

All India Judges Association V. Union of India: The Justice or the Discrimination

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ABSTRACT

The Supreme Court of India reinstated the three-year minimum courtroom practice prior to the entry of Civil Judge (Junior Division) cadre in the recent judgement of All India Judges Association v. Union of India (2024). The ruling emphasises crucial concerns regarding equitable access to the fresh law graduates, women and marginalised aspirants mainly for the purpose of enhancing the competence and professionalism. This paper critically analyse the constitutional, practical, and policy recommendation of the decision comparing with the global perspective of judiciary examination process. Although the practical leaning is imperative, the rigid enforcement of the rule may result in exclusion and delayed access to judicial careers. This paper advocates the idea of harmonisation approach for the structured judicial training, skill-based evaluations and Equitable access routes. It ultimately questions the decision of the apex court that whether it serves the equity, fairness and justice or delays the entry of efficient and intellectual aspirants for the judicial recruitment.

Keywords: Judicial Recruitment, Supreme Court of India, Civil Judge (Junior Division), Equality, Article 14, Access to Justice, Legal Profession, judicial examination, practical learning.

Introduction

The recent ruling of All India Judges Association v. Union of India, the Supreme Court's full bench declare the minimum requirement of three years of courtroom practice as a mandatory qualification for entry into the Civil Judge (Junior Division) service. The three-years practice requirement aims to ensure that the judges must have practical experience that are efficient enough to take up their responsibilities. The bench noted that the appointment of fresh law graduates as a judge has led to various problems, as reflected in the affidavits submitted by the High Courts. However, ruling can be seen as reformative prima facie, but a deeper examination reflects various fundamental concerns that could happen potentially.

This paper acknowledges the justification behind requirement of the three-year practice for Civil Judge (Junior Division) appointments in India. It also examines the rationale, implication, and challenges of the mandatory ruling of the judgement and deals with whether the said requirement serves its intended purpose? Or country have to face the opposite consequences, especially for fresh graduates and marginalised aspirants.

Historical and Legal Development

India has undergone significant evolution for the requirement of courtroom practice as a mandatory condition to serve as Civil Judge (Junior Division). Generally, the State Judicial Services do not have any

bar to recruit young fresh law graduates to appear in the judicial services examination with no prior legal practice. Thus, this raised concerns regarding the competency and maturity of such young judges.

The Supreme Court, in the landmark case of All India Judges Association v. Union of India (1993) has recognised the importance of three years practice and also suggested three years of advocacy practice shall be mandatory for the entrants of Judicial Services.

This guideline was made mandatory to follow by all the states conducting Judicial services examination but by the time this rule was ignored or diluted, hence, SPSC continued the recruitment of fresh graduates which resulted inconsistency with the above judgement.

On 2024, once again in the history of judiciary again made shift from purely academic approach to practical approach which is landmark evolution done in the decision in All India Judges Association v. Union of India. In this ruling the supreme court reimpose the three-year minimum courtroom practice rule as a obligatory qualification for Civil Judge (Junior Division) across the country. As per the ruling of the court it will equip the candidate with professional soundness, enhance the judicial attributes and imparts the crucial understanding of courtroom procedures which aims for the efficient functioning of judiciary

Justifications and Policy Rationale of the Three-Year Rule

In the ruling of the case All India Judges' Association v. Union of India (the Landmark Judgment), Supreme court has reinstated the minimum three-years rule for the recruitment of Civil Judges of (Junior Division) where it provided the several justifications established through the policy measures, upholding ethical standards and public interests.

a) Importance of practical experience

The idea of Court is to emphasize is not only on legal education for judicial responsibilities but a candidate must have experiential learning with the court procedures, pleading, drafting, and trial advocacy which can be gained only through practice. The practical experience allows the deeper understanding and analytical mind of judiciary aspirants which ease them to face the potential challenges comes inside the court personnel.

b) Comprehending with functioning and environment of the Courtroom

The courtroom is a space not mere for the justice and legal interpretation but it is a complex place which involves human behaviour, emotions, ethics and strategy. A legal practitioner through practice becomes the well versed with vulnerability of litigants, and how Bar have the perspective about the justice. So there is a dual opinion or the multi-dimensional view of a particular case as well as courtroom which the Court while ruling the opinion was emphasising about.

c) Improving the standards and autonomy of the judiciary

The Experienced advocates demonstrate the qualities like understanding, decisiveness and confidence while making the decision in court. They can also maintain judicial autonomy and also less prone to exogenous factor. Hence, requirement of practice automatically generates the sense of professional discipline, courtroom etiquette and institutional respect.

Critique and Challenges of the Three-Year Practice Rule

The Judgement while aiming at ensuring the practical experience and competency of young judges, has also attracted significant critique and focused on the various challenges. The major concern is that this rule might hinder the career progression and dissuade potential of the newly recruited judges or to a candidates aspire to become judicial officers. Additionally, this obligation unequally affects women, rural

candidates, first generation lawyers and those who belongs to economically weaker section who might face difficulties in commencing or in surviving the uninterrupted legal practice due to social, economic, or financial challenges. Moreover, the non-standardised definition of practice, might lead to ambiguity this may result in vagueness and rejection of capabilities of young practitioners. The rule also negates the idea exam-based competence conducted by State Judicial Service Commission to a vaguely defined and uneven practical criteria.

a) Discrimination Against Fresh Graduates

This rule has a slight nature of arbitrary discrimination as it creates a sheer discrimination between law graduates and those has practice experience, which completely ignores the competency of many academically bright students. This recalls the Article 14 of Constitution of India which guarantees equality before law but the ruling in the current judgement seems to violate the very sense of the provision. As a result, it might discourage the many graduates from premier law institution (NLUs, Central Universities, etc.) from preparing for judicial services despite of possessing knowledge and calibre in the law.

b) Delayed Entry into Judicial Service

The aspiring judges might get affected by the three-year minimum rule of advocacy before entering into judicial services because it hurdles down their striving career. There are students who has the diverse interests when it comes to the litigation which may result in potential loss of productive early years of career. Moreover, initial years of litigation is full of hardships and challenges which offers no financial security that creates the economic burden specially those who are from less privilege backgrounds.

c) Challenges to the Rule

The rule declared by the Supreme Court has a several other challenges the most significant issue is that the states lack the uniformity to enforce any particular decision of Apex Court which result in confusion and inconsistent recruitment standards. Additionally, the rule has a ambiguity because the term “practice of law” includes internships, clerkships, or moot court experiences is still a matter of question. Moreover, the fresh recruited judicial officers have to go through vigorous training and induction process conducted by the State Judicial Service Commission, therefore, what is the stand of prior legal practice is not clarified.

Comparative Jurisprudence on the Three Years' Practice Requirement for Judicial Entry

Judicial Entry on other Countries:

United States:

In the U.S there is a distinct rule is divided in the hierarchy of Judges recruitment process but there is no uniform rule is determined for the judicial officer's selection. The Federal judges are appointed by the President, ratified by the Senate and the imperative qualification of these judges are their distinguish practice, academic knowledge or public service experience. Whereas, in State there is no such any criteria of legal practice to appear in the judicial exams for the fresh graduates. Basically, the U.S focuses on the merit and background of the aspirants rather than fixing practice duration.

United Kingdom

In the UK, the judicial appointments are done only after prior legal experience where the commission provides structured training system which do not have to be compulsorily practice, however, there is no fixed period is mentioned, but practical experience is incorporated in indirect manner. The UK basically follows training and vocational routes as there also a rule for the aspiring barristers must complete Bar Training Course (BTC) and one year apprenticeship.

Germany and France

These nation emphasise on academic efficiency and formal judicial training despite of practical courtroom experience as a legal practitioner.

In Germany, there is two-stage state exams followed by practical training (Referendariat) for qualifying into judiciary. In France, candidates after qualifying the competitive examination get enter into the École Nationale de la Magistrature (ENM) where they undergo rigorous academic and practical training.

Policy Recommendations on the Three Years' Practice Requirement for Fresh Judges

The ruling of the recent landmark case All India Judges Association v. Union of India needs a profound reconsideration, in terms of how it affects equitability, availability and functionality of the recruitment process of fresh recruitment of judicial officers. Even though the rule aims to promote practical experience and dynamism of courtroom practice, but its strict enforcement may lead to exclusion of numerous of talented and intellectual candidates- especially the candidates from marginalized communities.

It is a necessitate question to ask whether this mandate ruling enhances judicial quality or simple delays the entry of qualified fresh candidates. Thus, the judicial system must make a harmony between judicial decision made in lower court and fair access to judicial careers. The recent rule excludes potential meritorious candidate who lack practical experience due to geographical, social, financial and gender constraints impacting specially n women counterpart, first generation lawyer, rural aspirants and marginalized communities.

The nuance approach can be taken as:

- Aspirants can be evaluated on the basis of legal aptitude, critical thinking and ethical foundation.
- There shall be structured mentorship provided to the newly appointed judges with practical exposure to judicial work.
- During the ongoing legal service there shall be a mandate programs conducted for the professional development of fresh judges.

Also the policy could be:

- Reformed to allow equivalent legal exposure through becoming legal researcher in court, internships or by legal clerical work which will provide flexibility to the candidates.
- Restructured to replace the fixed time criterion with a competency-based evaluation.
- Removed entirely if adequate and rigorous post-selection training is ensured.

Conclusion

The decision of the landmark case All India Judges Association v. Union of India has turn the coin of history of judiciary aspirants recruitment by restoring the mandatory requirement of three-years legal practice prior to holding the position as a Civil Judge (Junior Division). Although, the intention behind this is reformatory which aims to establish competence, judicial efficiency, develop legal and behavioural maturity among fresh judges, nevertheless the blanket imposition of such rule has raised the concern of fairness, equitability and career availability within the judicial system.

This research paper evaluates both intellect and repercussion of the three-year practice requirement. On one hand, the rule strengthens the judicial system by equipping them with professional and analytical mindset by mandating the practical experience. On the other hand, it creates configurational barriers for many deserving candidates who are either women or belongs to underprivileged and economically weaker background.

The paper also covers comparative analysis of global judicial system, the countries like France and Germany focus on the formalising training program rather than mandating the practice, whereas the U.S and U.K follows the approaches based on academic merits of the candidate unlike practicing in the court. This overview defines that the standards of judiciary can be maintained without imposing the rigid requirements by Apex Court providing the strong training and establishment of evaluation mechanisms. Therefore, policy reform is necessary, the practical experience and fairness with the judicial careers of the candidate must be harmonise. Additionally, role of legal researcher, clerkships, induction training, and internship must be promoted by the judicial system which can serve as a effective substitute for traditional practice requirement. Ultimately, the aim of system should be not only to strengthen the judiciary by practically awarding the fresh hired judges but also to uphold the doctrine of equality under Article 14 of the Constitution of India, competency and access to justice. The focus should incline towards the dynamic and supportive structure that foster potential, fair representation and promotes judicial excellence through mentorship, rigorous training program and perpetual professional development. It is only in this way the judiciary can uphold its democratic ethos and pursuit of social justice in a narrower as well as broader way as outlines in the Constitution of India.

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