

MANU/BH/0001/1962

Equivalent Citation: AIR1962Pat1

**IN THE HIGH COURT OF PATNA
FULL BENCH**

Misc. Judicial Case No. 395 of 1961

Decided On: 10.08.1961

Appellants:**In Re: Mahabir Prasad**

Hon'ble Judges/Coram:

S.C. Mishra, H.K. Chaudhuri and K. Dayal, JJ.

Counsels:

For Bar Council: Rama Kant Verma, Adv.

ORDER

1. This is an application by Sri Mahabir Prasad Singh, Librarian of the Bihar Legislature Library for enrolment as an advocate of this Court. He has prayed in his application further that he may be excepted from the operation of Rule 2(1) of the Rules framed by the Bar Council laying down the conditions under which a person is to be enrolled as an advocate. That rule requires training of the applicant for one year in the chambers of an advocate on the roll of this Court whose name appears on a list prepared by the Bar Council and approved by the High Court or that he has read in chambers with a Barrister in England whose name is approved by the Inn of Court to which the applicant belongs and has secured a certificate from such advocate or barrister of his having undergone the training and acquired efficiency, apart from, the requirement of the necessary law degree.

Under Rule 11, however, it has been laid down that the High Court may in special cases after consulting the Bar Council exempt any candidate from all or any of the requirements of the Rules framed under Sections 9 and 15 of the Act, and, on such exemption being granted, the said candidate shall be deemed to have complied with the Rules. The applicant has stated in paragraph. 7 of his application that he joined service as a Librarian of the Bihar Legislature Library in 1930 and has ever since been engaged in finding out references to Bills, Acts, Ordinances and Regulations and Rules, Rulings and Debates thereon, and, in general, study of books on constitution and law. Although he joined service in 1930, he obtained the degree of law in 1945. These are the grounds of exemption put forward by the applicant and his familiarity with law in form referred to above.

2. The Bar Council on a consideration of the grounds made out in the application has concluded that the applicant's engagement as a Librarian being only in the form of finding out references to Bills, Acts, etc., even his statement of general study of books On constitution and law would hardly be sufficient ground for granting exemption. The reason for the rule insisting upon an applicant for reading, in the chambers of an advocate or barrister for a period of one year is principally to familiarise him with, the procedural law before he can be enrolled as an advocate of this Court. A person, who merely finds out reference to Bills, Acts, etc., cannot be held to be a person who has done anything to familiarise himself with the procedure

of the Court, or even that he has had occasions in the past to apply his mind in the course of his occupation to study law and judging upon the applicability of certain provisions of law or rulings of the Court to certain set of facts and circumstances.

3. In the result, therefore, it cannot be held that the applicant as a Librarian of the Bihar Legislature Library was doing something which might entitle him to exemption from the operation of Rule 2 (1) of the Rules framed by the Bar Council. The Bar Council not having recommended exemption, it has been referred to us for deciding exemption to the applicant from the operation of Rule 2 (1).

4. The applicant does not appear to put forward his point of view before us. As it is, however, Mr. Ramakant Varma has appeared in support of the opinion of the Bar Council. He has contended that the applicant cannot be granted exemption. He has referred to the reasons mentioned in Misc. Judl. Case No. 895 of 1959, In the matter of an application for enrolment of Sri Badrika Nath Saran (Pat). He has urged that the ground of exemption approved by the Bench hearing that reference is that if the applicant has had a long contact with the Courts of law and law, he may be excepted from the operation of Rule 2 (1), and the applicant may be enrolled as an advocate without having to undergo a period of training for one year in the chambers of an advocate approved by the Bar Council.

In our opinion, although the decision referred to above does not circumscribe specifically the circumstances in which exemption may be granted, it may well be that, apart from a long contact with law and law courts, if a suitable case is made out for exemption from the operation of Rule 2 (1) the same may be granted. But in the context of this case we have to decide whether sufficient ground has been made out by the applicant for such exemption. In our opinion, the Bar Council was right in refusing exemption from this rule inasmuch as what the applicant was doing does not amount to applying his mind to the critical examination of the contents of an Act Or any legislative provision or, for the matter of that, very much less to applying the rulings of law Courts to the facts of the case. In the course of his service as a Librarian his duty was to find out references to Bills, Acts, etc. and also rulings and debate in the Legislature, but not to apply his mind to a consideration of the applicability of a particular provision of law or rulings to the facts of the case.

In the case, Abdul Aziz, in the matter of an application for enrolment as an advocate, Misc. Judl. Case No. 631 of 1960, D/- 9-9-1960 (Pat), it was laid down by this Court that exemption as prayed for could not be granted although he claimed exemption on the ground that he had practised as a pleader for some time before he was appointed as a translator of this Court, and even in the latter capacity he was dealing with matter of law. The ground for rejection of the prayer for exemption was that the duty which he discharged as a translator did not involve application of the law to the facts of a case. In our opinion, the duties of the present applicant are almost at par with the duties of a translator of this Court, and, in our opinion, the Bar Council was justified in refusing his prayer for exemption from the operation of Rule 2(1) of the Rules framed by the Bar Council.

If the applicant were present here in per son or through an Advocate to place his case for exemption, we might have been inclined to consider whether the period of training required to be undergone by the applicant in this Court be reduced. In the absence of such a prayer, it must be held that the applicant must fulfil the requirement of Rule 2 (1) before he is enrolled as an advocate of this Court.

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