

Difficulties Faced by Civil Judges for Promotion as Principal District Judge  
An Analytical Overview of Challenges and Needed Reforms within the  
Indian Judiciary

-Dr Ajay Nathani

### Introduction

Promotion from the position of Civil Judge to the cadre of principal District Judge is a significant milestone in the judicial career in Indian Judiciary. Civil judges often encounter a variety of challenges in their pursuit of this advancement. These challenges can be procedural, administrative, or personal in nature, and understanding them is crucial for devising reforms aimed at strengthening the judiciary.

### Stringent Eligibility Criteria

One of the primary hurdles faced by civil judges is the strict eligibility criteria stipulated for promotion. These criteria usually include a minimum number of years in service in the cadre of civil judge and then in the cadre of senior civil judge, a clean service record, and Quantitative measurement of achievements in the form of disposal of cases. The rigidity of these requirements can delay the promotion process for deserving judges, especially those who joined service late.

### Competitive Departmental Examinations

For many states, promotion to District Judge via the Limited Competitive Examination (LCE) is a common route. The examination is highly competitive, and the syllabus is vast, covering both substantive and procedural laws. Many civil judges struggle to find the time and resources to prepare adequately for these exams while managing their regular judicial duties, leading to low pass percentages.

### Limited Promotional Vacancies

Vacancies in the District Judge cadre are often limited, and the number of eligible candidates far exceeds the available positions. This leads to a bottleneck effect, where several qualified civil judges must wait for years before an opportunity arises. The lack of regular promotions can be demotivating and may affect judicial morale.

### Administrative Delays and Lack of Transparency

The promotion process is frequently marred by bureaucratic inefficiencies, resulting in delays in conducting examinations, interviews, and issuing appointment orders. Honourable Supreme Court in the case of Malik Mazhar Provided a timeline for the high courts to declare vacancies in the cadre of District Judge every year and complete the process of recruitment from bar and promotion from the chapter of civil judges in one calendar year by observing the timeline for every stage of recruitment and promotional activities prescribed in the judgment. This timeline is hardly followed by the high courts. Further, the opacity in the selection and promotion process can give rise to doubts about fairness and meritocracy among aspirants.

## **Regional Disparities and Transfer Policies**

In some states, civil judges posted in remote or less developed regions may face additional difficulties, such as lack of access to preparatory resources or coaching. Moreover, frequent transfers can disrupt personal and professional life, making it harder to focus on promotional goals.

## **Workload and Inadequate Support**

Heavy caseloads and administrative responsibilities leave civil judges with little time for self-study or professional development. The absence of structured training programmes or support systems further exacerbates the challenge, making it difficult for judges to update their knowledge and skills required for higher responsibilities.

## **Psychological and Social Pressures**

The stress associated with judicial work, coupled with the uncertainty of career progression, can lead to psychological strain. Social expectations and family responsibilities may also impact a judge's ability to dedicate time and focus on preparation for promotion.

8. The above factors delay entry of the judges recruited as civil judges in the cadre of District Judge And because of advancing age and Unfair practice of maintaining Inter-se seniority Amongst direct recruiters and promotes in the cadre of District Judge Make it difficult for the promotes to get themselves placed as principal District Judge.

## **Pre FNJPC scenario**

Recommendations of First national judicial Pay Commission have brought drastic changes in the structure of district judiciary, however at the same time the recommendations created some anomalies. It is therefore necessary to understand what was the pre FNJPC scenario and what happened after implementation of recommendations of FNJPC and the observations in the case of All India Judges Association 2002. Before implementation of recommendations of first national judicial Pay Commission there were several cadres in district judiciary. District Judge was a separate cadre, who used to be head of the district and the said post is presently named as principal District Judge. In Maharashtra the next in command of the district judge was joint District Judge. He used to come from the cadre of District Judge. All other judges exercising powers of District Judge under the Code of Civil Procedure and the powers of additional sessions judge were placed in the cadre of Additional District Judge. A judge from the cadre of civil judge junior division used to come in the zone of consideration for promotion to the post of additional District Judge on completion of 7 years of service. The judges from the cadre of civil judge junior division, civil judge senior division and chief judicial magistrate use to compete for promotion to the post of additional District Judge. In this manner a civil judge use to earn promotion on completion of a service of 7 to 12 years as a civil judge. Even if it is considered that a candidate is recruited as civil judge at the age of 30, he used to come in the cadre of additional District Judge between the age of 37 to 42. The inter-se seniority was maintained from the date of appointment. Direct recruits were selected based on their performances at the bar and their experience and therefore the age of direct recruits to the cadre of District Judge often use to be more than 45 to 50 years. After appointment direct recruits use

to work as joint District Judge or additional District Judge till completion of probation and then as District Judge. After scrutiny of their performance, they were given posting as District Judge. The cadre of additional District Judge used to be filled only by promotion from civil judges, senior civil judges and chief judicial magistrates. Recruitment from the bar was limited to the cadre of District Judge that is head of the district and so the number of direct recruits was very limited. For example, if there are 30 districts in a State then there will be 30 posts in the cadre of District Judge and 30 posts in the cadre of joint District Judge. 1/3 of these posts i.e. 20 posts used to be filled in by direct recruitment. (In some states only 25% of the District Judge posts were filled in by direct recruitment) In this situation 2/3<sup>rd</sup> posts of the District Judge cadre, which is now considered as principal District Judge used to be filled with the judges promoted from the cadre of civil judges. Direct recruits used to get seniority from the date of appointment and promotees used to get from the date of promotion to the cadre of District Judge. The above discussed scenario discloses that at any given time 2/3<sup>rd</sup> Principal district judges used to be promoted from the cadre of civil judge.

### **Post FNJPC scenario**

The promotee district judges were not satisfied in this situation also because despite getting hard earned promotion to the cadre of District Judge they were losing the chance of elevation and direct recruiters used to be elevated more in number as High Court judges. The grievances were placed before FNJPC and recorded by the Commission as under,

10.1 The mixed cadre of District Judges consisting of promotees and direct recruits in every State Judicial Service was intended to promote efficiency in the administration of justice. But the fact remains otherwise. There is a lot of discontent between the direct recruits of District Judges on one side and promotees on the other. The two classes are generally not in cordial terms, nay, in some States, they are not even on talking terms. They are forming separate Associations. They are locked up in legal battles fighting up to the Apex Court. They made separate representations to this Commission.

10.2 The root cause for all these unfortunate fallouts seems to be the mode of direct recruitment followed by High Courts and determining the inter-se seniority between the promotees and the direct recruits. The High Courts are not unaware of this bitterness and discontentment in the service yet seem to have done little to improve the method of direct recruitment so as to remove the grievance of promotees.

10.3 The common grievance of the service judges in the lower cadre in all the States, and which grievance is also highlighted in the Memorandum of All India Judges' Association is that the hopes and aspirations of judges who have entered the lowest rung of the judicial service have been shattered for want of adequate promotional opportunity. It complained that the unreasonable quota reserved, and unscientific methods followed for direct recruitment of District Judges have practically driven the service judges to despair and despondency. It was said that they could never think of becoming Principal District Judges. It was pointed out that the Advocates are recruited as District Judges at relatively younger age, varying from 32 to 40 years, while service judges would get a chance of promotion as District Judges only at their advanced age.

Such direct recruits would be ranked above the promotees in the seniority list and occupy all the central posts. They also deprive the promotees the chance to reach the High Court.

The Commission to address this situation recommended several measures. The recommendation instead of providing a solution made the situation more complicated. The Commission first amalgamated the cadres additional district judge, Joint District Judge, judge city civil court in the cadre of District Judge by making following observations,

5.83 We have carefully examined the matter in the light of the views expressed by the Respondents. We do not want to differentiate the Officers of different Courts by assigning different names as it is being followed in some States. It is better and appropriate to term them as belonging to one Common Service though there may be grades amongst themselves. Calling the Officers as belonging to one Service though they belong to different grades is quite common in the Executive Service like IAS, IPS, IA & AS and State Administrative Service.

That apart, having regard to the expression used in Article 236(b) of the Constitution and in the light of the decision of the Supreme Court in **STATE OF MAHARASHTRA Vs. LABOUR LAW PRACTITIONERS' ASSOCIATION**,<sup>1</sup> we consider that the proper expression to cover the three cadres, viz., District Judges, Civil Judges (Senior Division) and Civil Judges (Junior Division) would be "JUDICIAL SERVICE" prefixed by the name of concerned State. Say for example, Karnataka Judicial Service, Delhi Judicial Service, Maharashtra Judicial Service, Tamil Nadu Judicial Service etc.

5.84 We request all High Courts, State Governments and Administration of Union Territories to accordingly amend their respective Acts, Rules, Regulations and Circulars etc., to give effect to the above suggestion.

The amalgamation of cadre increased the number of direct recruits because 25% of the total vacancies of district judges including previous vacancies of additional district judges are to be filled in by direct recruits from the bar. For example, in a State having 30 districts earlier out of 60 posts of district judges and joint district judges 20 post were filled in by direct recruits. Now if there are 400 posts of additional District Judge in that State then the number of direct recruits will be 112. The Commission recommended following solutions to address the issue, which benefited the judges financially but deteriorated the situation in respect of promotions of civil judges,

20.7 Taking all these factors into consideration, we have:

i) Rationalized the cadre structure and accordingly rationalized the pay structure also. Evolved a Master Pay Scale and carved out the required number of pay scales which have been elongated to prevent stagnation.

ii) Recommended Assured Career Progression Scheme for the cadres of Civil Judge (Junior Division) and Civil Judge (Senior Division) by providing two financial upgradations, within the stipulated timeframe.

iii) Recommended Selection Grade and Super-Time Pay Scales for District Judges, consistent with the functional needs and requirements.

iv) Recommended that the cadre of Civil Judges (Senior Division) should be purely a promotional cadre and no direct recruitment should be made to this cadre.

v) Recommended suitable amendment to Article 233 (2) of the Constitution to provide an opportunity for in-service Judges to compete for direct recruitment to the cadre of District Judges.

vi) Recommended that 'not exceeding 25% of the posts in the cadre of District Judges should be reserved for direct recruitment'. This much of percentage for direct recruitment is considered necessary to promote efficiency, while at the same time, not impairing the interests of the promotees.

vii) Recommended an innovative concept of certain weightage for fixing the inter-se seniority of the promotees and direct recruits in the cadre of District Judges to minimize if not to remove the constant irritation and imbalance between the promotees and direct recruits.

viii) Suggested that the promotional posts should be filled up at the earliest without being linked to direct recruits.

### **Inter-se seniority amongst direct recruits and promotees**

FNJPC considered this issue very empathetically and suggested welcome solutions for creating equilibrium between the persons inducted in the cadre by 2 different sources. The Commission considered following aspects,

12.1 In Service, the ranking of an Officer in the seniority list is determinative of his future career prospects. It is an index to attain one's reasonable aspirations and expectations. It should not, therefore, be kept fluctuating. The fluctuating ranking would seriously tell upon the nerves of the affected Officer. As far as possible, it must be kept certain and free from dispute.

12.2 But unfortunately, in most of the States, the inter-se ranking in the seniority list of direct recruits and promotees in the cadre of District Judges has always been the subject matter of controversy. It has been a vexed question for the High Courts and for the service personnel. It has, in fact, created bad blood with acrimonious debate between the two classes. It has affected even their performance in the administration of justice.

Taking into consideration the above aspects FNJPC made following recommendations,

12.118 The Commission suggests that in fairness and to minimize the age-long discontentment between the promotees and direct recruits, certain weightage be given to promotee District Judges.

12.119 The Commission recommends that promotees be given a weightage of one year for every five years of judicial service rendered by them **subject to a maximum of three years.**

12.120 The judicial service of Officers for providing weightage is the entire service rendered by them as Judicial Officers right from the entry into Judicial Service up to the date of their promotion to the cadre of District Judges.

Honourable Supreme Court considered these recommendations in the judgement of All India judges association 2002. While disapproving the recommendation honourable Supreme Court ruled that the seniority amongst direct recruits and promotive shall be maintained by applying roster system as contemplated in the judgment of RK Sabharwal. Honourable Supreme Court while giving reasons to implement roster system observed,

“Experience has shown that there has been a constant discontentment amongst the members of the Higher Judicial Service in regard to their seniority in service. For over three decades large number of cases have been instituted in order to decide the relative seniority from the officers recruited from the two different sources, namely, promotees and direct recruits. As a result of the decision today, there will, in a way, be three ways of recruitment to Higher Judicial Service. The quota for promotion which we have prescribed is 50 per cent by following the principle "merit-cum- seniority", 25 per cent strictly on merit by limited departmental competitive examination and 25 per cent by direct recruitment. Experience has also shown that the least amount of litigation in the country, where quota system in recruitment exists, is in so far as seniority is concerned, is where a roster system is followed. For example, there is, as per the Rules of the Central Government, a 40-point roster which has been prescribed which deals with the quotas for Scheduled Castes and Scheduled Tribes. Hardly, if ever, there has been a litigation amongst the members of the Service after their recruitment as per the quotas, the seniority is fixed by the roster points and irrespective of the fact as to when a person is recruited. When roster system is followed, there is no question of any dispute arising. The 40-point roster has been considered and approved by this Court in [R. K. Sabharwal and Ors., v. State of Punjab](#) reported in [1995] 2 SCC 745. One of the methods of avoiding any litigation and bringing about certainty in this regard is by specifying quotas in relation to posts and not in relation to the vacancies. This is the basic principle on the basis of which the 40-point roster works. We direct the High Courts to suitably amend and promulgate Seniority Rules on the basis of the roster principle as approved by this Court in [R.K. Sabharwal](#) 's case (supra) as early as possible. We hope that as a result thereof there would be no further dispute in the fixation of seniority. It is obvious that this system can only apply prospectively except where under the relevant Rules seniority is to be determined on the basis of quota and rotational system. The existing relative seniority of the members of the Higher Judicial Service has to be protected but the roster has to be evolved for the future. Appropriate rules and methods will be

adopted by the High Courts and approved by the States, wherever necessary by 31<sup>st</sup> March 2003.

We disapprove the recommendation of giving any weightage to the members of the Subordinate Judicial Service in their promotion to the Higher Judicial Service in determining seniority vis-a-vis direct recruits and the promotees. The roster system will ensure fair play to all while improving efficiency in the service.”

The scenario in the last 23 years of this judgment discloses that there is no reduction in number of litigations in respect of seniority amongst direct recruits and promotees. The reasons for failure of roster point system can be listed as under,

1. roster points meant for promotees are not filed by promotes after retirement of the promotee on that point. The seniority list of district judges in many of the States reflect that first 10 to 12 positions are occupied by direct recruits which emphasise the above point.
2. Direct recruits are placed on the top of the roster to the disadvantage of promotees.
3. There is no controlling committee of the hon'ble High Court to supervise the roster and maintain the sanctity of the roster.
4. There is no system to consider grievances of a District Judge who finds himself aggrieved by his placement in the roster.

Overall, it can be said that Roster system is implemented to the advantage of direct recruits.

### **Harmonious Progression**

All India Judges Association emphasises for harmonious progression where both direct recruits and promotees advance in their careers without unjust disadvantage to either group, maintaining organisational efficiency and morale.

### **Principles of Harmonious Progression**

1. Seniority and Fixation of Inter-se Seniority:
2. Guidelines and rules be framed to fix the inter-se seniority between direct recruits and promotes to give fair chance of progression to all.
3. Strict adherence to recruitment and promotion rules, including timely recruitment and promotions.
4. Regular review and update of seniority list with transparency.
5. Clear communication of rules and policies to all stakeholders.
6. Prompt resolution of disputes through departmental committees or grievance redressal mechanisms.
7. Both direct recruits and promotees are provided with defined avenues to become a principal District Judge and to get elevated as High Court judge

### **Conclusion**

Civil judges in India face a multifaceted set of challenges in their journey towards promotion to the cadre of District Judge. Addressing these issues through systemic reforms streamlining

eligibility, enhancing transparency, increasing vacancies, supporting preparation, and promoting wellbeing will not only motivate judges but also contribute to a more effective and robust judicial system. To give proper representation to the judges promoted from the cadre of civil judge to become principal District Judge Following solutions can be suggested,

1. The process of recruitment of civil judges is undertaken by the High Court. After recruitment exhaustive testing training is given to them to Mold them as an integral part of district judiciary. Further progression of this human resource should be harmonious. Their merit can be tested based on their judgements, their annual confidential reports and data collected by the High Court regarding their integrity, utility to the judiciary and their contribution justice delivery system. Compelling this human resource to give further examinations and interviews to prove their suitability is not justified. There should be smooth progression of judges from the cadre of civil judge to the higher cadres on the basis of seniority cum merit. This will provide appropriate opportunities for promotion to the civil judges.
2. Direct recruitment to the cadre of District Judge should have an eligibility criterion of conduction of enough number of session trials and civil and criminal appeals. The selection shall not only on the basis of examination and interview because cracking examination and interview may disclose one of the facets of intellectuality which may or may not be useful in dispensation of justice.
3. In view of failure of roster point system to address the disparity of opportunities amongst direct recruits and promotees it is necessary to evolve a different manner of maintaining seniority.
4. In view of the accepted proposition that ratio of cadre strength of promotees and direct recruits will be 75: 25 the said ratio shall be maintained at all levels i.e. at the level of posting principal district judges and at the level of elevation.
5. To maintain the ratio of 75:25 for principal district judges and elevation there can be 2 modes,
  - a. two separate lists of promotion direct recruits to the cadre of district just be maintained and Judges from both the list be picked up according to seniority by maintaining ratio of 75:25 While boosting principal district judges,
  - b. Separate cadre of principal District Judge be recognised and in that cadre the judges from the both the streams be posted by maintaining the ratio of 75:25.
6. In view of failure of roster point system honourable supreme court may reconsider its decision regarding recommendation of first national judicial pay commission to give weightage to the promotee district judges in seniority proportional to their years of service spent in cadre of civil judge and senior civil judge.
7. Representation of district judiciary in the High Court be increased by increasing the quota of elevation from district judiciary to 50%.