

From,

District Judge,
Moradabad

to,

The P.P.S. Hon'ble the Chief Justice,
Hon'ble High Court of Judicature at
Allahabad.

No. 1628/2019 (Admin.) Moradabad Dated: July, 16, 2019

Subject: Regarding representation of Sri Ram Achal Yadav, Addl.

District & Sessions Judge, Court No 1, Moradabad.

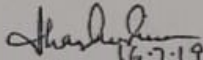
Sir,

I have the honour to submit that the representation of Sri Ram Achal Yadav, Addl. District & Sessions Judge, Court No 1, Moradabad, is being enclosed herewith, alongwith annexures, with request to place it before the Hon'ble Court, for sympathetic consideration on it, and with further request for providing an opportunity of personal hearing to the Officer in the matter.

With Regards.

Yours sincerely,

Dated: July 16, 2019


(Shashi Kant Shukla)

Hon'ble High Court. Photostat copy of award dt. 24.11.2009 ,
passed in Motor Accident Claim Petition No.212/2007 Shiv

From, Ram Achal Yadav ,
Addl. District & Sessions Judge,
Court No.1, Moradabad.

To, The P.P.S., Hon'ble the Chief Justice /Registrar General ,
Hon'ble High Court of Judicature at,
Allahabad.

Through :- The District Judge,
Moradabad.

Subject:- Matters as prayed in my representation dated 18.01.2019.

Respected Sir,

Kindly take reference of my representation ,as aforesaid, which was submitted along with annexures , through the District Judge, Moradabad, vide Letter no. 152/2019 (Admin) MBD, dated 18.01.2019 , in which prayer for personal hearing to My Lord, Hon'ble The Chief Justice , and for awarding me Selection Grade, Super Time Scale and for posting as the District Judge , was made , but it appears that the same has not been placed before My Lord, so far . Hence, the matter , prayed in the said representation, is further being most humbly submitted as under :-

- (1) That the Applicant is a direct recruit officer of U.P. High Judicial Service , of 1998-2000 batch, and has joined his service on dated 14.06.2005 as Add. Distt. & Sessions Judge , in Deoria Judgeship.
- (2) That while I was posted in Varanasi Judgeship, I had decided Motor Accident Claim Petition No.212/2007 Shiv Dhani Mishra Vs. Smt. Neelam Singh & others, on dated 24.11.2009 , and had awarded a compensation of Rs. 66,788=00 to the claimant, and had given right of recovery to the Insurance Company i.e. New India Assurance Company , against which , being aggrieved , Claimant Shiv Dhani Mishra , had preferred F.A.F.O. No.434 of 2010 Shiv Dhani Mishra Vs. Smt. Neelam Singh & others, in the Hon'ble High Court. Photostat copy of award dt. 24.11.2009 , passed in Motor Accident Claim Petition No.212/2007 Shiv Dhani Mishra Vs. Smt. Neelam Singh & others, is enclosed herewith as Annexure-I.

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- (3) That, Claimant/ appellant Shiv Dhani Mishra ,had, in the aforesaid first appeal before the Hon'ble High Court ,moved an application, accompanied with affidavit for staying the operation of the award. Photostat copy of application for stay is annexed herewith as **Annexure -2** .
- (4) In the mean time, Insurance Company, had deposited an amount of Rs.71,300/- ,for which repayment application no.10/2010 , was filed by the claimant before the tribunal .
- (5) That the applicant , upon hearing on the application for repayment ,and keeping in view the fact that claimant/appellant Sri Shiv Dhani Mishra , himself had prayed for staying the operation of the award dt. 24.11.2009, in the first appeal, ordered on dated 28.07.2010, directing to the claimant for obtaining any direction from the Hon'ble Court, so that the amount may be released in accordance thereof , and left the repayment application for further orders. A photostat copy of the said order is annexed herewith as **Annexure -3**.
- (6) That the Hon'ble Court(The then Hon'ble Sri S.U.Khan, Justice), upon hearing on the application of the claimant/appellant, had , by his order dt. 20.03.2012, passed a severe stricture against the applicant and ordered that -
- "...It is directed that within three days from the date of filing of application by the appellant along with certified copy of this order , the amount deposited by the Insurance Company shall be paid to the appellant . It is further directed that Sri Ram Achal Yadav, M.A.C.T./A.D.J. shall not be given the jurisdiction of motor accident claim tribunal in future and a copy of this order shall be placed in his service book...." ,
- assuming that the repayment application of the claimant/ appellant had been rejected by the applicant (The Tribunal), without perusing the order and without giving the applicant any opportunity of being heard , but actually it was not rejected , instead it had been left for further orders .A photostat copy of the said order is annexed herewith as **Annexure-4**.
- (7) That the applicant had preferred SLP (C) No.36189 and 36190 of

2012 against the stricture order dt. 20.03.2012, in the Hon'ble Supreme Court , but the same has been dismissed in limine by order dated 15.02.2016 . A photostat copy of the said order is annexed herewith as Annexure-5.

(8) That due to the aforesaid stricture order dt. 20.03.2012, applicant had been deprived of ' Selection Grade ' , as well as ' Super Time Scale ' , as awarded to the similarly placed Officers of our batch, vide Notification No.C 212/Cf.(A)/2014, dated: Allahabad March 03,2014 , and Notification No. 1121/ JR(S)/2016 Dated : Allahabad: May 23,2016 , respectively , and the applicant has also been left over from being posted as District Judge, without any sin, having been committed by him .

(9) That so far, neither any complaint by any litigant , has ever been made against the applicant , nor any enquiry was initiated against the applicant, nor any punishment has been awarded to the applicant by the Hon'ble Court on Administrative side, in his 14 years of service period as Additional District & Sessions Judge .

(10) Although ,the Curative Petition no.55 of 2019 against the dismissal of SLP no.36189 of 2012 and its review , is pending in the Hon'ble Apex Court , but the same is not likely to be decided in near future , and the applicant will retire on 31.10.2020 .

(11) There is no any adverse order or punishment against the applicant from the Administrative side , by the Hon'ble Court, but the applicant is being deprived of his rightful career benefits of Selection Grade, Super Time Scale and posting as the District Judge .

(12) That the aforesaid stricture order dt. 20.03.2012, passed in F.A.F.O. No. 434 of 2010 Shiv Dhani Mishra Vs. Smt. Neelam Singh & others (Supra.) has no relevance and cannot be given effect to, unless approved by Hon'ble The Chief Justice , in view of law laid down by the Hon'ble Apex Court , in- Case No.: Appeal(Crl.) 165 of 2001, decided on 08.02.2001 ,reported in 2001(1) SCR 959 and ,Cri.L.J.1157 . The relevant para of the judgement is as under :-

"...Simultaneously but separately in-office proceedings may be drawn up inviting attention of

[Signature]

Hon'ble Chief Justice to the fact describing the conduct of the subordinate judge concerned by sending a confidential letter or note to the Chief Justice . It will thereafter be open to the Chief Justice to deal with the subordinate judicial officer either at his own level or through the inspecting judge or by placing the matter before the Full Court for its consideration. The action so taken would all be on the administrative side . The subordinate judge concerned would have an opportunity of clarifying his position or putting -forth the circumstances under which he acted.."

A photostat copy of which is annexed herewith as Annexure-6.

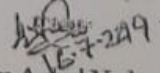
It is, therefore, most humbly prayed that this representation may kindly be placed before My Lord , Hon'ble The Chief Justice , for his kind and sympathetic consideration, and for giving an opportunity of personal hearing to the applicant in the matter , so that , His Lordship may graciously be pleased ,to award to the applicant ' Selection Grade ', as well as ' Super Time Scale ', from the date , the officers of the same batch have been awarded, and to be posted as District Judge, so that justice may be done.

May God help me !

With regards,

Encl: As above .

Yours faithfully ,



(Ram Achal Yadav) ,

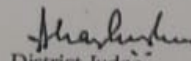
Addl. Distt. & Sessions Judge ,
Court No.1, Moradabad.

Dt. July 16 ,2019

MORADABAD JUDGESHIP

No. 1628 /2019 (Admin) Dated: July 16 , 2019 .

Forwarded to the The P.P.S., Hon'ble the Chief Justice / Registrar General , Hon'ble High Court of Judicature at Allahabad, for information and necessary action .


District Judge,
Moradabad.
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