

From,

Jeetendra Kumar Dwivedi,
Addl. District & Sessions Judge/
Special Judge (Companies Act), Kanpur Nagar

To

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

Through: The District Judge,
Kanpur Nagar

Subject: **Representation with regard to Annual Confidential Remarks for the assessment year 2022-23 recorded by the respected District Judge, Kanpur Nagar.**

Respected Sir,

I have the honour to submit that vide remarks forwarded on 04.05.2023 by the then respected District Judge, Kanpur Nagar, the Annual Confidential Remarks for the year 2022-23 was given. I have gone through the whole Remarks. The remark in Column Nos. 1(f), 2 and 4 of my Annual Confidential Remarks for the year 2022-23 appears to be adverse. The remark recorded by respected District Judge, Kanpur Nagar is as under:-

	Column	Remark recorded by Ld. DJ, Kanpur Nagar
<u>1(f).</u>	Whether Judgments on facts and on law are on the whole sound, well-reasoned and expressed in good language?	Yes
	Note: The following factors should also be indicated in filling up this column:	
1(f) (i)	Marshaling of facts:	Satisfactory
1(f)(ii)	Appreciation of evidences:	Satisfactory
<u>1(f)(iii)</u>	Application of law:	Satisfactory

Sir, I wish to submit my representation qua the aforesaid remarks as under:

Sir, it is most respectfully submitted that respected District Judge had found my judgments on whole to be sound, well-reasoned and expressed in good language while on the other hand found various elements of my judgments such as marshaling of facts, appreciation of evidence and application of law to be satisfactory. Such a remark is apparent to be self-contradictory as respected District Judge on the one hand found my judgments as a whole to be sound, well-reasoned and expressed in good language meaning thereby that holistic view of my judgment inclusive of its aforesaid elements are sound whereas individual elements of my judgment had been regarded satisfactory. As such the remarks of satisfactory in aforesaid Column Nos. 1(f)(i), 1(f)(ii) and 1(f)(iii) are liable to be expunged.

	Column	Remark recorded by Ld. DJ, Kanpur Nagar
<u>2.</u>	Overall assessment of the merit of the	“Good”.

officer (outstanding, very good, good, average, Poor)

Sir, I wish to submit my representation qua the aforesaid remarks as under:

Sir, during the year under assessment every other aspect of my annual confidential remarks had been found adequate and praise worthy by respected District Judge, Kanpur Nagar except making overall assessment of the merit of the officer as 'Good' mentioned in Column No.2 of the Remarks. Thus proper assessment is required for the reasons mentioned below:-

1. That for the year under assessment the required units from judicial and administrative work came to 776.88 units while during the same period I had been able to secure 1670.55 units as mentioned in the self-assessment application. The respected District Judge has reduced about 187 units claimed towards link officer of different Courts. The said 187 units were claimed in accordance with Hon'ble High Court's GL No. 16 /IV-h-14/2018 dated May 31, 2018, G.L No. 11/IV-h-14/2019 dated March 05, 2019, G.L. No. 06/IV-h-14/2021 dated April 06, 2021, G.L. No. 08/IV-h-14/2022 dated May 18, 2022 and G.L. No. 11/IV-h-14/2022 dated August 18, 2022.
2. That during the year under assessment, I was also performing job of Nodal Officer Computer Section and E-Seva Kendra as well as member of various committees throughout the year. These facts had been overlooked by the respected District Judge while making overall assessment of my performance.

Column

Remark recorded by Ld. DJ, Kanpur Nagar

4. Other remarks, if any:

As per the Action Plan the officer was expected to decide 25 oldest Session Trial, 10 oldest Criminal Appeal, 10 oldest Civil Appeal, 10 oldest Execution Cases, but the officer has decided- 22/25 oldest Session Trial, 03/10 oldest Criminal Appeal, 03/10 oldest Civil Appeal, 28/10 oldest Execution Cases.

As per the Action Plan, the officer has decided less number of Session Trial cases, Criminal Appeals and Civil Appeals but has decided more Execution Cases. The officer is having experience of only 5 years service and with more effort, could have decided more number of cases.

Respected District Judge, Kanpur Nagar had in my Annual Confidential Remarks also made remark about disposal of less number of action plan cases. The said entry made in the ACR for the said year is liable to be expunged for the reasons mentioned below:-

1. Sir, in accordance with the aforesaid General Letters issued by Hon'ble High Court my performance for the year under assessment was to be evaluated and the performance in Action Plan cases was also to be taken into consideration in terms

of DO. No. C-148/CF(B)/2022 dated 26.03.2022 of Hon'ble Court. In respectful submission the performance in action plan cases was one of the criteria and not sole criteria for evaluation of my overall performance. As such the respected District Judge should not have given undue preference only to Action Plan cases in assessment of my overall performance for the year.

2. Sir, it is further submitted that in my Court out of total 2044 cases pending at commencement of the year under assessment while a total of 833 cases were less than 5 years old cases. Due to reshuffling of jurisdiction on 26.08.2022, a total of 1468 cases under NDPS Act were transferred. Moreover, in old cases it is difficult to secure presence of the prosecution witnesses on account of transfer and superannuation of formal witnesses. Due to these reasons there was shortfall in disposal of action plan Sessions Trial though a total of 25 Sessions Trial cases and 15 Special Sessions Trial cases under NDPS Act were disposed of during the year. These facts were explained in the remarks column of Action plan data uploaded but were overlooked by the respected District Judge while recording above remarks.
3. Similarly, with regard to the Criminal Appeals a total of 16 such appeals were pending at commencement of the year and a total of 6 appeals were less than 5 years old cases. Still, a total of 5 criminal appeals were disposed of during the year inclusive of criminal appeals received during the year.
4. Sir, it is further submitted that respected District Judge had also overlooked the fact that the performance for the month of March 2023 was also hampered due to the strike of advocates when old Session Trial cases were kept for disposal and that during the year under assessment a total of 82 contested criminal cases were disposed of exclusive of bail applications while a total of 42 contested civil cases were disposed of by me. Total criminal cases disposal exclusive of bail application was 105 cases while in civil cases it was 120 cases. Thus there is no shortfall from target assigned to me during the year.

It is most humbly submitted that against the required output of 783.44 units, I was able to achieve 1670.55 units which is about 213.23% of target. Despite such exponential achievement the respected District Judge had made the aforesaid remarks which are liable to be expunged. Respected District Judge has found regarding all other aspects found praise worthy. No written or oral complaint had been made, either by the both Bar Associations of Kanpur Nagar, or by any litigant during the year under assessment i.e. 2022-23, even then the respected District Judge, Kanpur Nagar has made the aforesaid remarks which are liable to be expunged.

I, therefore humbly request you to kindly place my representation before the Hon'ble Court to consider my representation sympathetically and upgrade the remarks recorded in Column No. 1(f) and 2 of my Annual Confidential Remarks as well as expunge the remarks made in the Column No. 4 of my ACR for the year 2022-2023 as the Hon'ble Court may deem fit and proper. I shall be highly grateful to the Hon'ble Court for its kindness in this regard.

With due respect and regards.

Yours faithfully

Dated: 29.05.2023

(JEETENDRA KUMAR DWIVEDI)