

From,

Gyanendra Kumar-II

ACJM-II

Gorakhpur

To,

The Registrar General

Hon'ble High Court of Judicature at

Allahabad

Through

The Respected District Judge

Gorakhpur

Subject- Representation against the adverse remarks and Overall Assessment recorded by the then Respected District Judge Balrampur in ACR of the applicant for the assessment year 2023-24

Respected Sir,

I most respectfully beg to submit my most humble representation before the Hon'ble Court against the adverse remarks and Annual Confidential Remarks recorded by the then Respected District Judge with regard to my work during the year 2023-24 as follows :

1. During the assessment year 2023-24, I have been posted as Civil Judge (Senior Div.) FTC/ACJM, (FROM 01-04-2023 TO 25.05.2023), Civil Judge (Senior Div.) (FROM 26-05-2023 TO 21.11.2023) and Chief Judicial Magistrate, Balrampur (FROM 22-11-2023 TO 31-03-2024)

2. The then Respected District Judge Balrampur has mentioned the following adverse remarks in the "remarks given by the District Judge" columns and my representation against those remarks is as under.

3. In the column 1 (e) (iii) regarding "Disposal of old cases(Give number and year of old cases decided): The then Respected District Judge has mentioned that Details of disposal of old cases

CrI.Cases	Year
1991	01
1992	01
1994	03
1995	03
2007	01

9

2008	02
2014	01
2015	02
2016	01
2017	02
SCC Suit	
2006	01
Regular Suit	
2000	01

On the above remark I would like to humbly submit that perhaps the then Respected District Judge did not peruse the annexures that I have attached with the self assessment. The old cases that have been disposed of by me are as follows-

- C.J.(S.D.)/FTC/ACJM Court-
  - More than 05 years years old- Criminal Case- 48, Civil Cases-03
  - More than 10 years years old- Criminal Case- 15, Civil Cases-01
- C.J.(S.D.) Court-
  - More than 05 years years old- Criminal Case-69 ,Civil Cases-07
  - More than 10 years years old- Criminal Case-17 ,Civil Cases-07
- CJM Court-
  - More than 05 years years old- Criminal Case-51
  - More than 10 years years old- Criminal Case- 31

I would like to submit further that I have disposed of sufficient numbers of old cases. I have disposed of a total of 249 old cases i.e. all cases more than 05 years old. I have disposed of 32 cases under Action Plan while the target was to dispose of only 25. I disposed of 32 cases as my courts changed three times during the assessment year 2023-24 as I have already mentioned above.

4. In the column 1 ( e ) (iv) regarding "Progress and disposal of execution cases" the then Respected District Judge has mentioned that "No interest shown in disposal of Execution cases despite pendency of 10 execution cases."

On the above remark I would like to humbly submit that perhaps the then Respected District Judge did not peruse the annexures that I have attached with the self assessment. I have disposed of 02 execution cases ( Annexure-1/13 in year wise breakup) i.e. one is of year 2017 and another is of year 2023. Therefore I have taken proper interest in disposing of execution cases in spite of having criminal work and being In-Charge of other Courts.

5. In the column 1 (e) (v) regarding "Whether interim order, injunction being granted, refused or retained for sufficient reasons? The then Respected District Judge has mentioned that No interest shown in disposal of injunction application as no such detail is provided by the officer.

On the above remark, I would like to humbly submit that I have always granted, refused and retained the interim orders and injunctions as per the established principles of law in a given facts and circumstances of the particular case. Therefore it is humbly submitted that the then respected District Judge did not make proper remark on this point.

6. In the column 01 (f) regarding "Whether Judgment on facts and on law are on the whole sound, well-reasoned and expressed in good language? The then Respected District Judge has mentioned that "Satisfactory"

On the above remark, I would like to submit humbly that judgments passed by me are well sound, well reasoned and expressed in good language. For this purposes my judgments are attached in the judgment column for kind consideration of the Hon'ble court.

7. In the column 01 (f) (i) regarding "Marshalling of facts" the then Respected District Judge has mentioned that "Average".

On the above remark, I would like to submit that I passed judgments as per the provisions of law and the marshaling of facts is up-to the mark in given facts of the case.

8. In the column 01 (f) (ii) regarding "appreciation of evidences" the then Respected District Judge has mentioned that "No proper appreciation of evidences."

On the above remark, I would like to submit that appreciation of evidence in each and every case was done applying the law of evidence and law declared by Hon'ble Apex Court and Hon'ble Allahabad High Court on appreciation of evidence. The Judgments are attached with the Self Assessment in Judgment column for the kind perusal of the Hon'ble Court.

9. In the column 01 (f) (iii) regarding "application of law" the then Respected District Judge has mentioned that "Satisfactory."

On the above remark, I would like to submit that I have applied the law according to demand of the peculiar facts of each and every case in which I passed Judgments both substantive and procedural law when applied and declared on specific points by Hon'ble Supreme Court and Hon'ble Allahabad High Court where cited at appropriate facts places for arriving at proper conclusion.

10. In the column 01 (f) (iv) regarding "Judgment/order writing capability:(Please comment on the quality of the passing writing Judgment/Order) the then Respected District Judge has mentioned that "A"

On the above remark, I would like to submit that judgments passed by me are well sound, well reasoned and expressed in good language. I would like to submit further that the then Respected District Judge regarding "Judgment/order writing capability has mentioned "A" i.e. Outstanding (A category is Very Good as mentioned in Self Assessment) while he has mentioned regarding "Marshalling of facts" as "Average", regarding "appreciation of evidences" as "No proper appreciation of evidences", and regarding "application of law" as "Satisfactory." When Judgment/order writing capability is Very Good then how could be Marshalling of facts" as "Average", regarding "appreciation of evidences" as "No proper appreciation of evidences", and regarding "application of law" as "Satisfactory. Both the remarks as recorded are contradictory. Both remarks as recorded by the then Respected District Judge are not sustainable and liable to be expunged. For this purpose my Judgments are before the Hon'ble Court for kind consideration. (Judgments attached in Judgment Column)

11. In the column 01 (g) regarding "Whether disposal of work is adequate.(Give percentage and reasons for short disposal, if any) the then Very Good District Judge has mentioned that "Although the officer has shown disposal @ 263.60%, however there is very less number of contested disposal of the cases. The officer was Civil Judge (S.D.) for about 06 months but has highly insufficient number of disposal of original suit. Through out the assessment period the officer having Magisterial power and had criminal cases. He was also C.J.M. for about more than four months but very less number of contested disposal of criminal cases. The disposal shown above is not justified.

On the above remark I would like to humbly submit that perhaps the then District Judge did not peruse the annexures regarding work done that I have attached with the self assessment. I would like to submit further most humbly that I was holding the court of Civil Judge (S.D.)/ FTC /ACJM Balrampur from 01.04.2023 to 25.05.2023 and I was having both Civil and Criminal work in my court. I was in-charge of CJM Court and C.J.(S.D.) Court while holding this court. I was holding the court of Civil Judge (S.D.) Balrampur from 26.05.2023 to 21.11.2023 and I was having both Civil and Criminal work in my court. The criminal work was allocated to C.J.(S.D.) in December 2023. Before this no criminal work was assigned in C.J.(S.D.). I was in-charge of CJM Court, Secretary DLSA, C.J.(S.D.)/FTC, Additional Civil Judge(S.D.) and JM-I Courts. I was in-charge of JM-I Court on Tuesday and Wednesday on regular basis and whenever JM-I was on

holidays. JM-I used to preside over the JJB on these two days and JM-I Court had jurisdiction of four Police Stations. I was always busy in miscellaneous and urgent work of my court, CJM court and JM-I Courts. I was also busy in urgent compliance of Hon'ble High Court whenever I was In-Charge of CJM Court or Respected CJM transferred work whenever She was busy. I also used to record S. 164 Cr. P. C. statements of victims even when Lady Officers being present for the purpose. These S. 164 Cr. P. C. statements used to be sent to me on regular basis even when I was in-charge of CJM, JM-I Courts or other Courts. S. 164 Cr .P. C. Statements used to be sent to me on an average from one to three in a day. I was also Assistant Central Information Officer, Member Infrastructure Sub-Committee while holding charge of C.J. (S.D.). The Respected CJM used to transfer Court's work on regular basis on administrative ground. While I was C.J.(S.D.) I had to get my court vacated when I used to record statements U/S 164 Cr. P. C. as this statements could not be recorded in Chamber. I was overburdened with the work as being in-charge of CJM and JM-I and other Courts. I was In-Charge of all Courts in Senior Division. Thus I was not having sufficient time for Civil work while I was holding the Parent Court of C.J.(S.D.) I was also Nodal Officer Computer. In-charge Summon Cell, In-Charge Security and Protocol, member Purchasing Committee while I was CJM. I would like to submit my total work done as I have mentioned in the attachment of my self assessment. He has not mentioned adequate work while I have achieved more than required units as mentioned above even being in-charge of CJM and JM-I and other courts. I have achieved all the target of Work Done as per the Norms set by the Hon'ble High Court i.e. Disposal of Action Plan Cases and 50% Required Units from Final Disposal. (Annexures-Work Done) In spite of above mentioned circumstances I have given out turn of 263.60% which is adequate.

12. In the column 01 (g) (i) regarding "Number of cases decided after actual full contest " the then District Judge has mentioned that "Warrant Trial 25, Summon Trial 02"

On the above remark I would like to humbly submit that I was most of the time busy in miscellaneous and urgent work of other courts as I have already mentioned in the preceding paragraph.

13. In the column 01 (g) (ii) regarding "Number of cases decided wherein all witnesses of fact turned hostile and the case ended in acquittal, the then Respected District Judge has mentioned that "No data given by the officer."

On the above remark I would like to humbly submit that there was no such case, therefore no data had been provided.

14. In the column 01 (h) regarding "Control over the Office and Administrative capacity and tact" the then District Judge has mentioned that "Satisfactory."

On the above remark I would like to humbly submit that I have proper "Control over the Office and Administrative capacity and tact." Any incident or occasion was not reported by anyone where I did not have proper "Control over the Office and Administrative capacity and tact. I had made regular inspections of the courts and offices and sent the Inspection Notes to the then Respected District Judge. The then Respected District Judge in the column "Whether the officer has made regular inspections of his court and offices in his charge and whether such inspections were full and effective?" He has written "The Officer has made regular inspections and inspection notes are full and effective. The then Respected District Judge had never issued any instructions regarding control over the office.

15. I would like to submit before the Hon'ble Court that if the Hon'ble court peruses all the remarks of the then Respected District Judge then the Hon'ble Court would observe that the remarks have been mentioned just to create additional ground to justify the overall assessment of mine during the year 2023-24. The then Respected District Judge in the column "Integrity of the Officer- whether beyond doubt, doubtful or positively lacking" has certified my integrity. In the column "If he is fair and impartial in dealing with the public and Bar" he has written Yes. In the column "If he is cool minded and does not lose temper in court he has written Yes." In the column "His private character is such as to lower him in the estimation of the public and adversely affects the discharge of his official duties" He has written No. In the column "Proper fixation of cause list he has written Cases have been fixed properly." In the column "Whether sufficient number of cases are fixed by him to keep him engaged during full court hours?" He has written Yes. In the column "Avoidance of unnecessary adjournments" he has written Yes. In the column "Relations with members of the Bar he has written "Cordial." In the column "Behavior in relation to sister/brother officers." He has written "Cordial" In the column "Whether the officer has made regular inspections of his court and offices in his charge and whether such inspections were full and effective?" He has written "The Officer has made regular inspections and inspection notes are full and effective. In the column "Whether amenable to the advice of the District Judge and other superior officers?" He has written "Yes." In the column "Behaviour towards women(respect and sensitivity exhibited towards them)" he has written "Respectful and sensitive towards women." In the column "State of Health" he has written "Good & Sound." I would like to submit most humbly before the Hon'ble Court that if the Hon'ble court peruses all the remarks of the then Respected District Judge then the Hon'ble Court would observe that the remarks have been mentioned just to create additional ground to justify the overall assessment of mine during the year 2023-24.




16. As stated by me in the preceding paragraphs, the adverse remarks recorded against me in my ACR by the then Respected District Judge Balrampur are not sustainable and liable to be expunged.

17. I therefore request your good self to place this representation of mine before the Hon'ble Court for kind consideration. I most humbly pray the Hon'ble court to kindly expunge the remarks recorded in my ACR by the then Respected District Judge, Balrampur for the assessment year 2023-24 and upgrade my Overall assessment in my ACR for the year 2023-24 considering my hard and honest judicial and administrative performance as the then Civil Judge (Senior Div.)FTC, Civil Judge (Senior Div.) and Chief Judicial Magistrate,Balrampur. I shall be grateful to the Hon'ble court for its grace all through my life.

With profound regards.

Annexures - as above

  
17.07.2024  
Gyanendra Kumar-II  
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Gorakhpur