

In Re: Mukunda Lal Dhar

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Court : Kolkata

Decided On : Jun-07-1920

Reported in : 62Ind.Cas.831

Judge : Asutosh Mookerjee, Acting C.J. and ;Ernest Fletcher, J.

Appellant : In Re: Mukunda Lal Dhar

Judgement :

1. This is an application by one Mukund Lal Dhar for renewal of his certificate as a Pleader. He was enrolled as a Pleader on the 19th July 1907 and his certificate was renewed in the year following. He subsequently obtained an appointment in the Police service under the Eastern Bengal and Assam Administration and on his own application the following order was made by this Court on the 25th January 1909: 'The High Court is pleased, under Rule 32 of the rules relating to Legal Practitioners, to suspend him from practising as a Pleader for the period during which he may be employed under Government. It will be open to him to apply for permission to resume practice when he relinquishes that employment. Renewal of certificates during the period of suspension is not necessary.' On the 9th January 1920 the petitioner was discharged from Police service. On the 17th February 1920 he forwarded an application to this Court through the District Judge of Dacca for renewal of his certificate, so that he might resume practise. In this petition he stated that he was no longer in Government service. The District Judge thereupon directed him to produce a copy of the final order of discharge from Government service. He produced a copy, which stated that he had been discharged as

alleged. Thereupon, the District Judge recorded the following note on the petition. 'Order produced: The application maybe forwarded to the High Court as I see no reason why it should not be allowed.'

2. When the application was received in this Court, an enquiry was made as to the circumstances which had led to the discharge of the petitioner from the service of Government. It then transpired that the petitioner had been removed from the service of Government, because of the part he played in a criminal case. It is not necessary for our present purpose to deal in detail with the circumstances of that case. It is sufficient to state that the petitioner, who had been assaulted and stabbed in the house of a woman, was the complainant. On investigation by the Magistrate it was found that the allegation of assault was well-founded, but that the circumstances under which the event had happened were not as narrated by the complainant in the witness-box. There was consequently a conviction of the accused in that case, though not exactly on the basis of the story told by the petitioner. The Sessions Judge took the same view of the matter. The Inspector-General of Police, thereupon, held an enquiry into the conduct of the petitioner, and came to the conclusion that it was not desirable that ho should continue to hold the responsible position of an Inspector. But in view of the fact that he had done good work during his term of service, the Inspector-General thought that it was not necessary to dismiss him and that it would be sufficient to dispense with his services. When these facts were discovered on enquiry this Court, in its administrative department, thought it best to inform the petitioner that the matter must be determined judicially.

3. Thereupon, the present application was made and although the details of the circumstances which had resulted in his removal from the service were not stated in the petition, it was indicated that he had been removed in connection with the criminal case in question. As regards his conduct in relation to the criminal case, we are of opinion that though open to serious comment, it has not been proved to be such as would justify the refusal of the present application. The substance of the matter was that there was a divergence between the story outlined by him in the first information and his statement on oath in Court. He has, however, not been prosecuted for perjury and we cannot say with certainty that his conduct has been

such that he should not be allowed to resume his practice.

4. A different question, however, requires consideration. It is plain that in his first application to this Court for renewal of his certificate he did not state the facts which had led to his removal from Government service. We are of opinion that this was not the proper way to treat this Court and that it was incumbent on him to make a full and complete disclosure, as was laid down in the case of Abiruddin Ahmed, In re 8 Ind. Cas. 1108 : 38 C. 309 : 12 C.L.J. 625 : 15 C.W.N. 357 : 12 Cr. L.J. 22. If he apprehended that full disclosure might lead to the refusal of his application, his conduct is clearly reprehensible. On the other hand, if he thought that the Court need not know all his antecedents, his judgment was manifestly wrong. In either view his conduct is not calculated to inspire absolute confidence. We have anxiously considered the matter in all its aspects and we have come to the conclusion that although we need not exclude him from practising his profession for all time, the certificate should not be renewed at once. We direct that the certificate be renewed with effect from the 1st January 1921.