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Department of Justice

Performance Evaluation and Promotion Schemes of Judicial Officers in India

A Report on Gujarat

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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.



Gujarat

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 Gujarat State Judicial Service Rules, 2005.
2. This Rules has been further amended by the Gujarat State Judicial Service (Amendment) Rules, 2011, the Gujarat State Judicial Service(Amendment) Rules, 2014, the Gujarat State Judicial Service (Amendment) Rules, 2015 and the Gujarat State Judicial Service (2nd Amendment) Rules, 2015.
3. Resolution dated 08/03/1969 of the Government of Gujarat in General Administration Department
4. Instructions issued by the High Court of Gujarat for writing Annual Confidential Reports in respect of Judicial Officers of the State of Gujarat
5. Annual Confidential Reports Forms in respect of Civil Judges and Senior Civil Judges which is to be submitted by concerned Principal District Judges and format of Self-Appraisal and Annual Confidential Reports in respect of Judges working in the amalgamated cadre of District Judges
6. Form I to IV of Annual Confidential Reports in respect of Judicial Officers appointed on Probation
7. Statement showing the institution, disposal and pendency of the civil and criminal cases in the district judiciary of the state during the period from 01/12/2016 to 31/12/2016
8. Norms of disposal, 2016
9. Extract of the report of committee consisting of three Hon'ble Judges of Gujarat High Court dated 28.03.2014 for promotion to the cadre of Senior Civil Judge as given in Vinay Kumar s/o Hukum Chand Sharma v High Court of Gujarat (accessed from open sources)
10. Extract of the report of committee consisting of three Hon'ble Judges of Gujarat High Court dated 17.04.2013 for promotion to the cadre of District Judge as given in Vinay Kumar s/o Hukum Chand Sharma v High Court of Gujarat

Analysis of Norms of Disposal

In all states, judicial officers are expected to fulfil certain quantitative targets in terms of the work 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 not 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 Gujarat

Category of Judicial Officers	Entries with Quantitative Weightage
Judges, City Civil and Sessions Courts, Ahmedabad	86 (31 criminal, 55 civil)
District and Sessions Judge including Addl. District Judges and Addl. Sessions Judges	30 criminal, 45 civil
Senior Civil Judges	33
Metropolitan Magistrates	33
Judges of Small Causes Court, Ahmedabad	17
Judges of Small Causes Court, Provincial	13

Chief Judicial Magistrate and Judicial Magistrate First Class	37
Civil Judges	20
Judges, Family Courts	9
Members, Industrial Courts	36
Judges, Labour Courts	30
Judges, Commercial Courts	9

Recommendations

1. List of entries with quantitative weightage may be more detailed. More entries with specific weightage may be added to cover greater range of judicial work.
2. Entries may be divided under conceptual headings (Criminal, Civil etc.) instead of different list of entries for different categories of judges in order to avoid redundancy of entries. This approach of distribution of entries with quantitative weightage for different category of judges has a drawback. Quite often it results in the same or similar entries being repeatedly mentioned under different categories of judges. At times, the same or similar entries for different categories of judges carry different quantitative weightage. However, more often, such entries carry the same quantitative weightage.

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 Gujarat

In Gujarat, the Working Days system is followed.

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 State. 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 Gujarat

Quarterly Assessment for all Judicial Officers

Quantitative Benchmark	Rating
Less than 75% of Norms	Poor
Between 75% and 90% of Norms	Inadequate
Between 91% and 99% of Norms	Just Adequate
Between 100% and 125% of Norms	Adequate
Between 126% and 150% of Norms	Good
Between 151% and 200% of Norms	Very Good
Between 201% and 300% of Norms	Excellent
Above 300% of Norms	Outstanding

In a month, an officer is expected to achieve output equivalent to 24 working days in a month and the assessment is done on a quarterly basis. However, when the total number of actual working days in a quarter is less than 72, the norms are reduced on a proportionate basis for that quarter.

Recommendations

1. 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.

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 Gujarat

1. Judges and Magistrates handling both civil and criminal work and having adequate number of civil suits on their file are expected to achieve at least 25% of their total disposal in the nature of civil suits.
2. Senior Civil Judges working in the civil side and having adequate number of Special Civil Suits are expected to achieve at least 25% of their total disposal in Special Civil Suits.
3. Chief Judicial Magistrates are expected to show substantial disposal of regular tribal IPC cases and other cases of serious nature including cases received from Sessions Courts under Section 228 Cr.PC, cases of special category and misappropriation cases transferred from other Judicial Magistrates.
4. Magistrates having sufficient number of IPC cases and cases of special category are expected to show substantial disposal of such matters.
5. Judges and Magistrates who are under special/general directions for the disposal of a particular civil or particular type of civil and criminal cases or criminal cases are expected to show substantial disposal of such matters.
6. Judges in the cadre of District Judges (except Judge, City Civil and Sessions Court and Judges, Family Court) handling both civil and criminal work and having adequate

number of civil matters are expected to achieve at least 45% of their total disposal in the nature of civil matters.

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 Gujarat

1. Across most cadres of judicial officers, framing of charges and framing of issues is allotted quantifiable credit and is regarded as equivalent to 0.10 working days.
2. Recording of confessions and statements under section 164 of Cr.PC is regarded as equivalent to 0.20 working days.

Recommendations

1. The policy regarding quantitative weightage for non-decisional judicial work may be reviewed in order to include greater variety of judicial functions in the list of entries

with quantitative weightage. Ideally, the same may be done through a separate heading such as 'miscellaneous' or 'other judicial functions'.

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 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 Gujarat

Though there is no specific rule regarding relaxation of norms due to administrative responsibilities of a judicial officer in any of the official policies shared with us, an additional weightage of 25% is given to Principal Senior Civil Judges and Judges of Commercial Courts. It has not been specified if the same is done due to the existing administrative responsibilities or for some other reason.

Recommendations

1. The policy regarding quantitative weightage for administrative responsibilities may be reviewed so as to include weightage for categories of judicial officers who discharge administrative responsibilities. Alternatively, specific administrative tasks such as inspections of courts and participating in legal literacy camps may be awarded quantitative weightage in the list of entries.

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 Gujarat

1. Judges having adequate number of 5, 3 or 1 year old suits are expected to show a disposal of such suits corresponding to 25% of their disposal of working days in a quarter.
2. Magistrates including Chief Judicial Magistrates/Metropolitan Magistrates having sufficient number of 1 year old or 6 months old criminal cases are expected to show disposal of such cases corresponding to 50% of their disposal of working days in a quarter.
3. In case of adequate pendency, judges are also expected to show 50% of disposal from 3 year old cases.
4. The total disposal of matters by Presiding officers must contain at least 20% of contested matters which are more than 2 years old in civil cases and more than 1 year old in criminal cases.

Extra weightage is given for disposal of old cases as per the following scheme if the formal requirements regarding the proportion of disposals of old matters are adhered to;

Category of Case (Civil Cases)	Additional Weightage
More than 10 years old	100%
More than 7 years and less than 10 years old	75%
More than 5 years and less than 7 years old	50%
More than 3 years and less than 5 years old	20%
More than 2 years and less than 3 years old	15%
More than 1 year and less than 2 years old	5%

The weightage as outlined above is also given to Members, Industrial Court and Judges, Labour Court. Also, a judicial magistrate is given 15% of additional weightage when he keeps the criminal file clear of 6 months old criminal cases.

Along with certain other directions concerning the prioritisation of the disposal of some cases, when a judge fails to adhere to the prescriptions concerning disposal of old cases, the rating that such a judge might have achieved is downgraded. Thus, a judge who otherwise would have received an 'Excellent' rating would receive a rating of 'Very Good' if he has not complied with the prescriptions concerning disposal of old cases.

Recommendations

1. The policy regarding promoting disposal of old cases may be reviewed so as to incorporate incentive weightage for disposing old criminal cases as already exists in relation to civil cases.

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 dispose 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 Gujarat

There is no express provision for any kind 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 fails 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 consideration 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 Gujarat

There is no express provision for any kind of concession to be granted for leave availed by a judicial officer in any of the official policies shared with us.

Recommendations

1. The policy regarding no concession for leave availed may be reviewed so as to allow relaxation by express provision in quantitative benchmarkin 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 may not be ideal. 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 Gujarat

The norms for a District Judge in the first year of his appointment are calculated as $\frac{2}{3}$ rd of the prescribed norms. In case of Civil Judges and Judicial Magistrates the norms during the 1st year of probation and the 2nd year of service is calculated as 50% and $\frac{2}{3}$ rd of the prescribed norms. For the first two months of being appointed, the work of Civil Judges and Judicial Magistrates is not calculated.

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 Gujarat

The Annual Confidential Report for the state of Gujarat is systematically different from that of other states. The ACR proforma has been divided into four forms – Form 1, Form 2, Form 3 and Form 4. The District and Sessions Judges have to submit four reports on the judicial officers on probation. After the probation period is completed, the report is submitted in the Annexure G4 format as prescribed under the High Court Circulars.

Form 1

This is the first report that has to be submitted by the District and Sessions Judges at the end of six months from the date of appointment of the judicial officer. This part contains seventeen questions pertaining to the name of the officer, the period for which the report has been made, the period for which the civil Judge has watched the proceedings in Civil and Criminal Courts, whether the judicial officer has properly taken down the notes of the cases attended by him/her, opinion of the district Judge on the notes taken down, the knowledge of the judicial officer and whether he has read the civil and criminal manuals, the satisfaction of the District Judge on the Civil Judge as to whether he has acquired sufficient knowledge of the instructions contained in the Manuals, the interest taken by the judicial officer and familiarizing himself with the administrative/accounts and office work etc. Basically, there are queries in this particular section regarding his involvement in the judicial work. This part does not include any grading system nor does it have quantitative yardsticks to measure the same.

Form 2

This is the second report in the proforma and has to be submitted by the District and Sessions Judge on the completion of nine months from the date of appointment of the Civil Judge or at the time of transfer, whichever is earlier. This part contains fifteen questions pertaining to the basic information like the name of the officer and the period for which the work was under observation, and more specific questions on the ability, initiative grasp, drive resourcefulness, knowledge of law and procedure, willingness to acquire knowledge on law and procedure, quality of judgments, judicial qualities, administrative capacity, knowledge of administrative work and office routine, knowledge of civil and criminal manual and accounts code, disposal of cases, punctuality and diligence, integrity, character, conduct, attitude towards Bar and public, etc. of the judicial officer reported upon.

No quantitative yardsticks or no grading systems are assigned in this part like Form 1 to quantify the information of the judicial officer.

Form 3

This part of the ACR proforma is used by the District Judge to submit report on the Civil Judge who has completed 15 months (Form III) of probation successfully and the same proforma is used when the Civil Judge completes 21 months (Form IV) of successful probation. The questions in both the forms same but as a mandate, two reports have to be submitted on the completion of 15 and 21 months respectively (same proforma has to be used for both the reports). This part contains twenty-eight questions pertaining to the basic information and some in-depth information as well. Questions pertaining to integrity, personality, state of health, initiative, tactfulness, diligence and industry, politeness and courtesy, relationship with colleagues, maintaining judicial aloofness, ability, initiative grasp, drive resourcefulness, knowledge of law and procedure, willingness to acquire knowledge of law and procedure, quality of judgments, judicial qualities, administrative capacity, knowledge of administrative work and office routine, knowledge of civil and criminal manual and accounts code, disposal of cases, punctuality and diligence, integrity, character , conduct, attitude towards Bar and public, etc. are questioned upon. Like the other annexure, this part of the proforma does not give quantitative yardsticks nor adopts grading system for quantifying information.

Form 4

The Annual Confidential Report in respect of the Civil Judges who have successfully completed their probation for the state of Gujarat is divided into four parts and is in Form IV of the Annexure G4 of the proforma. Parts I and II of the form specifically deal with the personal information of the judicial officer and has to be filled up by the officer concerned. Particular entries on name, designation, present station, date of birth, period of absence from duty on account of leave or training, date of filing the annual property return, handling of old matters in order of seniority, overall disposal of cases, disposal of heavily contested matters, punctuality and regularity, recording of evidence, overruling of objections, application of principles of evidence, discussion of law and facts in the judgments and orders, capacity to understand, discern and apply ratio of decisions of the Supreme and High Court, and knowledge of basic principles of account keeping etc. Part IV contains submissions by the Reviewing authority.

Head I of the part has 35 marks allotted to it and the submissions would be quantitative but it does not have specific indicators as to how these marks have to be allocated. Head II containing 6 parts has quantitative indicators from Part 1 to 5 but Part 6 is subjective in nature and the grading format is adopted.

Part III of the proforma concerns the subject matter of the study because it is filled by the reporting authority and consists of twenty seven questions. This part of the proforma is divided into two heads: Head I and Head II. Head I deals with the comments on the previous parts of the proforma and the reporting authority has to specifically agree or disagree on the responses given by the officer himself. Head II is divided into six parts: Part 1, 2, 3, 4, 5 and 6. Part 1 deals with the Character related queries like the officer integrity, judicial aloofness, mixing with his company etc. Part 2 deals with questions on personal characteristics and queries on the personality, state of health, general knowledge, clarity of thought and expression, initiatives, tactfulness, diligence, politeness, courtesy and relationship with colleagues. Part 3 deals with administrative capabilities, control over the staff, knowledge of the administrative rules, interest in office work, treatment of the members of the staff, treatment of the members of the Bar, performance as a Master Trainer or ICT trainer, his/her interest in Legal services and mediation etc. Part 4 deals with the knowledge of law that whether he/she has sufficient understanding and grounding in law, his reading habits and his/her art of keeping abreast with the recent case laws etc. Part 5 deals with method of writing judgment, discussion and appreciation of evidence, language, presentation and precision in writing the same.

Part 6 of Head II deals with the reporting officer's overall assessment and grading of the Judge reported upon and is divided under five heads: Outstanding, Very Good, Good, Fair and Poor. This part also deals with whether the officer is fit for promotion or not.

B. Contents of the ACR Proforma

For analyzing the contents of the ACR Proforma, the focus is only on that 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 officers. 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 facilitates 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 indispensable for a due discharge of duties.

The third category “**Temperament**” includes attitudinal and behavioural 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.

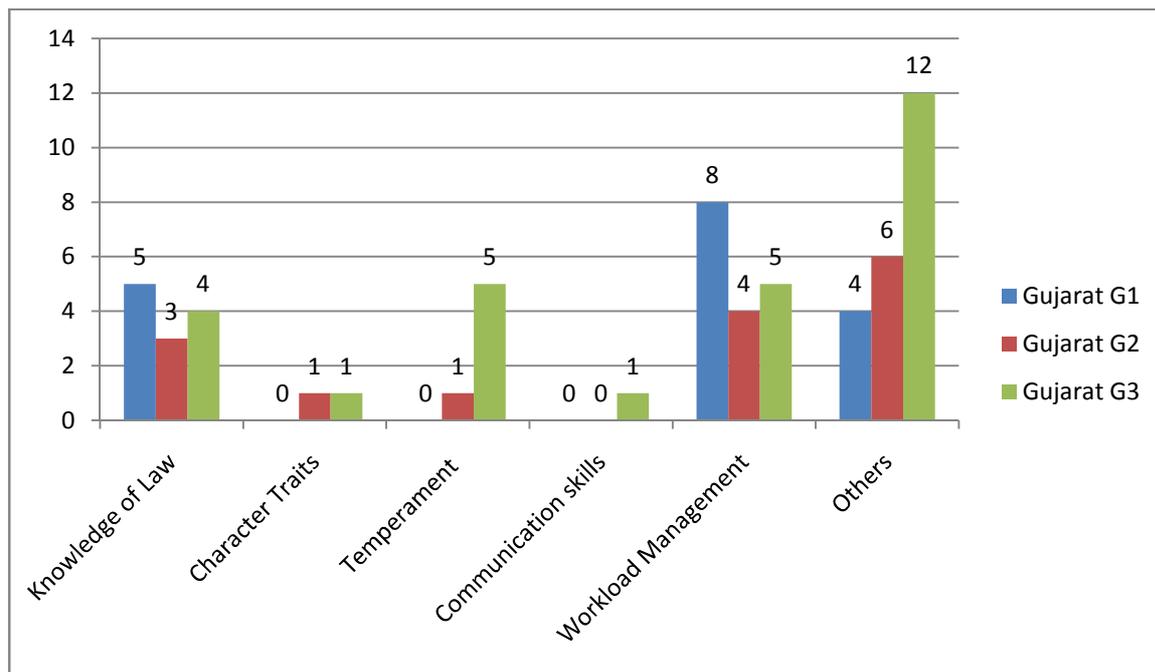
The fourth category deals with the “**Communication Skills**” of judicial officers. Different states have different criterion for assessing the succinctness, compendiousness and economy of language used by the judicial officers whether during interaction or while writing a judgement. Wherein the ACR proforma in Maharashtra heads it under *clarity, precision, language and lucidity*, the ACR proforma of Assam 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 and 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 are included in different ACR proforma of different states to assess this categorical exposition.

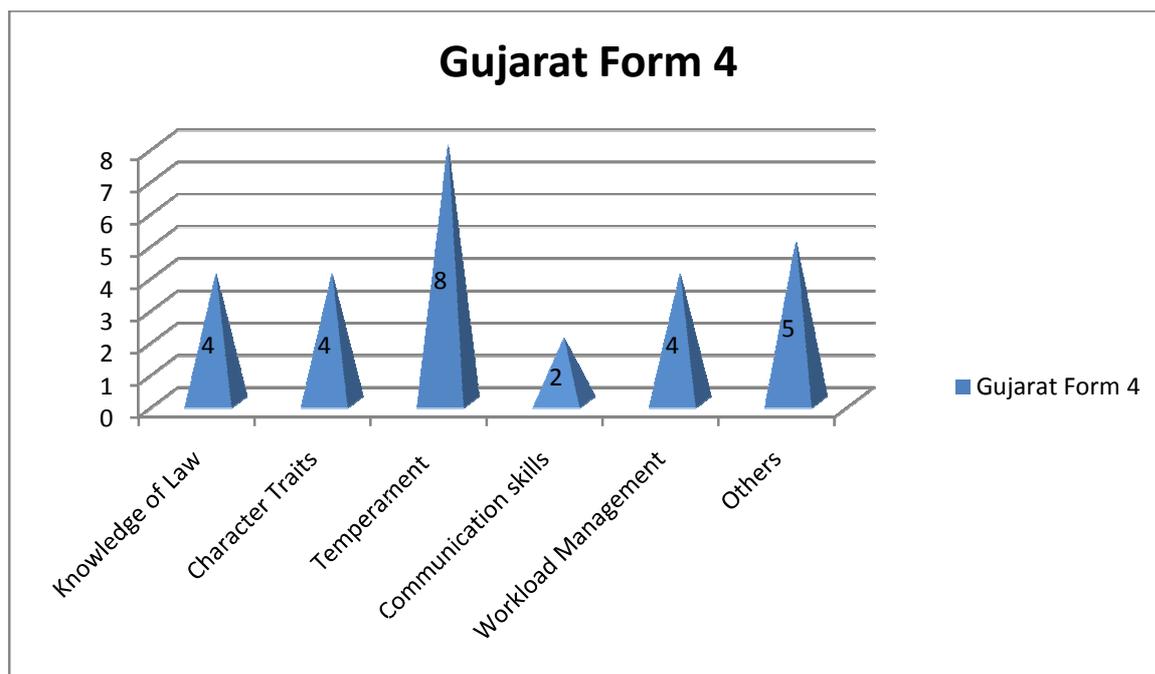
The sixth and the last category “**Others**” includes all other miscellaneous and diverse indicators of attribute assessment of judicial officers those are not included in the abovementioned five categories. Attributes like general overall assessment of the officer with reference to his/her judicial, 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 Gujarat

Annexure G-1, G-2 and G-3 in the ACR proforma of Gujarat deal with the performance assessment of the judicial officers on probation. Annexure G-1, G-2 and G-3 are applicable when the officer has completed 6 months, 9 months and 15 months in service. The distribution of content in the ACR proforma as provided in Forms 1,2 and 3 is as follows;



Annexure G-4 in the ACR proforma of Gujarat deals the performance assessment of all other judicial officers. The distribution of content in the ACR proforma as provided in Annexure G-4 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 Gujarat

Below is the rating Scale in Gujarat;

Poor
Fair
Good
Very Good

Outstanding

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 Gujarat

Rating Scale in Gujarat	Gradation Points
Poor	Below 40
Fair	40 to 50
Good	51 to 60
Very Good	61 to 75
Outstanding	Above 75

Distribution of Marks for Different Categories of Questions

In Gujarat, marks have been allotted not to specific questions but sub-categories of questions as outlined in the proforma. Thus, an assessment of the self-appraisal report of the judicial officer is assessed for 35 marks. There are 9 questions under the heading of Personality Traits which in total are worth 20 marks. Similarly, 15 marks are allotted in total for 9 questions listed under the heading of Administrative Capacity. 15 marks are allotted for the subcategories of Knowledge of Law and Method of Writing Judgement. It is a remarkable feature in Gujarat that no marks have been allotted for assessing the sub-category of 'Character' which has 4 questions.



Recommendations

1. 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.
2. Marks may be allotted in reference to each specific question and not to broad sub-categories of questions.



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 Gujarat

No assessment technique has been prescribed in Gujarat 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

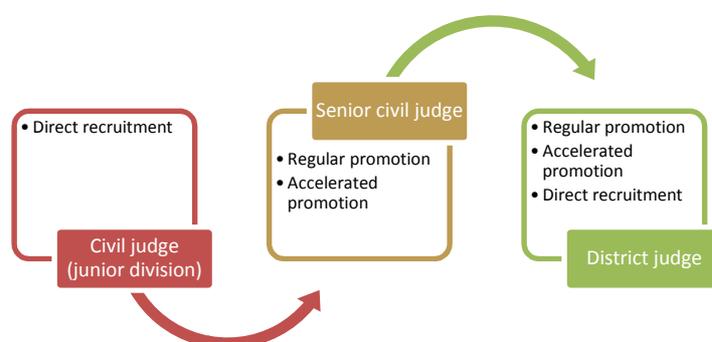
The focus of the analysis is the promotion schemes concerning promotions of judges to different cadres. Promotion from one scale to another within the same cadre (prevalent in some states) has not been analysed. The promotion schemes are analyzed under the following broad headings:

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 Gujarat

The civil judge (junior division) may be promoted as senior civil judges based on the principle of merit cum seniority and based 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. 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

i. 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 Gujarat

Cadre	Eligibility criteria
Civil Judge to Senior Civil Judge	The judicial officer must have served in the cadre of Civil Judges (Junior Division) for not less than five years. Principle: Merit cum seniority
Senior Civil Judge to District Judge	Regular Promotion: The judicial officer must have served in the cadre for not less than two years. Principle: Merit cum seniority Accelerated Promotion: The judicial officer must have served in the cadre for not less than five years. Principle: Merit

B. 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 Gujarat

Criteria	Quantitative Weightage
Evaluation of ACRs of past five years	25 marks
Assessment of disposal of last five years of the officer concerned	25 marks
Evaluation of judgments of the officer concerned for last one year	50 marks

Recommendations

1. 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 through which the judgements would be evaluated should be clearly established and pre-determined.

Policy in Gujarat

Criteria	Quantitative Weightage	Assessment Technique
Evaluation of ACRs of past five years	25 marks	Specified
Assessment of disposal of last five years of the officer concerned	25 marks	Specified
Evaluation of judgments of the officer concerned for last one year	50 marks	Specified

Examination and Evaluation of ACRs for last five years of the officer concerned:

Grade	Marks allotted
Outstanding	5 marks
Good	4 marks
Reasonably Good	3 marks
Average	2 marks
Below Average/Poor	0 mark

It needs to be noted that ratings of 'Reasonably Good', 'Average' and 'Below Average' are not nomenclature used in the ACR proforma of Gujarat. These terms have been used in the case of Vinay Kumar v High Court of Gujarat as confirmation of the prevailing assessment technique

Assessment of Disposal Records

Marks are given for the grades obtained by a judicial officer for the past 5 years in relation to his disposal records;

Grade	Marks allotted
Excellent or Outstanding	5 marks
Very Good	4 marks
Good	3 marks
Adequate	2 marks
Just Adequate	1 mark
Inadequate/Poor	0 mark

Evaluation of Judgments

While the number of judgements which will be evaluated has not been specified, judgements of a judicial officer are evaluated on the following parameters;

Parameters	Marks allotted
Narration of facts	10 marks
Discussion, appreciation of evidence and power of assimilation	10 marks
Understanding of Law and Application of law	10 marks
Right and just conclusion	10 marks
Overall quality of Judgment	10 marks

A candidate has to secure a minimum of 40% marks in each component and aggregate of 50% in the grand total of three components in order to be promoted.

Recommendations.

The conflicting nomenclatures in the official ACR proforma and as indicated in the case of Vinay Singh v High Court of Gujarat may be reconciled while assessing the weightage in relation to ACR proforma for promotion as Senior Civil Judge.

D. Criteria for Regular Promotion as District Judge

Policy in Gujarat

Criteria	Quantitative Weightage
Suitability test	Not Specified
Examination and Evaluation of ACRs for last five years	20 marks
Assessment of disposal of last five years of the officer concerned	20 marks
Evaluation of judgments of the officer concerned for last one year	20 marks

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

Policy in Gujarat

Criteria	Quantitative Weightage	Assessment Technique
Suitability test	Not Specified	Not Specified
Examination and Evaluation of ACRs for last five years	20 marks	Specified
Assessment of disposal of	20 marks	Specified

last five years of the officer concerned

Evaluation of judgments of the officer concerned for last one year 20 marks Specified

Examination and Evaluation of ACRs for last five years of the officer concerned for 20 marks

Grade	Marks allotted
Outstanding	4 marks
Good	3 marks
Reasonably Good	2 marks
Average	1 marks
Below Average/Poor	0 mark

It needs to be noted that ratings of 'Reasonably Good', 'Average' and 'Below Average' are not nomenclature used in the ACR proforma of Gujarat. These terms have been used in the case of Vinay Kumar v High Court of Gujarat as confirmation of the prevailing assessment technique

Assessment of Disposal Records

Marks are given for the grades obtained by a judicial officer for the past 5 years in relation to his disposal records;

Grade	Marks allotted
Excellent or Outstanding	4 marks
Very Good/Good	3 marks
Adequate	2 marks
Just Adequate	1 marks
Poor	0 mark

Evaluation of Judgments

Though there is no specification as to the number of judgement which would be evaluated, judgements of a judicial officer are evaluated on the following parameters;

Parameters	Marks allotted
Right and just conclusion	12 marks
Understanding of Law and application of law	12 marks
Discussion, appreciation of evidence and power of assimilation	12 marks
Common sense and clarity of thoughts	12 marks
Proficiency in language, presentation and originality	12 arks

Recommendations

The conflicting nomenclatures in the official ACR proforma and as indicated in the case of Vinay Singh v High Court of Gujarat may be reconciled while assessing the weightage in relation to ACR proforma for regular promotion as District Judge.

F. Criteria for Accelerated Promotion as District Judge

Policy in Gujarat

Criteria	Marks allotted
Limited departmental competitive examination	Not Specified
Examination and Evaluation of ACRs for last five years	20 marks

Assessment of disposal of last five years of the officer concerned	20 marks
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Evaluation of judgments of the officer concerned for last one year	20 marks
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Recommendations

1. Quantitative Weightage may be specified in relation to the criterion of limited competitive examination for Accelerated Promotion as District Judges.
2. 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 Gujarat

Criteria	Marks allotted	Assessment Technique
Limited departmental competitive examination	No particulars	Specified
Examination and Evaluation of ACRs for last five years	20 marks	Specified
Assessment of disposal of last five years of the officer concerned	20 marks	Specified

**Evaluation of judgments of 20 marks
the officer concerned for last
one year**

Specified

i. Limited competitive examination:

The particulars of limited departmental competitive examination have not been specified in any of the official policies shared with us.

The assessment technique for remaining criteria is the same as is prescribe for regular promotion as District Judge

Recommendation

1. Assessment methodologies may be prescribed in relation to the criterion of limited competitive examination for Accelerated Promotion as District Judges.
2. The conflicting nomenclatures in the official ACR proforma and as indicated in the case of Vinay Singh v High Court of Gujarat may be reconciled while assessing the weightage in relation to ACR proforma for accelerated promotion as District Judge.

Summary of Recommendations

Relating to Scheme of Performance Appraisal

- I. List of entries with quantitative weightage may be more detailed. More entries with specific weightage may be added to cover greater range of judicial work.
- II. Entries may be divided under conceptual headings (Criminal, Civil etc.) instead of different list of entries for different categories of judges in order to avoid redundancy of entries. This approach of distribution of entries with quantitative weightage for different category of judges has a drawback. Quite often it results in the same or similar entries being repeatedly mentioned under different categories of judges. At times, the same or similar entries for different categories of judges carry different quantitative weightage. However, more often, such entries carry the same quantitative weightage.

- III. 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.
- IV. The policy regarding quantitative weightage for non-decisional judicial work may be reviewed in order to include greater variety of judicial functions in the list of entries with quantitative weightage. Ideally, the same may be done through a separate heading such as 'miscellaneous' or 'other judicial functions'.
- V. The policy regarding quantitative weightage for administrative responsibilities may be reviewed so as to include weightage for categories of judicial officers who discharge administrative responsibilities. Alternatively, specific administrative tasks such as inspections of courts and participating in legal literacy camps may be awarded quantitative weightage in the list of entries.
- VI. The policy regarding promoting disposal of old cases may be reviewed so as to incorporate incentive weightage for disposing old criminal cases as already exists in relation to civil cases.
- VII. The policy regarding no concession for leave availed may be reviewed so as to allow relaxation by express provision in quantitative benchmark 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 may not be ideal. On the other hand, not providing any kind of concession when leave is taken for genuine reasons can be demotivating and harsh.
- VIII. 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.
- IX. Marks may be allotted in reference to each specific question and not to broad sub-categories of questions.

- X. 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

- I. Quantitative Weightage may be specified in relation to the criterion of Suitability Test for Regular Promotion as District Judges.
- II. Assessment methodologies may be prescribed in relation to the criterion of suitability test for Regular Promotion as District Judges.
- III. Quantitative Weightage may be specified in relation to the criterion of Limited Competitive Examination for Accelerated Promotion as District Judges.
- IV. Assessment methodologies may be prescribed in relation to the criterion of Limited Competitive Examination for Accelerated Promotion as District Judges.
- V. The conflicting nomenclatures in the official ACR proforma and as indicated in the case of *Vinay Singh v High Court of Gujarat* may be reconciled while assessing the weightage in relation to ACR proforma for promotion as Senior Civil Judge, for regular promotion as District Judge and for accelerated promotion as District Judge.
- VI. 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.