

SECRETARY TO THE
HON'BLE CHIEF JUSTICE



HIGH COURT OF KARNATAKA
BENGALURU-560001
PHONE NO. 080-22954859
080-22954385

January 17, 2020

To:

All the Principal District and Sessions Judges
& Unit Heads in Karnataka

Respected Sir/Madam,

**Sub: Instructions to avoid the use of words 'lower' or
'subordinate' while referring to Trial Courts.**

I am directed by Hon'ble the Chief Justice to convey the following
instructions/ message:-

It is noticed that some appellate Courts in the District judiciary
while exercising the appellate power, has been using the expression
'lower Court or subordinate Courts' in the Judgments. No Court is
inferior or lower. Even in the Registry files or communications issued by
the Registry, sometimes such expressions are used. It will be appropriate
if the expressions '**lower Court or subordinate Courts**' are not used on the
administration side or in the administrative communications or in the
judgments by the appellate Courts in the Districts.

For your information, paragraph 4.8 of the 118th report of the Law
commission of India is quoted-

*"4.8. The word 'subordinate' in the judicial hierarchy
sounds incongruous. To be precise, when any matter is before a
court of competent jurisdiction even at the grass-root level, it
handles the matter un-influenced by any extraneous or irrelevant
consideration and wholly free from any outside pressure including
pressure from upper layers of service. To illustrate, even the*

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district judge, though an administrative superior of a civil judge (Junior Division) cannot interfere when the proceedings are before the Civil Judge except when he hears any appeal or revision. If he interferes when the court of Civil Judge is seized of the matter, a charge of contempt may as well be made against him. In the Administrative hierarchy, a superior officer can give direction to the inferior officer even with regard, to matters which are being dealt with by him. This is the basic difference between a hierarchy of officers in the Executive and the hierarchy of officers in the judiciary. Therefore the word, 'subordinate' which implies a sort of subordination of one to the other which may inhere or give rise to an inference of something akin to command obedience relationship has to be avoided as far as possible. Undoubtedly, we are conscious of the fact that even the Constitution uses the expression subordinate courts'. The court structure being pyramidic and hierarchical in character may tolerably be described in relation to a superior as subordinate court. But, as far as the designation of judicial officer is concerned, every attempt must be made to avoid that word. Therefore, it would be proper to devise a uniform designation for the entry cadre." L A W

(emphasis added)

Further, paragraphs 5.1, 5.88 and 5.89 of the report of 1st National Judicial Pay Commission for the Judicial Officers submitted by the committee headed by Justice K. Jagannatha Shetty and accepted by the Apex Court are very relevant on this aspect which read thus:

"5.1. The Judges of the District Courts and the Courts subordinate thereto, are generally termed as Subordinate Judicial Service. Even the relevant Rules of Recruitment refer to them as "Subordinate Judicial Service". The word "subordinate", in our opinion, is not an appropriate word prefixing the "Judicial Service". The word "subordinate" conveys not only the state of being subordinate, but also indicates 'inferiority' in

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status, position, rank or order. It also indicates an act of submission and obedience to authority. These Judges function independently in judicial functions, though they may be under the control of the High Court in matters of administration. But that does not justify their being branded as "Subordinate Judicial Service".

(emphasis added)

" 5.88. In fact, some of them have expressed the view that the nomenclature proposed by the Commission is better and more dignified and it does not create a feeling of inferiority or superiority among the Civil Judges. The President of the Delhi Judicial Service Association is exhilarated about the suggestions of the Commission and he has stated that the proposal of the Commission is more graceful and better-phrased and it removes the doubts created among the litigant public treating the Civil Judges as Junior and Senior which gives an impression of one is subordinate to the other".

"5.89. In the premise, we suggest that hereafterwards, Civil Judge (Junior Division) be termed as Civil Judge and the Civil Judge (Senior Division) as Senior Civil Judge".

Hence, an appeal to all of you is to describe the Courts in Districts as District Courts or Trial Courts, as the case may be.

You are hereby requested to kindly circulate this communication to all the Judicial Officers in your district/unit.

BY THE DIRECTION OF HON'BLE THE CHIEF
JUSTICE

(Mohamed Ashraf Aris)

Secretary to Hon'ble the Chief Justice