

From,

Rajnish Kumar,
Additional District & Sessions Judge,
Court No. 1, Deoria.

To,

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

Through,

The District Judge,
Deoria

Subject: **Representation against the adverse remarks recorded against the applicant by the learned District Judge, Deoria for the Assessment Year 2021-22.**

Respected Sir,

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

1. I have been posted in the District Court, Deoria since 17.04.2019 as the Additional District & Sessions Judge, Deoria. The adverse remarks in Column Nos. 1 (b), (c), (d), (f) (i), (f) (ii), (f) (iii), (g) (iii) 2 and 4 of my ACR for the Assessment Year 2021-22 have been recorded by Sh. Ravi Nath, the then learned District Judge, Deoria.
2. That the observation of the learned District Judge in Column Nos. 1 (b), (c) and (d) in my ACR that I am not fair and impartial in dealing with the public and Bar and several complaints and transfer applications were filed for this; that I am not cool minded and loose temper in court and several complaints and transfer applications on this ground were filed; that adverse has come to his knowledge about my private character is absolutely wrong and factually false. My relations with the members of bar were always normal. There had never been any incident of my misbehavior with any members of the Bar nor there any complaint to my knowledge as such against me. There being no complaint or proof of my bad relations with the members of Bar or losing temper in my court. There is no complaint or proof of my being unfair and impartial in dealing with the public and Bar nor there is any complaint against me which shows my private character as to lower me in the estimation of the public and adversely affects the discharge of my official duties. On the contrary, the learned District Judge has found my disposal of work as adequate with 1685.97 units against required units of 1200. He has mentioned that my control over the file is proper. He has further observed that the judgments on facts and law, on whole are reasoned and expressed in Hindi language and appreciation of evidence and law is satisfactory. It is pertinent and significant to mention herein that the learned District Judge in Column No. 1 (i) of the remarks has mentioned that the relation with members of the Bar is cordial. Which clearly show that the learned District Judge has observed false remark without assigning any cogent reasons. It is pertinent to mention that the

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applicant has given adequate quota despite the fact that the courts remained badly affected due to COVID pandemic. Therefore, the adverse observation against me in column nos. 1 (b), (c) and (d) recorded by the learned District Judge is baseless and prejudicial.

3. The learned District Judge has adversely remarked in Column No. 1 (f) (i) as Marshalling of facts as 'Average'; in Column No. 1 (f) (ii) as Appreciation of evidences as 'Average' and in Column No. 1 (f) (iii) as Application of law is 'Not Good'. In reply to the above columns, it is humbly submitted that the learned District Judge has not mentioned any ground for such baseless adverse remarks. It is also pointed out here that the adverse remarks recorded in Column No. 1 (f) (i), (f) (ii) and (f) (iii) are contrary to the remark given in Column No. 1 (f). The learned District Judge in Column No. 1 (f) has remarked that the judgment on facts and law on whole are reasoned and expressed in Hindi language and appreciation of evidence and law is satisfactory. Whereas in Column No. 1 (f) (i), (f) (ii) and (f) (iii) has observed contrary to his own remarks given in Column No. 1 (f). Therefore, the adverse observation against me in column nos. 1 (f) (i), (f) (ii) and (f) (iii) recorded by the learned District Judge is baseless and prejudicial.
4. The learned District Judge has adversely remarked in Column No. 1 (g) (iii) that I have not decided any civil cases through compromises/alternative dispute resolution. Whereas, the undersigned has made disposal of five (05 nos.) of civil cases in National Lok Adalat.
5. The learned District Judge has adversely remarked in Column No. 4 that "I have no regard for the District Judge, Junior Judicial Officers and staff. That I am highly egoist and have no knowledge of the law and I am short tempered and behave rashly with the members of the Bar. Learned District Judge has further observed that I have passed illegal judicial orders and I am insubordination to the Learned District Judge".

In reply to the observations made in Column 4 it is humbly submitted that the learned District Judge in Column No. 1 (m) has observed that I am amenable to the advice of the District Judge and other superior officers, then how could I be insubordination to the learned District Judge. In reply to other observations made by the learned District Judge, para 2 and 3 of my representation be read as part and parcel of this para also. Moreover, the learned District Judge has not mentioned any instance or annexed any proof with his remark about the adverse observation made in Column 2 and 4. So, the observation made by learned District Judge in Column 2 and 4 is highly prejudicial and baseless.
6. That in my judicial service so far, I always worked hard and performed my judicial duty with utmost devotion, dedication, integrity and honesty and always earned appreciative assessment of mine as a 'Very Good' officer for the same in my ACRs recorded by all my previous learned District Judges and the Hon'ble Court except the observations made by Sh. Ravi Nath.
7. The applicant is seeking liberty of the Hon'ble Court to most respectfully and humbly submit that the promotion proceedings from Class IV to Class III were held in the Deoria Judgeship in November, 2020. Being

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ADJ 1st the applicant was also the member of the promotion proceedings. As per my opinion the promotions were not done in accordance with the rules, so I refused to sign the promotion proceedings on the ground of dissenting opinion. Thereafter, the aggrieved employees challenged the promotion proceedings before the Hon'ble High Court by filing a Civil Writ Petition No. 14866/2020 titled as "Prem Nath Yadav & Others Versus State of U.P. & others". I have also been arrayed as a party Respondent No. 4 in the above said writ petition. The applicant *vide* its detailed letter dated 24.03.2021 had apprised the Hon'ble Court about the factum of the above mentioned promotion proceedings held in the Deoria Judgeship. To avoid repetition, I am not reproducing the entire event in this representation but annexing herewith letter dated 24.03.2021 written to the Hon'ble Court as **Annexure No. 1**.

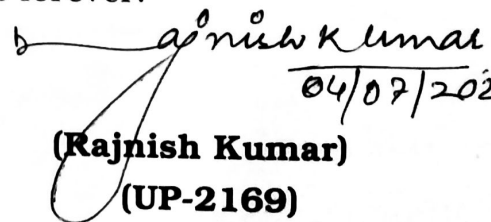
8. In view of the facts contained in the above mentioned paragraphs, the adverse remarks recorded in my ACR by the then learned District Judge Sh. Ravi Nath are absolutely baseless, without any proof, highly subjective and prejudicial and for that reason the same are not sustainable and liable to be expunged.

I, therefore request your goodself to place this representation of mine before the Hon'ble Administrative Judge of the District Court, Deoria for His Lordship's kind consideration. I most respectfully pray to His Lordship to kindly expunge the aforesaid adverse remarks in Column Nos. 1 (b), (c), (d), (f) (i), (f) (ii), (f) (iii), (g) (iii) 2 and 4 recorded by the learned District Judge, Deoria in my ACR for the Assessment Year 2021-22 and make my proper assessment for the said assessment year. I shall remain grateful to His Lordship for this grace forever.

With utmost regards,

Date: 04.07.2022

Place: Deoria


04/07/2022
(Rajnish Kumar)
(UP-2169)

Addl. District & Sessions Judge,
Court No. 1, Deoria

आवासीय अनुपद न्यायाधीश देवरिया
ऑफिस नं. 056/दिनांक 04.07.2022 देवरिया
अग्रसारित

अवर न्यायाधीश
देवरिया

4.7.22

From: Rajnish Kumar,
Additional District Judge,
Court No. 1, Deoria.

ANNEXURE NO. 1

To: Hon'ble Administrative Judge,
High Court of Judicature at Allahabad
for the District-Deoria

Through: District & Session Judge,
Deoria.

Subject: Regarding promotion of Class-IV to Class-III employees in Deoria
Judgeship

Hon'ble Sir,

With due respect I humbly wish to submit that I am posted as Additional District & Session Judge at Deoria since April, 2019.

Sh. Ravi Nath, District Judge, Deoria had assumed charge of his office as District Judge, Deoria in July, 2020. Immediately after assuming charge of his office he took up the task of promoting Class IV employees to Class III in violation of the prescribed rules and wanted me also to be part of the selection process. I apprised him that the procedure of promoting the employees by conducting written examination (which he was proposing) is in derogation to the Uttar Pradesh State District Court Service Rules, 2013 (hereinafter referred to as "Rules"). It is pertinent to mention herein that the rules regulating the promotion of Class IV employees to the post of Class III employees do not envisage conducting of any written examination and evaluation of employees for promotion on merit criteria rather the promotion is to be regulated on the basis of seniority. The relevant rule is reproduced herein below for the ready reference and kind perusal of your good self:

"(b) Twenty percent by promotion from amongst Group "D" employees on the basis of seniority subject to rejection of the unfit with minimum of five years substantive and satisfactory service having qualification upto High School".

It is pertinent to narrate herein the entire events from time to time as they occurred. It goes like this, that in the month of August Learned District Judge asked me to see the procedure as to how the promotion is to be done. I referred to the relevant rules and briefed him that the promotion is to be done on the basis of seniority subject to the rejection of the unfit.

In the month of September he instructed me to conduct exams for the promotions. I pleaded him that there is no procedure under the rules to conduct any examination for the promotions. If we conduct any examination then it would be against the intent of the Rules. Again after few days the Learned District Judge reiterated that he has prepared one examination paper and I should take it from him and conduct exam but I again expressed my inability to go against the Rules. After few days he sent In-charge, Chief Administrative Officer (CAO) to my chamber. He told me that the Learned District Judge Saab is stating that he would not take it otherwise if you go on leave on the date of proceedings for promotion are to be conducted. Same day I met Learned District Judge, he told the same thing to me that if I do not want to participate in the promotion process then I may go on leave and he

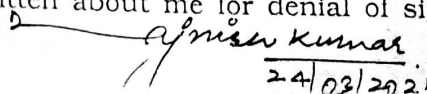
Rajnish Kumar
24/02/2021

will conduct the promotion proceedings on his own and he would not take it otherwise.

That in the month of August, 2020 Hon'ble High Court sent a letter for completing the process of promotion from Class IV employees to Class III wherever the vacancies arises. Learned District Judge again called me and said that as per rules I am supposed to be in promotion committee. I submitted to him that I am bound to follow his orders within the prescribed rules and accordingly participated in the promotion proceedings. It is pertinent to mention herein that Learned District Judge agreed that the name, father name, address, name of the court in which they are appointed and designation will be got written by the candidates in order to ensure if the candidates are competent to write or not as the nature of job of clerk is to write also.

On 06.11.20 interaction/interview for promotion from Class IV to Class III held in the chamber of Learned District Judge, Deoria. On 06.11.20 at 3.00 pm interaction/interview were started by the committee headed by the Learned District Judge as Chairman, senior most Additional District & Session Judge (myself) and Sh. Anand Priya Gautam, Civil Judge (Senior Division). One by one the candidates were called and they were asked to write their names, father names etc. but the Learned District Judge, Chairman of the committee also started asking questions on his own from the candidates and started writing something on blank paper which was not visible to me. I objected to the same but the chairman said that he is asking the questions in order to check their general knowledge. I *bonafide* had no clue at all what Learned District Judge had in his mind. The interaction/interviews concluded at 5.00 pm. Thereafter, Chairman asked us to leave. Next day on 07.11.20 at around 9.45 Sh. Anand Priya Gautam, Civil Judge (Senior Division) called me up and said that Chairman of the Promotion Committee (Learned District Judge) is calling him at his residence, upon which I told him that I have not received any such communication. Then Civil Judge (Senior Division) came to my chamber at about 10.00 AM and informed that he has signed the promotion list as directed by the Learned District Judge. At about 10.15 AM Learned District Judge called me in his chamber and asked to sign the promotion list. On perusal of the promotion list I was surprised to see that the promotions were not done by the Learned District Judge as per rules rather the same were in flagrant violation of the Rules. Promotions were done on pick and choose basis. I politely submitted to the Learned District Judge that I am unable to sign the list as the promotions have not been done as per the procedure laid down in the Rules. He pressurized me to sign the promotion list but I refused to sign the same and left his chamber. Then on 08.11.20 (Sunday) the result was declared without my signature. Thereafter, next day on 09.11.20 the promoted candidates were made to join their new posts of clerks. It is also important to mention that no minutes of exercise undertaken by the promotion committee were recorded. He deliberately as per his whims and fancies promoted Class IV employees without acceding to my advice to promote the Class IV employees as per the prescribed Rules.

It is also pertinent and significant to mention herein that I also demanded the concerned file of promotion to ascertain as to what has been written about me for denial of signature, but the


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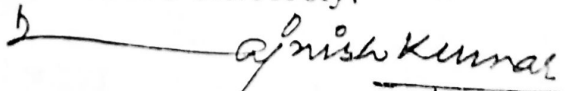
same was not shown to me. I also asked the In-charge Chief Administrative Officer (CAO) to show me the file, but he said that the concerned file is in the custody of the Learned District Judge and he has not given back the file to him. The aggrieved employees have filed a Civil Writ Petition No. 14866/2020 challenging the promotion procedure in the Hon'ble High Court which is listed on 05.04.21 for filing counter affidavit.

It is respectfully submitted that the undersigned has been arrayed as a party respondent in Civil Misc. Writ Petition No. 14866 of 2020. I have strong apprehension that the promotion file can be tampered with and can be manipulated. Therefore, despite numerous oral and written requests made by the undersigned, the promotion file has not been shown to the undersigned for perusal till date. I being a party respondent have legal and lawful right to peruse the counter affidavit to be filed before the Hon'ble High Court in the above titled writ petition. It is further reiterated that if any counter affidavit is filed on behalf of the undersigned then it should be in the knowledge and signature of the undersigned.

It is, therefore, most humbly and respectfully prayed that the lordship may kindly intervene immediately in the matter and direct the Learned District Judge to make available the promotion file to the undersigned and also direct him to allow the undersigned to peruse the counter affidavit if any prepared on behalf of the undersigned to be filed before the Hon'ble High Court in CWP No. 14866/20 listed on 05.04.21.

With utmost regards,

Place: Deoria
Date: 24.03.21

Yours Sincerely,

(RAJNISH KUMAR) ^{24/03/2021}
I.D. No. UP-2169
Additional District Judge
Deoria