

MANU/BH/0107/1955

Equivalent Citation: AIR1955Pat418, 1955(3)BLJR271, 1955CriLJ1282

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

Misc. Judicial Case No. 192 of 1953

Decided On: 31.03.1955

Appellants:**In Re: Maneck Homi**

Hon'ble Judges/Coram:

Rai, Sinha and Khaleel Ahmad, JJ.

Counsel:

For Appellant/Petitioner/Plaintiff: R.S. Chatterji and N.N. Roy, Advs.

For Respondents/Defendant: Govt. Pleader

JUDGMENT

Rai, J.

1. The petitioner, Mr. Maneck Homi, has filed this application for renewal of his licence to practise as a pleader at Jamshedpur within the jurisdiction of this Court.

2. The petitioner got his degree of LL. B. from the Bombay University in the year 1914. In 1917, he was enrolled as a pleader in the district of Surat. In 1926, he transferred his practice to Jamshedpur. During his stay at Jamshedpur, Mr. Homi became interested in labour activities. In 1929, he became the President of the Labour Federation of the workers of the Tata Iron and Steel Company Limited, Jamshedpur. In June, 1930, Mr. Homi was convicted under Section 506, Penal Code, and was awarded rigorous imprisonment for six months.

His conviction and sentence were upheld up to this Court. In December, 1930, he was convicted under Sections 324/109 and 148/109, Penal Code, and sentenced to undergo rigorous imprisonment for one year and was further directed to pay a fine of Rs. 500/-. In February, 1932, he was convicted in another criminal case. This time his conviction was under Section 408 read with Section 477A, Penal Code. During this trial, he was awarded sentence of three years rigorous imprisonment and a fine of Rs. 1,000/-.

In 1930-31, there was another criminal case against him in which he was convicted under Section 420, Penal Code, and awarded a sentence of one year's rigorous imprisonment by the Courts within the State of Seraikella. In November, 1935, Mr. Homi was released from jail having remained there since August 1930 to November, 1935. In 1936, he filed an application to the District Judge for renewal of his licence to practise as a pleader at Jamshedpur, but he did not pursue it. He thereafter, left for his native place in Bombay Presidency.

In 1946, he was sent to America by the Government of India as an Indian delegate to the Iron and Steel Committee of the International Labour Organisation and stayed there for about a year. On 27-9-1948, Mr. Homi filed an application before the High

Court for renewal of his licence. On 29-4-1949, this Court, on its administrative side, refused to renew his licence. Mr. Homi was, however, informed that it was open to him to move this Court on its judicial side. Thereafter, in 1953, Mr. Homi filed the present application.

3. Learned counsel for the petitioner contended before us that the conviction of his client was not due to his having committed any offence in connection with his professional career as a pleader. According to him, the several prosecutions were the outcome of his activities as the labour leader of the locality and were actuated by those who wanted to suppress his activities. Mr. Chatterji pointed out that the conviction of his client under Section 408/477A, Penal Code, was due to his having drawn an honorarium of Rs. 1,000/- per month without obtaining any sanction at a general meeting of the labourers.

He next urged that though in Money Suit No. 2 of 1930, a decree for Rs. 17,000/- was passed against his client, nobody came forward to execute that decree. On the contrary, some time after his release from jail, Mr. Homi was re-elected as the President of the Federation which showed that the workers had not lost any confidence in him in spite of his previous conviction.

4. As to the conviction of Mr. Homi by the Seraikella Courts, Mr. Chatterji submitted that no serious notice should be taken of that judgment which was more or less the judgment of a family tribunal. He also pointed out that the alleged offence of his client lay in taking Rs. 5/- from the complaint on the assurance that he would get his rent remitted by the landlord, Mr. Chatterji contended that the appropriation of Rs. 1,000/- per month as his honorarium according to the decision of the managing committee of the Labour Federation without the same having been approved at a general meeting of the labourers or accepting Rs. 5/- from a client of Saraikella State may be due to error of judgment on the part of Mr. Homi but they do not furnish instances of such lapses on his part which may disentitle him to get his licence renewed; more so when his career has been free from any such blemish during the years following his release from jail.

5. Mr. Chatterji, thereafter, drew our attention to the following rule incorporated in the General Rules and Circular Orders of this court:

"If any person having been admitted and enrolled as a pleader or Mukhtar shall neglect to take out a certificate, or, having obtained a certificate, shall fail to renew it for a period of three years, he shall be suspended and shall not be entitled to receive a certificate, or to have his certificate renewed, without further orders of the High Court".

I was under this rule that this Court had, on its administrative side, refused to renew the licence of Mr. Homi. Mr. Chatterji further submitted that in spite of such a refusal, his client was entitled to move this Court on its judicial side for reconsideration of his case. He urged on the strength of decisions in the cases of 'In re, H. A. Vakil Banda' MANU/UP/0439/1934 : AIR 1935 All 321 (FB) (A); In the matter of an Advocate MANU/MH/0078/1936 : AIR 1937 Bom 48 (B), 'In the matter of a Fieader', MANU/TN/0340/1947 : AIR 1948 Mad 62 (FB) (C) and 'In re, Sri Ram Gautama' AIR 1949 EP 83 (D) that the licence of his client should be renewed. He argued that since after the first batch of the convictions of Mr. Homi, there is no instance where his honesty or integrity had been questioned. He also read to us a number of certificates from the members of the bar of Chaibassa, Purulia and Jamshedpur to the effect that

they had nothing to say against Mr. Homi and that they would be glad to welcome him to their profession.

He urged that the licence of his client who has reached the age of sixty should be renewed so that he may earn some living at Jamshedpur where he is known to many.

6. We have had the assistance of the Government pleader of this Court in this case. He placed before us the decisions in the cases of 'In the matter of R, a Mukhtear, Budaun' MANU/UP/0023/1936 : AIR 1937 All 50 (FB) (E) and 'In re, G., ex-Advocate Lahore AIR 1946 Lah 338(F). He submitted on the strength of these cases that the Full Court had on its administrative side rightly rejected the application of Mr. Homi. He also urged that the correctness or otherwise of the convictions of Mr. Homi could not be challenged at this stage.

According to him, those convictions do point out a state of moral turpitude on the part of Mr. Homi at a time when he held the licence of a pleader. He urged that there is no reason for this Court to take a different view on its judicial side.

7. I agree with the submissions of the Government Pleader that it is not open to us to question the legality of the convictions of Mr. Homi. Nevertheless, we have to consider how far those convictions are a bar to the renewal of the licence of the petitioner. The cases cited at the bar are all unanimous on the point that this Court has power to reinstate a legal practitioner whose name had been struck off the roll of practising lawyers but whether that power should be exercised Or not depends on the facts and circumstances' of each case. (8) Mr. Homi is a B.A., LL.B. of the Bombay University. It appears that during the period of his career as a pleader at Jamshedpur he took active part in the labour movement of the locality. He appears to have commanded at that time the respect of the labourers who elected him as the President of the Labour Federation. His convictions do not seem to have lowered him in the estimate of the labourers who re-elected him as the President of their Federation after his release from jail. For some reasons Mr. Homi had to leave Jamshedpur for some time, but in 1946 he was sent By Government of India to represent India on the Iron and Steel Committee of the International Labour Organisation. This shows that Mr. Homi regained his popularity not only amongst the labourers but also amongst the officials.

In my view, the subsequent career of Mr. Homi after his release from jail in 1935 shows that he had made full atonement for his moral lapses and his convictions suffered some two decades ago should not stand in the way of the renewal of his licence.

9. It is true that Mr. Homi has not practised as a pleader for a number of years but from his application it appears that during this period on several occasions he worked as the agent of labourers before the Commissioner under the Workmen's Compensation Act. It appears that Mr. Homi is now serious about his following the profession of a lawyer. In my view, a chance should be given to Mr. Homi to renew his practice as the pleader of Jamshedpur. I hope he will now bestow his sole attention to the legal profession and justify the consideration shown to him.

10. The result is that the application succeeds. It is hereby directed that the licence of Mr. Naneck Homi to practice as the pleader of Jamshedpur be renewed.

Sinha, J.

11. I agree.

Khaleel Ahmad, J.

12. I agree.

© Manupatra Information Solutions Pvt. Ltd.