

THE ART AND SCIENCE OF JUDGMENT WRITING

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Judgment?

- . A judgment constitutes the considered opinion on the basis of the facts pleaded, points raised, evidence adduced, argument addressed and the law applicable to the facts of the case.

Judgment?

- ‘A judgment is not an ornate diction of fancies of a brain, it is strictly an oracle of findings arrived at by a trying mind. One way, **it wraps justice in words**; the other way **it exposes worth of the Judge**’
- A judge is ultimately judged by the quality of the judgments delivered by him.

Judgment?

- A 'judgment' should be a self contained document from which it should appear as to what were the facts of the case and what was the controversy which was tried to be settled by the Court and ***the process of reasoning*** by which the Court came to the ultimate conclusion .

S.C. in Balraj Taneja v. Sunil Mandan,

AIR 1999 S.C. 3381

Judgment-An Art

- It is an art because it involves application of the intellect, intelligence, understanding, rational capacity, power of comprehension, power of expression and the power of communication of a judge.
- Being a work of art it is bound to have an impression of the personality of the judge,
- However, it is expected to be more objective than subjective.

Judgment- a Science

- Judgment writing is a science because it requires a systematic analysis of facts emerging from the conflicting pleas raised by the parties as well as the law applicable to the facts found proved in the case

Judgment-Classification & Form :

- On the basis of nature of trial and the forum by which it is delivered, a Judgment may be classified in a number of ways.
- It may be a regular judgment or a summary judgment. It may be a judgment of the Trial Court or of a Court of Appeal.
- Though, there may be some variations in the mode of expressing the opinion, however, the basics of judgment writing remain the same.

Timeliness & Impact of Delay

- An unreasonable delay between the hearing of arguments and delivery of judgment, unless explained by exceptional or extraordinary circumstances, is highly undesirable
- It is not unlikely that some points which the litigant considered important might escape the notice of the court due to delay.
- But, what is more important is that litigants must have complete confidence in the result of litigation. This confidence tends to be shaken if there is excessive delay between hearing of arguments and delivery of judgments.

S.C. in *R. C. Sharma v. Union of India*, AIR 1976 SC 2037

Judgment-Preparation

- The process of structuring pre-supposes a deep thinking on the part of the Judge not only about the central issue of the case but also about various collateral points which the judge must address before coming to the central issue.
- It may be quite useful to prepare a brief synopsis containing various points to be dealt with in the judgment and their logical order .

Judgment-Preparation

- Logical and systematic arrangement of the various points makes a judgment not only coherent but also enhances its worth and value because one can at once gather as to what is being discussed and why it is being discussed at a particular place .
- This also provides an opportunity to a judge to gradually develop the judgment on logical lines

Brevity & Clarity:

- The Apex Court observed in *Amina Ahmad Dossa & Ors. v. State of Maharashtra, AIR 2001 SC 656* that –
- brevity of order on application of mind and not the length of the order is the criterion for adjudicating the rights of the parties and that it would be appreciated that the Courts which are otherwise over-burdened shall refrain themselves from writing, unnecessary lengthy judgments, of course dealing with all points, while adjudicating the claims of all parties.

Appreciation of Evidence:

- **Justice Benjamin N. Cardozo** in his Book *"Nature of the Judicial Process"* has remarked that-
- 'my duty as a Judge must be to objectify the law, not my own aspirations, convictions and philosophies, but those of men and women of my time.'

Reasons- the Soul:

- Lord Hewart CJ in *R. v. Sussex, [1923] All ER Rep 233* that-
- ‘it is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done’