



CASE COMMENT: REJANISH K.V. V K. DEEPA

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INTRODUCTION

The case of Rejanish KV vs K Deepa ¹is a landmark 5-judge bench judgment wherein the Hon'ble apex court reshaped the way and the path to becoming a District Judge. The judgment does a splendid job in reinterpreting Article 233 of the Indian Constitution and overturned decades of precedent that had barred serving judicial officers from direct recruitment as District Judges. The Hon'ble bench rejected the previous approach of interpreting Article 233(2) of the Indian Constitution and introduced a doctrine shift in how judicial appointment to the district judiciary is understood. The Hon'ble bench in the recent judgment has decided to ensure equal opportunity and make sure that a candidate, whether a lawyer or a judicial officer, must have at least seven years of continuous experience. Furthermore, a uniform minimum age of 35 years has been set for all candidates.

FACTS

The facts of the case arose from the dispute regarding the recruitment procedure of the Kerala judiciary. Rejanish K.V., a lawyer with more than seven years of experience at the Bar, submitted for a position of District Judge via the direct recruitment category. Surrounding the simultaneously, he also sat for a test for a lesser judicial position (Munsiff-Magistrate). During the process of selecting the District Judge, Rejanish was named as a Munsiff (junior judge) at the end of 2017. Then, in August 2019, he was chosen for the District Judge role and took on responsibilities as District Judge; a rival candidate, K. Deepa, contested Rejanish's selection. The essence of the difficulty was that Rejanish was not a "practising attorney" on the date of his appointment to the position of District Judge, as he had become part of the judicial service in the capacity of a Munsiff by that time. The Supreme Court served as the basis for the Kerala

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High Court's decision. The earlier ruling by the court in *Dheeraj Mor v. High Court of Delhi*² (2020), wherein it was stated that the candidate must continue as an advocate until appointed to qualify pursuant to Article 233(2), annulled Rejanish's appointment as District Judge. Rejanish filed an appeal to the Supreme Court. Considering the significance of the inquiries raised, a three-judge panel of the Supreme Court halted the High Court's decision in 2021 and sent the issue to a bigger Constitution Bench to authoritatively determine the qualification of in-service judicial officers for direct hiring for District Judges.

ISSUES

1. Whether a judicial officer who has already completed seven years in the Bar, being recruited for subordinate judicial services, would be entitled to appointment as an Additional District Judge against the Bar vacancy.
2. Whether the eligibility for appointment as a District Judge is to be seen only at the time of appointment, or at the time of application or both.
3. Whether there is any eligibility prescribed for a person already in the judicial service of the Union or State under Article 233(2) of the Constitution of India for being appointed as a District Judge.
4. Whether a person who has been a Civil Judge for a period of seven years or has been an Advocate and Civil Judge for a combined period of seven years or more than seven years would be eligible for appointment as District Judge under Article 233 of the Constitution of India.

ARGUMENTS FOR THE PETITIONER

The petitioner states that in *Dheeraj Mor v. High Court of Delhi*, the court misinterprets Article 233(2) of the Constitution by stating that the requirement that an individual be currently an advocate or pleader renders the phrase "a person not already in the service of Union or State" completely unnecessary and redundant, which is unacceptable.

The petitioner relied on the judgment of *Rameshwar Dayal v. The State of Punjab and Others*,³ wherein it was held that an individual is no longer eligible to be appointed as a district judge after they are in judicial service. Additionally, a straightforward interpretation of Article 233(2)

² *Dheeraj Mor v. High Court of Delhi* (2020) 7 SCC 401

³ 1960 SCC OnLine SC 123

of the Indian Constitution stipulates that an individual must either be employed by the Union or State or serve as an advocate or pleader for seven years.

It is illogical and harmful to the administration of justice for the interpretation that forbids civil judges from being appointed as district judges right away. Without question, a judge would be more qualified for the role and have more expertise. Any exclusion under the relevant regulations would be a violation of Articles 14 and 16 of the Constitution. To be eligible for direct recruitment as a district judge, a civil judge does not need to meet any time or experience requirements. There is no such obligation in Article 233.

In any event, seven years of experience as a civil judge or a combination of seven years as an advocate and a civil judge would be adequate if this Court determines that such a condition is appropriate. In this regard, explanation (aa) of Article 217(2) of the Constitution is also cited.

The petitioner also cited the historic ruling in *Deepak Aggarwal v. Keshav Kaushik and Others*,⁴ in which he claimed that all of the petitioners had declared themselves to be advocates on the day they applied for the position of district judge through direct recruitment. As a result, the court in that case did not address the question of whether or not being an advocate on the date of application and appointment is a necessary criterion. Despite this, this Court ruled in *Deepak Aggarwal* that the candidate must still be an advocate on the application date for Article 233(2) to be applicable.

ARGUMENTS FOR THE RESPONDENT

Stare decisis et non quieta movere, which means “uphold decisions and not disrupt what is established,” is a principle that clearly relates to the present reference. The challenges posed by the current judicial officials are resolved by over sixty years of *stare decisis*. The directives issued by the Court in *All India Judges’ Association and Others v. Union of India and Others*,⁵ which state that a 75:25 recruitment ratio for district judges in all States, designating 25% for qualified advocates, are fully consistent with the decisions of this Court in 1960, 1965, 1985, and 1998. The term “service” has been understood to mean judicial service in the case of *Chandra Mohan*. The wording of Article 233(2) distinctly separates those who are currently serving, classifying them differently. The stated provision pertains only to individuals who are not part of the judicial system of the Union or the State. It does not outline a qualification

⁴ (2013) 5 SCC 277

⁵ (2002) 4 SCC 247

criterion for choosing in-service candidates strictly based on their having practised as an advocate for 7 years before their appointment. Once an individual joins the service stream, they cease to act as an advocate. A person working in the judiciary cannot at the same time work as a practising lawyer and is therefore not qualified for a position in the advocate quota.

The necessity of possessing seven years of experience pertains to an ongoing situation. Clause (2) of Article 233 of the Constitution does not explicitly mention direct recruitment for individuals currently employed. Should direct recruitment be considered, this Court would be interpreting the clause to include something that is not stated in it. It would create a conflicting scenario where, although qualifications for one source of direct recruitment are established, there are no qualifications for those currently in service. If direct recruitment for in-service candidates is interpreted within clause (2) of Article 233, it implies that any Civil Judge (even with just one day of experience) can apply for the position of district judge through direct recruitment. In the instance of Rameshwar Dayal, Harbans Singh and P.R. Sawhney, respondents therein remained advocates at all times following 15th August 1947 and persisted as advocates until they were appointed judges. Additionally, they had a duration of seven years.

JUDGEMENT

The five-judge bench concluded that Judicial Officers who completed seven years at the Bar before their recruitment in the subordinate judicial service would qualify for appointment as District Judge/Additional District Judge in the selection process for the District Judges in direct recruitment. The eligibility for appointment as a District Judge/Additional District Judge is to be seen at the time of application;

Although Article 233(2) does not specify qualifications for someone already in judicial service of the Union or State to be appointed as a District Judge, to ensure fairness, we mandate that an in-service candidate must possess seven years of combined experience as a Judicial Officer and as an advocate. An individual who has served in the judiciary or is currently serving, with a total experience of seven years or greater as either an advocate or Judicial Officer, is qualified to be considered and appointed as a District Judge/Additional District Judge according to Article 233 of the Constitution.

To maintain a level playing field, we additionally stipulate that the minimum age for consideration and appointment as a District Judge/Additional District Judge for both advocates and Judicial Officers will be 35 years as of the application date. It is argued that the perspective

established in the decisions of this Court from Satya Narain Singh to Dheeraj Mor, which contradicts what has been stated above, does not present the accurate legal principle.

CONCLUSION

In conclusion, the judgment of Rejanish K.V. v. K. Deepa holds a significant position in correcting the interpretation of Article 233, and resetting the structure of recruitment of the district judiciary. The five-judge bench opted out of the rigorous interpretation in Dheeraj Mor and kept Article 14 and 16 in mind by recognising that the prior Bar experience does not evaporate upon entry into judicial service. By holding that eligibility is assessed on the date of application, permitting aggregation of advocacy and judicial service to meet the seven-year threshold, and prescribing a uniform minimum age of 35 years, the Court established a rational, experience-centric standard that balances institutional competence with equal opportunity. This judgment provides great assistance in breaking an artificial barrier between the bar and the bench and tightens the talent pool for higher judicial positions, dismantling future uncertainty in direct recruitment to the district judiciary.