

From,

28.06.2023

Soumya Mishra II (UP03307)
Judicial Magistrate -03,
Aligarh.

To,

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

Through,

The District Judge
Aligarh

Subject: Representation against the Annual Confidential Remark for the Assessment Year 2022-23 as recorded by Smt. Kamlesh Kuchhal, Learned District Judge, Banda.

Respected Sir,

I most humbly submit parwise representation against the Annual Confidential Remarks given by the learned District Judge Banda for me regarding assessment year 2022-2023 as under:

1. In the **Column 01(e)(iii) 'Disposal of old cases'** the remark by Ld. District Judge mentions disposal of only 46 cases, which is factually wrong.
 - a) A perusal of the proforma of Self Assessment form 2022-2023 in column no 2A(ii) that number of cases older than 5 years decided by me as **45 Civil(Including O.S. and Execution applications) and 25 Criminal cases** apart from the Criminal Misc. Applications.
 - b) In the proforma of Self Assessment form 2022-2023 in Column 2B(ii) **66 Civil cases more than 10 years old and 32 criminal**

cases more than 10 years old are shown as disposed by me. In this way **I have disposed 111 Oldest Civil cases and 57 Oldest Criminal cases, bringing the total to 168.** I had also annexed the list of civil and criminal cases older than 5 & 10 years disposed by me in the Assessment year 2022-23 as *Annexure 4* in Self Assessment form in support of my claim and the same is being enclosed herewith for kind perusal of Hon'ble Court.

2. In the **Column 01(e)(v) 'Whether interim order, injunction being granted, refused or retained for sufficient reasons'** the remark by Ld. District Judge that 'Injunction orders are retained for long time' appears to be a vague remark as no particulars of any case has been provided. It is further humbly submitted that the civil cases were originally instituted in the court of Civil Judge(J.D.), Banda and thereafter the cases were transferred to different additional courts as per the discretion of Ld. District Judge. It is further submitted that the fresh cases themselves are not regularly transferred to other Additional courts and generally transferred after a significant period of time. It is further submitted that despite heavy pendency of 457 O.S apart from Civil Misc and Execution cases, 1511 Criminal cases and daily bail remand work I put my best efforts to finally decide interim injunction application and decided 20 such Injunction applications after hearing both parties during the Assessment Year 2022-23. A list of cases in which I decided Interim Injunction applications is being enclosed for kind perusal of Hon'ble Court (**Enclosure 2**).

3. In the **Column 01(e)(vi) ‘Are cases remanded on substantial grounds’** the remark by Ld. District Judge states that **‘remand orders are not sometimes justified’**, which appears to be vague remark as this column applies upon remanding of appeal but as Additional civil Judge(J.D.) I didn’t deal with any appeal which could be remanded. It is also clear from the perusal of **Part 1 of Self Assessment form filled by me, wherein at serial Number 12**, it has been specifically mentioned in the proforma that **‘Percentage of appeals remanded by the officer’** hence it is submitted that the above said remark is not sustainable being not applicable in my case.

4. In the **Column 01(f) ‘Whether judgment on facts and law are on the whole sound, well reasoned and expressed in good language’** the Ld. District Judge has given remark that **‘language is good but reasoning and soundness required’** and in the **Column 01(f)(ii) ‘Appreciation of evidences’** ; and **Column 01(f)(iii) ‘Appreciation of law’** the Ld. District Judge has given remark **‘Average’** but it is humbly submitted so far as reasonability and soundness is concerned there maybe some inadvertant overlooking as per the discretion of Learned District Judge. I am new enterant in the service and my total service period is 3 years 7 months only. It is pertinent to mention that I took charge as Additional Civil Judge (J.D.) Court no.-1, Banda on 18.11.2019, thereafter I received Field and institutional training and **started actual judicial work since September 2020**. I have always tried write good quality orders and judgments and in order to improve quality of same, I

regularly read the law journals to enlighten myself with the judgment of Hon'ble Court and also take guidance from my seniors. It is also submitted that in A.Y. 2020-21 Annual remarks were given by the then Learned Director IJTR and Annual remark was given in AY 2021-22 by the then Learned District Judge, Banda. In both said remarks I wasn't advised anything regarding soundness and reasoning of my Judgment and orders. It is also submitted that the then Learned Director IJTR and the then Learned District Judge Banda both have been elevated to Hon'ble Court. It's also pertinent to mention that during my short tenure till now neither any appeal has been yet remanded to me because of lack of reasoning nor any orders were set aside in revision due to lack of reasoning and soundness.

5. In the **Column 01(h) 'Control over the Office and Administrative capacity and tact'** the remark by Ld. District Judge states that 'Needs to exercise control over the file in complaint case 278/IX/21 Chandrapal/Omprakash & Others. The ordersheet was left unwritten for several days though the date was given by the officer herself.', In this regard, I most humbly submit that referred Case no. 278/ix/21 Chandrapal/Omprakash was stayed by Hon'ble HC Allahabad on 03/04/2013 and the file was fixed for further orders since then. Thereafter, an order to file current status of stay was passed and notice to parties were issued. On 17.08.2022 Ravi Gupta son of Accused Om Prakash appeared in court and prayed to file status of stay order in court and also files ruling of Fazizullah Khan/ M. Akbar Contractor (D) by

Lrs in support of continuation of stay order till disposal of Application u/s 482 No. 10637/2013 by Hon'ble HC Allahabad. Several dates were fixed to provide opportunity to accused for filing of stay order. During which file was put up, and on call the accused's son would appear, sign the ordersheet and take the next fixed date. It was later found by me that though I had written marginal notes, the reader didnt record the same on the ordersheet. I orally directed my reader to complete ordersheet as per judges notes inscribed on the margins but meanwhile I was transfered from Banda to Aligarh and did not get an opportunity to follow up. I also humbly submit that I personally try to write the ordersheets of maximum cases but due to excess work, it wasn't possible for me to write the ordersheets and somehow the unwritten ordersheet did not come to my notice and it was purely inadvertant. I apologise for the same and assure that I shall be careful in future so that such incidents may not be repeated again.

6. It is humbly submitted that all remarks given by the learned District Judge, Banda except the remark based on complaint case 278/IX/21 Chandrapal/Omprakash & Others are based on wrong facts and it appears that learned District Judge was prejudiced while recording remarks against me which is evident from the remark regarding 'Remand of appeals' and mentioning wrong number of cases which I decided. I most humbly submit that these kind of harsh remarks in the initial period of my career may ruin my entire career prospects. I again ensure this Hon'ble Court that I shall remain more careful and vigilant in future so as not to repeat such instances in future. Hence It is humbly

prayed that the remarks given by the Ld. District Judge, Banda in my annual assesement 2022-23 may kindly be expunged from my records.

With regards,

Your's faithfully,

Enclosure: As above

(Soumya Mishra II)

Judicial Magistrate

Aligarh