

From

Ram Achal Yadav,
District Judge,
Barabanki.

To

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

No. 803/I

Dated : 30.04.2020

Subject : In furtherance of the prayer made in representation dated July 16, 2019. Humble representation for the award of Selection Grade, Super Time Scale and elevation as a Judge of The Hon'ble High Court.

Respected Sir,

Kindly take reference of my representation, as aforesaid, which was submitted along with annexures, through the District Judge, Moradabad, vide Letter no. 1628/2019 (Admin.) Moradabad, dated July 16, 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. In this regard, the applicant further most humbly submits as under :-

- (1) That the Applicant is a direct recruit officer of U.P. Higher Judicial Service, of 1998-2000 batch, and had joined his service on dated 14.6.2005 as Addl. 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 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 Court. Photostat copy of the 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.
- (3) That, Claimant/ appellant Shiv Dhani Mishra, had, in the aforesaid

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first appeal before The Hon'ble Court, moved an application, accompanied with affidavit for staying the operation and effect 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 moved 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 and effect of the award dt. 24.11.2009, in the first appeal, ordered on dated 28.7.2010, 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 S.U. Khan, Justice), upon hearing on the application of the claimant/ appellant, had, by his order dt. 20.3.2012, passed a severe stricture against the applicant and ordered that -

"..... it is directed that within tree 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 an 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 passed by the applicant and without giving the applicant any opportunity of being heard, while 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

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2012 against the stricture order dt. 20.03.2012, in The Hon'ble Supreme Court, but the same were dismissed in limine by order dated 15.02.2016 without discussion of reason and the grounds taken in the S.L.P. A photostat copy of the order is annexed herewith as **Annexure -5.**

- (8) That due to the aforesaid stricture order dt. 20.03.2012, applicant has been deprived of 'Selection Grade', as well as 'Super Time Scale', as awarded to the similarly placed Officers of his 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 considered for elevation as a Judge of The Hon'ble Court, without any sin, having been committed by him.
- (9) That the applicant has discharged his judicial and administrative functions with absolute honesty, integrity and devotion on duty. Neither any complaint by any litigant or lawyer, 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 15 years of service span as Additional District & Sessions Judge. But it is unfortunate to mention that the 'Selection Grade' and 'Super Time Scale' has not been awarded to the applicant at the due date, on which the officers of his batch have been awarded, whereas his name figures in the selection list just above Honb. Sri Narendra Kumar Johari, who has been elevated as an Hon'ble Judge of The Hon'ble Court on November 22, 2018 and applicant's name was leftover from consideration for elevation as a judge of The Hon'ble Court without any sin, having been committed by him. Due to which grave injustice and irreparable loss has been caused to the applicant's and his career as a judicial officer has remained stagnated and grave injustice has been caused to the applicant which needs to be redressed at the earliest because the applicant is going to retire on October 31, 2020.
- (10) That the applicant has discharged his judicial and administrative


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duties with utmost honesty, integrity and devotion on duty and no adverse orders or punishment has been ever awarded to the applicant on administrative side by The Hon'ble Court. It is worth mention that the judgment of conviction and sentence of life imprisonment to the accused in a Sessions Trial case rendered by the applicant as an Additional District & Sessions Judge in Varanasi judgeship, has been upheld by The Hon'ble Apex Court vide judgment dated March 07, 2017, in Criminal Appeal Nos. 827 of 2011 and 829 of 2011, Himanshu Mohan Rai vs. State of U.P.. A photostat copy of the said judgment is annexed herewith as **Annexure No. 06.**

- (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 his name was not considered for being elevated as a judge of The Hon'ble Court, even his judgments were not called for, for this purpose.
- (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 even if it stands, 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 (I) SCR 959 and, Cri.L.J. 1157. The relevant para of the judgment is as under :-

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

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putting - forth the circumstances under which he acted"

A photostat copy of which is annexed herewith as **Annexure - 7.**


It is, therefore, most humbly prayed that this representation may kindly be placed before The Hon'ble Court, for a kind and sympathetic consideration, in the matter and The Hon'ble Court may graciously be pleased to award 'Selection Grade' and 'Super Time Scale' to the applicant from the date the officers of his batch have been awarded and his name may kindly be considered by Hon'ble The Chief Justice and the other Hon'ble Judges of the collegeium of The Hon'ble Court for elevation as a judge of The Hon'ble Court. So that justice may be done to the applicant.

May God help me !

With regards,

Encl. : As above.

Yours faithfully,


(Ram Aftal Yadav)
ID No. UP1491
District Judge,
Barabanki,
Mobile No. 9415008922

Dated : April 30, 2020