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Case Comment: All India Judges Association v Union of India - Analysing the Impact of the 3-Year Practice Mandate on Judicial Access for Marginalised Law Graduates

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INTRODUCTION

Guardian of the Constitution of India, i.e., the judiciary, plays a pivotal role in delivering justice while protecting civil liberties as well. The judiciary is related to the common people on a day-to-day basis, and hence anything happening with the judiciary affects the lives of citizens directly. Judicial recruitment, therefore, must uphold the ideals of equity, integrity and accessibility. The recent decision¹ by the Hon'ble Supreme Court for a three-year mandatory practice as a prerequisite to appear for the judiciary sparked a significant debate regarding appointment. Even if the Supreme Court intends to ensure that judicial officers possess practical experience but this rather be helpful may create a restrictive impact, especially on marginalised law graduates. This prerequisite inequitably affects students from underprivileged socio-

¹ *All India Judges Association v Union of India* (2010) 14 SCC 706

economic backgrounds, first-generation lawyers, women, and also those from non-metropolitan or under-resourced law colleges, who often lack the structural and financial support to sustain years of low-paid or sometimes unpaid litigation work. In spite of nurturing judicial excellence, the rule risks inequality within the legal system by limiting access to the judiciary for those who need much more attention as compared to the rest of society. The approach needs to be more flexible so as to uphold merit, equal opportunity and diversity in judicial recruitment.

BACKGROUND OF THE CASE

The current case revolves around the structure and eligibility criteria for appointment in the lower as well as higher judiciary. In 1991, the major concern before the Hon'ble Supreme Court was regarding judicial pay and working conditions. In the All India Judges Association case, the First National Judicial Pay Commission was established by the recommendations of the Shetty Commission, chaired by Justice K.J.Shetty. By 1993, the Supreme Court observed that the aspirants must have at least three years of advocacy practice to be eligible for entry into the lower judiciary. This rule was applied across states. By the time this practice was found to be detrimental, many brilliant advocates moved towards the private sector or lost interest in applying after three years in the judiciary. Swayed by this matter, the Shetty Commission recommended the removal of the mandatory three-year practice. It also suggested recruitment to the Higher Judicial Service through 75% promotion and 25% direct recruitment from the Bar. The Commission's report was submitted on 11th November 1999. Further, in 2002, the apex court accepted many of the Shetty Commission's recommendations. It directed High Courts and State Governments to change certain rules and allow fresh law graduates to appear for judicial service examinations with a mandatory training of a year or so. The 25-75% division in the higher judiciary was upheld, adding a promotional quota with a further split of 50% merit cum seniority and 25% via LDCE, for civil judges with a minimum of five years of service. By 2010, the apex court ruled to reduce the quota from 25% to 10% to maintain the functionality and efficiency of judges².

In totality, the All India Judges Association cases have illustrated a great evolution through the years regarding the recruitment policy, institutional efficiency, etc.

² 'History of All India Judges Association' (*All India Judges*) <<https://allindiajudges.org/about-us>> accessed 02 July 2025

ISSUES

1. Whether the LDCE quota should be restored to 25% as per the 2002 All India Association³ judgement.
2. Whether the minimum requirement of experience is to be restored, and by how many years.
3. Whether a merit-based quota for promotion should be introduced.
4. If so, by what percentage, and what is the minimum experience required?
5. Whether the quota for departmental exams should be based on vacancies in a given year or total cadre strength.
6. Whether a test is to be introduced for promotion under the merit cum seniority quota.
7. Whether the earlier requirement of 3 years of practice for Civil Judge entry, which was abolished in 2002, should now be restored? If yes, by how many years?
8. If restored, whether the practice requirement be calculated from the date of provisional enrollment or the date of passing the AIBE(All India Bar Examination)?

OBSERVATION OF THE SUPREME COURT

The Hon'ble court observed that the existing quota of 10% for promotion through LDCE (Limited Departmental Competitive Examination) to the cadre of District Judge must be reconsidered. While some High Courts maintained the current structure, others preferred to support restoring the quota to 25% (as recommended in the Third AIJA Case). One thing that has to be noted is that even those who were supporting the 25% quota proposed that the unfilled seats be reverted to regular promotions within the same year. The Court emphasised that a higher LDCE quota may serve as an incentive for meritorious Civil Judges and also seek early promotion, especially given the low eligibility due to the current five-year experience requirement. The Court observed that many Judicial Officers become eligible for promotion by the time they complete five years, meanwhile making LDCE less appealing. Hence, it was observed that the eligibility should be

³ *All India Judges Association & Ors v Union of India & Ors* (2002) 4 SCC 247

revised to enhance the scheme's effectiveness. Correspondingly, to incentivise merit from the Civil Judge (Junior Division) level, the Court observed that the need for a 10% merit-based promotional quota to the Senior Division through LDCE, with a minimum experience of three years. Another observation contains the widespread appointment of fresh law graduates without Bar experience, because of which the Court observed that fresh appointees lack courtroom experience and the necessary judicial temperament, along with the hands-on legal exposure to legal practice, interaction with litigants and court systems.

JUDGEMENT

The judgment was delivered by a bench led by the Hon'ble Chief Justice of India, Justice B.V. Gavai, along with Justice A.G. Masih and Justice K. Vinod Chandran. The apex court restored the LDCE quota for promotion from 10% to 25% and allowed any unfilled posts to revert to the 65% regular promotion quota in the same year. 'This Court therefore directed that, for the said purpose, the High Courts should devise and evolve a test to ascertain and examine the legal knowledge of those candidates and to assess their continued efficiency with adequate knowledge of case-law. This Court further directed that the remaining 25% of the posts in the service 13 shall be filled up by promotion strictly based on merit through LDCE. This Court further directed that, for being entitled to appear in the said LDCE, the qualifying service as a Civil Judge (Senior Division) should be not less than 5 years. This Court therefore directed the High Courts to frame the necessary rules to implement the aforesaid directions.⁴ The cumulative experience mandate became seven years for the senior and junior divisions, also the eligibility experience for LDCE was reduced from five years to three years. To promote merit in early judicial careers, the Court mandated a 10% quota in the Senior division to be filled through LDCE among Junior division judges with three years of experience. As far as the calculation of quotas are concerned, the court ruled that the percentage should be determined based on the total cadre strength, and this would help in ensuring uniformity across States. Likewise, it also directed the subordinate courts to frame and review rules for determining the 'suitability' for promotion within the bracket of 65% regular quota. The court also focused on issues like quality judgment, legal knowledge and experience. Furthermore, the Court reintroduced the minimum three-year practice requirement to appear in the Judicial Service exam for the Junior division. The period of experience should

⁴ *Ibid*

begin from the date of provisional enrollment, not from the AIBE result. Verification would be made by the certificates from senior advocates and judicial officers. Clerkship experience would also be accepted.

ANALYSIS

There may be a risk of creating fake certificates from connections or relatives, but this will affect the very purpose of implementing the practice. It is difficult to identify if the candidate has seriously done the practice or just faked the certificate. The opportunity to give exams will be waived for many candidates, especially those from marginalised communities. Candidates who bear the responsibility of supporting their families from a young age may be compelled to postpone suitable career opportunities due to this mandatory rule.

Since the judiciary is not an all-India Service and hence the notification differs from state to state, creating further delay for the candidates to give exams. There would be no difference between students who gave the CLAT (Common Law Admission Test) and those who didn't, even after competing on a large scale with the meritorious students around the country; the candidate would not gain any advantage. If the mandatory practice were done after qualifying for the exam, it would create a sense of job security.

CONCLUSION

In this case, the Hon'ble court reinstated key reforms to enhance the efficiency, merit, as well as quality of judgment by the young judges. It restored the 25% quota for judges, reduced the required service for eligibility, introduced the merit-based promotion and also re-imposed the minimum three years practice rule for appearing in the exams. These measures are to strengthen the judicial quality by balancing the performance with experience, but they may also risk excluding capable young graduates. The reform reflects a broader effort to professionalise the judiciary, but its long-term success will depend on equitable implementation and ongoing evaluation.