

प्रेषक,

मो० शफीक,
अपर जनपद एवं सत्र न्यायाधीश,
बाह्य न्यायालय बांसी, सिद्धार्थनगर।

सेवा में,

श्रीमान् महानिबंधक महोदय,
माननीय उच्च न्यायालय इलाहाबाद,

द्वारा,

श्रीमान् जनपद न्यायाधीश महोदय
सिद्धार्थनगर।

विषय- ए.सी.पी. का लाभ प्रदान किये जाने के सम्बन्ध में।

महोदय,

विनम्र निवेदन है कि प्रार्थी ने दिनांक-06.01.2004 को उ०प्र० न्यायिक सेवा में अपर सिविल जज (जू०डि०) मिर्जापुर के पद पर पदभार ग्रहण किया था। प्रार्थी की प्रोन्नति सिविल जज (जू०डि०) कैडर से सिविल जज (सी०डि०) कैडर में दिनांक-15.12.2008 को हुई है। प्रार्थी का निवेदन निम्नवत है-

1- यह कि प्रार्थी की वर्ष 2010-2011 की वार्षिक गोपनीय प्रविष्टि में सत्यनिष्ठा संदिग्ध अंकित की गयी थी। प्रार्थी को ए.सी.पी. का लाभ नहीं दिया गया है।

2- यह कि प्रार्थी ने माननीय उच्च न्यायालय में रिट फाइल की थी जो दिनांक-को निर्णीत हुई है। माननीय उच्च न्यायालय के पत्रांक डी.ओ. नं०-383/CF(A)/2022 दिनांकित-08.06.2022 द्वारा प्रार्थी की गोपनीय प्रविष्टि में अंकित सत्यनिष्ठा संदिग्ध को अपास्त करते हुए सत्यनिष्ठा को प्रमाणित किया गया है। माननीय उच्च न्यायालय द्वारा पारित आदेश व गोपनीय पत्र की छायाप्रति संलग्नक 1 व 2 हैं।

3- यह कि प्रार्थी की पाँच वर्ष की निरंतर सत्यनिष्ठा प्रमाणित होने के आधार पर प्रार्थी की प्रोन्नति सिविल जज (सी०डि०) कैडर से उच्चतर न्यायिक सेवा कैडर में दिनांक-19.02.2018 को की गयी है।

4- यह कि प्रार्थी को अब Supernumerary Post सृजित करते हुए प्रार्थी के बैच के प्रार्थी के जूनियर अधिकारी से ऊपर करते हुए प्रार्थी की प्रोन्नति दिनांक-06.10.2015 से मानी गयी है। प्रार्थी द्वारा माननीय उच्च न्यायालय की अधिसूचना दिनांकित-07.03.2024 व दिनांकित-11.03.2024 के क्रम में दिनांक-06.10.2015 से उच्चतर न्यायिक सेवा का पदभार दिनांक-11.03.2024 को पूर्वाहन में ग्रहण कर लिया गया है और पदभार प्रमाण-पत्र माननीय उच्च न्यायालय प्रेषित कर दिया गया है जो संलग्नक 3 है।

5- यह कि प्रार्थी को ए.सी.पी. का लाभ सत्यनिष्ठा संदिग्ध होने के कारण नहीं दिया गया है। माननीय न्यायालय द्वारा प्रार्थी की सत्यनिष्ठा प्रमाणित कर दी गयी है। प्रार्थी ने उच्चतर न्यायिक सेवा कैडर में अपर जिला एवं सत्र न्यायाधीश का पदभार दिनांक-06.10.2015 से ग्रहण कर लिया है। इसलिये प्रार्थी को ए.सी.पी. का लाभ दिया जाना न्याय संगत है।

6- यह कि प्रार्थी द्वारा इसी संबंध में एक प्रत्यावेदन दिनांकित-18.07.2022 जो पत्रांक

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सं०-204/XV दिनांकित-18 जुलाई 2022 को अग्रसारित होकर माननीय उच्च न्यायालय प्रेषित किया गया है, जिसकी छायाप्रति संलग्नक 4 है।

अतः महोदय से निवेदन है कि प्रार्थी को ए.सी.पी. का लाभ दिलाये जाने हेतु प्रार्थी का प्रत्यावेदन माननीय न्यायालय के समक्ष प्रस्तुत कर स्वीकृत कराने की कृपा करें।

प्रार्थी माननीय न्यायालय का सदैव आभारी रहेगा।

सादर।

दिनांक-27.03.2024

भवदीय, *Law*
27-03-24

(मो० शफीक)

अपर जनपद एवं सत्र न्यायाधीश
बाह्य न्यायालय बांसी, सिद्धार्थनगर।
जे०ओ० कोड यू.पी.6141

संलग्नक: उपरोक्तानुसार।

अग्रसारित

कार्यालय जनपद न्यायालय सिद्धार्थनगर।

पत्रांक सं०- 172/XV सिद्धार्थनगर,

दिनांक- 28 मार्च 2024

श्रीमान् महानिबंधक महोदय, माननीय उच्च न्यायालय इलाहाबाद।

JMS
28/3/2024

जनपद न्यायाधीश
सिद्धार्थनगर।

District & Sessions Judge
Siddharth Nagar



Court No. - 37

Case :- WRIT - A No. - 36755 of 2013

Petitioner :- Mohd. Sapheek

Respondent :- State Of U.P.And 3 Ors.

Counsel for Petitioner :- Durga Singh, Mohd. Afzal, Shailendra

Counsel for Respondent :- C.S.C., Manish Goyal

Hon'ble Dr. Kaushal Jayendra Thaker, J.

Hon'ble Subhash Chand, J.

1. Heard Sri Anil Tiwari, Senior Advocate, Assisted by Sri Mohd. Afzal, learned counsel for petitioner and Sri Ashish Mishra, Advocate, assisted by Sri Jitendra Kumar Singh, learned counsel appearing for the High Court of Judicature at Allahabad.

2. The petitioner has moved this Court with the following prayers:

"a. To, issue a writ order or direction in the nature of certiorari calling for the record of the case and quashing the impugned order awarding adverse annual confidential remarks to the petitioner dated 04.07.2011 by District Judge, Lalitpur order dated 02.11.2011 passed by the Administrative Judge, Lalitpur rejecting the representation of the petitioner and the order of the Administrative Committee, High Court of Judicature at Allahabad, communicated to the petitioner on 11.03.2013 confirming the order passed by the Administrative Judge, Lalitpur (Annexure 8, 10 and 13 to the writ petition) respectively.

b. To, issue a writ order or direction in the nature of mandamus commanding the respondent authorities that the adverse remarks awarded to petitioner may be expunged and the relevant substitution may be made in the manner that in place of 'Integrity is doubtful. There was complaint against him about his integrity' words 'integrity certified beyond doubt be substituted, in place of 'disposal of old cases in criminal side is good but in civil side, it is not satisfactory' disposal of old cases in criminal side is good and in civil side too is good' be substituted and in place of 'over all assessment of the merit of the officer 'Average' be substituted as 'over all assessment of the merit of the officer 'Outstanding.'"

b-I. Issue a writ, order or direction in the nature of certiorari quashing the communication No. D.O.No.C763Cf(A)2015 dated 08.06.2015 issued by the Registrar, Judicial

(Confidential) of this Hon'ble Court.

c. To, issue any suitable writ order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

d. To award the cost of writ petition."

3. The petitioner was aggrieved by the observations and the remarks given by then District Judge in his Annual Confidential Record of 2010-11. As far as those aspects are concerned, the first remarks were confirmed by the Administrative Judge and his representation was rejected. The subsequent event which is in favour of the petitioner is that pursuant to the remarks and pursuant to the observations of the Administrative Judge, committee was constituted and the Committee unanimously decided to hold inquiry. The departmental inquiry was subsequent to the filing of the writ petition and therefore, the petitioner prayed for amending the writ petition and brought on record the finding of the departmental inquiry, whereby after providing full opportunity of hearing to the petitioner to produce evidence, then then District Jhansi held that the allegations leveled by the original complaint were found to be without any basis. The committee further sought the remarks of the petitioner which he submitted. The committee accepted the report and conveyed to the petitioner on 04.02.2015 and the petitioner on 13.05.2015 narrated all these facts and requested for removal of remarks as to his integrity.

4. It is submitted by Sri Anil Tiwari, Senior Advocate, assisted by Sri Mohd. Afzal, learned counsel for the petitioner that pursuant to this report, the petitioner filed representation requesting that the remarks should be expunged now and though the petition remain pending, he requested the High Court but this was considered afresh representation barred by the Full Court Resolution and accepted the minutes of the Hon'ble Full Court dated 06.01.1990 wherein it was resolved that no second representation would be maintainable.

5. The issue which arises before us would be whether the representation dated 13.05.2015 which was dismissed holding that it was afresh representation, by which some new facts have been brought on record and should have been considered as first representation after subsequent events had occurred. Sri Ashish Mishra, assisted by Sri Jitendra Kumar Singh, learned counsel for the High Court has heavily relied on the judgment of **Arun Kumar Saxena Vs. High Court of Judicature at Allahabad through R.G. and another, 2018 SCC Online All 5728** and has contended that even after the inquiry that remarks cannot be

expunged as per the judgment. We would like to consider his submissions in reference of para-73 of the said judgment, which is reproduced as under:

"Having regard to the findings recorded by us on the issues that arose for our consideration in this case and upon a conspectus of the facts and circumstances of the case as also by keeping in mind that there had been an adverse entry doubting the integrity of the petitioner, which was considered by the Screening Committee to recommend compulsory retirement of the petitioner and, thereafter, the matter was placed before the Full Court which had approved the recommendations of the Screening Committee whereafter upon the recommendations of the Court the Governor took his decision, the decision to compulsorily retire the petitioner calls for no interference. Accordingly, both the petitions are liable to be dismissed and are hereby dismissed."

6. In our case, once departmental inquiry has been held and the delinquent employee has been exonerated and nothing adverse to him has been recorded, which has been accepted by the Full Court. This would be base for expunging the remarks passed in the year 2011.

7. We are informed by Sri Anil Tiwari, Senior Advocate, that during this interregnum period of ten years and after period of five years, the petitioner herein has been now working as Additional District Judge, which is not disputed by the counsel for the High Court and therefore, this petition is pursued.

8. Thus, we hold that the representation filed during pendency of this petition was subsequent events which took place and it cannot be said to be second representation. The term second will have to another representation, this was not a representation but was based on new facts which remarks during the pendency of the petition and the inquiry and the basis for first remark due to integrity was based on the preliminary inquiry, which itself culminated into full fledged disciplinary inquiry as per direction of the High Court, ultimately it was accepted by the High Court in favour of the delinquent employee.

9. The term integrity doubtful would stand vitiated. Once the circumstances changed, instead of exercising our jurisdiction we lay the matter before the Committee, who shall look into the matter from the date the inquiry report of then District Judge was accepted and subsequent event which have taken place, the representation dated 13.05.2015 would not be considered to be the second representation but the fresh representation after the

inquiry report was accepted. The matter is ordered to be dropped. The circumstances should have been followed. The prayer of the writ petition has already been quoted above. We are told that except the adverse entry 'integrity doubtful' there is no other remarks and five years have already elapsed and Sri Anil Tiwari, Senior Advocate, has been conveyed that it would be recorded afresh after removing the same.

10. We request the High Court on Administrative side to reconsider the representation dated 13.05.2015, keeping in view the change in the circumstances after 2014 and take a fresh decision as expeditiously as possible. This writ petition may also be considered by the High Court as representation.

11. We are thankful to both the counsels for ably assisting us in disposal of this petition.

12. In case the petitioner feels that some of his cause has not been redressed, he would be at liberty to revive this petition.

Order Date :- 6.10.2021

Prajapati

14.06.2022
04:10 PM

HC/2

286
⊕

Krishna Swaroop Dhar Dwivedi, H.J.S.,
Registrar (J) (Confidential)

"Confidential"



D. O. No. C-383/Cf.(A)/ 2022
Dated: Aild. 08.06.2022

Sir,

I am desired to refer to the representation dated 13.05.2015 of Sri Mohd. Sapheek, the then Civil Judge (Sr. Div.)/ACJM, Lalitpur presently Spl. Judge (E.C. Act), Kanpur Nagar against the adverse remarks occurring in the Annual Confidential Remarks recorded by the then District & Sessions Judge, Lalitpur for the year 2010-2011 & approved by the then Administrative Judge, Lalitpur and to say that on its consideration, the Hon'ble Court has been pleased to order that his integrity may be certified in absence of any cogent and reliable adverse material on the record.

Sri Mohd. Sapheek, aforesaid, may kindly be informed accordingly under intimation to the Court.

With regards.

Yours sincerely,

(Krishna Swaroop Dhar Dwivedi)

Sri Mayank Kumar Jain, H.J.S.,
District & Sessions Judge,
Kanpur Nagar.

Digitally signed by KRISHNA
SWAROOP DHAR DWIVEDI
Date: 2022.06.14 13:43:36 IST
Reason: Document Owner
Location: High Court, Allahabad

144/19-3

CHARGE CERTIFICATE

(TAKEN OVER)

Certified that charge of office of the Additional District & Sessions Judge has been taken over (for the period of 06.10.2015 to 18.02.2018) in pursuant to Government O.M. No. 1065/II-4-2023 dated 28.02.2024 after promotion from the cadre of Civil Judge (Senior Division) to the U.P. Higher Judicial Service under Rule 22 (1) of the U.P.H.J.S. Rules, 1975 (as amended) be treated as notional w.e.f. 06.10.2015 i.e. the date of his immediate junior officer was promoted, against the supernumerary post created for the period 06.10.2015 to 18.02.2018 under the order of Hon'ble High Court Allahabad vide notification No. 434/Admin. (Services)/2024 March 07, 2024 and vide partial modification notification No. 439/Admin. (Services)/2024 11 March, 2024 in the forenoon of 06.10.2015 as herein denoted.

Relieved officer

(Mohd. Sapheek)

[Signature]
12.3.24

Additional District & Session Judge,

Bansi (Siddharth Nagar)

J.O. Code U.P. 6141

Counter-signed

[Signature]
12/3/2024

District & Session Judge,

**Siddharth Nagar
District & Sessions Judge**

Siddharth Nagar

OFFICE OF THE DISTRICT JUDGE, SIDDHARTH NAGAR.

No. 144/19(13) SIDDHARTH NAGAR: Dated: 12, March 2024.

Copy forwarded to the following for information and necessary action.

1. The Registrar General, Hon'ble High Court of Judicature at Allahabad.
2. Pramukh Sachiv, U.P. Shasan, Niyukti Anubhag-4, U.P. Sachivalaya, Lucknow.
3. Deputy Registrar (Services), Hon'ble High Court of Judicature at Allahabad.
4. Registrar (Judicial) (Computer), Hon'ble High Court of Judicature at Allahabad.
5. Registrar (Budget) Hon'ble High Court of Judicature at Allahabad.
6. Section Officer (Admin. A-2) Hon'ble High Court Allahabad.
7. Section officer (Admin. A-3) Hon'ble High Court Allahabad.
8. Section officer (Admin. C) Hon'ble High Court Allahabad.
9. Section officer (Admin. H) Hon'ble High Court Allahabad.
10. The Accountant General (A&E) II Section Allahabad.
11. Joint Director Treasuries, Camp Office, 1st Floor, New Treasury Building, Kutchery Road, Allahabad.
12. The Senior Treasury Officer, Siddharth Nagar.
- ✓ 13. Officer Concerned.

14. For Office record.
15. Account Section.
16. Computer Section Siddharth Nagar.

Administrative Officer
District Court Siddharth Nagar.
Administrative Officer
Judge's Court Siddharth Nagar

19200-4

प्रेषक,

मो० शफीक
अपर जनपद एवं सत्र न्यायाधीश,
बांसी, सिद्धार्थनगर।

सेवा में,

श्रीमान् महानिबन्धक महोदय,
माननीय उच्च न्यायालय, इलाहाबाद (प्रयागराज)

द्वारा,

श्रीमान् जनपद न्यायाधीश,
सिद्धार्थनगर।

विषय-

ए०सी०पी० दिलाये जाने के सम्बन्ध में।

महोदय,

विनम्र निवेदन है कि प्रार्थी ने दिनांक-06.01.2004 को उत्तर प्रदेश न्यायिक सेवा में अपर सिविल जज (जू०डि०), मिर्जापुर के पद पर पदभार ग्रहण किया था। प्रार्थी का निम्नवत निवेदन है-

1. यह कि प्रार्थी की वर्ष 2010-2011 की वार्षिक गोपनीय प्रविष्टि में प्रार्थी की सत्यनिष्ठा संदिग्ध अंकित की गयी थी। प्रार्थी को ए.सी.पी. का लाभ नहीं दिया गया था। माननीय उच्च न्यायालय के पत्रांक डी.ओ. नं०-383/सी.एफ.(ए)/2022 दिनांकित 08.06.2022 के अनुसार प्रार्थी की वर्ष 2010-2011 की वार्षिक गोपनीय प्रविष्टि में सत्यनिष्ठा संदिग्ध को अपास्त करते हुए प्रार्थी की सत्यनिष्ठा प्रमाणित की गयी है। माननीय उच्च न्यायालय के गोपनीय पत्र की छायाप्रति संलग्नक-1 है।

2. यह कि प्रार्थी की वर्ष 2010-2011 की प्रतिकूल प्रविष्टि के कारण प्रार्थी की प्रोन्नति उच्चतर न्यायिक सेवा में नहीं की गयी थी। सूचना का अधिकार अधिनियम के अन्तर्गत प्राप्त सूचना की छायाप्रति संलग्नक-2 है।

3. यह कि प्रार्थी की 5 वर्ष की निरन्तर सत्यनिष्ठा प्रमाणित होने के आधार पर प्रार्थी की प्रोन्नति दिनांक-19.02.2018 को सिविल जज (सी०डि०) से उच्चतर न्यायिक सेवा में की गयी।

4. यह कि प्रार्थी की वर्ष 2010-2011 की प्रतिकूल प्रविष्टि में सत्यनिष्ठा संदिग्ध को माननीय उच्च न्यायालय ने अपास्त कर सत्यनिष्ठा को प्रमाणित कर दिया है इस कारण प्रार्थी को ए०सी०पी० का लाभ दिया जाना न्यायसंगत है।

अतः माननीय महोदय से निवेदन है कि प्रार्थी को ए०सी०पी० दिलाये जाने के बाबत प्रार्थी का प्रत्यावेदन माननीय उच्च न्यायालय के समक्ष प्रस्तुत कर स्वीकृत कराने की कृपा करें। प्रार्थी सदैव आपका आभारी रहेगा।

(सादर)

दिनांक-18.07.2022

भवदीय,

(मो० शफीक) 18-7-22

अपर जनपद एवं सत्र न्यायाधीश,
बांसी, सिद्धार्थनगर।
आई.डी. नं० यू.पी. 6141

अनुसारित

कार्यालय जनपद न्यायालय, सिद्धार्थनगर।

पत्रांक संख्या-204/xv सिद्धार्थनगर, दिनांक- 18 जुलाई 2022

श्रीमान् महानिबन्धक महोदय, माननीय उच्च न्यायालय, इलाहाबाद।

जनपद न्यायाधीश,
District Sessions Judge
Siddharth Nagar

18-07-2022

