

In Re: A. Sundaram

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Court : Chennai

Decided On : Aug-21-1939

Reported in : (1939)2MLJ630

Appellant : In Re: A. Sundaram

Judgement :

Alfred Henry Lionel Leach, C.J.

1. The petitioner applies to be readmitted as an advocate of this Court. In August 1930, he was suspended from practice for misappropriation of moneys belonging to a client. On the 9th February, 1931, his name was struck off the rolls as the result of further misappropriation of client's money. He was adjudicated an insolvent on the 29th October, 1925. His liabilities were Rs. 90,000 and he had no assets. On the 11th April, 1938, my learned brother, Mockett, J., granted him his discharge on the grounds that he would be condemned to insolvency for life if it were not granted. The petitioner had no prospects of being able to pay anything to his creditors and the discharge was unopposed. In 1933 the petitioner applied to the Court to review its order striking his name off the roll of advocates, but the application was dismissed on the 29th September, 1933, by a Full Bench composed of Beasley, C.J. and Sundaram Chetti and Stone, JJ. In support of that application the petitioner filed three certificates of character two of them being signed by individual members of the Bar and the third being a joint certificate signed by 46 members of the Bar. The Bench refused the petition for two reasons. The first was that the Court required, before readmitting a person to the

profession, solid facts and cogent reasons, not merely the opinions expressed by gentlemen who had given the petitioner certificates. It was not enough to say that the petitioner was a fit and proper person for reradmission without stating the grounds on which the opinion was based. The second reason was that the petitioner was still an insolvent.

2. The petitioner has now obtained his discharge, but the first ground of the Full Bench for refusing to re-admit the petitioner still exists. The petitioner has filed three further certificates, but these do not carry the matter further. Since he was suspended from practice in 1930 the petitioner has had no employment. According to his statement in Court, he has throughout been supported by his daughter. Before the Court could re-admit an advocate who has been struck off the rolls for misappropriation the Court must be fully satisfied that the petitioner has fully regained his character and is fitted for re-admission into the ranks of an honourable profession. Mere opinion is not sufficient.

3. Here there are no cogent reasons for the Court holding that the petitioner has become fitted to be re-admitted as an advocate. He has not attempted to obtain any employment. In fact he has stated that he refused two offers of employment made to him. One offer was employment as manager of an estate and the other was employment in an insurance company. The re-admission of an advocate who has been struck off the rolls for misappropriation does not depend on the fact that he has been suspended or struck off the rolls for several years. He can only be re-admitted if he can show that he has become worthy to act as an advocate. In deciding such matters the Court has a duty to the public and where an advocate has been guilty of misappropriation it must be shown that there is no likelihood of such an offence being committed again. In view of the previous decision and the fact that the position is now the same as it was then except that the petitioner has obtained his discharge, I consider that the Court would not be justified in allowing this petition.

Mockett, J.

4. I agree.

Krishnaswami Aiyangar, J.

5. I agree.

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