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Department of Justice

**Performance Evaluation and Promotion Schemes of
Judicial Officers in India
A Report on West Bengal**

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.

West Bengal

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. West Bengal Judicial (Condition of Service) Rules, 2004
2. Order dated 04.01.2007 passed by the Hon'ble Supreme Court of India in Malik Mazhar Sultan's case.
3. Letter no 2649-G by Shri Sugato Majumdar dated 04.07.2016 to NLUO
4. Norms of disposal

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 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 West Bengal

In West Bengal, list of entries are specified for different categories of officers in the following manner;

Category of Judicial Officers	Entries with Quantitative Weightage
District Judge and Fast Track Courts	93
Civil Judge, Senior Division Cum Assistant Sessions Judges	59
Civil Judge, Junior Division	42
Chief Judicial Magistrate, Additional Chief Judicial Magistrate, Sub Divisional Judicial Magistrate and Judicial Magistrate including Chief Metropolitan Magistrate and Senior Municipal Magistrate/Principal Magistrate, Juvenile Justice Board	25

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.
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 West Bengal

A Units system is followed in West Bengal.

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 to achieve a rating may vary depending on the cadre of the judge.

Policy in West Bengal

In West Bengal, different quantitative benchmark has been prescribed for different categories of officers in the following manner;

Quarterly Assessment for District Judges and Fast Track Court Judges, F.T.C Judges with less than 25 pending civil cases, Judge, City Civil Court and Judge, City Sessions Court

Quantitative Benchmark	Rating
Below 210 units	Poor
210 units and above	Inadequate
240 units and above	Adequate
300 units and above	Good
360 units and above	Very good
420 units and above	Outstanding

Quarterly Assessment District Judges having more than 40 courts under their judgeship

Quantitative Benchmark	Rating
Below 105 units	Poor
Between 105 and 119 units	Inadequate
Between 120 and 150 units	Adequate
300 units and above	Good

360 units and above	Very good
420 units and above	Outstanding

Quarterly Assessment for Judges, Special Court Conducting I.E. Act Cases

Quantitative Benchmark	Rating
Below 180 units	Poor
180 units and above	Inadequate
210 units and above	Adequate
240 units and above	Good
300 units and above	Very good
360 units and above	Outstanding

Quarterly Assessment for Chief Judge, City Civil Court/Chief Judge P.S.C Court and Chief Judge, City Sessions Court

Quantitative Benchmark	Rating
Below 120 units	Poor
120 units and above	Inadequate
150 units and above	Adequate
160 units and above	Good
180 units and above	Very good
210 units and above	Outstanding

Monthly Assessment for Civil Judge, Senior Division

Quantitative Benchmark	Rating
Below 100 units	Inadequate
100 to 110 units	Adequate
111 to 125 units	Good
126 to 140 units	Very good
Above 140 units	Outstanding

Monthly Assessment for Civil Judge, Junior Division

Quantitative Benchmark	Rating
Below 98 units	Inadequate
98 to 110 units	Adequate
111 to 125 units	Good
126 to 140 units	Very good
Above 140 units	Outstanding

Monthly Assessment, Judicial Magistrates, Chief Judicial Magistrate and Addl. Chief Judicial Magistrate in a place where there is no Chief Judicial Magistrate

Quantitative Benchmark	Rating
Below 76 units	Inadequate

76 to 86 units	Adequate
87 to 96 units	Good
97 to 106 units	Very good
Above 106 units	Outstanding

Monthly Assessment for Additional Chief Judicial Magistrate

Quantitative Benchmark	Rating
Below 96 units	Inadequate
96 to 101 units	Adequate
102 to 106 units	Good
107 to 111 units	Very good
Above 112 units	Outstanding

For a monthly assessment, 20 days on an average are taken as available 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.
2. The policy of prescribing different quantitative benchmark for different categories of judicial officers may be reviewed. Instead, a common benchmark may be prescribed

for all judicial officers and then relaxation may be provided with clear articulation for the reasons of any such relaxation.

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 West Bengal

A general guideline has been mandated that judicial officers should attempt to dispose of all types of matters.

For getting ratings of Good, Very Good and Outstanding, additional requirements of monthly disposal have been prescribed in the following manner;

Category of Judge	Rating of Good	Very Good	Outstanding
District/FTC Judge	9 Civil+12 Criminal cases	12 civil+ criminal cases	15 18 civil+18 criminal cases
FTC judge with less than 2 pending civil cases	15 sessions cases	18 sessions cases	24 sessions cases

Judge, City Civil Court	5 suits+5 appeals+ 5 uncontested execution cases	9 suits+9 appeals+ 9 uncontested execution cases	9 suits+9 appeals+ 9 uncontested execution cases
District having more than 40 courts	4 civil+5 criminal cases	6 civil+6 criminal cases	9 civil+9 criminal cases
Judges, Courts Conducting I.E Act cases	7 sessions+ 4 criminal revision cases	9 sessions+ 4 criminal revision cases	6 12 sessions+ 8 criminal revision cases
Chief Judge, City Civil Court	6 civil cases	7 civil cases	9 civil cases
Chief Judge, City Sessions Court	5 sessions/other contested criminal+2 criminal revision cases	6 sessions/other contested criminal+3 criminal revision cases	8 sessions/other contested criminal+4 criminal revision cases
Civil Judge, Senior Division	3 suits+1 appeal	4 suits+1 appeal	5 suits+1 appeal
Judge, P.S.C Court (with less than 20 pending appeals)	4 suits	5 suits	6 suits
Civil Judge, Junior Division	4 suits	5 suits	6 suits
Judicial Magistrate*	15 cases	18 cases	20 cases
Addl. CJM**	10 cases	12 cases	13 cases

*and **: In order to get a rating of Adequate, a judicial magistrate must dispose of 13 cases a month and an Addl. CJM must dispose of 8 cases a month.

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 West Bengal

1. The non-decisional work of judicial magistrates (recording statements, conducting T.I parade etc.) has been taken into account while fixing the requirement of disposal of cases.
2. 2 units are awarded to Judicial Magistrates for conducting T.I. Parade.
3. 2 units are awarded to Judicial Magistrates for recording of confessional statement under Section 164 of Cr.PC.
4. 1 unit is awarded to Judicial Magistrates for recording of statements of witnesses under Section 164 Cr.PC and
5. 1 unit is awarded for recording statement of accused under section 313 of Cr.PC.
6. Units have been awarded for examination and cross examination of witnesses (varying varying from 1 to 6 depending on the number of witnesses) in difference categories of cases such as disposal u/s 235 of Cr.PC, contested matrimonial suits, contested civil suit or counter claim etc.
7. 1 unit is awarded for framing of charges to officers in the cadre of District Judges/F.T.C Judges and Civil Judge Senior Division cum Assistant Sessions Judge.

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 should 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 West Bengal

1. District judges having 40 courts and above, Chief Judge of City Civil Court, Chief Judge of City Sessions Court and Chief Judge of P.S.C Court are awarded 80 units per year.
2. District Judges having less than 40 courts are awarded 40 units per year.
3. Officers in the Cadre of District Judges/F.T.C Judges are awarded units for inspection of jail, inspection of own court (1 unit) and for inspection of subordinate courts (4 units).
4. Judicial Magistrates are awarded 1 unit for inspection of jails.
5. Officers in the Cadre of District Judges/F.T.C Judges, Civil Judges Senior Division cum Assistant Sessions Judges, Civil Judge Junior Division and Judicial Magistrates are awarded units for annual inspection of own court. (4 for District Judges/F.T.C Judges and 6 for other cadres)
6. Officers in the cadre of CMM, ACMMs, CJMs and ACJMs are given 20 units per year for administrative work.
7. 1 unit per programme is awarded to officers of all cadres for attending and organising Legal Aid Camps and Legal Awareness Camps.
8. 4 units are awarded for conducting departmental inquiry to officers of all cadres.
9. The requirement of units for different ratings is relaxed for District Judges having 40 or more than 40 courts under their judgeship, Chief Judge of City Civil Court and Chief Judge of City Sessions Court.
10. The requirement of units for different ratings is relaxed for District Judicial Magistrates, Chief Judicial Magistrate and Addl. Chief Judicial Magistrate in a place

where there is no Chief Judicial Magistrate and also for Addl. Chief Judicial Magistrates in places where there is a Chief Judicial Magistrate.

Recommendations

1. The policy regarding additional weightage for administrative responsibilities may be reviewed. Once a judicial officer is getting a determined number of units for holding a post, no extra units may be allotted for specific administrative tasks performed as part of such post. For example, if District judges are entitled to certain number of units in general on account of their administrative responsibilities, extra units may not be provided specifically for inspections of courts conducted by them.

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 West Bengal

1. Officers in the Cadres of District Judges/F.T.C Judges are given additional 5 units for contested cases more than 5 years old and additional 2 units for uncontested or ex parte cases more than 5 years old.
2. It has been mandated that disposal of cases which are more than 7 years old by a judicial officer is to be given due regard by the Zonal Judges while making assessment of the work of the judicial officer.

Recommendations

1. The policy regarding promoting disposal of old cases may be reviewed so as to incorporate mandates that a certain percentage of overall disposal in a quarter/year should be in the nature of old cases of different categories. Also, additional weightage may be provided for a range of old cases and not simply one category of old cases. For example, separate weightage may be provided for cases which are 3 years old, 5 years old and 7 years old.

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 West Bengal

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 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 West Bengal

While assessing the work of a judicial officer, the actual days employed by an officer is taken into consideration. Thus, any leave availed by an officer is taken into account for a proportionate reduction in the disposal requirements.

Recommendations

The policy regarding no concession for leave availed may be reviewed so as to allow relaxation by express provision in quantitative benchmark 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 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 West Bengal

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 Schemes of Promotion

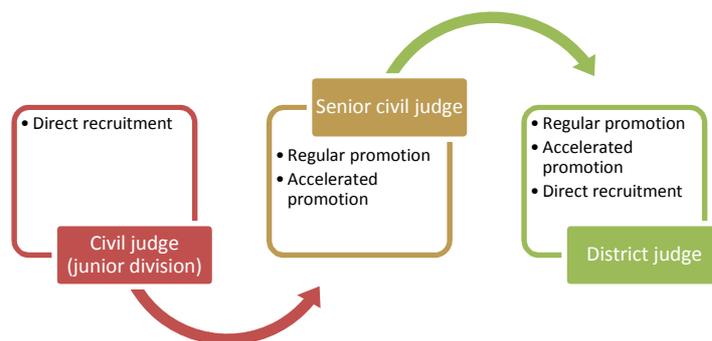
The focus of the analysis is the promotion schemes concerning promotions of judges to different cadres. A brief analysis of the rules concerning direct recruitment of district judges and the direct recruitment of civil judges (junior division) has been incorporated subsequently. The promotion schemes 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 West Bengal

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 West Bengal

Cadre	Eligibility criteria
Civil Judge to Senior Civil Judge	The judicial officer should be in service as a Civil Judge for six years. Principle: Merit cum seniority
Senior Civil Judge to District Judge	Regular Promotion: The judicial officer should be in service as a Civil Judge (Senior Division). Principle: Merit cum seniority

Accelerated Promotion: The judicial officer should be in service as a Civil Judge (Senior Division) 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 West Bengal

Criteria	Quantitative Weightage
Evaluation of judgments	Not Specified
Evaluation of ACRs of past five years	Not Specified

Recommendations

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

D. Criteria for Regulation Promotion as District Judge

Policy in West Bengal

Criteria	Quantitative Weightage
Suitability test	Not Specified
Evaluation of judgments	Not Specified

Evaluation of ACRs of past five years	Not Specified
Viva Voce	Not Specified

Recommendations

1. Disposal records may be incorporated as 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 West Bengal

Criteria	Quantitative Weightage	Assessment Technique
Suitability test	Not Specified	Not Specified
Evaluation of judgments	Not Specified	Not Specified
Evaluation of ACRs of past five years	Not Specified	Not Specified

Viva Voce	Not Specified	Not Specified
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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 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 West Bengal

Criteria	Marks allotted
Limited competitive examination	Not Specified
Viva Voce	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 West Bengal

Criteria	Marks allotted	Assessment Technique
Limited competitive examination	Not Specified	Not Specified
Viva Voce	Not Specified	Not Specified

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. 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.

3. 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.
4. The policy of prescribing different quantitative benchmark for different categories of judicial officers may be reviewed. Instead, a common benchmark may be prescribed for all judicial officers and then relaxation may be provided with clear articulation for the reasons of any such relaxation.
5. 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'.
6. The policy regarding additional weightage for administrative responsibilities may be reviewed. Once a judicial officer is getting a determined number of units for holding a post, no extra units may be allotted for specific administrative tasks performed as part of such post. For example, if District judges are entitled to certain number of units in general on account of their administrative responsibilities, extra units may not be provided specifically for inspections of courts conducted by them.
7. The policy regarding promoting disposal of old cases may be reviewed so as to incorporate mandates that a certain percentage of overall disposal in a quarter/year should be in the nature of old cases of different categories. Also, additional weightage may be provided for a range of old cases and not simply one category of old cases. For example, separate weightage may be provided for cases which are 3 years old, 5 years old and 7 years old.
8. The policy regarding no concession for leave availed may be reviewed so as to allow relaxation by express provision in quantitative benchmark 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 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.

9. 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.

Relating to Scheme of Promotion

1. 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. Disposal records may be incorporated as 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, Evaluation of ACRs and Disposal records may be incorporated as 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.