

In Re: a Pleader

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Court : Chennai

Decided On : Jul-21-1947

Reported in : AIR1948Mad62

Appellant : In Re: a Pleader

Judgement :

Gentle, C.J.

1. This is an application by the petitioner, who formerly was a pleader, for restoration of his sanad and reinstatement as pleader. He was first enrolled as a First Grade Pleader in 1925. Upon complaint by a client to the learned District Munsif of Sattur, an enquiry was held into the conduct of the petitioner who had obtained, on behalf of his client, a sum of Rs. 568-2-0 and accounted to the client only for Rs. 100. The learned District Munsif reported that the petitioner had misappropriated the balance of Rs. 468-20. This Court, upon considering the District Munsif's report, found that the petitioner had been guilty of professional misconduct and directed the cancellation of his sanad and he was removed from the roll of pleaders. That was on 25th November 1940.

2. In support of the present application a number of affidavits have been filed to which a short reference is convenient. The petitioner, himself, expresses full regret and promises that, if his application is granted, there will never be farther cause for complaint against him. He also says that the amount which he misappropriated has been restored to the injured party.

3. The affidavits of the petitioner and of other deponents set out that following the order of this Court in 1940, the pleader for a period of one year 1940-41, was employed in the Office of Mr. D. Narasimhachari, a learned advocate in Madura; in the next year he was engaged at the Union Christian High School, Madura, as a teacher in English; in the following year he was employed as lecturer in science in the Madura College; and for three years thereafter, until the present time, he has been acting and employed as manager of the Yarn Merchants Association in Madura. There are affidavits deposed to by the learned advocate to whom reference has just been made; the Headmaster of the Union Christian High School; the Principal of the Madura College; and several gentlemen of position in Madura carrying on business as yarn merchants who have held office in the Yarn Merchants Association as Secretary, President and similar appointments. All the affidavits speak in high term of the conduct of the petitioner; those which deal with his employment during the last. three years as manager of the Yarn Merchants Association, testify to the honesty and integrity of the petitioner, that he has been entrusted with considerable sums of money for all of which he has accounted and that the books, which it was his duty to maintain, have been audited and have been found in every way to be correct and properly kept. Those affidavits add that, in the opinion of the, deponents, the petitioner has realized his position and has by his conduct, behaviour and integrity shown that he has regained the character which he lost when he was found guilty of misappropriation of moneys belonging to his client.

4. In an application of this nature, it has been pointed out in similar proceedings, the Court has to be satisfied, amongst other things, that the applicant has rehabilitated himself in such a manner that he is fitted to be re-admitted as a member of the honourable profession to which he belonged before he was displaced from it by reason of his conduct.

5. In the present instance I am satisfied that the petitioner has regained his lost character and has shown by his conduct that now he is fitted to be re-admitted and again to become a member of the honourable profession to which he belonged prior to 1940 and in my view this application should succeed.

6. I desire however to make one or two further observations. In several of the affidavits which were filed on behalf of the petitioner, there are statements to the effect that the deponents or others availed themselves of the assistance in legal matters of the petitioner; he gave legal advice and assisted in legal affairs. When this application first came before: this Court in April, it was adjourned in order that further affidavits should be filed dealing with the question whether the applicant had been remunerated for his services in giving legal advice and helping in legal affairs. Further affidavits have now been filed from which it is clear that such service was gratuitous and no fee was demanded by the applicant nor paid by the persons who were advised by him. That being the position here, no further observation is required regarding the applicant. But I do wish to say this: it is no ground to support an application of this sort to state that the applicant had advised friends or clients in legal affairs. The success or otherwise of an application of this sort must depend upon his character, reputation and behaviour and other matters regarding the applicant after he has been displaced from his membership as pleader from the roll. If, after ceasing to be qualified as a professional gentleman in legal matters, an individual nevertheless, to the utmost extent possible, continues to act for reward in legal matters and advises in such matters, that would be a very strong ground to refuse an application for reinstatement. It is clear that, having been ordered by the Court to cease to be a member of the legal profession, such individual cannot appear in Court; he could, of course, advise on law; but if he did so for reward, in other words, to the fullest extent possible he continued to act in a professional capacity, in my view that would be a strong ground to refuse to entertain an application for reinstatement.

7. For reasons I have given, in my view, this application should succeed and an order made as sought in the application.

Patanjali Sastri, J.

8. I agree.

Goyindarajachari, J.

9. I agree.

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