

From:

Satya Nand Upadhyay,
Presiding Officer
Commercial Court Number 01
Meerut.

To:

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

Subject: Submission of representation to expunge the remark of integrity recorded by the then Hon'ble Administrative Judge of the Muzaffar Nagar Judgeship against the undersigned applicant for the Assessment Year 2022-23.

Respected Sir,

I most respectfully beg to submit my representation on the subject noted above as under:

1- That during the assessment year 2022-2023, I was posted as Additional District & Sessions Judge Gorakhpur from 01-04-2022 to 21-05-2022 and as Principle Judge, Family Court, Muzaffar Nagar form 24-05-2022 to 31-03-2023. Annual Confidential Remark for the year 2022-2023 of the undersigned applicant for the Assessment Year 2022-23 was recorded by the then Hon'ble Administrative Judge, Muzaffar Nagar Judgeship on 09-10-2023 as shown on portal of eServices for Judicial Officers of Hon'ble High Court. In the column of over all assessment, the Hon'ble Administrative Judge, recorded the remark as follows:-

“As per the Self Assessment submitted by the Judicial Officer, he has been a good Administrator. His disposal of both old and new cases is

commendable. His efficiency and knowledge of law is reflected from his judgements.

His overall assessment is good but his integrity can not be certified by me as at the time of inspection of the Judgeship in August, 2022, I have received several complaints from the subordinate employees about misbehaviour and exploitation which were specific.

I have orally warned the Officer to remain careful in handling his subordinate staff.

Overall assessment	Good.
Integrity	Not Certified.”

2- It is humbly submitted that then Hon’ble Administrative Judge has made the adverse remarks against the integrity of the applicant in a subjective manner and the said remarks are based upon personal approaches of the Hon’ble Judge. While making the adverse remarks against the integrity of the applicant, neither any fact was recorded nor any evidence has been mentioned by the Hon’ble Judge.

3. It is also humbly submitted that integrity “not certified” and integrity “positively lacking” are two different concepts. It appears to be a halfhearted attempt in constructing the integrity as “not certified”. The so called misbehavior and exploitation on the part of the applicant is neither defined nor elaborated by the Hon’ble judge.

4- On the basis of above remarks the Hon’ble Administrative Judge in the column of integrity, noted that “Not Certified”. It seems that Awarding Authority was neither sure to certify the integrity nor was able to put it in the category of positively lacking. A mere remark of “not certified” is an

incomplete assessment in itself. The Hon'ble Administrative Judge recorded the remark of my integrity as "not certified" on the basis of several complaints from subordinate employees about my misbehaviour and exploitation during the time of Her Lordship's inspection of the Judgeship but surprisingly, I was never asked for any explanation about the allegations made by the subordinate staff. No specific allegation has been mentioned in the assessment, hence it is subtle to reply about unseen allegation.

5- It is also humbly submitted that neither any explanation of the applicant was called for nor any opportunity of hearing was ever provided to the applicant before forming an idea about integrity of applicant on the basis of complaints made by the subordinate employees about misbehaviour and exploitation by applicant. Thus, well established principle of natural justice was not followed which culminated into failure of justice with the applicant. The allegations of the subordinate staff are unseen and untold. Hence it is not possible to reply such untold and unseen allegations. Even the names of the complaining employees were neither noted nor ever disclosed to the applicant. It appears that the Hon'ble Judge made a casual assessment based upon conjectures and surmises.

6- That the Hon'ble Administrative Judge has mentioned in the remark that Her Lordship orally warned me to remain careful in handling my subordinate staff but actually no such oral warning was ever given to me and surprisingly for the first time on 09-10-2023, I came to know that subordinate employees have made any unfounded complaint about my misbehaviour and exploitation during the time of Her Lordship's inspection of the Judgeship when I read the remarks of my overall assessment shown on portal of eServices for Judicial Officers of Hon'ble High Court.

7- It is respectfully submitted that the undersigned applicant is a law abiding officer and he never succumbed to the undue favour to the subordinate staff. The applicant always worked faithfully in accordance with law. This might have caused aggrandizements in the mind of subordinate staff culminating into a false complaint against the undersigned applicant.

8- That it is also worthy to mention here that the Hon'ble Administrative Judge while recording the remark acknowledged that 'the officer has been a good administrator' and 'his disposal of old and new cases is commendable'. If an officer misbehaved and exploited his subordinate employees, how can he be a good administrator. Both assessment of the Hon'ble Administrative Judge are contradictory in itself.

9- That integrity is a sensitive characteristic of judicial officer and that can not be assessed in a casual way. A bare perusal of overall remark about administrative control, commendable disposal of cases and merits of judgments, clearly proves that remark regarding integrity is purely inadvertent, as it is purely based on conjectures and surmises and can not be categorised an objective assessment.

10- It is respectfully submitted that the above observation of the Hon'ble Administrative Judge about integrity of applicant is not in accordance with ratio decidendi of following leading cases:

In *Chandra Gupta v. Secretary Government of India & ors, (1995) SCC 44; Sukhdeo v. Commissioner Amravati Division & Anr., (1996) 5 SCC 103; and State Bank of India Vs. Kashinath Kher AIR 1996 SC 1328*, wherein the Apex Court has observed that the superior officer, must show impartiality, objectivity and fair assessment without any prejudice what so ever with highest sense of responsibility to inculcate in the officer's devotion to duty, honesty and integrity so as to improve excellence of the

Government officer, lest the officer can be demoralized which would be deleterious to efficiency and efficacy of public servants.

Similarly in *S. Ramchandra Raju v. State of Orissa, 1994 Supp. (3) SCC 424* the Hon'ble Apex Court explained the scope, object and proper mode of writing the A.C.Rs and the Hon'ble Court held as under:-

"This case would establish as a stark reality that writing confidential reports bears onerous responsibility on the reporting officer to eschew his subjectivity and personal approaches or proclivity or predilections as to make objective assessment. It is needless to emphasize that the career prospects of a subordinate officer/ employee largely depends upon the work and character assessment by the reporting officer. The latter should adopt fair, objective, dispassionate and constructive commends/comments in estimating or assessing the character, ability, integrity and responsibility displayed by the officer / employee concerned during the relevant period or the above objectives if not directly adhered to in making an honest assessment, the prospect and career of the subordinate officer being put to great jeopardy.....Therefore, writing the confidential reports objectively and constructively and communication thereof at the earliest would pave way for amend by erring subordinate officer or to improve the efficiency in service. At the same time, the subordinate employee /officer should dedicate to it hard work and duty; assiduity in the discharge of the duty honesty with integrity in performance thereof which alone would earn his usefulness in relation to his service".

11- That I have so far served for nearly 24 years in subordinate judiciary and have got appreciable service record and always tried to discharge my duties with utmost devotion and dedication.

It is, therefore, most humbly prayed that your goodself may kindly place this representation of mine before the Hon'ble Court/ Administrative Committee for kind consideration of there Lordships.

It is further prayed that the Hon'ble Court/ Administrative Committee may be pleased to kindly consider this representation of mine sympathetically and make my proper assessment by expunging the remarks about my integrity recorded by the then Hon'ble Administrative Judge of the Muzaffar Nagar Judgeship in my Annual Confidential Report for the Assessment Year 2022-2023 and also to upgrade the over all assessment from good to the level which Hon'ble Court deem fit. I shall remain grateful to the Hon'ble Court for this grace throughout my life.

With profound regards

Yours sincerely,

Date 26.10.2023.

Satya Nand Upadhyay,
Presiding Officer
Commercial Court Number-1
Meerut.