

APPLICATION OF THE PRINCIPLES OF ADMINISTRATIVE LAW IN COURT MANAGEMENT

**By Justice U.C. Dhyani,
Chairman,
Public Services Tribunal, Dehradun
AT NJA, Bhopal Date:-26.08.2023**

- **We, the people of India**
- **People are most precious assets
(Human Resource Management)**
- **Can we give assurance to the
people for timely justice?**

**IF THE SALT LOSES ITS
SAVOUR, WHEREWITH
SHALL IT BE SALTED**

**CONDUCTING DISCIPLINARY
PROCEEDINGS FOR JUDICIAL
OFFICERS AND MINISTERIAL
STAFF**

**RECORDING PERFORMANCE
EVALUATION OF JUDICIAL
OFFICERS AND MINISTERIAL
STAFF**

**GUARANTEEING PUBLIC ACCESS
TO THE COURTS AND THE
COURT RECORDS(I.C.T
INTREGRATION)**

- **PROFESSIONALISM**
- **IF YOU ARE STANDING STRAIGHT, DON'T BOTHER IF YOUR SHADOW IS CROOKED**
- **TRANSPARENCY-CONFIDENTIALITY**
- **ABSTENTION FROM COURT WORK.**

- **QUERULOUS-CANTANKEROUS LAWYERS .**
- **QUERULOUS LITIGANTS.**
- **QUERULOUS JUDGES.**
- **GOLDEN RULE-EACH WOULD DO TO THE OTHER,AS HE WOULD HAVE THE OTHER DO TO HIM.**

OPEN MINDED LISTENING

- IMPARTIALITY
- DISCERNMENT
- INTELLIGENCE
- COURAGE
- FAIRMINDEDNESS
- LISTENING WITH OPEN MIND

- **HE TALKS TOO MUCH**
- **HE LISTENS TOO MUCH**
- **DETERMINATION WITHOUT HEARING**
- **HEARING WITHOUT DETERMINATION**

- **CIVILITY IN A JUDGE IS VIRTUE.**
- **AN INTEGRAL COMPONENT OF CIVILITY IS LISTENING.**
- **GODDESS WEARING A BLINDFOLD AND HOLDING SCALES-EVEN HANDED JUSTICE**

IT CANNOT BE EASY BEING A JUDGE. RESPONSIBILITY IS ENORMOUS; TO PROTECT AND MAINTAIN THE RULE OF LAW; DETERMINE FACTS AND LAW; RESOLVE DISPUTES LARGE AND SMALL; AND, IN MOST OF THE MATTERS, DECIDE WHETHER A FELLOW CITIZEN REMAINS FREE OR NOT. IN A SENSE, WE LOOK TO JUDGES TO ARTICULATE THE MEANING OF 'JUSTICE'

- **EVEN HANDED AND UNBIASED JUSTICE**
- **CASE LAW IS SO PROLIX AND INTERSPERSED WITH GRATUITOUS OBITER DICTA**
- **CHALLENGES BEFORE JUDGES**
- **AVOID BEING HYPERTECHNICAL**
- **APPRECIATION OF EVIDENCE IS NOT A MERE FORMALITY**

- **FAIRNESS AND GENTLENESS ON THE PART OF COUNSEL ENHANCE THE RESPECT FOR HIM IN THE MIND OF COURT AND VICE VERSA,**
- **FAIRNESS AND GENTLENESS ON THE PART OF THE PRESIDING OFFICER ENHANCE THE RESPECT FOR HIM IN THE MINDS OF THE COUNSEL.**

- **LIFE IS NOT ALL LOGIC OR REASON**
- **IF ALL WERE TO BE GUIDED BY REASON THEN THERE WOULD NOT BE NO FRICTION, NO CRIME, NO VOILENCE, NO WARS.**
- **FRICTION OCCUR WHEN MEN AND WOMEN ARE MORE OFTEN SWAYED BY EMOTIONS, PREJUDICES, HATRED, INSECURITY, MEGALOMANIA OR GREED THAN BY REASON.**

- **RECORDING EVIDENCE IS MOST DIFFICULT TASK FOR A TRIAL JUDGE.**
- **FREQUENT INTERVENTIONS.**
- **COURT QUESTIONS**

- **WHAT I AM SAYING IS NOTHING NOVEL OR ORIGINAL. ALL THIS HAS BEEN SAID THOUSAND TIMES IN INNUMERABLE FORUMS AND VARIOUS PLATFORMS**
- **NONETHELESS EVEN THE OBVIOUS THINGS REQUIRE OCCASIONAL REITERATION WITH A VIEW, IF NOTHING ELSE, TO SELF INSTROSPECTION BY ALL OF US.**

STAKE HOLDERS

- JUDGES
- LAWYERS
- LITIGANTS
- PROSECUTORS
- WITNESSES
- STAFF OF THE
REGISTRY/COURT

A Chief Justice of the New York State Court of Appeals on his first appointment as Chief Judge proudly showed his wife the Chair in the Court room of his illustrious predecessor-in-office of nearly half a century ago Chief Justice Benjamin Cardozo (a legend amongst Judge of the United states) and he said to his wife in a reverential whisper – “see-this is Cardozo’s chair and this is where I will sit”

His wife responded not very reverentially: “Yes- and after fifty years and five more chief Justices it will still be Cardozo’s chair!”

- **Magna Carta – sell, deny, delay**
- **Court management**
Case Management
- **ADR**
- **Docket explosion**
Docket exclusion
(Docket inclusion)

- **PERCEPTS OF LAW**
- **CHIEF JUSTICE MARSHAL**
- **LAW IS NOT A CLOISTERED VIRTUE**
- **PETER DRUCKER**
- **Renu v. D. J. Tees Hazari**
- **Magna Carta**
- **Professionalism**
- **RUDYARD KIPLING**
- **Benjamin Cardozo**
- **Make Thing Happen**

**CRISIS
OF
CREDIBILITY**

A patient visited a Doctor's clinic and asked the receptionist- I want to see a specialist of eyes and ears.

The Receptionist Said- “There are doctors of ear, nose, Throat (ENT) and there are doctors of eyes. There is no specialist who treats both the eyes and ears. But then why are you in need of such a doctor?”

**“The patient replied-
these days I do not see
what I hear and I do not
hear what I see”**

- **Courts are the Slaughter houses of reputation (on cross examination)**
- **Judge: McGrath, Do you know what happens to you if you tell a lie?**
- **McGrath --- I go to hell and am burnt forever**
- **Judge--- What happens to you if you tell the truth**
- **McGrath --- I loose the case!**

Section 165

Indian Evidence Act, 1872

CROSS EXAMINATION

- **Counsel:** Is it a fact that you are sharing your apartment with a woman.
- **Witness:** Yes, that is a fact.
- **Counsel:** I put it to you that woman is not your wife.
- **Witness:** No she is not my wife.
- **Counsel:** I put it to you that woman is not your Mother.
- **Witness:** No she is not my mother.
- **Counsel:** she is not your daughter either.
- **Witness:** She is not my daughter.
- **Counsel:** Nor your sister.
- **Witness:** No, She is not my Sister.

- At this point the counsel stated that he has no further questions to ask. While witness was leaving the witness box the judge asked him, “Who is that woman?”
- Witness: She is my grandmother.


- **What**
Why
Where
When
Whom
How ?

- EAT LAW, TALK LAW, THINK LAW,
DRINK LAW, BABBLE OF LAW AND
JUDGMENT IN YOUR SLEEP,
PICKLE YOURSELF IN LAW - IT IS
YOUR ONLY HOPE.

(Karl Llewellyn, The Bramble Bush, 1951)

JUDICIAL DECISION MAKING

- **Jargons**
- **Management's
Humble ancestry**



A B C D

Docket exclusion

Docket explosion

Three Levels of Management

- **TOP**
- **MIDDLE**
- **BOTTOM**



Three Tiers

Conceptual

Human

Technical

**Management,
Administration
&
Governance**

- **Motivation**
- **Communication**
 - **Knowledge**
 - **Skills**
 - **Attitude**
- **Leadership and Team Building**

- **Mind Management**
- **Time Management**
- **Stress Control**

- **Mc Gregors Theory**

X & Y

- **Abraham Maslow**

- **Bentham**

**Public Servants are like
Defective Clocks, Mad Caps,
Shake is Shock**

• Peter Pan

Public Servants are
born with Horns on
head & thorns in the
Chest

- **Ego States**

P---Parent

A---Adult

C---Child

**Peeling of Ego States is
Physiological Nudism**

• Budgeting for the judiciary is something like making a walk with a tiny stone in your shoe.

- **Judiciary may Seem like a bottomless Pit because it always seems to be asking for more money without explaining exactly what it will do with the extra money.**

- **Prison visits**
- **Strike a rapport- chord**
- **Criminal Jurisprudence**