service having post graduate degree in Law for entitlement of these increments with effect from 21.03.2002 but subsequently the Government Order dated 13.05.2009 was modified by the Government Order dated 27.03.2015 clarifying the position that the officers who were appointed prior to 21.03.2002 in U.P. State Judicial Service and at the time of their selection having LL.M degree are entitled to get three advance increments. Some of the judicial officers completed their LL.M degree after the above cut off date and applied for sanction of three advance increments as admissible in accordance with the recommendations of the Shetty Commission but the respondents declined to extend the benefit on the ground that those who have been awarded LL.M degree after entering into the service are not entitled for the allowance.

6. The petitioners have challenged the order on the ground that the clarification issued by the Government is unreasonable and violative of Article 14 of the Constitution of India.

7. In the Counter Affidavit it has been narrated that the admissibility of above three advance increments is applicable to those officers who were selected after the cut of date and not with respect to the judicial officers who are already in service. The Government has further clarified vide order dated 03.01.2012 that the candidates who had duly filled in the application form the factum of possessing post graduate degree of Law at the time of selection, filling the application form, would be entitled for three advance increments.

8. A common question that arises for consideration in all these writ petitions includes the admissibility of grant of three advance increments to the judicial officers who have got LL.M degree and come within the following categories:-

- i. The officers who were selected after 21.03.2002 and have LL.M degree, and
- ii. The officers who took permission from the competent authority for LL.M and after taking permission, the degree was awarded during the service period.

9. In the present case the degree of Master of Law would certainly bring efficiency in discharging duties by the judicial officers in comparison to those officers who do not possess such degree. The question that arises for our consideration is as to whether the classification sought to be made between the judicial officers who possessed LL.M degree at the time of joining service and those who obtain the same subsequent to their appointment come within the reasonable classification based upon an intelligible criteria or not. A distinction has been made by the respondents between the persons appointed before entering into service from the date of implementation and those who acquired higher qualification while in

Request 25

5

service. This distinction seems to be illusory and unwarranted and in our view frustrates the basic policy of benefiting the officers who have higher qualification. A similar situation was considered by Hon'ble the Apex Court in the case of **P.K. Ramchandra Iyer and others v. Union of India – AIR 1984 SC 541** in which it was held that right to equality in pay scale amongst two similar classes of employees performing identical or similar duties and carrying out same functions with the same measure of responsibility having same academic qualifications are entitled for equal pay. While examining the reasonable classification the Court before forming an opinion shall consider various factors like nature of duties, functions, measures of responsibility and educational qualifications etc. Applying these yardsticks, we find no tangible distinction amongst the judicial officers possessing higher qualification of LL.M whether obtained degree before or after joining the judicial service. If the degree of Masters of Law or higher education brings efficiency and improves quality of discharging duties by a judicial officer, we fail to understand as to why such a qualitative advantage will not be achieved by an officer who does LL.M after joining the service.

10. The justification advanced by the State Government in its affidavit has been based on Para 8.48 of the Shetty Commission by interpreting the words "if selected candidates are having a higher qualification like post graduation in Law". In other words, it was interpreted by the executive of the State that the word 'higher qualification' should be possessed by the officer at the time of his/her selection. The above plea as raised by the learned counsel for the respondents/CSC, in our considered view, is wholly unwarranted and unjustified on the ground that firstly Shetty Commission has nowhere recommended that three advance increments are not to be granted to those officers who acquire higher qualification

while in service. Secondly, the direction should not be interpreted in negative prospects. The beneficial legislation or Government Orders be interpreted in the way to fulfill and achieve the goal for which it was issued. The phrase "selected candidates having higher qualification" does not and cannot mean that if higher qualification is acquired by the selected candidates after their appointment, it would not improve their efficiency with better knowledge of Law. Thirdly, the judicial officers having post graduate degree in Law before appointment and those who acquire such degree after joining the service, constitute one homogeneous class and the artificial classification to discriminate against the latter category of officers does not satisfy the test of equality within the meaning of Articles 14 and 16 of the Constitution of India.

11. The Government Order dated 13.05.2009 further specifieswe recommend that three advance increments be given as it is allowed by the Delhi Administration. It is an acknowledged fact that post graduation in Law is difficult course and it is better to reward appropriately such candidates. The purpose of the Shetty Commission was of equal pay and service conditions of the judicial officers throughout the country and the State has accepted this allowance in parity with Delhi Administration.

12. The Government of India, Ministry of Law, Justice and Company Affairs, Department of Justice, Jaisalmer House, Mansingh Road, New Delhi, vide order no.17/17014/1/98-JO3 dated 24.06.2002 has issued an order to grant this benefit in the following terms:-

In pursuance of the Hon'ble Supreme Court order dated 1.2.2002 dismissing SLP No.1462/2002 titled as Union of India v. S.K. Kaushik & Ors. filed by the Union of India against the High Court of Delhi judgment dated 3.8.2001 in LPA No.390/01 and others identical cases wherein the Hon'ble Delhi High Court had directed Union of India to grant of three advance increments to the petitioner, Sh. S.K. Kaushik Judicial Officer w.e.f. 1.1.1986 and all other similarly situated judicial officers throughout their employment as

judicial officer, and in case the petitioner is placed in a higher or revised pay scale, he will get three advance increments in that higher/revised pay scale in Higher Judicial Service and the arrears payable to the petitioner will be duly worked out and paid to him. I am directed to convey sanction of the Central Government to the grant of 3 advance increments to the petitioner Sh. S.K. Kaushik, a judicial officer w.e.f. 1.1.1986 and arrears accrued to him and to all other similarly situated judicial officers throughout their employment as judicial officer as per the orders dated 20.02.2001 of the Hon'ble High Court.

13. The need and importance of higher education and professional qualifications have been recognised by the Fourth Pay Commission. In para 29.8 at page 29, Vol. 1 of the Fourth Pay Commission report it has been recommended that the government employees who could acquire higher professional qualifications would be useful in their official working and contribute to their efficiency. The recommendations of the Fourth Pay Commission were accepted by the Government of India on 15.2.1986 and it was duly accepted by the Union of India. It was the general consensus that attaining a higher qualification in a particular field undoubtedly results in broadening the outlook of an individual and increase in knowledge thereby directly bringing efficiency which alone was the object of recommendations made by the Fourth Pay Commission. There was no reason why the same ought not to have been accepted by the respondents. It may be pertinent to mention that such incentives have already been given to doctors and other government employees. Denial of similar incentives to the petitioners/ judicial officers in the matter of increments on acquiring or in recognition to the higher qualification would amount to discrimination.

14. It has further been submitted by learned counsel for the petitioners that State of Uttarakhand has also recommended the facility of payment of three advance increments to the officers w.e.f. 01.11.1999 and all those officers who had degree at the time of entering into the service or had

degree before entering into the service or they were awarded degree after entering into the service and during continuance of the service are entitled for payment of this allowance. The copy of the order passed by the Secretary, Law Department, Uttarakhand Government dated 27.03.2008 has been placed before us.

15. The Government of Himachal Pradesh, Home Department, vide order dated 17.07.2014 has clarified that this advance increment is also admissible to the judicial officers who acquire post graduation degree in Law i.e. LL.M after joining the service. The relevant order is quoted below:-

“In continuation of this Department’s notification of even number dated 29th August, 2008 and as corrigendum to notification of even number dated 2.3.2009, the Governor, Himachal Pradesh, in exercise of the powers conferred by Section 3 read with Section 4 of the Himachal Pradesh Judicial Officers (Pay, Allowances and Conditions of Service) Act, 2003 is pleased to grant with immediate effect three advance increments to the Judicial Officers, who acquire post graduate degree in Law i.e. LL.M. after joining service.”

16. Writer’s Building, Kolkata has also sanctioned the advance increment for having or acquiring higher qualification in Law for the Members of West Bengal Judicial Service, which is as under:-

“I am directed by the order of the Governor to say that all members belonging to the West Bengal Judicial Service having/acquiring higher qualification like post graduation in Law are entitled to get three advance increments with effect from 01.11.1999 as per recommendations of the Shetty Commission duly accepted by Hon’ble Apex Court. This order issues with the concurrence of the Finance Department of West Bengal vide their U/O No.165. Group I (Pay) dated 18.01.2008.”

17. A similar benefit has been provided to the Members of Judicial Service in the State of Kerala vide judgment and order dated 16.12.2014 in Writ Petition No.25828 of 2012 with following terms:-

“It is beyond dispute that by virtue of the various orders issued by the Apex Court, the State is bound to implement the said recommendation of the Pay Commission in its letter and spirit. It is

evident from the report that the said recommendation was intended to reward those who have obtained post graduation which is considered to be a difficult course. Further, in Exhibit P6 judgment, this Court has held that the said recommendation was intended to recognise and honour the higher qualified Judicial Officers to enable them to serve better and improve the quality of the justice delivery system. The relevant portion of the said judgment reads thus:

"From the contents of the recommendation as well as the G.O., it is evident that the intention was to recognise and honour the higher qualifications of the Judicial Officers, which was considered as a wealth to the entire judiciary and to serve better justice delivery system. It cannot be said that the GO was issued by the Government only to attract more persons having more higher qualifications, as the purpose of the recommendation made by the Shetty Commission was to appreciate the persons who are having higher qualifications, which in turn may serve in future to attract persons having such higher qualifications as well and thus to improve the quality."

If the recommendation was intended to recognise and honour the higher qualified Judicial Officers to enable them to serve better and improve the quality of the justice delivery system, I fail to understand how a classification can be made between the Judicial Officers who have obtained post graduation before and after their entry into the service. The object sought to be achieved being the honouring and recognising of the higher qualified Judicial Officers, the classification of Judicial Officers as those obtained post graduation before and after their entry in the service cannot be held to be on an intelligible differentia. The State, in the circumstances, is bound to extend the benefit of Exhibits P3 and P4 orders to all the Judicial Officers who have obtained post graduation while in service also.

In the result, the writ petitions are allowed and the respondents are directed to extend the benefit of Exhibits P3 and P4 orders to all Judicial Officers in the State who have obtained post graduation while in service also. This shall be done within a period of three months from the date of receipt of a copy of this judgment."

18. Learned counsel for the State has raised the other allowance admissible to the judicial officers in accordance with Shetty Commission report.

19. We are not concerned with other allowance or pay scale. This Court is concerned with the facts and reliefs as prayed by the petitioners in these petitions for the admissibility of three advance increments for the officers who possess LL.M degree. Perusal of the Government Order dated 13.05.2009 makes it clear that there is no distinction between the

officers who had LL.M degree before entering into the service or who acquire LL.M degree after entering into the service. It is clarification dated 03.01.2012 and 27.03.2015 creating controversy and making distinction with arbitrariness which is violative of principles as laid down in Article 14 of the Constitution of India.

20. It is settled law that when the action of the State instrumentality is not as per rules or regulations and not supported by the Government order, the Court must exercise its jurisdiction to declare such an act to be illegal and invalid.

21. In *Sirsi Municipality Vs. Cecelia Kom Francis Tellis*, AIR 1973 SC 855, the Supreme Court observed that "the ratio is that the rules or the regulations are binding on the authorities."

22. Similarly, a Constitution Bench of the Hon'ble Supreme Court in *Sukhdev Singh & Ors. Vs. Bhagatram Sardar Singh Raghuvanshi & Anr.*, AIR 1975 SC 1331, has observed as under:-

"The statutory authorities cannot deviate from the conditions of service. **Any deviation will be enforced by legal sanction of declaration by Courts to invalidate actions in violation of rules and regulations.** The existence of rules and regulations under statute is to ensure regular conduct with a distinctive attitude to that conduct as a standard. The statutory regulations in the cases under consideration give the employees a statutory status and impose restrictions on the employer and the employee with no option to vary the conditions.....In cases of statutory bodies there is no personal element whatsoever because of the impersonal character of statutory bodies.....**the element of public employment or service and the support of statute require observance of rules and regulations.** Failure to observe requirements by statutory bodies is enforced by courts by declaring (action) in violation of rules and regulations to be void. This Court has repeatedly observed that whenever a man's rights are affected by decision taken under statutory powers, the Court would presume the existence of a duty to **observe the rules of natural justice and compliance with rules and regulations imposed by statute.**" (Emphasis added).

23. Similar view has been taken by the Supreme Court in *Ambica Quarry Works etc. Vs. State of Gujarat & Ors.*, AIR 1987 SC 1073; and

Commissioner of Police, Bombay Vs. Gordhandas Bhanji, AIR 1952 SC 16. In both the cases, the Apex Court relied upon the judgment of the House of Lord in Julius Vs. Lord Bishop of Oxford, (1880) 5 AC 214, wherein it was observed as under:-

“There may be something in the nature of thing empowered to be done, something in the object for which it is to be done, something in the title of the person or persons for whose benefit the power is to be exercised, which may couple the power with a duty, and make it the duty of the person in whom the power is reposed, to exercise that power when called upon to do so.”

In Commissioner of Police (supra), the Apex Court observed as under:-

“Public authorities cannot play fast and loose with the powers vested in them, and persons to whose detriment orders are made are entitled to know with exactness and precision what they are expected to do or forbear from doing and exactly what authority is making the order.....An enabling power of this kind conferred for public reasons and for the public benefit is, in our opinion, coupled with a duty to exercise it when the circumstances so demand. It is a duty which cannot be shirked or shelved nor it be evaded, performance of it can be compelled.”

In Dr. Meera Massey Vs. Dr. S.R. Mehrotra & Ors., AIR 1998 SC 1153, the Apex Court observed as under:-

“If the laws and principles are eroded by such institutions, it not only pollutes its functioning deteriorating its standard but also exhibits.....wrong channel adopted.....If there is any erosion or descending by those who control the activities all expectations and hopes are destroyed. If the institutions perform dedicated and sincere service with the highest morality it would not only up-lift many but bring back even a limping society to its normalcy.”

24. The Supreme Court has taken the same view in Ram Chand & Ors. Vs. Union of India & Ors., (1994) 1 SCC 44, and held that “the exercise of power should not be made against the spirit of the provisions of the basic policy, otherwise it would tend towards arbitrariness.”

25. Therefore, it is evident from the aforesaid judgments of the Hon'ble Apex Court that whenever any action of the authority is in violation of the provisions of the statute or the action is constitutionally illegal, it cannot

claim any sanctity in law, and there is no obligation on the part of the Court to sanctify such an illegal act. Wherever the statutory provision is ignored, the Court cannot become a silent spectator to such an illegal act, and it becomes the solemn duty of the Court to deal with the persons violating the law with heavy hands. (Vide Mrs. Dr. Chanchal Goyal Vs. State of Rajasthan, AIR 2003 SC 1713; M.D., U.P. Land Development Corporation & Anr. Vs. Amar Singh & Ors., AIR 2003 SC 2357; State of Haryana & Anr. Vs. Tilak Raj & Ors., AIR 2003 SC 2658; Haryana Tourism Corporation Ltd. Vs. Fakir Chand & Ors., AIR 2003 SC 4465; Sultan Sadik Vs. Sanjay Raj Subba & Ors., AIR 2004 SC 1377; and A. Umarani Vs. registrar, Co-operative Societies & Ors., 2004 AIR SCW 4462).

26. In *Ramniklal N. Bhutta & anr. Vs. State of Maharashtra & ors.*, AIR 1997 SC 1236, the Hon'ble Apex Court observed as under:-

"The power under Art. 226 is discretionary. It will be exercised only in furtherance of justice and not merely on the making out of a legal point. the interest of justice and public interest coalesce. They are very often one and the same. The Courts have to weight the public interest vis-a-vis the private interest while exercising the power under Art. 226.... indeed any of their discretionary powers."

27. In view of the above, we are of the considered opinion that every statutory provision requires strict adherence, for the reason that the statute creates rights in favour of the citizens, and if any order is passed de hors the same, it cannot be held to be a valid order and cannot be enforced. As the statutory provision creates legal rights and obligations for individuals, the statutory authorities are under a legal obligation to give strict adherence to the same and cannot pass an order in contravention thereof, treating the same to be merely decoration pieces in his office.

28. So far as the challenge to the cut off date is concerned, it should not be forgotten that while fixing the cut off date, the Authority has to

Request 95

consider various aspects of the case and there is very limited scope of judicial interference in such matters. It is settled proposition of law that a cut off date can be introduced, but it is not permissible to do in such an artificial manner that it may discriminate the similarly situated persons. Cut off date may be introduced by creating a fiction but while doing so, the consequences must be examined thoroughly and the date must have some nexus to the object sought to be achieved. Generally it should be prospective but may have retrospective effect also.

29. If the State cannot bear the financial burden to meet a particular requirement, it may be a sufficient cause to fix a particular cut off date and even to make the law with retrospective effect. However, the basis must be shown to have a nexus with the object of classification as well as of legislative exercise. If the choice of fixing a particular date is shown to be wholly arbitrary and introduces discrimination, which violates the mandate of Article 14 of the Constitution, the classification can be struck down for the reason that a purpose of choice unrelated to the object sought to be achieved cannot be accepted as valid. If fixing of a cut off date is not devoid of rational consideration and wholly not whimsical and the Authorities had not acted malafide with a view to deprive a particular section of employees of such benefits and the cut off date has been fixed on the recommendation of the Expert Committee/Board or on proper consideration by the Authority concerned, it may meet the test of reasonableness and cannot be held arbitrary. While examining the cases like the instant, the Court has to be very conscious because judicial review is not permissible unless the Court is satisfied that the cut off date is **"very wide off the reasonable mark or so capricious or whimsical as to permit judicial interference."** In all such matters, the Government/ Authority has to fix a particular date for

computing the eligibility and if the date so adopted meets the test of reasonableness, it cannot be invalidated merely on the ground that it may adversely affect some persons. In such a case the rational behind the Policy has to be examined as to whether it is beneficial to all or intended to be punitive to some or to discriminate on irrational grounds.

30. When the policy and order provide for a particular thing and benefit, the authority has to follow the same and cannot be permitted to act in contravention of the same. It has been hither to uncontroverted legal position that where a statute requires to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods or mode of performance are impliedly and necessarily forbidden. The aforesaid settled legal proposition is based on a legal maxim "Expressio unius est exclusio alterius", meaning thereby that if a statute provides for a thing to be done in a particular, then it has to be done in that manner and in no other manner and following other course is not permissible. (Vide Taylor Vs. Taylor, (1876) 1 Ch.D.426; Nazir Ahmed Vs. King Emperor, AIR 1936 PC 253; Deep Chand Vs. State of Rajasthan, AIR 1961 SC 1527; Patna Improvement Trust Vs. Smt. Lakshmi Devi, AIR 1963 SC 1077; State of Uttar Pradesh Vs. Singhara Singh & Ors., AIR 1964 SC 358; Chettiam Veettil Ammad Vs. Taluk Land Board & ors., AIR 1979 SC 1573; State of Bihar Vs. J.A.C. Saldanna, AIR 1980 SC 327; State of Mizoram Vs. Biakchhawna, (1995) 1 SCC 156; J.N.Ganatra Vs. Morvi Municipality Morvi, AIR 1996 SC 2520; Haresh Dayaram Thakur Vs. State of Maharashtra & ors., (2000) 6 SCC 179; Dhanajaya Reddy Vs. State of Karnataka etc. etc., (2001) 4 SCC 9; Commissioner of Income Tax, Mumbai Vs. Anjum M.H. Ghaswala & ors., (2002) 1 SCC 633; Prabha Shankar Dubey Vs. State of Madhya Pradesh, AIR 2004 SC 486; and Ram Phal Kundu Vs. Kamal Sharma, AIR 2004 SC 1657.

Page 95

31. In M/S Erusian Equipment & Chemicals Ltd. Vs. State of West Bengal & Anr., AIR 1975 SC 266, the Supreme Court observed that where a Government activity involves public element, the "citizen has a right to claim equal treatment", and when "the State acts to the prejudice of a person, it has to be supported by legality." Functioning of a "democratic form of Government demands equality and absence of arbitrariness and discrimination".

32. Similarly, in Ramana Dayaram Shetty Vs. The International Airport Authority of India & ors., AIR 1979 SC 1628, the Apex Court observed that the activities of the government had a public element and if it framed a policy, it must do so fairly without discrimination and without unfair procedure. Whenever the government dealt with the public, whether by way of giving certain relaxation or special benefit, the government could not act arbitrarily at its sweet will but must act in conformity with standards or norms, without being arbitrary, irrational or irrelevant. If the government departed from such standard or norm in any particular case or cases its action was liable to be struck down unless it could be shown that the departure was not arbitrary but was based on some valid principle which was not irrational, unreasonable or discriminatory. The Court further held as under:-

"Every action of the executive Government must be in form of reason and should be free from arbitrariness. That is the very essence of rules of law and its bare minimum requirement."

33. Thus, a decision taken in an arbitrary manner contradicts the principle of legitimate expectation and the plea of legitimate expectation relates to procedural fairness in decision making and forms a part of the rule of non-arbitrariness, as denial of administrative fairness is Constitutional anathema. The basic requirement of Article 14 is fairness in action by the State. (Vide E.P. Royappa Vs. State of Tamil Nadu, AIR 1974

SC 555; Smt Maneka Gandhi Vs. Union of India & Anr. AIR 1978 SC 597; Kasturi Lal Lakshmi Reddy Vs. State of Jammu & Kashmir, AIR 1980 SC 1992; Dwarkadas Marfatia & Sons Vs. Board of Trustees of the Port of Bombay, AIR 1989 SC 1642; Mahabir Auto Stores Vs. Indian Oil Corporation, AIR 1990 SC 1031; Ku. Shrilekha Vidyarthi Vs. State of U.P. & ors., AIR 1991 SC 537; and Ghaziabad Development Authority Vs. Delhi Autho & General Finance Pvt. Ltd. & Ors., AIR 1994 SC 2263.

34. The rule of law prohibits arbitrary action and command the authority concerned to act in accordance with law. Every action of the State or its instrumentalities should not only be fair, legitimate and above-board but should be without any affection or aversion. It should neither be suggestive of discrimination nor even apparently give an impression of bias, favouritism and nepotism or negation of right accrued by the policy or order. (Vide Haji T.M. Hassan Rawther Vs. Kerala Financial Corporation, AIR 1988 SC 157).

35. In the State of Andhra Pradesh Vs. Nalla Raja Reddy & ors., AIR 1967 SC 1458, the Constitution Bench of the Apex Court observed as under:-

“official arbitrariness is more subversive of doctrine of equality than the statutory discrimination. In spite of statutory discrimination, one knows where he stands but the wand of official arbitrariness can be waved in all directions indiscriminately.”

36. Similarly, in S.G.Jaisinghani Vs. Union of India & ors., AIR 1967 SC 1427, the Constitution Bench of the Apex Court observed as under:-

“In the context it is important to emphasize that absence of arbitrary power is the first essence of the rule of law, upon which our whole Constitutional System is based. In a system governed by rule of law, discretion, when conferred upon Executive Authorities, must be confined within the clearly defined limits. Rule of law, from this point of view, means that the decision should be made by the application of known principle and rules and in general such decision should be predictable and the citizen should know where he is, if a decision is taken without any principle or without any rule,

it is unpredictable and such a decision is antithesis to the decision taken in accordance with the rule of law.”

37. In a case where as a result of a decision taken by the Government the other party is likely to be adversely affected, the State authorities have to exercise their powers bonafidely and not arbitrarily. (Vide Amarnath Ashram Trust Society Vs. Governor of U.P., AIR 1998 SC 477).

38. There is no manner of doubt that the public authorities and the Government are bound to act reasonably and fairly and each action of such authorities must pass the test of reasonableness and whenever action taken is found to be lacking bonafide and made in colourable exercise of the power, the Court should not hesitate to strike down such unfair and unjust proceedings. (Vide Delhi Transport Corporation Vs. D.T.C. Mazdoor Congress & Ors., AIR 1991 SC 101; and Hansraj H. Jain Vs. State of Maharashtra & ors. (1993) 3 SCC 634).

39. In essence, the action/order of the State or State instrumentality would stand vitiated if it lacks bona fides as it would only be a case of colourable exercise of power. The Rule of Law is the foundation of a democratic society.

40. Courts being custodians of law have a solemn duty to uphold the rule of law under all circumstances by directing the authorities concerned to act in accordance with law. If the rule of law is not enforced, it will surely become a casualty in the process, a costly consequence to be zealously averted by all, and at any rate, by the Court. (Vide Salkia Businessmen's Association & Ors. Vs. Howrah Municipal Corporation & Ors., (2001) 6 SCC 688).

41. Wherever arbitrariness or unreasonableness is found, there is a denial of Rule of Law. The Rule of Law means absolute supremacy or

predominance of regular law as opposed to the influence of arbitrary power and excludes the existence of arbitrariness, of prerogative or even of wide discretionary authority on the part of the State or its instrumentality. (Vide State of Madhya Pradesh & Anr. Vs. Thakur Bharat Singh, AIR 1967 SC 1170). A decision taken by the authority under the policy or Statute has to be made by the application of principles of rules, and, in general, such decision should be predictable and the citizen should know where he stands. If a decision is taken without any principle or without any rule, it is unpredictable and such a decision is the antithesis to a decision taken in the rule of law. The term Rule of Law connotes the undisputed supremacy of law and envisage a state of things in which every one respects the law and where law has to be followed by everyone collectively and individually by the citizens as well as by the State. The Rule of Law permeates the entire fabric of the Constitution and indeed forms one of its basic features. (Vide Bachan Singh Vs. State of Punjab, AIR 1982 SC 1325).

42. In I.R. Coelho (dead) by LRs Vs. State of Tamil Nadu, (2007) 2 SCC 1, the Apex Court held as under:-

“The State is to deny no one equality before the law.....Economic growth and social equity are the two pillars of our Constitution which are linked to the right of an individual (right to equal opportunity), rather than in the abstract.....Equality, rule of law, judicial review and separation of powers form parts of the basic structure of the Constitution. Each of these concepts are intimately connected. There can be no rule of law, if there is no equality before the law. These would be meaningless if the violation was not subject to the judicial review.”

43. The petitioners claimed that in light of Shetty Commission report and Apex Court's order, a legitimate expectations arose in their favour for grant of such a benefit for which they were deprived by an unreasonable and arbitrary order/classification by the executive which is negation of

benefit which was accrued in their favour and against the principle of Legitimate Expectation. The legal maxim "salus populi est suprema lex" (regard for public welfare is the highest law) comes to an aid. The doctrine can be pressed if a person satisfies the Court that he has been deprived of some benefit or advantage which earlier he had in the past been permitted by the decision-maker to enjoy or he has received the assurance from the decision-maker that such benefit shall not be withdrawn without giving him an opportunity of advancing reasons for contending that it should not be withdrawn. (Vide A. Mahudswaran & Ors. Vs. Govt. of T.N. & Ors., (1996) 8 SCC 617; Mrs. Dr. Meera Massey & Ors. Vs. Dr. S.R. Mehrotra & Ors. (1998) 3 SCC 88; National Buildings Construction Corporation Vs. S. Raghunathan & Ors., (1998) 7 SCC 66; State of West Bengal & Ors. Vs. Niranjana Singha, (2001) 2 SCC 326; State of Bihar Vs. S.A. Hasan & Anr., (2002) 3 SCC 566; Dr. Chanchal Goyal (Mrs.) Vs. State of Rajasthan, (2003) 3 SCC 485; J.P. Bansal Vs. State of Rajasthan & Anr., (2003) 5 SCC 134; Hira Tikoo Vs. Union Territory, Chandigarh, AIR 2004 SC 3649; Ram Pravesh Singh Vs. State of Bihar & Ors., (2006) 8 SCC 381; Confederation of Ex-Servicemen Association Vs. Union of India & Ors., AIR 2006 SC 2945; and Secy, State of Karnataka & Ors. Vs. Uma Devi & Ors., AIR 2006 SC 1806).

44. In Union of India & Ors. Vs. Hindustan Development Corporation & Ors, AIR 1994 SC 988 the Supreme Court held as follows:-

"On examination of some of these important decisions it is generally agreed that legitimate expectation gives the applicant sufficient locus standi for judicial review and that the doctrine of legitimate expectation is to be confined mostly to right of a fair hearing before a decision which results in negating a promise or withdrawing of an undertaking is taken. **The doctrine does not give scope to claim relief straight way from the administrative authorities as no crystallized right as such is involved. The protection of such legitimate expectation does not require the fulfilment of the expectation where an overriding public interest requires otherwise.** In other words where a person's

legitimate expectation is not fulfilled by taking a particular decision then decision-maker should justify the denial of such expectation by showing some overriding public interest." (Emphasis added).

45. In Punjab Communications Ltd Vs. Union of India & Ors., AIR 1999

SC 1801, the Supreme Court held as follows:-

".....the doctrine of legitimate expectation in the substantive sense has been accepted as part of our law and that the decision-maker can normally be compelled to give effect to his representation in regard to the expectation based on previous practice or past conduct unless some overriding public interest comes in the way..... reliance must have been placed on the said representation and the representee must have thereby suffered detriment.....The more important aspect, in our opinion, is whether the decision-maker can sustain the change in policy by resort to Wednesbury principles of rationality or whether the court can go into the question whether the decision-maker has properly balanced the legitimate expectation as against the need for a change. In the latter case the court would obviously be able to go into the proportionality of the change in the policy.....The choice of the policy is for the decision-maker and not for the Court.....The protection for substantive legitimate expectation was based on Wednesbury unreasonableness. In sum, this means that the judgment whether public interest overrides the substantive legitimate expectation of individuals will be for the decision-maker who has made the change in the policy and the courts will intervene in that decision only if they are satisfied that the decision is irrational or perverse."

46. While deciding the said case, reliance was placed by the Apex Court on its earlier judgments in M.P. Oil Extraction Vs. State of Madhya Pradesh, (1997) 7 SCC 592; and National Buildings Construction Corporation Vs. S.Raghunathan, (1998) 7 SCC 66.

47. The doctrine of legitimate expectation has a meaning that the statements of policy or intention of the Government or its Department in administering its affairs should be without abuse or discretion. The policy statement could not be disregarded unfairly or applied selectively for the reason that unfairness in the form of unreasonableness is akin of violation of natural justice. It means that said actions have to be in conformity of Article 14 of the Constitution, of which non arbitrariness is a second facet. Public Authority cannot claim to have unfettered discretion in public law as

the authority is conferred with power only to use them for public good. Generally legitimate expectation has essentially procedural in character as it gives assurance of fair play in administrative action but it may in a given case be enforced as a substantive right. But a person claiming it has to satisfy the Court that his rights had been altered by enforcing a right in private law or he has been deprived of some benefit or advantage which he was having in the past and which he could legitimately expect to be permitted to continue unless it is withdrawn on some rational ground or he has received assurance from the decision making Authority which is not fulfilled, i.e. , the kind of promissory estoppel.

48. Change of policy should not violate the substantive legitimate expectation and if it does so it must be as the change of policy which is necessary and such a change is not irrational or perverse.

49. This doctrine being an aspect of Article 14 of the Constitution by itself does not give rise to enforceable right but it provides a reasonable test to determine as to whether action taken by the Government or authority is arbitrary or otherwise, rational and in accordance with law.

50. In *Kuldeep Singh Vs. Government of NCT of Delhi*, AIR 2006 SC 2652, the issue of legitimate was considered observing that the State actions must be fair and reasonable. Non-arbitrariness on its part is significant in the field of governance. The discretion should not be exercised by the State instrumentality whimsically or capriciously but a change in policy decision, if found to be valid in law, any action taken pursuant thereto or in furtherance thereof should not be invalidated.

51. Similarly in *Ashok Smokeless Coal India (P) Ltd. & Ors. Vs. Union of India & Ors.*, (2007) 2 SCC 640, the Court held as under:-

Principles of natural justice will apply in cases where there is some right which is likely to be affected by an act of administration. Good administration, however, demands observance of doctrine of reasonableness in other situations also where the citizens may legitimately expect to be treated fairly. Doctrine of legitimate expectation has been developed in the context of principles of natural justice."

52. It is also settled law that government having taken a decision in accordance with law should not be permitted to challenge the same solely with a view to resile from the consequences of its earlier decision or order. [Vide Commissioner of Police Vs. Govardhan Das, AIR 1952 SC 16; and State of Assam Vs. Raghava Gopalachari, (1972) SLR 44 (SC)].

53. Similarly, in Ramana Dayaram Shetty Vs. The International Airport Authority of India & ors., AIR 1979 SC 1628, the Apex Court observed that every action of the executive Government must be informed by reasons and should be free from arbitrariness. That is the very essence of rule of law and its bare minimum requirement.

54. The spirit of the recommendation of the Shetty Commission was to grant advance increment to those candidates having higher qualification i.e. post graduation in Law. There is a positive recommendation and it should be interpreted in a positive way. The State instrumentality may not negate the fruits of the Shetty Commission or interpret in such a way to deny the advance increment as made admissible to those having higher qualification. The exercise of power of interpretation should not be made against the spirit of the provisions of the order otherwise it would tend towards arbitrariness.

55. Learned counsel for the petitioners has also raised the question of equal pay on the ground of equal qualification and equal work. The principle of equal pay for equal work is not an abstract doctrine and can be enforced by reading it into the doctrine of equality enshrined in Articles 14 and 16 of the Constitution of India. The said principle has been followed in

various pronouncements of Hon'ble the Apex Court, some of which are quoted below:-

- I. Randhir Singh v. Union of India -[1982 (1) SCC 618]
- II. Jaipal v. State of Haryana – MANU/SC/0160/2000
- III. Canteen Mazdoor Sabha v. Metallurgical & Engineering, Consultants (India) Ltd. - MANU/SC/3434/2007

56. The question of legitimate expectation has also been raised by the petitioners and in light of the Shetty Commission which was duly approved by Hon'ble the Apex Court and later on the Government of India applied the principle for payment of three advance increments to those who have higher educational qualification raised a legitimate expectation in the mind of all those officers who have higher qualification to have the benefit extended to them by the Judicial Commission. The similar view has been taken by the 4th Commission while recommending the equal pay on equal footings.

57. In Secretary, State of Karnataka vs. Uma Devi (supra), the Constitution Bench referred to the claim of the employees based on the doctrine of legitimate expectation and observed as under :

"The doctrine can be invoked if the decisions of the administrative authority affect the person by depriving him of some benefit or advantage which either (i) he had in the past been permitted by the decision-maker to enjoy and which he can legitimately expect to be permitted to continue to do until there have been communicated to him some rational grounds for withdrawing it on which he has been given an opportunity to comment; or (ii) he has received assurance from the decision-maker that they will not be withdrawn without giving him first an opportunity of advancing reasons for contending that they should not be withdrawn."

58. Uttar Pradesh is a big State, having big population, a big number of pending cases, a big number of disposal also, big number of judicial officers and employees in the Court and a big number of problems also. Denial of equality with the officers who have similar higher education and differentiating in the manner to deny the rights which have been accrued

to them on unreasonable ground is not reasonable criteria for rational classification. The State of U.P. should lead leading role not only in growth and development but also in applying the principle and facilities to the employees of the State similar to the pattern which has been adopted by the Government of India. We hope and trust that the benefit which has been extended by the Government of India to the officers within Delhi Administration, be also extended to the officers in the State of U.P. on similar footings specially in the circumstance when States like West Bengal, Kerala, Delhi, Uttarakhand etc. have applied the policy as framed by the Shetty Commission and directed by the Supreme Court. The record reveals that while clarifying the Government Order, the Principal Secretary has distinct it and made a discrimination by an arbitrary order on unjustified and unreasonable grounds.

59. Considering the above submissions, we are of the view that the letter dated 03.01.2012 addressed to the Registrar General, High Court of Judicature at Allahabad, has no sanctity and is unwarranted and required to be quashed. The letter dated 27.03.2015 clarifies the position that those who had higher degree as on 21.03.2002 while entering into service or had degree prior to this, are entitled for the benefit of three advance increments. There is again not denial of this benefit to the officers who acquire degree after entering into the service.

60. Accordingly, letter dated 03.01.2012 is quashed and the Government Orders dated 13.05.2009 and 27.03.2015 require clarification/modification to the extent they deny the benefit of three advance increments to those judicial officers who have acquired/acquire higher qualification of LL.M after joining the service, therefore, we direct that -

Request 95

25

- i. The benefit of three advance increments shall also be admissible to the petitioners as well as all other similarly situated judicial officers in the State of U.P.
- ii. The judicial officers who acquire the degree of LL.M before joining the service shall be entitled to three additional increments from the date of joining the service or from the date of implementation of the Government Order, as the case may be, while those who have acquired/acquire the same after joining the service shall be entitled to these increments from the date of acquisition of the higher qualification of LL.M.
- iii. The additional increments shall continue to be drawn by the judicial officers on their further promotion and/or placement in higher pay scale, as the case may be.

The writ petitions are decided accordingly. No order as to costs.

Order Date :- 03.05.2017

(Sheo Kumar Singh-I, J.) (Shri Narayan Shukla, J.)

A. Katiyar

Court No. - 2

Request 95

Case :- SERVICE BENCH No. - 678 of 2014

Petitioner :- Abhay Pratap Singh-Ii

Respondent :- State Of U.P. Through Prin. Secy. Appointment Lko. & Another

Counsel for Petitioner :- Mukteshwar Mishra, Divaker Srivastava

Counsel for Respondent :- C.S.C., Manish Kumar, U.N. Mishra

Hon'ble Shri Narayan Shukla, J.

Hon'ble Sheo Kumar Singh-I, J.

By means of aforesaid writ petitions filed under Article 226 of the Constitution of India, the petitioners have assailed the Government Order dated 13.05.2009 issued by the Government of U.P. Appointment Anubagh-4, in which it has been provided that three advance increment consequent upon Post Graduation and higher degree will be applicable only to those officers who possessed higher degree at the time of appointment on 22.03.2002 or thereafter and they had mentioned the same in their application form submitted to the U.P. Public Service Commission. The classification for grant of benefit of advance increments to the Judicial Officers who possess higher qualification /education by making category (a) who acquired higher education (LLM) before 22.03.2002, or (b) who acquired higher education during the service, or (c) who did not mention their higher qualification in their application forms submitted to the Public Service Commission or the High Court, as the case may be, and denial to some of them, though they had higher qualification, was neither contemplated in the recommendation of the Shetty Commission Report nor has any reasonable classification and order passed or G.O. issued by clarifying in categories is unreasonable, irrational and in violative of Article 14 of the Constitution of India. The Shetty Commission while recommending three advance increments had not created any bar or rider that it should be granted to those officers who acquire higher education, while in service and subsequent to their appointment. There is no bar that the said increments should not be made admissible to the candidates or officers, who did not mention their higher qualification in their application forms while submitting to the Public Service Commission because the higher education or qualification of LLM was not the minimum eligibility criteria for submission of application form.

In both the writ petitions, the petitioners have prayed for issuing a direction in the nature of certiorari, in so far it deprives the Judicial Officers who have earned their higher education prior to 22.03.2002 or after appointment, or who did not mention in application form while submitting before the Commission. Since, the letter dated 03.01.2013 addressed to the Registrar General, High Court of Judicature at Allahabad, which is in the form of clarification has no reasonable criteria and classified the Judicial Officers on unreasonable ground, though they have similar qualification and similar duties and responsibilities, having no sanctity, requires to be quashed and hereby quashed. We make it clear that the advance increment, in light of the Shetty Commission Report under Clause 8.48 and in light of Government Order dated 03.05.2009 is admissible to all eligible Judicial Officer, irrespective of the facts as to whether before entering into the service while submitting the application for appearing in the competitive examination, the information was

furnished or not.

Request SS

The bunch of the writ petitions on similar issue was under consideration before this Court in Writ Petition No. 1496 (SB) of 2015 (Sanjay Shankar Pandey vs. State of U.P. Thru. Prin.Secy. Deptt. Of Appointment & Anr.), which was decided vide order dated 03.05.2017 in following terms:-

- i. The benefit of three advance increments shall also be admissible to the petitioners as well as all other similarly situated judicial officers in the State of U.P.
- ii. The judicial officers who acquire the degree of LL.M before joining the service shall be entitled to three additional increments from the date of joining the service or from the date of implementation of the Government Order, as the case may be, while those who have acquired/acquire the same after joining the service shall be entitled to these increments from the date of acquisition of the higher qualification of LL.M.
- iii. The additional increments shall continue to be drawn by the judicial officers on their further promotion and/or placement in higher pay scale, as the case may be.

Since the controversy has already been decided vide order passed in bunch of writ petitions, we feel it appropriate to decide the aforesaid writ petitions in terms of the order passed in above mentioned writ petitions.

Accordingly, the writ petitions are allowed in terms of order passed in Writ Petition No. 1496 (SB) of 2015. No order as to cost.

Order Date :- 8.5.2017

amit

(Sheo Kumar Singh-I, J)

(Shri Narayan Shukla, J.)