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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 489/2020 & CM APPL. 1304/2020**

AWANISH KUMAR

..... Petitioner

Through: Mr. Jatan Singh, Mr. Deepak Goel,
Mr. Amit Sahni, Mr. Jasman Singh
Sethi, Mr. Anshul Bajaj & Ms. Sonali
Tiwari, Advocates

versus

**THE REGISTRAR GENERAL, HON BLE HIGH COURT OF
DELHI**

..... Respondent

Through: Mr. Sanjoy Ghose, Mr. Naman Jain &
Ms. Urvi Mohan, Advocates

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

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28.01.2020

1. Mr. Sanjoy Ghose, learned counsel appearing for the respondent/Delhi High Court, states that pursuant to the order dated 23.01.2020, the case of the petitioner was placed before the Examination Committee on the administrative side and in its meeting conducted on 23.01.2020, the Committee has held that the word “*Service*” used in Article 233 (2) of the Constitution of India, does not draw any distinction between Judicial Service and Higher Judicial Service and therefore, the bar imposed by the said Article applies with equal force to the members of Judicial Service and the Higher Judicial Services. As a result, the Committee has recommended that

the application of the petitioner herein and of a similarly situated applicant, who happens to be a member of the Haryana Judicial Service, for permission to participate in the Delhi Higher Judicial Services Examination-2019, may be rejected.

2. Mr. Jatan Singh, learned counsel for the petitioner refers to the public notice issued by the respondent for conducting the Delhi Higher Judicial Service Examination, 2019 and states that the eligibility criteria laid down for a candidate who wishes to appear in the examination, is as follows:

“If he/she is:

- a. A citizen of India*
- b. A person who has practised as an Advocate for not less than 7 years;*
- c. A person who has not attained the age of 45 years as on the 1st day of January of the year in which the applications for appointment are invited i.e., 1st January, 2019.”*

3. It is submitted by learned counsel for the petitioner that since the eligibility criteria mentioned above permits a person who has practised as an advocate for not less than 7 years, to appear in the examination, the petitioner who has practiced as an advocate for over 7 years, is also eligible to participate in the said examination, notwithstanding the fact that he is serving in the Gujarat State Higher Judicial Service.

4. We may note that the very same Advertisement states the following at the foot of the first page:-

“Before filling up the form, the candidates are advised to read carefully the Notification/Advertisement, Instructions for DHJS Examination-2019 and DHJS Rules, 1970 as amended up to 26.12.2019.”

5. Rule 2 of the Delhi Higher Judicial Service Rules, 1970 as amended up to 26.12.2019, defines ‘a direct recruit’ in sub Clause (c) to mean a person who is appointed to the Service from the Bar. The said definition makes it abundantly clear that an applicant, who has already been appointed to a Judicial Service or Higher Judicial Service, does not qualify to apply for recruitment in the Delhi Higher Judicial Service.
6. Admittedly, the petitioner was appointed in the Gujarat State Higher Judicial Service on 05.07.2018 and has been posted as 10th Additional District Judge, Kachchh at Bhuj, Gujarat. In the above circumstances, he cannot be treated as eligible to appear in the Delhi Higher Judicial Service Examination-2019 since, the said examination is open only to direct recruits, i.e., persons who are to be appointed to the Service from the Bar and none else.
7. The petition is accordingly dismissed along with the pending application.
8. The original file recording the Minutes of Meeting of the Examination Committee handed over for our perusal, has been returned.
9. A copy of this order be given *dasti* to the learned counsel for the petitioner under the signatures of the Court Master.

HIMA KOHLI, J

ASHA MENON, J

JANUARY 28, 2020

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