

"The Representation against Annual Confidential Remark 2020-2021"

From:

Nijender Kumar UP-2681

Additional District and Sessions Judge (14th Finance Commission) Kanpur Dehat.

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To,

The Hon'ble Chief Justice of Allahabad High Court of Judicature /Administrative Judge/
Authority at Allahabad.

Through:

The Registrar General

Hon'ble High Court of Judicature, Allahabad.

In Re:

The Representation against Annual Confidential Remark 2020-2021 as mentioning 'Average' entry against Judicial officer applicant (Nijender Kumar-UP2681) by the Hon'ble Justice Smt.Sadhana Rani Thakur (Former Hon'ble District Judge Kanpur Dehat).

The humble **Representation** of the applicant Judicial Officer **Nijender Kumar** most respectfully showeth:

The applicant most respectfully submitted as under:

Brief Facts:

1.That the applicant **Nijender Kumar-UP2681** is newly appointed as Additional District and Session Judge, HJS (direct) and taken charge as Additional District and Session Judge (Crime against women) on 28th September 2019. Thereafter, remained under training which was completed in January 2020 at JTRI Lucknow (UP).

2.That after all, I started judicial work from the last week of January 2020 **but no sufficient staff was given, only one single orderly given and newly appointed steno 3rd grade given** who was not trained in judicial work.I also trained him in judicial work. In February 2020, I transferred to the additional District and Sessions Judge fast track Court (14th finance commission) Kanpur Dehat.

3.That since applicant joined on 26th September 2019 at Kanpur Dehat as first posting far away from my home district without **having no governmental accommodation/residence here which was given in August 2020 after construction under repair**. Further, in this area, there has been a serious problem of residential houses for judicial officers. I had to live in a private rented house in a very insecure and poor condition at my own home expense where night study was not possible and in this poor condition I caught liver disease here. I am now under treatment. Furthermore, the allotted house decoration money was given in



April 2021 by the hon'ble district judge. **Thus, In all situations, I had to face psychological pressure as well as an adverse atmosphere during Covid-19.**

4. That as the period, during 2020-21, has been under lock down and advocates have been on strike. In addition to generally in sessions trial cases, the advocates come from Kanpur city that is far from Kanpur Dehat and they are also irregular. As such, The judicial work was not resumed regularly. Now, if sources are good, the outcome is good. If resources are very bad, the result is not good. In this view, I am entitled to a better entry than the average one. Further, Overall this may be called as a discriminatory behaviour in resources as well.

5. That since my joining **no permanent staff has remained with me. There has been frequent transfers of the court peon and orderly and many times, they are appointed on deputation. Still one of them is on deputation.**

6. Further, In my court, no permanent additional district counsel (ADGC) had not been appointed many times. I had written many letters to the district magistrate concerned. Furthermore, ADG(Criminal) had been holding two or more courts at one time due to the fact that judicial work had been hampered unnecessarily.

7. That seeing the working conditions and the **third grade steno** posted on deputation to Sessions Court as above mentioned was thereafter transferred and the new Session court steno **was given to my Court** after the several requests in monthly meetings.

8. That in Uttar Pradesh finally seeing the harshly Covid -19 lock down situation, **the quota limit given to judicial officers has been relaxed by the High Court Allahabad issuing circular dated 17th July 2021 mentioning that no 'adverse' entry is not to be given.**

9. That it's submitted that on 29th April 2021, the annual self-assessment was applied by me in online mode on which the hon'ble Justice Smt. Sadhna Rani Thakur (the former district judge of Kanpur Dehat) made an entry regarding my overall self assessment 2020-21 as "Good". and "Integrity" has been certified but the entry "**remark (if any)**", made that **he is an average officer**, is not sustainable which demoralised my efficiency at this stage in view of those situations as mentioned above and is adverse in nature as per circulars above all mentioned as well.

Grounds:

1. That here it's humbly reminded that with respect to annual confidential remarks on the work and conduct of Judicial Officers, these circulars are: C.L. No C132/75 dated 17th October 1975, C.L.No.C-2/2003 dated Allahabad, 27 th January 2003:-
C.LNO.C2/2003 dated. Allahabad. 27th January, 2003

"With reference to the Court's C.L.No. C- 132/75 dated October 17, 1975, I am directed to say that the Court has been pleased to change in Column No.2 of the prescribed proforma attached therewith regarding recording Annual Confidential Remarks of the Judicial Officers as under:

Out standing",

Very Good";



"Good";
"Average"; and
Poor

I am, therefore to send herewith a revised prescribed proforma and to request that this proforma may kindly be used by you for the purpose henceforward....."

2. That Now, my annual self-assessment 2020- 2021 as filled in that is shown online mode in which my the overall assessment is remarked as "**Good**" and "**Integrity**" is "**certified**" but **Remarks(if any)** is as prescribed in circulars (in years 1975, 2003 Circulars), This remark has been stated as "**He is an average officer**". Which remark is not reasoned and not bonafide **because my overall assessment has been given as good**. Now, how can a Judicial Officer be an average officer as per the above Circulars? Here also, as especially in covid-19 situations? Hence, this remark is not sustainable in this very present status which is adverse in nature and liable to be removed, struck down, expunged, as well considering my the annual assessment confidential remark of 2019-2020 in due process.

3. That Now further, it is also clear as looking at and seeing the hazardous covid-19 situations in Uttar Pradesh, as well **in view of the circular No.C-671/CE(B)/2021: Dated: Allahabad: July 17 2021 by Hon'ble High Court of Judicature at Allahabad is issued relating to quota limit and any adverse remark not to be given in this situation as reflected from circular given below:**

"From,
E:mail/Through Registered Post
Ashish Garg, H.J.S.
Registrar General,
High Court of Judicature at
Allahabad.

TO

All the District & Sessions Judges/ Presiding Officers of Land Acquisition, Rehabilitation and Resettlement Authorities/ Commercial Courts/ Motor Accident Claim Tribunals & Principal Judges, Family Court Subordinate to the High Court of Judicature at Allahabad.

No.C-671/CE(B)/2021: Dated: Allahabad: July 17 2021.

Subject: Exemption/relaxation in the QUOTA/UNITS prescribed for the Judicial officers for the Assessment Year 2020-21 keeping in view the pandemic of COVID-19.

Madam/Sir,

With reference to the subject captioned above, I am directed to say that the Hon'ble Court, after consideration and detailed deliberation in the matter, has been pleased to order that the exemption should be allowed from giving out-turn for the period for which the Court has directed closure of the subordinate courts or the normal functioning of the courts has been kept in abeyance except the performance of urgent work, such period is to be excluded by the officers while calculating the number of working days. **Further, in case officers find shortfall**



In their out-turn because of the irregular working of the courts during the pandemic period in Assessment Year 2020-21, the sympathetic view be taken by the Assessing Authorities and they may ignore the shortfall treating the same as no adverse.

The contents of this letter may kindly be brought to the notice of all the officers working under your administrative control for their guidance and compliance.
With regards,"

But in spite of that, this above-mentioned circular is very overlooked as well as not considered. Thus, making adverse comments against me as **He is an average officer** that is able to be removed. Which entry is adverse in nature in view of overall assessment first treating **Good** then **average**. It's clear also from the last previous year assessment 2019-20 that the present assessment 2020-2021 is contrary in spirit.

4. That now finally it's submitted that the above mentioned factual and legal circumstances are not seen and not considered by the hon'ble Justice Smt.Sadhana Rani Thakur (the former District Judge Kanpur Dehat) which are very favorable to me against **Average entry** so given in my annual confidential self assessment Form/report/ Remark 2020-2021.

Prayers:

It is therefore most respectfully prayed that the Hon'ble Chief Justice Allahabad High Court of Judicature/ administrative Judge/authority at Allahabad may graciously be pleased to:

(i) issue an appropriate order to remove/struck down/ expunge that entry namely "**He is an average officer**" being not reasoned. Hence, treating it as '**Good**' on the basis of **overall assessment** remarks of the merit of the applicant Judicial Officer made in annual confidential remarks 2020-21 on my annual self-assessment 2020-21 as submitted.

(ii) issue appropriate order giving the benefit of circular No.C-671/CE(B)/2021: Dated Allahabad July 17 2021 **relating to exemption/relaxation in the Quota/Units prescribed for the Judicial officers for the Assessment Year 2020-21 keeping in view the pandemic of COVID-19 as well as treating assessment year 2020-21 against Judicial Officers as no adverse.**

(ii) issue such other appropriate order as the Hon'ble Chief Justice Allahabad High Court Court of Judicature/ administrative Judge/Authority at Allahabad may deem fit and proper in the facts and circumstances as originated from the humble representation of judicial officer applicant in favour of applicant Judicial officer.

Place: Kanpur Dehat

Dated: 18/08/2021

Nijender Kumar

Applicant/ Judicial officer 18/8/21

Nijender Kumar UP-2681

Additional District and

Sessions Judge (14th

Finance Commission)

Kanpur Dehat.(U.P.)