

"The Humble Representation against Annual Confidential Remarks 2021-2022"

From:

Nijender Kumar UP-2681

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To,

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

Through:

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

In Re:

"**The Humble Representation against Annual Confidential Remarks 2021-2022 as remarking or giving only Good entry grade in place of Very Good or Outstanding grade, arbitrarily as stating and himself not mentioning percentage and not considering Units of applicant Judicial officer (Nijender Kumar-UP2681) by the Hon'ble District Judge Shri Anil Kumar Jha (Former Hon'ble District Judge, Kanpur Dehat).**"

The Humble Representation of the Applicant Judicial Officer 'Nijender Kumar UP-2681' most respectfully showeth:

The applicant most respectfully submitted as under:

Brief Facts: Introduction

1. That the applicant **Nijender Kumar-UP2681** is newly and first appointed as Additional District and Sessions Judge, HJS (direct) and has taken charge as Additional District and Sessions Judge (Crime against women) on 28th September 2019. Thereafter, remained under training which was completed in January 2020 at JTRI Lucknow (UP). After that, I transferred to the additional District and Sessions Judge fast track Court (14th finance commission) Kanpur Dehat. Hence, it is my first posting here. That after all, I started judicial work from the last week of January 2020 but no sufficient Court staff was given in my court there are various old cases which are transferred from other ADJ Courts on account of fast disposal which are not disposed of by those ADJs Courts with so many reasons.



Legal Grounds:

2. That During this self assessment period, I performed the **Highest Units** in spite of a lack of staff and Covid-19 Court Closing. I am also incharge of Record Room(Criminal), and per month, since more than one year, i am to go for the inspections of **Juvenile Home [Rajkiya Sampreshan Grah(Kishore)] in District Etawah** far away that is 125 km away from kanpur dehat from one side i.e total approximately up and down distance is 250km, and in kanpur Dehat inspecting old-age home, Rania, and in kanpur nagar Rajkiya Bal Grah(Boy) kalyanpur, Rajkiya BalGrah(Girl)Nababganj , Rajkiya BalGrah (Girls-Women) SwaroopNagar without any staff and on my petrol and car expenses but he didn't give me even any monthly petrol expenses. Hence, he harassed me in all ways here. I wrote many letters but he ignored them. In such situations at district level, there should be an online link in our services id for the genuine complaint monthly or quarterly so that the whole year, we may do work freshly and without mental pressure or depression.

3. That the Hon'ble District Judge did not understand my labour in many ways. With kind request, I remind here that since my appointment only one single orderly and clerk discriminately newly appointed staff was given in my Fast Track Court. Thereafter, The former Hon'ble District Judge Shri Anil Kumar Jha exceeded his misuse of power to affect my judicial work creating harassment in many forms. I wrote letters and requested to give Staff on account of many courts being vacant during 2021-2022 which he denied without any cause **which was against Circulars one of them is C.L.No. 24/J.R.(I) Dated: July 25,2001**. Further, it is with humble request, reminded that other ADJs Courts were also lying vacant in the District as compared to previous year, of which staff was misused with the help of the incharge of Nazarat. Here, I mention a circular for a kind perusal: **a Circular for the Utilization of Court Staff in absence of presiding officer C.L. No. 937/67-3 Dated 6th March, 1914:**

"when owing to the temporary transfer of or the grant of short leave to the presiding officer of the court the ministerial staff is left without work, it should, in the absence of any orders from the High Court, be utilised in clearing of areas if any in the court left vacant or in any other court industry add the end of the period a report should be submitted to the High Court indicating how the Staff was employed."

It is also necessary to mention here that there are Circulars G.L.No. 27/Admin G-II Dated 24-11-2021 and 9564/ Admin G-II Dated 03/08/2022 with regard to equal distribution of judicial work among the Court of equivalent jurisdiction but there was no equal distribution of judicial staff in my office or in the court. Hence, This has been also a critical discrimination on the part of Hon'ble District Judge in the matter of staff.

4. That I also trained newly staff, which was discriminately provided me, in judicial office work and even then I performed the highest disposal work in the form of total units of 1818.67 that is more than the actual 612.88 units which I showed also in my self assessment and uploaded attachment of those units in detail as per **Circular Letter No.06/2022Cf.(C) Allahabad: March 07th,2022 Annual Remarks For The Year 2021-22** Here is as under:

"Works done by Shri Nijender Kumar, Applicant for the Period 01.04.2021 to 31.03.2022:

Working Days: 186

Total units required In the year: 1200

Units Exempted Units due to non-working days in the year: 587.12

Units Actual required Units in the year: 612.88

Units Actual work done in the year: 1231.55

Units Total work done in the year: 1818.67"

"(The percentage of Total Work done of 1818.67 Units in this year is **296.74%** only in **186 working Days** in spite of Covid-19 War. So I did an extra **196.74% Units Work** in Percentage.)"

Hence, if it is compared to other ADJs Courts for example: The ADJ Crime against Women, ADJ Posco(Additional) and other Courts etc, it is clear that my court performed highest even without proper and sufficient Staff. Now, even then, I am downgraded in such harsh situations including Covid-19. **Then, Why should I do more performances** only for Good grade entry instead of Very Good or Outstanding discriminately? As such the Hon'ble district judge did not apply his fair mind.

5. That there are some other Circulars with regard to **Annual Remarks**: which are not found as complied with in his administrative Judgeship. please have a kind look on some Circulars:

C.L.No. C-10/85 Dated 22nd March,1985

C.L.No. C-14/89 Dated 10th March,1989

C.L. No.07/2014/Cf.(C) Allahabad 04.03.2014. which deal with in its clauses (c),(d) as under:

(c) In case the annual remarks in respect of any Officer is adverse/critical, wholly or in part, the whole of the remarks should necessarily be communicated to the Officer concerned and a note to that effect should be incorporated at the end of the annual remarks before dispatching the same to the Court.

(d) While recording annual remarks about Additional District & Sessions Judges you should also express your specific opinion about the quality of their judicial work in column No.I.(f), in this connection please refer to Court's Circular Letter No. 60/81, dated September 19, 1981.

Here, I mention the above mentioned Circular Letter No. 60/81, dated September 19, 1981 as under also:

"The District Judge, while inspecting the courts Additional District Judges & additional Sessions Judges and also while recording annual remarks in respect of Additional District Judges and Additional Sessions Judges, should examine some records handled by them as well as the judgement delivered by them in the cases and should assess the quality of their judicial work and from his opinion. The District Judges should also record his opinion on the basis thereof in the column I(f) at the time of recording the annual remarks"

6. That The Hon'ble former District Judge Shi Anil Kumar Jha presently posted as Motors Accident Claims Tribunal (MACT) at Balrampur (Uttar Pradesh) make a comment adversely in clause 01(g) of any remarks given by the district judge in my self assessment for the year of 2021-2022 that:

"Adequate disposal of work. percentage of work not mentioned by the officer" whereas clause 01(g) deals with this expression that **" Whether disposal of work is adequate (give percentage and reasons for short disposal if any) Note:- The following factors should also be indicated in filing up this column"** from this expression it is reflected that it is the duty of the Hon'ble District Judge to mention percentage and any other reason, but he mentioned only that **Adequate disposal of work. percentage of work not mentioned by the officer"** as such he did make a comment as a Good grade instead of Very Good or Outstanding grade ignoring the attachment which is added in my self-assessment 2021-2022 mentioning the disposal in units and contested cases. **Reading the clause 01(g) in self assessment**, any reasonable person may understand that it is only and only a duty of the Hon'ble Shri Anil Kumar Jha to calculate percentage but he didn't which reflects that he has no knowledge of the mathematics how to calculate percentage or how to try to calculate percentage.

Here, of this year's self assessment year 2021-2022, I mention the percentage as achieved 296.74% which is the highest of this Court from the previous years. So I did an extra 196.74% Units Work in Percentage. Hence the Hon'ble District Judge Shri Anil Kumar Jha did not apply his mind administratively with good discretion considering all factors available in my favour in my assessment 2021-2022. Because I, during the period, did not use flattery cultures in various forms.

Further, for the purpose of comparison and due regard also, I would like to mention here my previous self assessment of the first year -2020 when I was very newly appointed. The then District Judge Shri Yashwant Kumar Mishra mentioned as "Out of target as per norms, the officer has given an out-turn of 188.90 units (As per attachment), which is above than prescribed standard, as officer is newly appointed D.H.J.S and joined w.e.f 28.09.2019." in clause 01(g).

This is now clear that Hon'ble District Judge Sri Anil Kumar did not apply his mind in any way. He did all things here for his own benefit. As from this court in order to increase his quota or unit percentage to arbitration execution cases on the Lok Adalat day just got them transferred on 9th September 2021 which are to be decided by me in my court on Lok Adalat day on 11th September 2021 already fixed date. I did labour on those two cases namely Arbitration Execution/Registration No. 180 of 2019 CNR No. UNRN01-010092-2019 and Arbitration Execution/Registration No. 198 of 2019 CNR No. UPRN01-008621-2019 but he used those my prospective units or percentage for his benefit. This is a very very question mark on his administrative exercise. Now he does not know my units and percentage in my self assessment 2021-2022.

7. That The Hon'ble District Judge on his or my self assessment and other officers' self assessment how he exercised his administrative power which can be seen in this district

here from the following judgements also. Further, because There are some officers on whose self-assessment the entry(s) grade (s) are given as very good and outstanding arbitrarily without reason and to some officers with discrimination as a downgrading as such the administrative exercise was made against me. My humble request is that any action kindly not be taken against them only on my Representation. But It is kindly requested that your Highness may find following judgements only for the purpose of appreciation of fact and law from the **e-services** website which is a public domain how he is assessing those officers through working record during the period with more greater grade or entry than me or any others not in compliance of **Circular Letter No. 60/81, dated September 19, 1981(Supra)**.

From The District Judge Court e-services website:

In the Court of District Judge, Kanpur Dehat-

- (a) Anticipatory Bail No. 0-322/2022,c UPNR N010007832022 In the Court of District Judge, Kanpur Dehat, disposed of as rejected on 21-02-2022 Pappu vs State
- (b) Anticipatory Bail No. 543 of 2022,UPRN No10013672022 Jaswant vs State, section 363,366,596 IPC, Disposed of as allowed, on 30-03-2022
- (c) Regular Bail No.406 of 2022 UPRN010010322022, Shivam yadav vs State, UPRN010010322022, Disposed of as allowed on 24-02-2022
- (d) Regular Bail No.307 of 2022, UPRN010007502022, Nitin vs State, section 376, 406,323,505,506 IPC, disposed of as allowed within 15days.

Hence, there is no uniformity but a lack of appreciation of fact and law and much more. Further, it is also found from

- (e) Regular Bai No. 1233 of 2021 Golapi and another vs State section 379, 411 IPC disposed of on 12-08- 2021
- (f) Regular Bail No. 610 of 2022 Vivek kumar & another disposed of on 31-03-2022

without considering the Uttar Pradesh State amendment with regard to Anticipatory provisions and Section 41A CrPC and not as per case laws **Arnesh Kumar vs State of Bihar (2014) 8 SCC 273, Vimal Kumar vs State of UP 2021 SCC Online All 83**. Thus, he has not taken any action or not made any appreciation as per the law.

(b)Additional District and Sessions/F.T.C.1 Crimes (against women), Kanpur dehat: **Judgement:** S.T. No. 38/2019 State of U.P VERSUS Raju Siddiqui & others, crime no. 591/2018, U/S 323,504,506,452, 354A,376,IPC P/S Akbarpur, All accused acquitted on 10-12-2021 even without considering or compliance of section 344 crpc etc in view of Case law: **Mahila Vinod Kumar vs State of Madhya Pradesh AIR 2008 SC 2965**

From Chief Judicial Magistrate,K.D.e-services website:

Regular Bail No.619 of 2022 Golu vs State section 379,411 IPC disposed of as rejected on 07-01-2022 in this bail an issue of theft of He Goat without considering the Uttar Pradesh State amendment with regard to Anticipatory provisions and Section 41A CrPC and not as per case laws **Arnesh Kumar vs State of Bihar (2014) 8 SCC 273, Vimal kumar vs State of UP 2021 SCC Online All 83**.



Thus, on the part of Hon'ble District Judge Shri Anil Kumar Jha, there is an administrative weakness and lack of appreciation upon law and fact as per Circular Letter No. 60/81, dated September 19, 1981(Supra) also.

All the situations from those judgments could be considered how he exercised his administrative power discriminately at all levels during the period in question as reporting authority against me, mentioning as only good grade instead of very good or outstanding.

We must know that the judiciary is the heart, mind and faith of the common class, the poor class, the derived class etc. A Justice must be live here and there. The District Judge should not exercise his administrative power without the principle of reasonableness, with arbitrariness, without the doctrine of legitimate expectation, wednesbury principle, in the field of administrative law, without the harmonious ambit as depicted in Articles 14, 15, 21 under the Constitution of India as well. In conclusion, there ought to be or must be uniformity and any lack of arbitrariness and unreasonableness, without bias with regard to any Annual Remarks.

8. That the former District Judge Shri Anil Kumar Jha presently posted at MACT at District-Balrampur, Uttar Pradesh **without considering the Units and the percentage of the Units as mentioned in my self assessment 2021-2022 but downgrading me as Good instead of Very Good or Outstanding entry** as such he made a very discrimination against me over my self-assessment ignoring disposal units of cases_ more than any other Courts without a sufficient and proper staff which were achieved by me with hard labour. Hence, he ignored all the principles of administrative law and Circulars (Supra) as circulated by the Hon'ble High Court Allahabad, Uttar Pradesh.

Here, it is a relevant point that he has taken 65 days to write the confidential report about me or over the self assessment of mine. Comparatively, if we look at the provisions of the **Central Government as issued by G.I.D.P. & A.R. AR O.M. No. 21011/1/77-Estt., Dated the 30th January, 1978** the central government provision states that the report to be written within one month of the expiry of the report period: "The annual report should be recorded within one month of the expiry of the report period and delay in this regard on the part of the reporting officer should be adversely commented upon if the officer to be reported upon; delays submission of self-appraisal, this should be adversely commented upon by the reporting officer." In Uttar Pradesh, The UP Government Servants (Disposal of Representation Against Adverse Annual Confidential Reports and Allied Matters) Rules 1995 in pursuance of Article 348(3) under the Constitution of India are framed. The Rule 4 thereof provides for the provisions as to communication of adverse report and procedure for disposal of representation with time limit of 45 days; **And according to the Hon'ble High Court Allahabad Circular namely C.L. 11/ 1988 dated 11th February, 1988 prescribed the time limit of 1 month to make any representation.** Thus, why the Hon'ble District Judge Sri Anil Kumar Jha presently posted as a MACT Balrampur as reporting authority has taken a long time to write my Confidential Report whereas he was appointed in the same district i.e. in Kanpur Dehat(Ramabai Nagar) as a full time. Overall, This situation or position only creates a flattery culture in various forms here affecting the Confidential Report arbitrarily prepared by District Judge Kanpur dehat(Ramabai Nagar). Further, All the confidential reports, which are written by him, have a very large variation. One of them is mine.



9. That now it 's finally submitted with request that the above mentioned factual and legal circumstances, which are not seen and not considered by the **Hon'ble former District Judge Kanpur Dehat Sri Anil Kumar Jha**, are very favorable to me and against Good entry so given in my annual confidential self assessment form/report/ Remark 2021-2022 for **Very Good or Outstanding grade entry**.

Prayers:

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

(i) issue an appropriate order to remove/struck down/ expunge/ modify adverse Remarks qua Expression "**percentage of work not mentioned by the officer**" treating it as adverse in nature as mentioned in clause 01(g) by Former District Judge Shri Anil Kumar Jha in my self assessment 2021-2022 ignoring all uploaded attachment (s) of Total Highest disposal of cases of Units with **extra 196.74 percentage** as well as other factors above-mentioned lack of Sufficient Staff, Covid-19 etc. **and not giving Very Good or Outstanding grade or entry** thus only treating as Good made against applicant Judicial Officer unreasonably and arbitrarily.

(ii) issue appropriate order, while to remove/struck down/ expunge/ modify Remarks qua Expression in **prayer (i) of my Present Representation**, to give or grant me a **Very Good or Outstanding grade entry instead of Good grade which is stated in my self assessment in question because of ignorance and negligence and Very Good or Outstanding grade entry not considered due to mentioning as "percentage of work not mentioned by the officer"** ignoring Total Highest Units 1818.67 and arbitrarily given without reason as **Good grade** against the applicant Judicial officer for the Assessment Year 2021-22 being adverse in nature.

(iii) issue such other appropriate order as the Hon'ble Chief Justice, The Hon'ble High Court Court of Judicature Allahabad/Hon'ble 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(Ramabai Nagar)

Dated: 27/08/2022.

Applicant/ Judicial officer



Nijender Kumar UP-2681 27/8/22

Additional District and Sessions Judge

(14th Finance Commission) Kanpur Dehat.(U.P.)