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Department of Justice

Performance Evaluation and Promotion Schemes of Judicial Officers in India

A Report on Uttar Pradesh

A Report By:

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Introduction

The appointment and performance of judges in the higher judiciary in India (High Courts and the Supreme Court) have been in the limelight in recent times. There also exists a wealth of scholarship and literature on various issues pertaining to the selection of personnel of higher judiciary. However, the foundation of judicial system primarily lies with the subordinate judiciary who were more intimately connected with the dispensation of justice at the first instance.

There has been lack of comprehensive field research in relation to the judicial system and with special reference to the subordinate judiciary in India. The current research deals with two critical aspects concerning the subordinate judicial system in India;

1. Performance Appraisal and
2. Promotion Schemes

Both these issues are closely linked to the smooth functioning of the judicial system. The criteria and methodology of performance evaluation reflects not only the nature and values in the judicial system, but also an important factor for justice delivery. Similarly, the promotion and the assessment methodology shows the kind of judicial qualities which the system is recognising to reward.

An objective and transparent system in these respects is required for creative and innovative legal minds to opt the judiciary as a preferred profession.

The objectives of this research were;

1. To conduct a comparative analysis of the performance appraisal mechanism and schemes of promotion of subordinate judiciary.
2. To identify the prevalent best practices and model mechanisms of performance appraisal and schemes of promotion of subordinate judiciary and

The endeavour has been to assess the degree of objectivity in the policies which are prevalent in the different states.

For the purposes of this research, the existing policies in Twelve (12) States were analysed. These states were identified primarily on the basis of logistical limitations and also on the principle of geographical representation. The states have been identified from the following

parts of India; Eastern India, Western India, Northern India, Southern India, North-Eastern region and Central India.

Table 1- List of Identified States

Odisha	West Bengal
Assam	Manipur
Karnataka	Tamil Nadu
Chhattisgarh	Madhya Pradesh
Maharashtra	Gujarat
New Delhi	Uttar Pradesh

Comparative Framework for Analysis of Performance Appraisal System

The systems of performance appraisal in different states have been analysed from two perspectives; Norms of Disposal and Performance Assessment through Annual Confidential Records

The schemes of promotion have been analysed from the following primary perspectives;

1. Eligibility Conditions
2. Criteria of Promotion
3. Assessment of Promotion Criteria

This report has addressed the following dimensions;

1. A comprehensive assessment on the systems of performance appraisal and schemes of promotion of the judges of subordinate judiciary prevalent in the identified state.
2. Recommendations (based on the best practices identified in different states) on the reforms which can be adopted to improve the efficiency and transparency of the performance appraisal mechanisms and schemes of promotion in each state.

Uttar Pradesh

The information in the nature of the prevailing official policies was sourced from the High Court Authorities. Apart from few verbal and telephonic clarifications, the core analysis in this report is based on the official policies shared with us in the form of the following documents;

1. The Uttar Pradesh Judicial Service Rules, 2001.
2. The Uttar Pradesh Higher Judicial Service Rules, 1975
3. ACR proforma as amended on 28 August 2015
4. Limited Competitive Examination question papers of 2014 and 2016
5. Quantum of work for Judicial Officers, 2016

Analysis of Norms of Disposal

In all states, judicial officers are expected to fulfil certain quantitative targets in terms of the wok they do. Typically, they are known as 'Norms',' Yardstick' or 'Criteria for Assessment of Work Done'. The different aspects of the prescribed Norms have been addressed under the following broad conceptual headings;

1. **Structure of the Norms**
2. **Nature of the Norms**
3. **The Rating System**
4. **Policy Regarding Additional Conditions for Quantitative Benchmark**
5. **Policy Regarding Non-Decisional Judicial Work**
6. **Policy Regarding Administrative Responsibilities**
7. **Policy Regarding Disposal of Old Cases**
8. **Policy Regarding Incentive Weightage**
9. **Policy Regarding Concession for Leave Availed**
10. **Policy Regarding Concession for Newly Recruited Officers**

A. Structure of the Norms

Structure of the Norms refers to the manner in which norms have been prescribed in different States. In majority of the States, a list of specific entries is provided in relation to different categories of judges. Each entry is attributed a quantitative weightage. The entries can be in the form of description of cases, other judicial work or even administrative work of a judge. Thus, for each category of judges mentioned in the Norms, a separate list of entries with quantitative weightage is applicable. The assessment of Norms in relation to a judge is then made only in reference to the quantitative weightage of the entries specified for his/her category.

The number of categories specified in different States varies. For example, while the categories of judges listed in the Norms may be 18 in some State, all judicial officers might have been covered under 2 broad categories in another State.

The number of entries which are specified under different categories of judges in a State varies significantly. When we can count the number of entries, each entry which has been attributed a quantitative weightage has been counted separately. For example, if in the Category of Higher Judicial Service, Clause 1 titled ‘Sessions Trial’ in the sub-heading ‘Criminal’ has 5 sub-clauses and the sub-clauses deal with different types of Sessions Trials such as Culpable Homicide, Cases under Explosive Substance Act etc and a separate quantitative weightage has been specified in relation to each sub-clause, then Clause 1 is counted as 5 entries. While some States have more than 400 entries in the list which have been attributed quantitative weightage, the corresponding number in other States is less than 100.

There is also a substantial disparity in the details of entries across different States. For example, while in some States all Sessions Cases are given the same quantitative weightage, different kinds of Sessions cases are given separate quantitative weightage under different entries in some other States. While Sessions Cases have been divided into 2 types in types in some States, it has been divided into 5 types in some other.

Some States do no distribute entries across different categories of judges. Instead, there is only a singular list of entries which applies to all the judicial officers.

Policy in Uttar Pradesh

The list of entries in Uttar Pradesh provided in the following manner;

Category of Entries	Entries with Quantitative Weightage
Schedule 'A' (Criminal Work)	12
Schedule 'B' (Civil Work)	26
Schedule 'C'	29

Recommendations

1. List of entries with quantitative weightage may be more detailed. The current list of entries is brief and does not adequately reflect the range of judicial work.

B. Nature of the Norms

Nature of Norms refers the quantitative description of the entries. In this respect, the Norms in different States can be divided into 3 types;

1. Units System
2. Working Day System
3. Case-Conversion System.

i. Units System

In this system, each entry in the Norms is described as a unit, number of units or some fraction of a unit. The work done by a judge is then assessed in term of the aggregate of units earned by him in day, month, quarter or year.

ii. Working Day System

In this system, each entry in the Norms is described as a working day, number of working days or a certain fraction of a working day. Judicial officers are expected to accomplish work equivalent to the prescribed number of working days.

iii. Case-Conversion System

In this system, entries are described in the form of a conversion ratio of base case. For example, for District and Sessions Judges, the basic case category would be a Sessions case. As per the norms, each sessions case would be deemed equivalent to five criminal appeals, twelve criminal revision petitions etc. In a month, a District and Sessions Judge has to dispose of 10 Sessions cases or equivalent number of criminal appeals revision petitions etc. In this system even when the nomenclature of 'unit' is been adopted while describing the workload for some categories of judges, entries are detailed in the form of a conversion ratio.

Policy in Uttar Pradesh

In Uttar Pradesh, there is a Working Days system for assessing the disposal record of judicial officers.

C. The Rating System

The rating system refers to the evaluation parameters in relation to the quantitative workload of judicial officers. The rating system prevalent in a State prescribes the quantitative benchmark that is expected of judicial officers and how they are rated for the workload achieved by them.

i. Timeline of Quantitative Benchmark

There is variance in terms of the time-span in relation to which a rating system is expressed. The Norms in the different States typically explain the rating system only in any one of the 4 options; daily, monthly, quarterly and yearly. It needs to be noted that these variations are simply in relation to the manner in which the rating system is expressed in the Norms of a States. Thus even if the Norms in a State specify the daily workload of a judicial officer, the assessment may be done either quarterly or annually. Similarly, even if the Norms in a State specify the yearly workload of a judicial officer, the assessment may be done quarterly or monthly.

ii. Ratings Scale

While some States only prescribe a specific quantitative benchmark the judicial officers are expected to achieve, other States usually provide a ratings scale with different gradations for different degrees of quantitative achievement.

There is variation in the details of the ratings scale as well. For example, while the 4 point ratings scale of one State might be having the ratings of Inadequate, Good, Very Good and Outstanding, the 4 point ratings scale of another State would have the gradations of Poor, Average, Good and Very Good.

iii. Single/Multiple Rating Scheme

While some States, have a single rating scheme for all the judicial officers, in other States, separate benchmarks are prescribed for different categories of judicial officers. When the States follow a single rating scheme for all judicial officers, the rules regarding quantity of work and the corresponding rating is same for judicial officers of all categories. In other States, though the rating scale may remain the same, the amount of work a judicial officer needs to do in order achieve a rating may vary depending on the cadre of the judge.

Policy in Uttar Pradesh

In Uttar Pradesh, there is not rating system. The number of quantitative weightage earned by a judicial officer is expected to be equal to the number of actual working days. Thus, if in a year, there have been 225 working days, the judicial officer is expected to do work equivalent to 225 working days.

Recommendations

1. Adoption of a 5 point ratings scale for assessment of Norms may be considered for all judicial officers to incorporate a greater balance in the range of performance levels

accommodated in the ratings scale. A 5 point rating scale provides a reasonable range to categorise the different performance levels of judicial officers. It provides the facility of a Middle rating of satisfactory performance with two ratings dedicated for below satisfactory performance and two ratings dedicated to above satisfactory performance.

D. Policy Regarding Additional Conditions for Quantitative Benchmark

In many States, additional conditions have been prescribed to be eligible for a rating apart from achieving the required amount of quantitative weightage. In some States, these conditions have been prescribed for certain categories of judicial officers and in other States, for all categories of judicial officers. Typically, these conditions are of three categories;

1. A mandate that a certain proportion of cases (civil and criminal, main and miscellaneous) be maintained in the overall disposal of cases.
2. A mandate that the overall disposal should include certain number of disposals of one or more particular categories of cases.
3. A mandate that the overall disposal should include a certain number of contested disposals.

Policy in Uttar Pradesh

There is no such requirement in Uttar Pradesh as per any of the official policies shared with us.

E. Policy Regarding Non-Decisional Judicial Work

While the primary duty of judicial officer might be to render judicial decisions, they discharge a variety of other judicial functions. Conducting a test identification parade, recording statements or confessions under Section 164 of Cr.PC, examination of witnesses, framing of charges are various examples of such other judicial functions. These can be broadly categorised as Non-Decisional Judicial Work. Though these functions by themselves

need not result in a judicial decision, they do require substantial application of time from the judicial officers. While the Norms for judicial officers mostly focus on attaching quantitative weightage to the judicial decision making in different category of cases, it is also necessary to recognize and credit the non-decisional judicial work of the judicial officers.

The policy in different States in this respect is varied. States usually include such work in the list of entries for which quantitative weightage is attached. Thus, judicial officers are allowed to earn quantitative weightage for specified non-decisional judicial work in the same way they earn quantitative weightage for decisional judicial work.

Policy in Uttar Pradesh

1. In calculating the total number of working days for which a judicial officer is expected to show quantitative output, the number of days dedicated to miscellaneous work is excluded.
2. In Schedule A of the list of entries dealing with Criminal Work, there is a mandate that when part heard cases are not completed in the same financial year, the presiding officer may make a note in his statement of the precise work done and the time spent therein. Thus, it is possible that many judicial functions such as farming of charges, examination of witnesses etc may be covered under this provision.

Recommendations

1. The details of the various non-decisional judicial functions which fall under the heading of ‘miscellaneous’ should be defined and specific quantitative weightage should be attached to each such function. Currently, there are no guidelines on how many days of concession can be claimed in relation to various miscellaneous functions such as recording of states, conducting test identification parade etc.

F. Policy Regarding Administrative Responsibilities

In addition to the judicial functions, judicial officers usually are also entrusted with a variety of administrative responsibilities. The administrative responsibilities can be of a wide range and can also vary according to the cadre of judicial officers. These responsibilities are an important and integral aspect of their role as members of the judiciary. These responsibilities can range from organising legal literacy camps to inspection of courts. They also include conducting departmental inquiries and being part of various administrative committees.

The Norms in the States address the issue of administrative responsibilities of judicial officers in different ways and to different degrees. In some States, certain administrative responsibilities are explicitly includes included in the list of entries carrying quantitative weightage. For example, there would be a rule that judges are to be awarded 4 units per court for annual inspection.

In some other States, specified categories of officers are awarded certain number of units in general in recognition of the overall administrative responsibilities entrusted to such categories of judicial officers. Thus there would be a rule that a Principal District Judge would be awarded additional units per in overall recognition of his/her administrative responsibilities.

In some States, a relaxation in the Norms is prescribed for judicial officers having substantial administrative responsibilities. For example, judges in identified cadres would be expected to fulfil only 50% of the allotted units for a particular rating. Thus while another judge would need to earn 400 units for getting a rating of Good, a judge in the identified cadre would get a rating of Good if he/she completes work equivalent to 200 units.

In some States, relaxation has been given to certain judicial officers in the very prescription of the norms. For example in the prescribed norm of disposal of a Principal District Judge would be less than that of an Additional District Judge.

In some States, a combination of such methodologies is also adopted. Thus, apart from awarding specific units for certain administrative responsibilities, certain categories of officers are given certain number of units in recognition of the overall administrative responsibilities entrusted to them.

Policy in Uttar Pradesh

The following provisions have been made in Uttar Pradesh in this respect;

1. The days spent by judicial officers in inspecting their own court or inspecting subordinate courts is expected to be noted in the remarks column of the statement of disposals submitted by the officers.
2. It is also categorically provided that the number of days spent on inspection of subordinate courts will be excluded from the total number of working days for which an officer is expected to give quantitative output.
3. In the cadre of district judges, weightage is given in the following manner for administrative work and for work connected to admissions, bail, legal aid and Lok Adalats;

In districts having not more than 20 courts	**15%**
In districts having note more than 30 courts	20%
In districts having more than 30 courts	25%

4. In the cadre of senior most additional district and sessions judges, weightage is given in the following manner for administrative work;

In judgeships having not more than 20 courts	**1 day per month**
In judgeships having note more than 30 courts	1.5 days per month

In judgeships having more than 30 courts	2 days per month

5. Weightage is given to Member/Secretary of District Legal Services Authority who also discharges judicial functions to the tune of 25% in their quota.

Recommendations

1. The policy regarding quantitative weightage for administrative responsibilities may be reviewed so as to include weightage for such other cadres of officers who might also be discharging administrative responsibilities.

G. Policy Regarding Disposal of Old Cases

One of the biggest problems in the Indian judicial system has been the pendency of cases over long periods of times. Clearing the huge backlog of cases has been one of the most important objectives. States have sought to address this issue by incorporating some special provisions in the Norms regarding disposal of old cases. The issue has been addressed primarily by three alternative ways or by a combination of the three ways.

Firstly, in some States, additional weightage is given to specific categories of old cases. Thus, while a normal disposal of a case would carry a certain quantitative weightage, an old case of the same type would carry additional quantitative weightage. Thus, the list of entries specifies both the normal quantitative weightage and the additional quantitative weightage in relation to the specific entry. In such a policy, additional weightage is awarded only for some specific cases and not for others. For example, while additional weightage may be awarded for disposing cases of culpable homicide which are more than 8 years old, no such weightage would be given for criminal appeals.

Secondly, in some States, a blanket additional weightage is given for cases belonging to a broad category. For example, there would be a rule that 2.5 extra units are to be awarded for disposal of contested regular civil appeals pending for more than 10 years or a rule that 1 unit extra would be awarded for disposal of a any contested suit pending for more than 5 years.

Thirdly, another approach in this respect is to specify that a proportion of the total disposals by a judicial officer must consist of old cases. For example, there can be a mandate that in that 25% of overall disposal of a judicial officer shall be of oldest cases pending on the file.

Policy in Uttar Pradesh

The following provisions have been made in Uttar Pradesh in this respect;

1. Presiding officers are encouraged to prepare a list of 100 oldest cases in each quarter and dispose of the same on a priority basis.
2. Additional weightage is given to both civil and criminal cases as per the following scheme;

Critically old cases	Pre 2005	50% additional weightage
Very old cases	Pre 2010	40% additional weightage
Old Cases	Pre 2013	30% additional weightage

3. All officers are expected to dispose of at least one case of each category mentioned above every month.
4. If an officer decides more than the minimum number of cases in each category, he is also entitled to an additional 10% per case.
5. The rating given to an officer is reviewable if he has not disposed of the minimum number of old cases from the above categories.
6. For disposal of appeals/revisions pending in the District Court filed during the pendency of original proceedings against the interim/miscellaneous orders by which the proceedings of the trial court get stayed, additional weightage at the twice the recommended rate is awarded to the concerned judge.

H. Policy Regarding Incentive Weightage

In many States, schemes of incentive weightage have been adopted to promote greater disposal of a particular variety of cases. In some States like, incentive weightage is awarded when the judicial officers disposes a particular category of cases beyond a specified

threshold. For example, if 5 units are awarded generally for the first 10 disposals in a particular category, after the tenth disposal, 8 units are awarded for each additional disposal. There is practice in some States of awarding additional weightage for disposing cases involving senior citizens and also for writing judgements in the local language. Here, instances of additional weightage for disposal of old cases have not been included as the same has been detailed separately.

Policy in Uttar Pradesh

There is no express provision of incentive weightage in any of the official policies shared with us.

I. Policy Regarding Concession for Leave Availed and Regarding Newly Recruited Officers

It is a general rule that whenever any officer mails to fulfil the quantitative benchmark prescribed in the Norms, the reasons for such failure may be furnished by him and the same is expected to be taken into considerable if found reasonable. In such situations, it is feasible that judicial officers may cite leave taken by them or the fact that they have newly joined the profession as reasons for not being able to fulfil the quantitative benchmark prescribed under the Norms. However, in such situations, accepting the validity of these reasons depends on the discretion of the higher authorities and such occasions also have the possibility of being fertile grounds of discrimination.

Thus, it is desirable that the policy in this respect should be clear in the Norms prescribed in a State. The requests for being granted concession on the grounds of leave availed or for being new in the job should be decided on the basis of established rules and not under discretionary authority.

J. Policy Regarding Concession for Leave Availed

Policy in Uttar Pradesh

In calculating the working days of a judicial officer, all days on which the officer is casual and earned leave is excluded

Recommendations

1. The policy regarding no concession for leave availed may be reviewed so as to allow relaxation by express provision in quantitative benchmark in only in case of leave taken for ill health of self or close family members. Relaxation may also be considered for leave taken due to death of close family members or due to important social occasions such as marriage of children. There is the need to balance two requirements; encouraging greater disposal of cases and promoting reasonable work environment for judicial officers. Assessing the work of judicial officers only for the days on which they have actually worked would mean that their quantitative benchmark will be adjusted in relation to every single leave they might take, for whatever reason. Keeping in mind the pendency in the courts, such a degree of relaxation does not seem appropriate. On the other hand, not providing any kind of concession when leave is taken for genuine reasons can be demotivating and harsh.

K. Policy Regarding Concession for Newly Recruited Officers

Policy in Uttar Pradesh

There is no express concession or relaxation to newly recruited judicial officers in any of the official policies shared with us.

Recommendations

1. The policy regarding no concession to newly recruited officers in relation to quantitative benchmark may be reviewed so as to provide for relaxation in the initial one or two years.

Analysis of ACR System

The most usual method by which performance of judicial officers is evaluated periodically is through Annual Confidential Reports. It forms an important part in the promotion criteria in all the States and provides the most regular assessment of the performance of judicial officers. We have analyzed the ACR Proforma of all the States from three primary perspectives;

1. **Structure of the ACR Proforma**
2. **Contents of the ACR Proforma**
3. **Rating Scheme in ACR Proforma**

A. Structure of the ACR Proforma

Annual Confidential Reports are maintained as a part of performance appraisal mechanism of the judicial officers in the subordinate judiciary. Different states follow different criteria, varied yardsticks and diverse queries to assess the quality of a judicial officer. In general, in all the states, the ACRs are written to adjudge the basic potentialities of a judicial officer every year in terms of their conduct, integrity, character etc. The obligatory system of submitting annual confidential reports by the superior authorities is basically to assess the efficiency of the subordinate officers. Confidential reports are of enormous importance in the career of a judicial officer as it provides vital inputs for assessing the performance of an officer and for career advancement as ACR records have a substantial bearing on promotion.

The ACR proforma of different states is based on a similar structure. It usually consists of four parts where the first and second part of the ACR has to be filled up by the judicial officer reported upon, the third part has to be filled up by the Reporting authority and the

fourth part has to be filled up by the Reviewing authority. All the ACRs in the initial parts of the deal with the questions related to the basic information of the officer like his name, designation/ post held, description of his duties, his present description of his official post held, the number of working days in that year both on judicial and administrative side, queries on the casual leave, maternity leave, earned leave or any other leave taken (in Manipur ACR proforma), the duties related to the attending of seminars, conferences, trainings, date of entry in service, probation time, marital status, cadre and year of allotment, date of birth, present post, date of appointment to the present grade, period of absence from the duty, date of filing annual property returns, the targets and objectives , the quantitative work/ disposal done in that year, kinds of cases assigned to the officer, performance in implementation of Legal Aid programme and Lok Adalats, supervision, control and maintenance of the records etc.

The report filled up by the Reporting Authority usually forms the crux of the performance assessment of a judicial officer. The Reviewing Authority generally supervises if the Reporting Authority is doing his work properly or not in terms of assessing the subordinate judicial officers.

Policy in Uttar Pradesh

The confidential report of the judicial officers in Uttar Pradesh is titled as "*Annual Confidential Remarks*". It contains twenty-six questions in total. It is a single-fractioned ACR proforma where it starts with the name of the officer, the length of his service, post held during the year under report. The reporting authority on the judicial officer has to prepare the report upon the questions in the ACR which includes in its first place the remarks of the District Judge regarding the integrity of the officer, the impartiality and fairness the judicial officer has, the composure and temperament of the officer, the aspect of his private character, control over his judicial responsibilities like proper fixation of cause list, avoidance of unnecessary judgements, disposal of old cases, granting/refusal/retaining of interim orders or injunctions for justified and sufficient reasons and number of cases remanded on substantial grounds. Marshalling of facts, appreciation of evidence, application of law while delivering and writing judgment also forms a basic query in the ACR. The temperament and the ability to manage workload efficiently is determined in the ACR by the questions asked on the

relations the officer shares with the members of the Bar, behavior with the brother officers, the officers' amenability to the advice of the District Judge and other superior officers, his behavior towards women, the respect and sensibility exhibited towards them (*query on respect to women was inserted in 2007*), the punctuality and regularity aspect, state of health and special remarks.

B. Contents of the ACR Proforma

For analyzing the contents of the ACR Proforma, the focus is only such part of the ACR Proforma in each State which is filled by the immediate superior of the judicial officer whose performance is being assessed. The part of the ACR Proforma which is filled up by the reporting officer usually represents the most substantial and direct assessment of the performance of a judicial officer. The Reviewing/Accepting authorities in relation to the ACR Proforma are generally not expected to be directly aware about the overall performance of a judicial officer. Analysing the content of the ACR Proforma facilitate an understanding of the various parameters on the basis of which the performance of judicial officers is being assessed.

After perusing the contents of the ACR Proforma in all the States, the questions in the ACR Proforma have been distributed into the following broad categories;

1. Category 1- **Knowledge of Law**
2. Category 2- **Character Traits**
3. Category 3- **Temperament**
4. Category 4- **Communication skills**
5. Category 5- **Workload Management**.
6. Category 6- **Others**

These categories reflect the range of parameters on the basis of which the performance of a judicial officer is assessed. The identification of these categories is based on the scrutiny of the questions and issues covered in the ACR Proforma of various States.

The first category i.e. **"Knowledge of law"** encompasses attributes of factual and legal reasoning of the subject matter concerned, appreciation of facts, application of law, clarity of conclusion, capacity to marshal, appreciating evidence etc. It includes both the ability to interpret the law and to apply legal principles to the facts of different cases.

The second category dealing with the **"Character Traits"** basically deals with the attributes of independence and integrity. The various issues and questions in this category deal with the honesty, impartiality, fairness and other such attributes in judicial officers which are deemed indispensible for a due discharge of duties.

The third category **"Temperament"** includes attitudinal and behaviour aspects of the conduct of judicial officers. It includes issues of courteous dealings and general demeanor of judicial officers. The relationship with the officers of the Bar, public, staff, relationship with the litigants, behavior with his colleagues and superiors, behavior outside the court etc. are included in this category. Questions on temperament of judicial officers included in the ACR proforma in different states include the attributes of patience, open-mindedness, courtesy, tact, courage, understanding, compassion, humility etc.

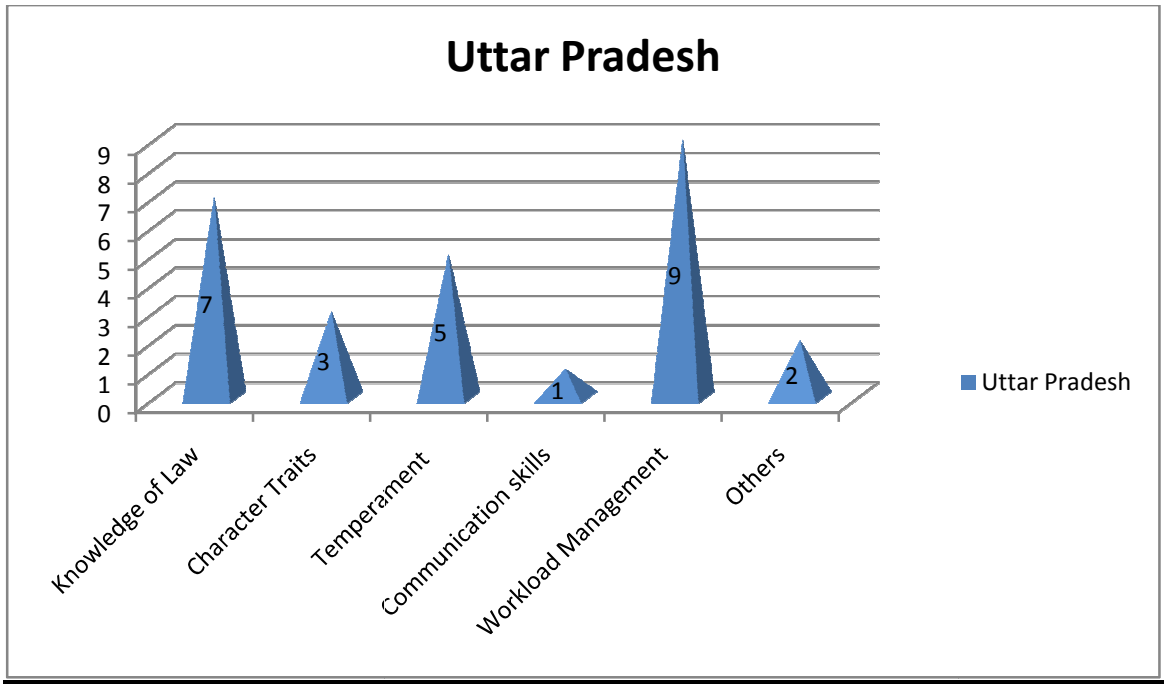
The fourth category deals with the **"Communication Skills"** of judicial officers. Different states have different criterion for assessing the succinctness, compendiousness and economy of language used by the judicial officers whether during interaction or while writing a judgement. Wherein the ACR proforma in Maharashtra heads it under *clarity, precision, language and lucidity*, the ACR proforma of Uttar Pradesh assesses it under the heading of *brevity.* Basically this section of the study takes a sweep on the ability of a judicial officer to express himself/herself clearly and concisely, whether orally or in writing.

The fifth category of **"Workload Management"** deals with the capacity of a judicial officer to manage his overall workload, judicial and administrative. Punctuality in attending ad leaving Court or Office, control over court proceedings, timeliness in delivering the judgments and orders, the ability to dispose of the cases promptly, disposal of the pending cases, the quantity of work done etc. are the points that included in different ACR proformas of different states to assess this categorical exposition.

The sixth and the last category **"Others"** includes all other miscellaneous and diverse indicators of attribute assessment of judicial officers those are not included in the abovementioned five categories. Attributes like general overall assessment of the officer with reference to his/her judicial, administrative work and ability, strength and shortcomings those are not included in other parts of the ACR, state of health, contribution to the legal services, legal aid and assistance, any innovative work or scheme implemented by the judicial officer, participation in Lok Adalats, conduction of training and awareness programmes, provision of compensation to the victims, timely visits to Jails/short stay home/ institutions etc. are included in this category.

Policy in Uttar Pradesh

The distribution of the contents of ACR Proforma in Uttar Pradesh is as follows;



C. Rating Scheme in ACR Proforma

In majority of the States, a rating scheme has been specified for the evaluation of the judicial officers. After the assessment of the judicial officers on the parameters set forth

in the ACR proforma, they are given a rating such as Good, Average, Outstanding etc. There is variation in the scale of ratings and also in the description of ratings. For example, while there is a 4 point rating scale in some States, there are 5 point rating scales in others. Even in States which have a rating scheme of similar points, there are variations in the description of the ratings. In different States, the 5 point rating scale has ratings of 'Poor, Average, Good, Very Good and Outstanding' and 'Unsatisfactory, Satisfactory, Good, Very Good and Excellent.'

Policy in Uttar Pradesh

Rating Scale in Uttar Pradesh;

Poor
Average
Good
Very Good
Outstanding

i. Quantitative Yardstick

While a rating scheme has been prescribed in each State, the next issue is of prescribing a quantitative yardstick for determining the applicability of a rating. In some States, there is a clear demarcation of marks for different criteria of assessment in the ACR Proforma and the ratings awarded to a judicial officer are based on the cumulative marks awarded to him/her. This facilitates greater objectivity in the assessment process and also provides a more credible check against arbitrariness.

Policy in Uttar Pradesh

There is no quantitative yardstick for determining the ratings in any of the official policies shared with us.

Recommendations

1. A quantitative yardstick may be prescribed to determine which ratings may be applicable to a judicial officer in assessment of annual performance. Quantitative weightage in the form of marks/points may be allotted to different questions in the ACR and a particular rating may be awarded to a judicial officer only when he gets a specified range of marks/points. For example, a rating of Very Good when marks are in the range of 70-75 and the highest rating in the scheme if the marks/points are above 80.
2. The distribution of marks in relation to the different categories of questions may be done with greater proportion of marks being given to the quality of judicial work.

ii. Assessment Technique

If a quantitative yardstick has been prescribed for different ratings by specifying the marks to be awarded under different parameters, the next issue is to develop clear assessment technique to be employed for such parameters. For example, when 5 marks are to be awarded for the behaviour of a judicial officer towards lawyers, there should clarity on what parameters the marks are to be awarded. There are no guidelines on when a judicial officer will be awarded 4 marks and when 3. There are no guidelines as to how the judgements of the judicial officers will be evaluated. How many judgements will be evaluated and of which category? How many marks will be given for legal reasoning? How many marks for factual narration? How many marks for application of legal principles to a factual situation? Without clarity on such issues, the process of assessment is likely to be characterised by a highly individual and subjective disparities.

In the absence of any institutionalized guidelines on the evaluation parameters, any appraisal exercise has the possibility of being abused. It would be possible for a superior officer to be guided by personalized considerations and manipulate the parameters of evaluation as and when it suits him/her.

Policy in Uttar Pradesh

No assessment technique has been prescribed in any of the official policies shared with us.

Recommendations

1. Assessment guidelines in relation to the different categories of questions in the ACR proforma should be prescribed. It may at times be valid to argue that there cannot be objective assessment of quantitative measures in relation to certain questions or that even if it is possible, the same cannot be implemented due to practical or logistical challenges. In such a situation, it may be preferable not to allot any quantitative weightage to such questions as the marking is bound to be a product of unguided discretion. In the alternative, the weightage in relation to such questions should be marginal.

Analysis of Schemes of Promotion

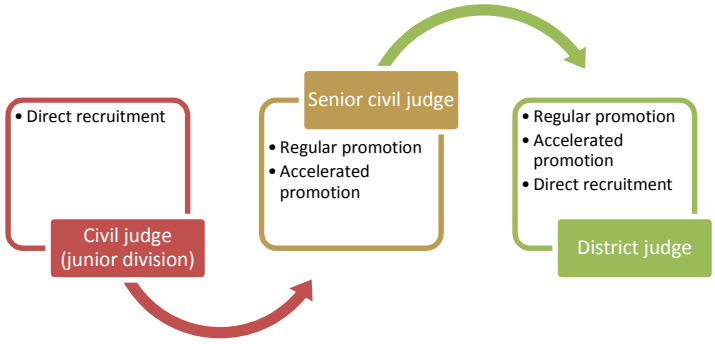
The focus of the analysis is the promotion schemes concerning promotions of judges to different cadres. A brief analysis of the rules concerning direct recruitment of district judges and the direct recruitment of civil judges (junior division) has been incorporated subsequently. The promotion schemes are analyzed under the following broad headings:

1. **Overall scheme of Promotion**
2. **Eligibility for Promotion**
3. **Criteria of Promotion**
4. **Assessment Technique**

A. Overall Scheme of Promotion

This section deals with the overall schemes of promotion in relation to different cadres of judicial officers and the breakup of vacancy for promotions of different kind. For the sake of convenience, the terms ‘regular promotion’, ‘accelerated promotion’ and ‘direct recruitment’ have been used uniformly. Regular promotion is the promotion where the judicial officers are promoted based on the principle of ‘merit cum seniority’ or based on the principle of ‘seniority cum merit’. When the judicial officers are promoted based on the principle of ‘merit’, it is called accelerated promotion. Some states use the term ‘usual promotion’ to mean regular promotion. ‘Direct recruitment’ is the mode of recruitment where the posts are filled by way of direct appointment and not through in-cadre promotion.

In all the states, the post of civil judges (junior division) is filled by direct recruitment. The civil judges (junior division) are promoted as senior civil judges usually based on the principle of merit cum seniority (or seniority cum merit) but sometimes, the promotions are also made on the principle of merit. The senior civil judges are promoted as district judges. Apart from this, the district judges are also directly recruited through a competitive examination. There are two ways of promotion- regular promotion (based on the principle of merit cum seniority or seniority cum merit) and accelerated promotion (based on the principle of merit).



Policy in Uttar Pradesh

The civil judge (junior division) may be promoted as senior civil judges based on the principle of merit cum seniority. The senior civil judges are promoted as district judges. Apart from this, the district judges are also directly recruited through a competitive examination. The breakup of vacancy in the post of district judge is as follows:

Mode of promotion	Percentage of vacancy
Regular promotion	65% of the vacancy
Accelerated promotion	10% of the vacancy
Direct recruitment	25% of the vacancy

B. Eligibility for Promotion

Conditions of eligibility are usually in the form a minimum number of years in the feeder cadre or in the service in general.

i. Eligibility for Promotion as Senior Civil Judge

Usually, the minimum number of years of service in the cadre of civil judge (junior division) is five years for the judicial officer to be considered for promotion. In some states, the civil judge (junior division) should be in service for six years to be considered for promotion to the cadre of senior civil judge. In some other states, a civil judge (junior division) has to be in service for at least three years after the successful completion of probationary period (three years) to be eligible for promotion (both regular promotion and accelerated promotion) to the cadre of senior civil judge. In some states, there is no requirement of minimum number of years of service in the feeder cadre.

ii. Eligibility for Regular Promotion as District Judge

Usually, there is no requirement of a minimum number of years of service in the cadre of senior civil judge for a judicial officer to be eligible for regular promotion to the cadre of district judge. However, some states have prescribed a minimum number of years of service in the feeder cadre.

iii. Eligibility for Accelerated Promotion as District Judge

Usually, the minimum number of years of service as a senior civil judge is five years for the judicial officer to be considered for accelerated promotion to the cadre of district judge. However, in some states, , the five year period is counted after the successful completion of officiating period (two years). In some other states, there is no minimum number of years of service in the cadre of senior civil judges for the judicial officer to be eligible for accelerated promotion.

Policy in Uttar Pradesh

Cadre	Eligibility criteria
Civil Judge (Junior Division) to Senior Civil Judge	The judicial officer should be in service in the cadre of Civil Judge (Junior Division).

	Principle: seniority cum merit
Senior Civil Judge to District Judge	**Regular promotion:** The judicial officer should be in regular service in Senior Civil Judges cadre. **Principle:** merit cum seniority
	Accelerated promotion: The judicial officer should be in regular service in Senior Civil Judges cadre for not less than five years qualifying service. **Principle:** Merit

i. Criteria for Promotion as Senior Civil Judges

In any scheme of promotion, the determination of the criteria on which matters of promotion will be decided forms reflects the qualities which are valued in the organisation. On most occasions, principles of 'merit cum seniority' or 'seniority cum merit' or 'merit' are cited as the basis on which questions of promotion are decided. The criteria of promotion refer to those tangible parameters which are employed to implement these principles.

It is ideal that along with the criteria, the quantitative weightage of each criterion may also be determined. Specifying the quantitative weightage provides a more transparent mechanism and also acts as a check against arbitrariness. It ensures that the priorities of the different criterion are not manipulated in an arbitrary manner for any reasons whatsoever. It also provides a clear picture on the relative emphasis given to different criterion.

Policy in Uttar Pradesh

Criteria	Quantitative Weightage
Service record	No particulars
Ability	No particulars
Character	No particulars
Seniority	No particulars

Recommendations

1. Evaluation of Judgements and Disposal Records may be incorporated as a criterion for promotion as Senior Civil Judges.
2. Quantitative Weightage may be specified in relation to each criterion for promotion as Senior Civil Judges.
3. Factors such as Character/Vigilance Report/Pending Departmental Enquiries/Reputation may be expressly specified as eligibility conditions. Such factors are generally not amenable to quantitative measurement. Such factors may not be considered as criterion which can be evaluated and no quantitative weightage may be prescribed in relation to such factors. An adverse finding regarding the officer in relation to such factors may be considered as a disqualification till the adverse finding is resolved.

C. Assessment Technique of Criteria for Promotion as Senior Civil Judges

Without an objective assessment technique, evaluation of any criteria is likely to be governed by subjective and personalised considerations. Lack of guidelines in this respect also facilitates the possibility of arbitrary exercise of authority and illegitimate discrimination. For example, when evaluation of the judgements is a criterion, the manner in which judgements will be evaluated should also be prescribed. It should not be possible to focus primarily on the linguistic clarity while evaluating the judgement of X and reasoning while evaluating the judgment of Y. The parameters though which the judgements would be evaluated should be clearly established and pre-determined.

Policy in Uttar Pradesh

The assessment technique for any criteria is not expressly provided in any of the official policies shared with us.

Recommendations

1. Assessment methodologies may be prescribed in relation to each criterion for promotion as Senior Civil Judges. Where it appears that some criterion cannot be quantitatively measured, either the same may not be included in the list of criteria or in the alternative, may be given minimal weightage. Such criterion may instead be considered as part of eligibility conditions.

D. Criteria for Regulation Promotion as District Judge

Policy in Uttar Pradesh

Criteria	Quantitative Weightage
Suitability test	100 marks
Service record of past 10 years (evaluation of ACR)	100 marks
Ability	Not Specified
Character	Not Specified
Seniority	Not Specified

Recommendations

1. Evaluation of Judgements and Disposal Records may be incorporated as a criterion for regular promotion as District Judges.
2. Quantitative Weightage may be specified in relation to each criterion for Regular Promotion as District Judges.

3. Factors such as Character/Vigilance Report/Pending Departmental Enquiries/Reputation may be expressly specified as eligibility conditions. Such factors are generally not amenable to quantitative measurement. Such factors may not be considered as criterion which can be evaluated and no quantitative weightage may be prescribed in relation to such factors. An adverse finding regarding the officer in relation to such factors may be considered as a disqualification till the adverse finding is resolved.

E. Assessment Technique of Criteria for Regular Promotion as District Judge

Policy in Uttar Pradesh

Criteria	Quantitative Weightage	Assessment Technique
Suitability test	100 marks	Specified
Service record of past 10 years (evaluation of ACR)	100 marks	Specified
Ability	Not Specified	Not Specified
Character	Not Specified	Not Specified
Seniority	Not Specified	Not Specified

Suitability Test

The suitability test is a written examination of 100 marks and the detailed syllabus is provided in Appendix G (1) of the Rules.

Evaluation of ACRs

The service record of the judicial officer is assessed by evaluating her/his ACRs in the following manner:

Grade in ACR	Marks allotted
Outstanding	10 marks
Very Good	8 marks

Good	6 marks
Average	4 marks
Poor	0 mark
Adverse Entry	-2 marks for each year

Recommendations

1. Assessment methodologies may be prescribed in relation to each criterion for Regular Promotion as District Judges. Where it appears that some criterion cannot be quantitatively measured, either the same may not be included in the list of criteria or in the alternative, may be given minimal weightage. Such criterion may instead be considered as part of eligibility conditions.

F. Criteria for Accelerated Promotion as District Judge

Policy in Uttar Pradesh

Criteria	Marks allotted
Limited competitive examination	600 marks
Interview	75 Marks
Character	Not Specified
Fitness	Not Specified

Recommendations

1. Evaluation of Judgements, Evaluation of ACRs and Disposal records may be incorporated as criterion for accelerated promotion as District Judges.

2. Quantitative Weightage may be specified in relation to each criterion for Accelerated Promotion as District Judges.
3. Factors such as Character/Vigilance Report/Pending Departmental Enquiries/Reputation may be expressly specified as eligibility conditions. Such factors are generally not amenable to quantitative measurement. Such factors may not be considered as criterion which can be evaluated and no quantitative weightage may be prescribed in relation to such factors. An adverse finding regarding the officer in relation to such factors may be considered as a disqualification till the adverse finding is resolved.

G. Assessment Technique of Criteria for Accelerated Promotion as District Judge

Policy in Uttar Pradesh

Criteria	Marks allotted	Assessment Technique
Limited competitive examination	600 marks	Specified
Character	No particulars	Not Specified
Fitness	No particulars	Not Specified

Limited competitive examination:

A limited competitive examination is conducted on the following subjects and a detailed syllabus for the examination is given in the Appendix H of the Rules:

The assessment technique of other criteria has not been specified in any of the official policies shared with us.

Recommendations

1. Assessment methodologies may be prescribed in relation to each criterion for Accelerated Promotion as District Judges. Where it appears that some criterion cannot be quantitatively measured, either the same may not be included in the list of criteria or in the alternative, may

be given minimal weightage. Such criterion may instead be considered as part of eligibility conditions.

Summary of Recommendations

Relating to Scheme of Performance Appraisal

1. List of entries with quantitative weightage may be more detailed. The current list of entries is brief and does not adequately reflect the range of judicial work.
2. Adoption of a 5 point ratings scale for assessment of Norms may be considered to incorporate a greater balance in the range of performance levels accommodated in the ratings scale. A 5 point rating scale provides a reasonable range to categorise the different performance levels of judicial officers. It provides the facility of a Middle rating of satisfactory performance with two ratings dedicated for below satisfactory performance and two ratings dedicated to above satisfactory performance.
3. The details of the various non-decisional judicial functions which fall under the heading of 'miscellaneous' should be defined and specific quantitative weightage should be attached to each such function. Currently, there are no guidelines on how many days of concession can be claimed in relation to various miscellaneous functions such as recording of states, conducting test identification parade etc.
4. The policy regarding quantitative weightage for administrative responsibilities may be reviewed so as to include weightage for such other cadres of officers who might also be discharging administrative responsibilities.
5. The policy regarding no concession for leave availed may be reviewed so as to allow relaxation by express provision in quantitative benchmark in only in case of leave taken for ill health of self or close family members. Relaxation may also be considered for leave taken due to death of close family members or due to important social occasions such as marriage of children. There is the need to balance two requirements; encouraging greater disposal of cases and promoting reasonable work environment for judicial officers. Assessing the work of judicial officers only for the days on which they have actually worked would mean that their quantitative benchmark will be adjusted in relation to every single leave they might take, for whatever reason. Keeping in mind the pendency in the courts, such a degree of

relaxation does not seem appropriate. On the other hand, not providing any kind of concession when leave is taken for genuine reasons can be demotivating and harsh.

6. The policy regarding no concession to newly recruited officers in relation to quantitative benchmark may be reviewed so as to provide for relaxation in the initial one or two years.
7. A quantitative yardstick may be prescribed to determine which ratings may be applicable to a judicial officer in assessment of annual performance. Quantitative weightage in the form of marks/points may be allotted to different questions in the ACR and a particular rating may be awarded to a judicial officer only when he gets a specified range of marks/points. For example, a rating of Very Good when marks are in the range of 70-75 and the highest rating in the scheme if the marks/points are above 80.
8. The distribution of marks in relation to the different categories of questions may be done with greater proportion of marks being given to the quality of judicial work.
9. Assessment guidelines in relation to the different categories of questions in the ACR proforma should be prescribed. It may at times be valid to argue that there cannot be objective assessment of quantitative measures in relation to certain questions or that even if it is possible, the same cannot be implemented due to practical or logistical challenges. In such a situation, it may be preferable not to allot any quantitative weightage to such questions as the marking is bound to be a product of unguided discretion. In the alternative, the weightage in relation to such questions should be marginal.

Relating to Scheme of Promotion

1. Evaluation of Judgements and Disposal Records may be incorporated as a criterion for promotion as Senior Civil Judges.
2. Quantitative Weightage may be specified in relation to each criterion for promotion as Senior Civil Judges.
3. Assessment methodologies may be prescribed in relation to each criterion for promotion as Senior Civil Judges. Where it appears that some criterion cannot be quantitatively measured, either the same may not be included in the list of criteria or in the alternative, may be given minimal weightage. Such criterion may instead be considered as part of eligibility conditions.

4. Evaluation of Judgements and Disposal Records may be incorporated as a criterion for regular promotion as District Judges.
5. Quantitative Weightage may be specified in relation to each criterion for Regular Promotion as District Judges.
6. Assessment methodologies may be prescribed in relation to each criterion for Regular Promotion as District Judges. Where it appears that some criterion cannot be quantitatively measured, either the same may not be included in the list of criteria or in the alternative, may be given minimal weightage. Such criterion may instead be considered as part of eligibility conditions.
7. Evaluation of Judgements and Disposal Records may be incorporated as a criterion for accelerated promotion as District Judges.
8. Quantitative Weightage may be specified in relation to each criterion for Accelerated Promotion as District Judges.
9. Assessment methodologies may be prescribed in relation to each criterion for Accelerated Promotion as District Judges. Where it appears that some criterion cannot be quantitatively measured, either the same may not be included in the list of criteria or in the alternative, may be given minimal weightage. Such criterion may instead be considered as part of eligibility conditions.
10. Factors such as Character/Vigilance Report/Pending Departmental Enquiries/Reputation may be expressly specified as eligibility conditions. Such factors are generally not amenable to quantitative measurement. Such factors may not be considered as criterion which can be evaluated and no quantitative weightage may be prescribed in relation to such factors. An adverse finding regarding the officer in relation to such factors may be considered as a disqualification till the adverse finding is resolved.