

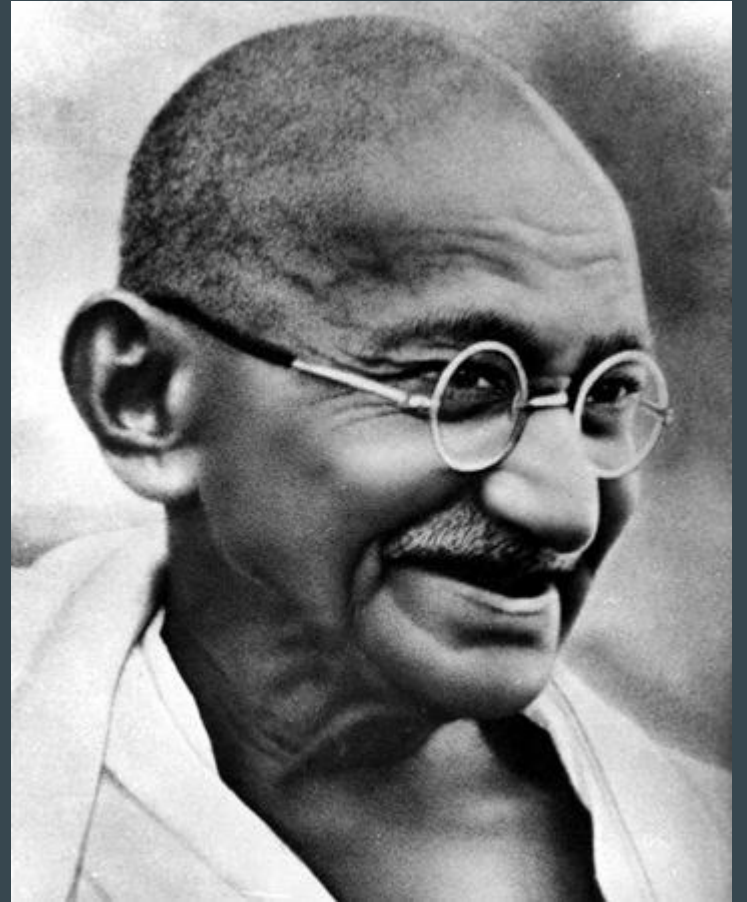
JUDGING SKILLS

By Justice C. V. Karthikeyan



All the world over true
peace depends not
upon gun-power, but upon
pure justice.

Mahatma Gandhi



Skills & Abilities

- Aptitude.
 - Attitude.
 - Passion.
 - Knowledge.
 - Experience.
 - Understanding responsibility.
 - Understanding self-fulfilling prophecy
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Decision Making

- Practical.
- Timely.
- Analytical.
- Open mindedness.
- Impartial.
- Perceived conflict of interest.

Communication

- Active listening skills.
 - Understandable written and oral communication skills.
 - Effective communication with diverse groups of advocates/litigants.
 - Interpersonal skills.
 - Dignity and Sanctity of Court and Judicial Processes.
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Professional Skills

HAVE:

- Ability/Willingness to learn.
- Effective hearing.
- Computer skills.
- Court management.
- Case management.
- Time management.
- Handling stress/pressure.
- Understanding isolation of judicial role.

HAVE NOT:

- Procrastination/Stagnation at same stage.
- Escapism by adjournment.
- Reluctance to upgrade.
- Reliance on staff to prepare preamble portions.

Personal Characteristics

- Cross-cultural experience and engagement.
 - Awareness of social issues.
 - Respect for essential dignity of all persons.
 - Moral courage and high ethics.
 - Punctual/Organized.
 - Understanding work etiquette.
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Judgments

CIVIL CASES:

- Thorough reading of pleadings.
- Framing correct issues.
- Understanding documents.
- Recording of evidence.
- Answering issues in judgment.
- Understanding arguments advanced.
- Addressing disputed facts.
- Applying law.
- Reliance on precedents.
- Removing bias, prejudice, conflicts.
- Reasons for conclusion.

CRIMINAL CASES:

- Understanding the offence.
- Understanding the final report.
- Framing of charges.
- Questioning the accused.
- Opening case by prosecution.
- Recording evidence.
- Questioning on incriminating evidence.
- Addressing charges.
- Removing bias, prejudice, conflicts.
- Reasons for conclusion.
- Understanding concept of sentencing.

Objectives of Restorative Justice

- Healing victim's wounds.
 - Victim assistance focusing on victims and survivors of crime.
 - Promote the dignity of victims and offenders.
 - Restoring offenders to law abiding lives.
 - Repairing harm done to interpersonal relationships and the community.
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Art of Listening

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Promoting Rational Discourse

- Stop talking.
 - Don't talk.
 - Prepare yourself to listen.
 - Listen.
 - Relax.
 - Put the advocates at ease.
 - Help the advocates feel free to speak.
 - Be patient.
 - Avoid personal prejudice.
 - Listen to the tone.
 - Pay attention.
 - Respond appropriately.
 - There are times when there need be no response.
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Judgments



Sangram Singh vs. Election Tribunal – AIR 1955 SC 425

16. Now a code of procedure must be regarded as such. It is procedure, something designed to facilitate justice and further its ends: not a penal enactment for punishment and penalties; not a thing designed to trip people up. Too technical a construction of sections that leaves no room for reasonable elasticity of interpretation should therefore be guarded against (provided always that justice is done to *both sides*) lest the very means designed for the furtherance of justice be used to frustrate it.

Sangram Singh vs. Election Tribunal – AIR 1955 SC 425

17. Next, there must be ever present to the mind the fact that our laws of procedure are grounded on a principle of natural justice which requires that men should not be condemned unheard, that decisions should not be reached behind their backs, that proceedings that affect their lives and property should not continue in their absence and that they should not be precluded from participating in them. Of course, there must be exceptions and where they are clearly defined they must be given effect to. But taken by and large, and subject to that proviso, our laws of procedure should be construed, wherever that is reasonably possible, in the light of that principle.

CIT vs. Saheli Leasing & Industries Ltd.,

(2010) 6 SCC 384

- State only what are germane to the facts of the case.
 - Must have correlation with applicable law and facts.
 - Ratio decidendi should be clearly spelt out.
 - Go through the draft thoroughly.
 - Sustained chronology in judgment – perfect sequence of events.
 - Citations should afford clarity rather than confusion.
 - Pronounce judgment at the earliest.
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Board of Trustees of Martyrs Memorial Trust vs. Union of India

(2012) 10 SCC 734

- Brevity in judgment writing.
 - Due application of mind.
 - Clarity of reasoning.
 - Focussed consideration.
 - Examination of every matter with seriousness.
 - Sustainable decision.
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Aparna Bhat vs. State of M.P.

(2021) SCC OnLine
SC 230

- Court to make sure survivor can rely on their impartiality and neutrality.
 - Sensitivity in judicial approach/language/reasoning.
 - Sensitivity to the concerns of survivors of sexual offences.
 - Embargo on orders that reflect adversely on judicial system/undermining the guarantee to fair justice.
 - Removing gender bias.
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K. V. Rami Reddy vs. Prema

(2009) 17 SCC 308

The suit was filed by the present respondent for specific performance to enforce a sale agreement dated 20-10-1988. The suit is stated to have been decided on 24-3-1999. According to the present respondent, who was the petitioner in the civil revision petition, *even without dictating the judgment to the stenographer, transcribing and signing the same, simply an endorsement in the plaint docket sheet was made to the effect that the plaintiff in the suit was not entitled to the relief of specific performance to enforce a sale agreement but was entitled to refund of Rs. 2,00,000.* Stand in the revision petition was that there was no judgment in the eye of the law. It was pointed out that only the operative portion was dictated on 25-3-1999 during lunch time and, therefore, the decision rendered on 24-3-1999 was non est in the eye of the law and a nullity.

Ajay Singh vs. State of Chhattisgarh

(2017) 3 SCC 330

The trial Judge on 28-1-2008 had passed the following order:

“28-1-2008:

State represented by Shri Rajesh Tiwari, AGP.

Accused along with their Counsel Shri Arvind Mehta, Advocate.

The judgment has been typed separately. The same has been dated, signed and announced.

Resultantly, accused T.P. Ratre is acquitted of the charge under Section 306 IPC.

A copy of this judgment be sent to the District Magistrate, Surguja (Ambikapur) through AGP.

Proceedings completed.

The result be noted in the register and the record be sent to the Record Room.”

Kanailal vs. Ram Chandra Singh

(2018) 13 SCC 715

- Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived.
 - Objectivity in reasons.
 - Adjudging validity of decision.
 - Right to reason is indispensable part of sound judicial system.
 - Salutary requirement of natural justice.
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SBI & Another vs. Ajay Kumar Sood

(2022) SCC OnLine
1067

- Judicial opinion.
 - Tells the story of the case.
 - What the case is about.
 - How the court is resolving the case.
 - Why the court is resolving in that manner.
 - Spells out judge's own thoughts.
 - Explains the decision to the parties.
 - Communicates the reasons to the public.
 - Provides reasons for appeal court to consider.
 - It must be reasonable, logical, and easily comprehensible.
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“The judgment replicates the individuality of the judge and therefore it is indispensable that it should be written with care and caution. The reasoning in the judgment should be intelligible and logical. Clarity and precision should be the goal. All conclusions should be supported by reasons duly recorded. The findings and directions should be precise and specific. Writing judgments is an art, though it involves skilful application of law and logic.”

Ajay Kumar Sood (referred supra)
