

Representation highlighting the deplorable and harsh work conditions of class III and class IV employees and their alleged harassment by their superior judicial officers, in the Punjab and Haryana subordinate Courts

Introduction

Class III and class IV employees working in the subordinate courts across the State of Punjab and Haryana, under the Punjab and Haryana High Court, Chandigarh, have raised various grievances from time to time related to the terms of their employment and the deplorable conditions of their work. They have highlighted alleged instances of victimization and denial of justice to these employees. Such court employees form the backbone of the justice delivery system. Yet the problems they face, primarily related to administration, have led them to raise their voices, but to no avail. While a litigant can approach the court to access justice, these subordinate court employees lack an effective or efficient grievance redress mechanism with none or a rare personal hearing ever given to them by their senior judicial officers. Written complaints are put aside and the injustices meted out to them go unreported and unheard. If they raise a voice in protest or give a written complaint, as has reportedly been done by many individual employees and groups of employees, it results in notices being issued to them, adverse Annual Confidential Reports (ACR), fines, transfers out of the district and fabricated departmental enquiries or suspension.

Groups of these employees has made several representations to the Chief Justice of the Punjab and Haryana High Court dated 7.10.2015 (**Annexure-A1**) and 17.11.2015 (**Annexure-A2**) the Chief Justice of India dated 22.12.2015 (**Annexure-A3**) and the President of India dated 22.12.2015 (**Annexure-A3**) and others, but apparently no action has been taken on their complaint. On an RTI application, the High Court has admitted that these representations are still under consideration. (**Annexure-A4**). Representations from employees at Hisar, Bhiwani, Kurukshetra and Faridabad to the Supreme Court and District Court highlighting similar issues, have also been sent. (**Annexure-A5**).

Over a period of time now, various stories about the alleged harassment of court employees have been appearing in the media. Annexed are media reports on the various instances of representations being sent by employees to the Chief Justice of the Punjab and Haryana High Court about Judges allegedly misusing their powers and harassing court staff and the establishment of a grievance redress cell, which appeared in the Hindustan Times (**Annexure-A6**), the Indian Express report on court employees protesting against judges for allegedly making them work at their houses and demanding bio-metric attendance of court employees so they are not made to work in homes(**Annexure-A7**), a recent news story in The Tribune where the Punjab and Haryana High Court has ordered the Registrar to prepare a seniority list of all cadre of court employees in an apparent bid to prevent any favouritism which is otherwise rampant in promotions and transfers of these employees, etc (**Annexure-A8**) and the Hindustan Times report on lower court employees alleging harassment by judges (**Annexure A-9**) There have been reports emerging from other courts in the country as well, such as a Timesgroup report where an employee alleges that he was repeatedly abused by a Delhi woman judge, made to stand in her chamber for hours and even asked to jump from the building and commit suicide (**Annexure-A10**)

This representation details various cases where employees have alleged harassment by the use of seemingly unjust rules that regulate their service, highlights the various issues that need to be addressed with urgency so the system does not continue to fail these court employees and provides documentary evidence to substantiate the allegations made in this complaint. *The main issues that are raised in this representation concern the condition of class IV office peons who are allegedly being made to work as personal servants in the house of judges and the provision of home peons which has not been implemented, the working conditions of Ahlmads and process servers including the manner in which they are fined, transferred, dismissed from service, etc, and the lack of any effective grievance redress for this cadre of employees.*

I. Class IV office Peons and home peons

It has been alleged by the various groups of class IV employee that these employees of subordinate courts are in many cases asked to do private/domestic work at the residences of Judges, such as, sweeping, washing dishes, cooking, driving, etc, which is against the terms of their employment. Many employees have also alleged that at the time of interview for these posts the questions they are asked are whether they can cook and clean in the house of the judges, instead of knowledge of tasks that are required to be done at the court to assist a judge. It is alleged by many of these employees that if they refuse to work as private servants at the judge's residence, they have been threatened that their ACRs will be negatively marked or that they will be suspended from service, dismissed or notices issued to them. Many employees have been dismissed from work because they have allegedly refused to work at the residences of these judges. Some have committed suicide with their suicide notes mentioning the name of their superior judge and mentioning their harassment and harsh work conditions. FIRs have been lodged against these judges but no further action has been taken. Various videos of employees stating their grievance are annexed. (**Annexure-A11** Videos of Office Peons and Process Serves of Fatehabad, Kaithal, Ambala, Sirsa, Jagadri, Kurukshetra, in Haryana and Pathankot, Moga in Punjab, stating that they are made to work at the homes of judges instead of at the court, made to wash, clean, cook and shop, process servers are made to call out at court instead of issuing summon, employee also stating how he is beaten and abused when working in the house of a judge, etc)

Cases of Suicides

It is important to note the case of Ved Prakash, class IV process server in the Judicial Department of Gannaur, Sonapat Sessions Division. He was apparently so harassed by the presiding officer that he was not even allowed to go home to see his family for days together, made to work long hours both at court and at the home of the judge and perturbed by the attitude of the Presiding officer Shri R.K.Jain, Civil Judge, Ghanaur, he took the extreme step of committing suicide in

the Court complex itself by writing suicide note on the wall of the Court room that his Presiding officer Shri R.K.Jain was responsible for his death. A separate suicide note to this effect was also recovered from his pocket and an FIR was registered against the said Presiding officer but ultimately no action has been taken against the said officer and he has even been promoted. (**Annexure-A12** copy of Suicide Note, News paper report, FIR, Video of family stating the harassment by the Presiding Officer)

Gaurav Kumar of Palwal District had committed suicide after writing the name of Sh.Subhash Chand Saroye, ADJ, Palwal, in the suicide note. An FIR was also registered against the said Presiding officer but ultimately no action has been taken against the said officer. In order to pacify the aggrieved family, an assurance was given to absorb his widow in the Judicial department but nothing of the sort has been done till date. (**Annexure-A13** Suicide Note, News Paper reports, video of wife of Gaurav)

Similarly the case of Balvindar Kumar from Pathankot who attempted to commit suicide after facing harassment by Shri Randhir Verma Judge, he set himself on fire but was saved in time. (**Annexure-A14** Video of Balvindar Kumar in hospital after his burns)

Other cases of harassment of class IV employees

Anita Seth, office peon, alleges that she never objected against performing menial jobs at the residence of her presiding officer Shri Hira Singh, Civil Judge, Amritsar, however, he started making advances and wanted her to massage his body which she flatly refused. When she apparently reported the matter to the then District Judge Shri H.S.Madaan, he apparently got annoyed and instead of taking any action on her complaint against Shri Hira Singh, he suspended her on flimsy ground that she was not wearing proper uniform. She filed various representations before the High Court without any result and she is still under suspension for the last two years. The select committee of the High Court never passed any order for 21 months after her complaint. (**Annexure-A15**: Video clipping of NDTV's detailed report on the case of Anita Seth)

Home Peons

It is pertinent to note here, that judges of subordinate courts have been given the facility of home peons but this facility has not been implemented in the right way. The various letters and notifications from the government to the courts in Punjab and Haryana against the use of government employees for private domestic work and for employing home peon are listed below:

1. Letter dated 15.07.1957 from the Chief Secretary to Government of Punjab, Chandigarh to All Heads of Departments, Registrar High Court of Punjab, Commissioners of Divisions, all district and session judges, deputy commissioners and divisional officers in Punjab, stated that many complaints had been received regarding the use of government employees as private servants. The letter laid down standards of judgment to be applied to each case where a complaint regarding employment of a government employee as a private servant takes place to determine whether this would amount to dishonesty and hence warrant dismissal. The letter differentiated between two instances - one where government servants from whom private work is taken are on the personal staff of the officer concerned, eg. personal assistant, stenographer or orderlies. In such cases, the letter states, that the limits have been defined in a whole series of policy letters "*Employment of Peons as private servants*". The letter states with reference to these policy letters, "*The gist of these is that peons may with their consent for payment and outside office hours be utilised for private work of non menial character*".

The letter goes on to state that where private work is taken on a regular basis and more or less whole time basis, amounts to a case where dishonest conduct should normally be presumed.

"The practice of using government servants for private work has been widespread and old one, and upto now it has never been regarded with much severity, even when an element of dishonest conduct was present. For the future government would like the now standards of judgement laid down in this letter to be applied to individual cases that may come up. I am to request you to bring these instructions to the notice of all concerned serving under you for strict compliance. Past cases involving the element of dishonesty should not be ignored, but should receive lighter punishment (depending on individual circumstances), than the extreme one of dismissal which goes with dishonesty"

(Annexure-A16 Copy of 1957 letter)

2. As per letter no. 3420-sii(3)-73 dated 13-07-1973, from the Chief Secretary, government of Punjab to All Heads of Departments, Commissioners of Divisions, Deputy Commissioners, District and Session Judges, Registrar, Punjab and Haryana High Court and Sub Divisional Officers in the State, further instructions were issued against the use of government employees for private work. (Annexure-A17 Copy of 1973 letter)

“2. For convenience the salient features of these instructions are given below:

a) The circumstances in each case of allegation of use of government servant, for private work, should be looked into so as to determine:

i. The seriousness of the case; and

ii) The nature of punishment to be awarded where the allegation is substantiated.

b) In cases where private work is taken from a government employee as a regular whole time domestic servant, without his consent and payment, it should be considered to be a case of serious nature involving wilful dishonesty and dealt with accordingly.

c) There may be no objection to take some private work of non-menial nature within reasonable limits from orderlies and peons, with their consent and on payment. This should however be outside the office hours or on rare occasions, eg. packing of luggage, etc. At the time of transfer of an officer.

3. In case any complaint is received by you it should be looked into expeditiously and the action taken, reported to administrative secretary with the copy to the chief secretary (in the services department).”

Despite these notices from the government, the subordinate courts in Punjab and Haryana seem to be blatantly disregarding these instructions and policies. Apparently Class IV employees continue in a large number to be employed for menial jobs for private work in the residences of judges. Every complaint from such employees goes unheard. Instead, it appears that departmental enquiries are initiated against them on frivolous matters if they dare to raise their voice.

Kindly refer to the letter from Ms. Pooja Andotra, PCS, Civil Judge (Junior Division), Amritsar to the district and sessions Judge, Amritsar regarding what she terms as misconduct by Sahil Joshi, Additional Orderly, in which she has stated that “he flatly refused to attend the duty granted to him to spend time after lunch at the residence of the undersigned (Ms. Pooja

Andotra)” and that proper immediate action should be taken against him. This shows the complete violation of policy and disregard with which peons are compelled to work at the private residences of judges. (**Annexure-A18** Copy of letter).

It appears that when employees have refused to work in the houses of judges, often ‘absent reports’ are issued against them on the basis of which they are given notice, enquiries are started against them, they are fined, suspended and given adverse remarks in the ACR. Further the attendance of class IV employees is mostly marked by Judges or Reader in the attendance register. (**Annexure-19** Representation of Hardeep Singh, Manoj kumar and Suraj Kumar, office Peons at Sivani, Bhiwani, stating how they are made to work in the house of judges, abused, and physically tortured)

3. Letter dated 4.09.2015 from Chief Secretary to the Government of Haryana to The Registrar, Punjab and Haryana High Court, Chandigarh among others, for providing Home Peon facility to the eligible officers working for the State of Haryana, which would include all Judicial Officers working for the State of Haryana. (**Annexure-20** Copy of letter and subsequent letters too)

4. Six letters from the Punjab and Haryana High Court, Chandigarh to all district and session judges in the State of Haryana for providing Home Peon facility to eligible officers working for the state of Haryana (**Annexure-21** Copy of letters)

If these home peons are employed by the Judges as per the government notifications, then court employees will not be needed to work in their house in this completely illegal and exploitative manner. On several occasions it is alleged by these employees that the duty of the judge is in one place but his family is in another district. These court employees are apparently sent to work in the house of the judges family. They are marked for duty in the court but are working in the houses of their superior judicial officers.

An RTI application dated 24.08.2016 was filed in every district of Punjab and Haryana (**Annexure-22**) In this application the following questions were asked:

1. Number of judicial officers posted in each district
2. How many class IV employees working in each district court
3. How many letters have been received by the District Court from the Punjab and Haryana High Court, Chandigarh regarding appointment of Home Peons by judicial officers.
4. How many judicial officers have appointed Home Peons as per the directions issued by the Punjab and Haryana High Court.
5. How many judicial officers have not appointed Home Peons so far.
6. Whether class IV employees working at the courts are treated as bonded labour and forced to do menial jobs

An analysis of answers from various district courts from Punjab and Haryana, to the RTI above shows that, about five letters on this matter of appointment of Home Peons have been received by the district courts. Yet more than half the judges in each district have not yet appointed Home Peons. They continue to employ class IV peons, Process servers, etc at their homes for menial jobs without payment, against their wishes in total disregard to the States letters and rules.

On the one hand district courts in their response admit that they are not taking private work or menial work from class IV employees but on the other hand, there are various representations from employees, testimonies, vidoes of class IV employees of various districts, in which many class IV employees are testifying as to the forcible private work being made to be done by them at the house of judges, and have pleaded that they be spared this extra and exploitative work being forced on them. (**Annexed-23**, RTI responses from some district courts)

II. Out of district Transfers

1. It is alleged by employees of Punjab and Haryana High Courts that they are constantly being victimised and threatened by the irrational use of the Rule 10 (2) of the Punjab Subordinate Courts Establishment (Recruitment and general condition of service) Rules, 1977.

Rule 10

*(2) Every member of the service shall be **liable to transfer** under the orders of the Chief Justice anywhere within the State of Punjab.*

(3) On his written request, anywhere within the State by the Court, if post is available subject to the following conditions:-

(a) That he will not claim any seniority over and above the official already working in the cadre of the session division to which he is seeking transfer.

(b) No TA/DA will be permissible and he will not avail joining time provided that official has put in at least five years of service in the sessions division in which he is initially appointed. Provided that High Court in a given case relax the requirement of condition of five year service.

Using this rule, class III and IV employees can be transferred to any District in Punjab or Haryana. This rule is allegedly being used as a weapon by judges to threaten employees who do not tow their line and instead of suspension, they are just transferred out of district. Apparently no notice or official communication is given to these employees when they are transferred by the District and Sessions Judge. Only a list of transferred employees is sent to the concerned Session division by the High Court. The employee has no say and has no right to be heard. They are also not provided with any travel allowance or change of station allowance to be able to make the shift. While Judges are provided with these allowances, the subordinate employees have been denied any such provision. Often this transfer is a punitive measure when an employee has raised his voice against the judges or the administration. These employees are allegedly transferred hundreds of kilometers away from their family. However it is alleged by some employees that those employees who have recommendations from High Court judges or judges in subordinate courts manage to get their transfers revoked and their duty stations restored. However, those

employees who have raised a voice against the administration can never get their transfer revoked. It is alleged by these employees that out of district transfers have become so arbitrary that if a judge has a personal grievance against an employee of the court, he can recommend his/her name to the High Court which in turn calls a meeting in which neither the employee is called nor any reply sought, and the transfer order sent back to the employees division.

2. As per RTI application dated 5.11.2012 filed with the Public Information Officer, Punjab and Haryana High Court, seeking information on the number of Class II, III and IV employees transferred out of district during the period from 1.01.2009 to 31.10.2012 - How many of these transfers were on application of these employees, how many of these transfers were on the High Court's own recommendation and those who gave the application, what was the date of application for transfer and transfer date?

The RTI reply dated 1.12.2012 stated that during the last 3 years from the 22 districts of Punjab only 55 have been Transferred out of District under Rule 10(2). (**Annexure-24**)

From the list provided by the High Court of Punjab and Harayana under the RTI, a list of 134 transferred employees who were transferred on their request in the State of Punjab under Rule 10(3). (**Annexure-25**)

Employees have alleged that the Rule 10(2) and 10(3) should have uniform application. Targeted transfers of select employees are against the principles of Constitutional equality.

3. Also as per the RTI application dated 27.2.2016, seeking information on the policy (whether by the High Court or the District Court) under which an employee is selected for transfer from parent Sessions Division to another Sessions Division. The response received from the High Court on 28.03.2016 stated "*that no such policy under which an employee is selected for transfer from parent session division to another session division has been made. However Rule 10(2) of the Haryana Subordinate Courts (recruitment and general conditions of service Rules), 1997, is applicable for the transfer.*" (**Annexure-A26**)

Hence it is alleged by these employees that this rule is being used arbitrarily to transfer employees who have raised their voice against any injustices at the courts and in the terms of their employment.

4. Whereas in RTI response dated 30.08.2016, *The Minutes of meeting of the Hon'ble Committee for transfer of subordinate court employees from one district to some other district* held on 9.12.2014 under the chairmanship of Hon'ble Justice Ajay Kumar Mittal, lists transfer of employees on the basis of '*Feedback from District and Sessions Judges in the State of Punjab*'.

(Annexure-27)

Hence where there is no clear policy for transfer except that employees can be transferred under rule 10(2), many transfers are made by the High Courts on the feedback from District and Sessions Judges.

5. As an instance, the instance of Harmeet Singh who was appointed as Clerk in Ludhiana in March 2009 could be considered. The appointment order lists the names of 15 employees who were appointed at Ludhiana District. (**Annexure 28** Copy of order). Of these 15, four were re transferred to the station of their will, on request. They had not yet completed 5 years of service as mandated by Rule 10(3). As can be seen in Annexure 25, one of these Shalini Tulli appointed on March 2009, filed application for transfer in October 2009 and within 15 days her transfer was initiated. Similarly Gulshan Deep Singh was appointed as copy clerk in March 2009, filed application for transfer in July 2010 within 34 days he got transferred to station of his choice. Similarly the other two. This reflects the lack of any policy to transfer and this is being done arbitrarily. This is also in contravention of the provisions of Rule 10(3).

On the other hand the cases of Harmeet Singh and Bhogi Ram reflect how despite many applications over three to four years, their applications have been denied.

Case brief of Harmeet Singh (**Annexure A-29**)

6. Bhogi Ram even filed a Civil Writ Petition in the High Court asking for an order to be passed for his transfer on ground of humanity because his son had been seriously sick and hospitalised. However, since he had apparently raised his voice against the lack of stationary and drinking

water facilities in Mewat district, an inquiry had been initiated on the directions of the High Court on the grounds that he had sent his complaint to the Supreme Court and Law Minister on 07.02.2015, instead of communicating to the District Judge. However the communication of this grievance had been made by Bhogi Ram and other Employees on 15.05.2013 to the District and Sessions Judge, Gurgaon and on the inspection by the District and Sessions Judge Firozpur, Jirkha, District Mewat, after separation of new session division Mewat from Gurgaon, the employees raised this grievance again with this Sessions Judge. However, no action was initiated. The Supreme Court, Public Interest Litigation Cell on 12.03.2015, issued a letter seeking an immediate report from the District and Sessions Judge, Mewat, on this matter and to take necessary action. On 3.12.2015, Bhogi Ram was transferred to Session division Bhiwani. This transfer was timed as a consequence of his raising his voice for clean drinking water in Mewat, for proper stationary in Palwal, etc. It is important to note that in the recent hearing in the High Court of Punjab and Haryana on the departmental enquiries against Bhogi Ram, Justice R.K.Raina, has stayed the enquiries against Bhogi Ram and issued notice to the Secretary, Printing Stationary, Haryana, to file an affidavit disclosing the status of stationary to subordinate courts in Haryana and the reasons if there is short supply. (**Annexure 30** Copy of High Court order). This goes on to highlight the arbitrary manner in which Bhogi Ram has been transferred from one district to another just because he had raised an important issue, which only now, the High Court has taken effective steps to remedy.

7. Justice M.M. Kumar of the Punjab and Haryana High Court, as administrative Judge of Ludhiana District for the period 2010-2011, came on **annual inspection** to Ludhiana Sessions Courts. (**Annexure-31** Excerpt from inspection report). Excerpt from the Inspection note recorded by Hon'ble Mr. Justice M.M. Kumar on the Court of Ludhiana Sessions Division for the year 2010-11 was provided as under:

- “i) To ensure that no employees posted on particular seat for more than 3 years.*
- ii) A policy be evolved for transfer of the subordinate staff so that no official keeps working at a particular seat for more than two years. In case of complaint the concerned employee should be transferred immediately to non public dealing seat, irrespective of the fact whether he has completed two years.”*

In reply to this inspection note, the District and Sessions Judge Ludhiana stated in letter dated 01.10.2011, “...37 employees of clerical cadre are there who have been working on the same post for the period of more than two or three years.” **(Annexure-32)**

It is alleged by the employees that the post of Ahlmad (clerk) is the one that bears most responsibility. These Ahlmads are the ones that are not transferred to another post for years together and if transferred to another court it will again be for Ahlmad. Because of the work pressure, these Ahlmads receive notices, fines, enquiries and even FIRs against them. A file in a court is dealt with by 7-8 persons including the judge. Any of these persons can tamper with or alter or misplace these documents. However, the onus and responsibility is solely fixed on the Ahlmad. The file even goes to the copying agency where the copyist receives the files from all courts in the district. There are many instances where during the copying the pages are interchanged in files and often even lost. However these files are returned to the Ahlmad and when questioned by the judge later for any loss of record, the Ahlmad is transferred. Even if a single record is lost, the Ahlmad is targeted.

If the recommendation of Justice M.M. Kumar are taken up for consideration and implemented, the Ahlmad will be given posts of additional record keeper, copyist, copy clerk, inspection clerk and other such positions which come under class IV employees, in rotation every two years.

8. Under RTI, the minutes of the Meeting of Hon’ble Committee for transfer of Subordinate Court Employees from one district to some other district held on 26.08.2011 under the chairmanship of Honble Justice Jasbir Singh was sought. **(Annexure-33 Copy of minutes)**. The minutes state:

‘The Committee has perused the list of employees posted at the same station for a period of 15 years and above forwarded by the district and sessions judges and shortlists some of them besides other employees having less than 15 years of service, detailed in annexure A of the States of Punjab and Haryana for their transfer in public interest.’

The policy as stated in these minutes is clear that transfers which were started in the August 2011 would be affected only for those employees who have served for more than 15 years in one

station and 'other employees having less than 15 years of service'. This latter provision, it is alleged, is being used to violate the rights of employees who have served less than 15 years in their home station and have raised any concerns regarding malpractice or implementation of service rules etc. It is allegedly being used to harass these employees and to stifle any dissent. There is no uniformity in choosing which employee will be transferred. Hence it is alleged by class 3 and 4 employees that this provision is used to target employees and create a fear among them.

13 transfers for the State of Punjab are notified to the District and Sessions Courts and 14 in Haryana. There is no criteria for selection of employees for transfer of district. Where some employees transferred had served at station for more than 15 years, others had clearly not. The criteria for singling out these employees over others for transfer out of station has never been laid out or if it exists, never been made public. In order (**Annexure-34**) dated 17.07.2012., where Harmeet Singh was transferred from Ludhiana to Mansa vide order dated 17.07.2012 along with Ramesh Singla who was transferred from Mansa to Ludhiana, Naseeb Chand transferred from Hosiarpur to Roopnagar and Bhupesh Gupta who was transferred from Fatehgarh Sahib to Jalandhar. The same Ramesh Singla was re transferred to a station of his request, 2 months after moving an application. Naseeb Chand was transferred on application after 2 months of transfer (**Annexure-35**). However Harmeet Singh's application for re transfer back to parent division was never attended to or answered and his repeated requests declined without any reason being given to him. There seems to be clear arbitrariness in transfers and violation of Rule 10(3) of the Punjab Subordinate Courts Establishment (Recruitment and general condition of service) Rules, 1997, which states that transfer can only be affected after 5 years of service at one station. This is allegedly because Harmeet Singh had raised his voice against injustices he had been subjected to as an Ahlmad (clerk) in Ludhiana. The other officers whom Harmeet Singh approached for assistance, namely R.K. Jain, Additional District Judge, Ludhiana and Shri Gobinder Singh Matharoo, Sessions Judge, Ludhiana, apparently did not intervene and instead threatened him and even had him arrested. It is pertinent to note that on RTI application, it was received that

there are 42 complaints against R.K. Jain, Additional District Judge, Ludhiana and Shri Gobinder Singh Matharoo, Sessions Judge, Ludhiana. (**Annexure-36** Copy of RTI reply and application)

9. When employees are transferred out of district, due to lack of facilities in the station where they are posted, they travel to and from their duty station to their home station everyday. As a result of which half their salary is spent on travel. This causes them mental harassment.

All transfers should be made uniformly; not on recommendations and to victimise employees by the misuse of Rule 10(2).

III. Ahlmad

1. Ahlmad (clerk or custodian of files) is a class III employee. His is a crucial position in every court. Every judge in the district is appointed two Ahlmads one for civil and the other for criminal cases. However the condition of these employees is deplorable. This section will detail the manner in which they have allegedly faced exploitation not only under the rules of their employment but also by the judges who have them at their mercy to do all manner of jobs whether house work or driving or other personal jobs for the judge.

2. The letter from the District and Sessions Judge, Mewat, encloses with it a “copy of duties for ministerial staff”. (**Annexure-37** Copy of Letter) The **duties of Ahlmads** as listed are as under:

- 1. To maintain all the relevant registers properly as required by the rules.*
- 2. Registration of newly instituted cases and to index the same.*
- 3. To issue the processes in the judicial files as ordered by the court.*
- 4. To attach the summons in the judicial files and to make reports on the order sheets or the concerned files regarding service of the processes.*
- 5. To make proper entries in the registers regarding results of the cases and to enter goshwara numbers in the registers.*
- 6. To prepare the indexes of the files for consignments and to consign the same to the record room well within the prescribed period.*
- 7. Proper maintenance of the judicial files and the document produced by the parties in the cases in safe custody.*
- 8. Preparation of periodical statements required by the district and session judge and honourable high court.*
- 9. To get the files inspected under the rules from the parties or their counsels.*

3. Lack of training and overburdening of ahlmads - The grievance of Ahlmads is that they are appointed to this crucial position without any experience or training and are over worked. Many are forced to just quit their jobs due to the physical and mental stress that it causes them.

The High Court issued a letter to all the District and Sessions Court in Punjab and Haryana to suggest an appropriate mechanism to ensure that new court employees do not leave their jobs immediately after appointment (**Annexure-A38** Copy of letter). This was done in response to the various new stories and representations by ahlmads that they were facing harsh work conditions and could not cope with the burden of work and hence had to quit. The 38 responses and suggestions of judges are Annexed(**Annexure-39**). A summary of key responses from 38 judges of the approx.70 judges of Ludhiana listed below.

1. Stop out of District Transfer

7 Judges suggested that employees should be appointed to near by stations to the station of their residence since a newly appointed employee will do his work properly while residing near his residence and his or her family life should not be disturbed due to her/his positing at a long distance; employees should be given district level appointment, be conversant with the local language, a merit list should be prepared District wise.

2. Work load

6 judges stated in their letters that court staff is over burdened, they work on duty time & after duty which has an adverse effect on their health and is not a good practice. Court employees work even beyond their duty hours, which further affect their family Life

3. Salary

Approx. 27 judges suggested that salary should be adequate and commensurate with their work load and comparable to other government departments.

4. Lack of training

18 judges suggested training is a must and necessary measure to retain these court employees in their work positions. Training should be provided to judicial employees by providing legal knowledge, they should be attached with an experience judicial officer; consider Judicial academy training, retired employees hired for training, etc.

5. Unnecessary restrictions should not be imposed upon the employees.

6. 13 Judges suggested that achoc employees should be regularized.

7. Behaviour of Presiding Officers towards subordinate staff

There should be polite attitude of learned Presiding Officers towards sub-ordinate staff. The Presiding Officers should treat their staff members like human beings because they have their own dignity and self respect. Presiding Officers should be sensitized to also work as a guide and

teacher to the newly selected court officials to help them in discharge of their duties. A highly disciplined department like theirs should adopt comfortable approach towards working with lenient view towards officials in their day to day working deficiencies.

8. Grievance/Redress cell

Several judges suggested setting up a grievance redress cell for grievances of employees. Several judges suggested monthly meeting with employees with DJ for their problems.

9. Leave reserve clerks be provided because of shortage staff, there is often difficulty in sanctioning casual leave

10. Proper infrastructure facilities

Several Judges admit in their letter that there are insufficient infrastructure facilities in department, sufficient stationary should be provided. One ahlmad should be appointed on 500 files. Strength of the officials should be increased.

Refer to news article in The Tribune, 16 September, 2015 further providing details of these recommendations and conditions of class III and IV employees – *“the court staff are exerted beyond their capacity and have reached a breaking point. Moreover stress and strain due to the arduous nature of work, less salary and fewer promotions are the key reasons for new employees quitting their jobs, the judges have stated”*. (Annexure-40 Copy of news article)

4. Files handled by a ahlmad

The RTI reply dated 24.06.2011 provided by the Public Information Officer of the Punjab and Haryana High Court, Chandigarh, on number of files dealt with by an ahlmad, states,

“As per policy decision of this court, one additional ahlmad is to be provided when the number of pending files in a court exceeds 500 cases. Thus after every 500 files one additional ahlmad is required to handle the same. Giving more than 500 files to an ahlmad does not augur well for proper maintenance of records and even misplacing/loss of records, cannot be ruled out.”

(Annexure-41)

As per RTI information dated 9.10.2012 from the PIO of District and Session Judge, Ludhiana, states:

“The Hon’ble High Court has sought the information from this sessions division to work out the pendency of cases so as to provide an additional ahlmad after every 800 files and this matter is under process.” (**Annexure-42**)

However, this rule of 500 files to be dealt with by an ahlmad has not been implemented on the ground. In reality an ahlmad is made to deal with more than 1000 files in most courts. This is the condition of ahlmads in other states as well. As per the news report in the Hindustan Times, the Delhi High Court also mentions in its judgment regarding the employee Manju Khanna that instead of the stipulated 500 files, she was dealing with 4500 files. (**Annexure-43**)

As the RTI response from the Punjab and Haryana High Court stated “Giving more than 500 files to an ahlmad does no augur well for proper maintenance of records and even misplacing/loss of records, cannot be ruled out.” It is a fact that, the overburdening of ahlmads is not just by the number of case files they are dealing with, it is alleged by court employees, that it is also because ahlmads are made to do other court work such as recording of evidence of witnesses, preparing statements at short notice for High Courts, when the reader is on leave, the ahlmad is being used as a reader at the court. Due to all these irregularities their own court work of maintaining the files suffers. Due to this overburdening they have to work long hours often into the night and on holidays to be able to complete their work. These inhuman work hours causes great stress to these employees many of whom are buckling under this pressure and suffering mental stress apart from anxiety of not being able to spend sufficient time with their family.

5.. There is a provision of **Leave Reserve Clerk** who are to be appointed by the District and Sessions Court, to the any post which is vacant due to leave of employees such as reader, clerk, etc. However it is alleged by employees these LRC are posted in the office of the District and Sessions Judges but almost never sent to the lower courts which have vacant posts and for the proper performance of their duties.

6. Deputation

The RTI reply dated 12.02.2013 from the Joint Registrar cum PIO, Punjab and Haryana High Court, Chandigarh makes explicit, *“There is no question of deputation within the same department as it is only on transfer within the department”*. (Annexure-44 Copy of RTI reply)

This provision is not being followed. Those employees who have good recommendations from judges or seniors, they are deputed to lighter seats, despite the fact that deputations cannot be affected. The transfer order from the Office of the District and Sessions Judge, Bhiwani, dated 24.12.2015, specifically states the names of six employees who have been deputed to other positions in the same departments. (Annexure-45 Many other such orders are also annexed).

7. Loss of records - After facing these various problems mainly deputation, double duty due to filling up vacancies of other employees, preparing statements for High Courts at short notice, recording statements of witnesses, Ahlmads have to stop their main task which is to maintain records and case files. Often their monthly statements remain pending. Their files are in the hands of 8-9 employees including being sent to the copying agency, inspection cell, sessions court in appeal, etc. Anyone can tamper with documents or documents can go missing. The entire responsibility for this is on the Ahlmad.

On 13.07.2011, The Registrar General, Punjab and Haryana High Court, Chandigarh, issued detailed instruction for preventing loss of judicial records in subordinate courts. Fixation of responsibility, *“as per these instructions read with Rule 1 of Part D, Chapter 16 of High Court Rules and Orders Volume IV, Ahlmad is prima facie responsible for safe custody of the records. Once it is established that record is lost, then prima facie, Ahlmad is responsible for the loss of record. It is the duty of the Ahlmad to account for the record as he is the custodian of the record.”*

However in reality, the ahlmads are not just doing the work of maintaining records. As enumerated above, they are preparing statements for high court, recording evidence, preparing summons and doing various other tasks that takes them away from the proper job of maintaining these files. Also it is not possible to track each and every document in the more than 500 files

they have to deal with when these files pass through the hands of many other employees such as the reader/copyist/inspection clerk etc. The files are voluminous. They cannot be scanned at the time when the ahlmand receives them back to trace if any record is missing. **(Annexure-A46)**

However, when a record is missing, it is the ahlmad who is brought to account. He is fined in an arbitrary manner, enquiries are initiated against him, suspension notices issued or he is transferred.

8. Fines

Sec. 36, The Punjab Courts Act, 1918 states:

“Powers to fine ministerial officers: 1) A district Court or any court under the control of district court may fine, in an amount not exceeding one month’s salary, any ministerial officer of the court for misconduct or neglect in the performance of his duties.”

Apparently, this provision is being misused and used arbitrarily as a weapon to target employees on grounds such as absent from duty, negligence and carelessness, non issuance of notice, etc. RTI disclosing information of the allegations on the basis of which employees have been fined, such as non consignment of file, misbehaviour, absent report, non issuance of notice, etc. This despite the fact that ahlmads are already overworked. Notices which have to prepared by Ahlmad, it is alleged is not prepared and issued, due to lack of stationary, in many cases. **(Annexure-A47** List showing the punishment inflicted by the Punishment Authority)

9.Arrest of Ahlmads – In the case of Ms. Neetu, Ahlmad at the court of Mr. Manish Kumar (JMJC, Gurgaon), an arrest order was issued by the presiding officer when she allegedly refused to comply with his demand to record evidence which was outside the scope of her work as Ahlmad. On complaint by employees of this court, the matter was taken up by the Sessions Judge who revoked the order and she was released. **(Annexure-A48)** In the case of Harmeet Singh, Mr. Ranjit Kumar Jain, Additional Sessions Judge, Ludhiana, issued nonailable orders for his arrest over loss of record which was in the custody of the previous Ahlmad as proved by

the RTI reply by the PIO, Office of Additional Civil Judge (Sr. Division, Jagraon), that the said record was deposited on 6.08.2012 two years after the case of disposed. The case was disposed off on 11.05.2010 by Shri Ravi Inder Singh, Civil Judge, Junior Division, Jagron and on this very date Harmeet Singh was posted as Ahlmad in the court of Shri Manjinder Singh, Additional Session Judge, Ludhiana. The case filed had to be consigned to the record room within 15 days of the disposal of case which date was 26.05.2010, which was an omission by the previous Ahlmad. It is pertinent to note that FIRs were lodged against Ahlmad Dharampal (deceased) for not consigning over 100 files on time to the record room. However despite this, Harmeet Singh was victimised, first arrested on order of the Additional Sessions Judge, then fined for the same matter. **(Annexure-A49)**

10. Letter dated 9.04.1968 from Registrar, High Court of Punjab and Haryana, Chandigarh, to All District and Sessions Judges, Punjab, Haryana and UT Chandigarh, regarding delay in the consignment of records to the record room, **(Annexure-A50)** states:

“1. The file of every decided case should be consigned to the record room within a period of 15 days from the date of the final orders passed therein and incase of default explanation for the delay, duly signed by the presiding officer, should accompany the record.

2. On the 15th day of every calendar month, each district and sessions judge shall obtain from all judicial officers subordinate to him certificates to the effect that all cases decided by each of them during the month immediately preceeding has been consigned to the record room within the said period of 15 days, and shall submit a report to the High Court after checking up the relevant registers in order to verify the correctness of the certificates with reference to the entry of the goshwara numbers in each case.”

It is submitted by Ahlmads that it is increasingly impossible to consign files to the record room within time since they are being made to do other jobs apart from the work of the Ahlmads such as recording evidence, preparing statements for the High Courts and performing the duties of reader when they are on leave. Often files are taken by the Judges to their homes and judgments are written on a much later date after the case is disposed. Hence the Ahlmad is unable to consign the file to the record room on time. Later notice is issued to the Ahlmad for non

consignment of files to the record room on time. Ahlmad deposits the file with the Reader on the previous day for the cases to be heard on the next day. The Ahlmad gives a list of case files to the Reader. However the Reader does not provide a list and returns the files to the ahlmad in one lot. Due to this, often some files go missing.

It is important to draw your attention to the case of Harmeet Singh stated above, where the file was not consigned to the record room by the previous Ahlmad, and for which Harmeet Singh was arrested and fined, however it is important to note that the consignment certificate for the said period (2010) which was prepared by the Presiding officer, Mr. Ravi Inder Singh, Civil Judge, Jr. Division, Jagraon, did not mention loss of this record. Hence, it seems a false certificate was sent by the presiding officer to the District and Sessions Judge. Further the District and Session Judge submitted a report to the High Court that all records at Jagraon are in order and have been consigned to the record room on time. (**Annexure-51** Certificate). Every three months an inspection report is prepared by the Judge and in this too Mr. Ravi Inder Singh, did not mention the lost record. At the annual inspection of records by the High Court, this missing record was not reported. Hence why was only the Ahlmad Harmeet Singh unfairly victimised by the arrest and fine when the record was not noted as missing by all his superior authorities.

IV. Process Server

The conditions of class IV Process Servers is pathetic. Their duty is to deliver summons in the district. For this purpose they have to travel long distances in a day. A major portion of their salary is spent on travel expenses for which they are not reimbursed. They are still provided cycle allowances when they are using motorcycles now for serving summons. Many times they have to travel 40 to 50 kilometer in a day. Apart from this they are also assigned other jobs, to call the parties in the court, loading and unloading of luggage of Judges in case transfers, etc. Even the benefit of summer vacations has been given to these process servers only from this year. It is the grievance of many process servers that they are made to work in the homes of

judges and often even called back from their work of issuing summons to assist in the work at the court when another employee is absent or to work at the home of a judge as a guard, driver, cleaner etc. (**Annexure-52** – video clippings of process servers stating that they are made to work in the homes of judges instead of at the duty stations).

V. Lack of any effective grievance redress mechanism

1. The class three employees have narrated various instances where just because they have raised questions about the inadequacy of the system or the injustice meted out to them by their senior judge, they have been victimised but there is no avenue to register a complaint. Even though they are employees of a court, they seem to have been completely denied all principles of natural justice. If they make a direct complaint to the High Court, they have never received a satisfactory response, they have seldom been given a personal hearing or any of these allegations in their complaint verified. In many instances, it seems that where the employee has complained against his superior judge directly to the High Court, an inquiry is initiated against the employee himself for daring to make such a direct complaint.

For example, vide letter dated 01.05.1989, Hon'ble High Court, Punjab and Haryana directed all District and Sessions judges of Punjab and Haryana to refer to the instructions contained in the letter dated 29-10-1976 with regard to submissions of representations/communications by officials of subordinate courts in respect of their service matters, should be made through the proper channel, i.e. to the presiding officer concerned and not directly to the High Court or higher authorities.

However, due to this instruction, any complaint by an employee is made to his presiding officer but never forwarded to the higher authority for action. Often the complaint is against the presiding officer or the condition in his court. It is obvious that this complaint will never be forwarded by the concerned officer to the High Court. (**Annexure-53**)

In the case of Mr. Bhogi Ram, who made a request for stationary vide letter dated 05.02.2015, to his presiding officer, Mr. Ashok Kumar, Civil Judge (Jr. Division), Hodal, and with a request to forward this request to the High Court because despite repeated requests and lists of required stationary being prepared and sent to the District and Sessions Judge, inadequate supplies had been given. (**Annexure 54** Copy of letters from Bhogi Ram). However, apparently the Sessions judge neither provided proper stationary nor forwarded the request to High Court. Hence, Mr. Bhogi Ram made a direct communication vide letter dated 20.03.2015 to the High Court along with a grievance that the request is not sent forward to the High Court. After this, the High Court instead of looking into the grievance of the employee regarding stationary and error in recording dates by the court for which the ahlmad is held responsible, etc, vide letter dated 31.07.2015, directed instead that departmental proceedings be initiated against Mr. Bhogi Ram for making a direct complaint against his presiding officer to the High Court. Further, vide letter dated 24.07.2015 Mr. Bhogi Ram and others wrote to the Civil Judge (Jr. Division), Hodal requesting in strong language for stationary to be supplied to them since the same had repeatedly not been provided to them. However, in response, vide letter dated 29.07.2015, the District and Sessions Judge Palwal issued show cause notice to Mr. Bhogi Ram on the grounds that the language of the application was not proper and written with a view to do an act of insubordination. However the said application was forwarded by the presiding officer, Civil Judge (Jr. Division) without any objection to the same.

These instances show that the employees have to perform all their clerical duties like issuing summons, filing paper, preparing statements, entering CIS data, etc. Without adequate stationary it puts an additional strain on the employee. Often employees are spending from their own resources to make the system work. This is under fear that if their work is incomplete they could be fined or subject to enquiries. Lack of stationary articles and other such resources hampers the functioning of the court. It encourages corruption as it is often noticed that clerks are taking bribes from litigant to be able to buy the adequate stationary.

2. Inspecting judges have been appointed for the Judicial Courts of every District but in their annual inspections, the grievances of the public and advocates are heard but apparently no meeting takes place with the employees and their complaints are never addressed.

In light of the shocking examples enumerated above, it is necessary that a separate Grievance Cell be established at every district for employees of subordinate courts to register their complaints and have an opportunity of a fair and speedy hearing.

Recommendations

1. **Grievance Redress Cell** - A grievance redress cell should be set up in each High Court, headed by a Retired HC judge, with a time bound system for responding to complaints from all cadres of court employees. The proposed grievance redress cell should have a representative from the class III and class IV employees, so their concerns are adequately represented and understood. The cell must also address the problems faced by the non-permanent staff and those on contract to ensure at least statutory compliance of laws/rules governing their service. The procedure for investigating complaints against judges by employees, should incorporate personal hearings with the employees concerned within a time bound manner. Written communication should be furnished to the employee with regard to the progress on the complaint under investigation. The instruction which prevents employees from approaching the High Court for their grievances should be withdrawn. The grievance redress cell should have provision for impartial personal hearings and appeals. Often the complaint remains with the presiding officer against whom the employee has made the complaint and this does not serve the ends of justice. In addition there should be a nodal officer-in-charge of staff welfare in every court, whose duties should include redress of grievances and proactive welfare measures.

2. **Inspecting Judges** - Inspecting judges of the High Court who visit a District must meet the employees of the district court and refer to their grievances or representations in their report.
3. **Private domestic work by class IV employees** – Immediate instructions should be issued to all subordinate courts as well as the High Court that no form of private domestic work by class IV employees at the homes of judges should be taken. The standards of judgment as laid down in the letters of 1957 and 1973 from the Chief Secretary Government of Punjab to all courts should be applied to each case where a complaint regarding employment of a government employee as a private servant takes place, to determine whether this would amount to dishonesty and hence even warrant dismissal. The High court should treat such use of private work as misconduct on the part of the judge, and take appropriate disciplinary action. Instructions should be issued for the appointment of home peons.
4. Bio-Metric Attendance of court staff should be maintained to ensure that each employee is performing his proper duty at his work station and within the hours stipulated in his contract.
5. Out of District transfers should be stopped for all employees, or implemented on all employees equally and with a clear policy framework for such transfers.
6. Proper rotation policy within department should be maintained for all employees, so employees stationed at a taxing position may be relieved from time to time.
7. Process Servers should be entitled to at least 15 to 20 liter petrol per month in order to enable them to carry out their duties.
8. Stationary for office work and clean and safe drinking water at the residential complexes for employees should be provided along with other adequate facilities to the court employees
9. Ahlmads file handling should be restricted to 800 files per ahlmad and they be rotated to other positions in the court so as to reduce the stress on these employees.

10. Fines imposed on subordinate employees under Sec. 36 of the Punjab Courts Act, 1918, needs to be implemented in a uniform manner so that employees committing similar offences are fined the same amount. There cannot be an arbitrary amount imposed as fine for similar offences.
 11. Deputation System should be stopped, every person working must work on his own seat.
 12. CCTV Cameras should be installed in all courts.
 13. Enquiry proceedings should be completed in audio video recording.
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