

TRAINING OF MAGISTRATE –STRATEGY

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For any system to work effectively It is essential that the persons who operate the system are efficient and enthused. Where the system is not rigid or mechanical, the role of the operator becomes all the more determinative of the effectiveness of the system.

In Judicial system the mechanism consisting of the laws and rules, is sufficiently malleable, allowing substantial play in the joints by providing judicial discretion whereby a Judge can decide how to act unconstrained by rigid rules. Its effectiveness therefore is essentially dependent on the Judges, who administer the laws.

This conclusion though scientifically deducible, has also been recognised by the scholars in the field of law.

“The ultimate guarantee of Justice in a court of law is the personality of a Judge, said Ehrlich.

Roscoe Pound also was of the opinion that the quality of justice is dependent more on the quality of Judges, than on the laws that they administer.

Lord Denning in 'Road to Justice' said, 'It is no use having just laws if they are administered by bad judges or corrupt lawyers. A country can put up with laws that are harsh and unjust so long as they are administered by just judges who can mitigate the harshness or alleviate their unfairness'.

Therefore the Judge who administers laws is the critical factor in the effectiveness of administration of justice and any endeavour to improve the criminal Justice system has therefore to consider not only rendering the laws more just and effective, but has also to see, more importantly, that the human component of the system which operates the laws is made more effective, by being better equipped and motivated to dispense robust substantial justice.

Training is a well accepted strategy for preparation or development of human resource in organisations. It has been accorded an important niche in the discipline of personnel management. There is no need for a justificatory prelude to any suggestion advocating use of training for improving the performance of personnel in a system.

Training is meant, initially to provide all the necessary equipment needed for performance of a job and subsequently to periodically refurbish the baggage of the incumbents especially when there is a change in the job, or new tasks are added or any new method of performance evolved. It is also used to plant new ideas so that the operator can use them if they provide a better alternative.

In-Service training in addition to orienting the personnel for performance of changed roles or tasks also affords an opportunity to the judge to be exposed to the methods used by other judges and to reassess their own methods for their effectiveness. They can also discuss their problems with their peers to evolve a solution to the problems faced. It is more important in the training of judicial officers and judges who usually work alone as such and never get any opportunity to watch any other judge performing.

In India realisation for the need to train judges, though expressed almost 70 years back in the report of Chief Justices (Rankin) Committee and periodically reiterated has recently been given affect to and some training Institutions established in some States. An all India Judicial Academy has also been established a few months back and it is hoped that in due course of time all the judges at all the levels will have the benefit of training. The main issues which have now arisen and face the managers of training are the content of training and training methods.

TRAINING NEEDS

To find whether a person who is selected to perform as a Magistrate has all the equipment needed to perform as such, requirements of the job have to be collected. The various jobs which a selectee may be required to perform within the next 5 to 7 years have to be identified. Each of the jobs is analysed to find various tasks required to be performed in that job. Tools necessary for performance of each of the tasks is found out in terms of knowledge skill and attitude. These aspects of the equipment for each task put together will give the requirement for that specific job. A person has to have this expertise to perform effectively.

In an ideal criminal justice system if any crime is committed the police should record it, and investigate and find the real culprit. The courts should then convict all the persons who did actually commit crimes and the legal response should be so selected that the convict is corrected and rehabilitated in the society.

A man who is selected to function as a Magistrate is a law graduate and as directed by the Supreme Court recently, has to be enrolled as an advocate for at least three years standing.

Knowledge, skill and desired behaviour, If any acquired during this period of education and experience has to be discounted from the expertise needed for performance found on analysis of job content. The gap in the training need, to be filled by training.

A detailed exercise, consisting of collection of job requirements, their analysis, and empirical material is necessary to deduce the expertise needed for performance. To demonstrate the gap, If the process of accepting evidence is considered, a Magistrate, in addition to the law regulating the process, the principles of relevancy and admissibility, must also know the principles of communication, should have the skill to use them to optimise flow of information, and should be sensitised to the socio-economic milieu of the witnesses and their problems to understand them correctly and should have firm belief in dignity of human beings, Absence of these attributes creates barriers to effective communication.

The entire judicial system works on Information, received, analysed and tested for acceptance, Yet no law school teaches effective receipt of information, principle, skills or the mental traits conducive to its receipt.

After trial a Magistrate has to award a sentence or deal with the convict under Probation of Offenders Act, or in case he is functioning as a part of Juvenile Court to consider the various alternatives provided. A Magistrate is totally innocent of the purpose of this exercise and the end sought to be achieved. No study is made available to him about the impact of any of the alternatives available to him for their effectiveness in correction or even deterrence. The skill to assess the individual convict with his socio economic background to diagnose nature of his criminality and to evaluate each of the terminal responses with a view to select one, or the severity of one as would be effective in a given case, is not imparted to him. Nor is any attitude inculcated for him to apply himself to so act as to ensure correction and rehabilitation.

These are only two of the numerous tasks a Magistrate has to perform in discharge of his duties. A detailed analysis of his job will disclose many more areas of operation of a Magistrate as cannot be effectively handled with only the equipment made available to him in the law school or during the practice for the first three years.

In no Institute or Academy has an attempt been made to use the available scientific techniques to chart out the training programmes. Only needs perceived by the managers of training are taken into account and for filling those also only knowledge or information is supplied in addition to some skills. No training is imparted to inculcate appropriate attitudes except when some senior member of the judiciary delivers lectures to the trainees about some desirable behavioural traits, These suggested attitudes are only some of the behavioural traits needed for effective function while many more important ones are talked about. They can be uncovered only by persons who know about behavioural sciences. And would be presently seen lecture is the least effective mode of inducing attitudinal changes.

Thus for any training for equipping Magistrates for effective performance, training needs have to be deduced scientifically by first analysing the job content and finding the expertise needed for performance of each of the tasks, In terms of knowledge skill and attitude. The expertise available with the inductees, has to be discounted and the remaining expertise will indicate the gap which has to be filled by training.

Training needs having been identified the next important aspect of training is to identify effective vehicle for communication of each of the need.

In all the judicial traings only lectures are used. Only sometimes exercises in writing judgments are conducted. Even in delivering of lectures sometimes the speakers read out a prepared lecture. It may be pointed out that lecture is meant only to communicate information. It is ineffective mode of transference of skills or inducing attitudinal change, and is retained only in part.

Describing utility of lecture method it is said, "Since it does not, demand active involvement of participants, it is largely unsuited to the teaching of skills which require practice. It is also of limited value in promoting behavioural or attitudinal changes which is a large part of management development. It is very difficult to convince anyone by merely talking at them: attitude are changed best when people convince themselves". (As introductory course in teaching and Training Methods for Management Development. An I.L.O. Publication).

A lecture read out is less effective than the trainees themselves reading those pages, as all the trainees do not listen to the entire lecture, and have no means to catch upon what they missed. In lectures after about 45-50 minutes the receptivity reaches a very low level. Lecturers even where necessary have to be aided by discussions and visual aids. The law graduates having prepared for competitive examinations have adequate information about law. It is therefore the less important input in any induction training. Information about other allied disciplines has to be imparted by lectures duly laced with discussions and training aids. More important are skills needed to apply those laws and other skills necessary in the job. Case study, incident methods, role plays exercises, group discussions are some of the methods effective to develop the skills.

Training to bring about change in attitudes is the most delicate, and most important part of training. A knowledgeable and skilled judge may not deliver justice as robust as delivered by a judge who is sensitized and enthused to administer justice. This part of the training is usually left in the hands of experts in sensitivity training. The trainees are made to realize the need of desirable attitudes in response to the problems of contract groups.

Behavioural training is different from other aspects of training in as much as person already has a behavioural pattern, the training is a twin process of erasing undesirable traits and then inducing the desirable ones. While information and skills are merely added to the existing baggage, attitudes have to be replaced. In this process making a person realise the need to imbibe new attitudes is the more difficult one. This process, called defreezing, is easier realised when a person enters a new profession. He at that time is in the look out for a manner in which to behave. If therefore the behavioural training is attempted at the very threshold of a person's career, it is likely to be most effective, as the trainee would be more willing to accept new values and traits.

If the training has to be effective and have a real impact on the quality of just icing not only should it be scientifically structured but also communicated through an appropriate training method.

Other important matter to be kept in mind is the sequencing of the training inputs. It has always to be seen which input should precede the other. More importantly the training should be conducted in intellectually free, and open environment. The trainees should feel free or even induced to ask question. Otherwise the trainees will not intellectually accept the communication detracting from its effectiveness.

As has been discussed above what is the equipment needed for a task, and what equipment has been gathered by a set of persons while studying for a law degree or practicing for two or three years, is a matter which can be known only after collecting empirical evidence and analysing it. What is the experience in terms of knowledge, skills or attitudes gathered during a specified period of practice will vary with the individual and also with the ethos at the bar which may change with the time and the place, and other variables.

It would have therefore been appropriate to permit personal management scholars to have found after collection of empirical evidence whether the baggage collected during this period does in any manner fill the job requirements of a Magistrate instead of a direction being issued by the court not only taking over the function of a management analyst but also preempting any scientific enquiry into the matter.

Every training is a component of an endeavour to render a system more effective. To have a real impact it has to be supplemented by a research cell to study the defects of the existing system and in working of the system so that the training can try to correct to defects in operation. Research can also work out better methods of working which can be introduced into the system by training. It can also monitor the impact of training so that the training, in content and method may be improved. If any debility, is found in either.

During training the officers are also exposed to the actual working of the courts and offices so that they can visualise the relevance of a training input in context of actual work to be done by them.

After initial induction training, the officers should be permitted to work in court for a period of 3 to 6 months after which period they should again be called to the institute for a week or two. During the initial period of working they may come across various problems which they had not foreseen, and the training not given or even if given was not taken seriously. This programme can resolve all the problems which were faced by them in the court during 3 to 6 months working. It would also reinforce the learning induced in the initial training.

Training as distinguished from teaching is a pragmatic process, and is constantly reviewed in content and mode of delivery to fill all the chinks in the armour of the trainees, needed for performance. The content can be changed even during the course of a session if it

is found that the proposed content is already available with the trainees, or some aspect of It which was not planned to be conveyed needs being Informed about.

One important step in the direction is to get a feed back from the trainees at the end of the programme to know whether they found the content of each of the sessions relevant and useful for their task, and whether It was effectively communicated. The response should be totally free. Feedback should also be obtained from contact groups especially the superior officers about the change brought about and the areas still needing strengthening.

All this should be considered in correcting the content. and method, or even changing the speaker if necessary.

Every judicial officer is also manger. He manages his office and Infra- structural facilities, like preparation of copies, maintenance of record redressal of grievances etc. He has therefore to be exposed to the basic tenets of management of man. All this training has to be imparted at the entry point. However, no training keeps a man equipped for the entire career. With the explosion in Knowledge. new laws made incessantly and new interpretation being continually coming from the higher courts, a Magistrate would be rendered obsolete within a short time. With new techniques developing in regulating activities to render them more efficient it would be necessary to check the equipment and refurbish an officers baggage periodically at least once in five years.

These inservice training programmes may be projected at the officers having similar working situations generally or may update expertise in a specific task in which they are found wanting, or may be arranged for officers assigned to perform specialised functions like Juvenile Courts, economic offences, antipollution courts etc. Without any sensitisation about the purpose of the laws that they are to implement, creation of special courts does not have any effect on the handling of the cases and the special laws are also implemented like the ordinary penal provisions.

Judicial system has never been studied for Its effectiveness, to know how many guilty are acquitted or innocent convicted, but the perceptible symptoms show that the processes is dilatory and harassing. The higher courts being beyond the reach of a common man, the Magisterial Courts have to be made more effective.

It can be substantially affected by equipping the Magistrates better and enthusing them by training.

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