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

Date of Decision: 4th October, 2024

+ W.P.(C) 14016/2024, CM APPL. 58688-58689/2024

UJWAL GHAI

.....Petitioner

Through: In person.

versus

DELHI HIGH COURT LEGAL SERVICES COMMITTEE
(DHCLSC)

.....Respondent

Through: Mr. Harsh Prabhakar, Mr. Dhruv Chaudhry, Ms. Eshita Pallavi and Mr. Adeeb Ahmad, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The Petitioner, Mr. Ujwal Ghai, has filed the instant writ petition seeking directions against the Delhi High Court Legal Services Committee¹ for inclusion of his name in the list of shortlisted candidates for the upcoming interview for empanelment of the "Jail Visiting Panel".
2. Mr. Ghai is a practicing Advocate enrolled with Bar Council of Delhi on 13th August, 2021. He responded to the notice bearing No. 204/DHCLSC/2024/1441 dated 7th June, 2024, issued by the DHCLSC inviting online applications for empanelment of Advocates and Mediators



for different panels such as Criminal Panel-I, Criminal Panel-II, Matrimonial Panel, Jail Visiting Panel, Mediator Panel, etc., for the period starting from 1st January, 2025 to 31st, December 2027. Pursuant to the said notice, on 4th July, 2024, the Petitioner submitted an online application for empanelment in the “Jail Visiting Panel” and furnished all relevant documents to this effect. Additionally, he submitted a copy of the said form along with copies of the relevant documents at the office of the DHCLSC which was duly acknowledged. However, to his dismay Mr. Ghai discovered that his name was not included in the shortlist of candidates published by DHCLSC on 24th September, 2024.

3. Seeking clarity on the exclusion of his name, the Petitioner approached the office of the DHCLSC. During his visit, he learned through oral inquiries that his application might have been rejected due to not meeting the minimum experience requirement of three years of legal practice as of the cut-off date, 31st May, 2024, as specified in the notification. Aggrieved by this decision, the Petitioner has now invoked this Court’s extraordinary jurisdiction under Article 226 of the Constitution of India, seeking directions for the inclusion of his name in the list of shortlisted candidates for the interview.

4. Mr. Ujwal Ghai, appearing in person, fervently argues that the decision of the DHCLSC to exclude his name from the list of shortlisted candidates for the Jail Visiting Panel is arbitrary and inconsistent with the prescribed norms. He submits that, having duly fulfilled all requirements as per the notification, his exclusion defies reason and the principles of fairness. The crux of Mr. Ghai’s contention rests on the interpretation of

¹ “DHCLSC”



Regulation 8(3) of the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010². The aforesaid Regulation reads as under:

*“8. Selection of legal practitioners as panel lawyers. –
(3) No legal practitioner having less than three years’ experience at the Bar shall **ordinarily** be empanelled.”*

[Emphasis added]

5. Highlighting the term “ordinarily,” the Petitioner asserts that the regulation does not impose a rigid, inflexible mandate but rather allows for discretion. In his view, the language of the clause implies that exceptions can, and should be made under appropriate circumstances. He further argues that the regulation allows empanelment of candidates having experience of less than 3 years. In this regard, he refers to the case of ***Vibhas Kumar Jha v. Delhi High Court Legal Service Committee***³, wherein this Court held that the plain language of the Regulation indicates that the requirement of having experience of 3 years at the bar is not mandatory and the word “ordinarily” means that in certain cases, a legal practitioner having less than 3 years’ experience may also be empanelled. As such, the Petitioner contends that his candidature for empanelment should also be considered by the DHCLSC even though he may not strictly meet the criteria of having 3 years of experience.

6. The Court has carefully considered Mr. Ghai’s submissions but finds them unconvincing. While it is true that Regulation 8(3) uses the term “ordinarily,” this word must be given a meaningful interpretation. The regulation permits exceptions, allowing for the empanelment of legal

² “NALSA Regulations”

³ 2019 SCC OnLine Del 6478



practitioners with less than three years of experience, but this is intended to be an exercise of discretion rather than a mandatory rule. The presence of the term “ordinarily” does not imply that the three year experience requirement can be disregarded. Rather, it sets a general standard, with deviations permitted only in exceptional cases where the DHCLSC deems it appropriate. Accepting Mr. Ghai’s interpretation would effectively rewrite the regulation, transforming a discretionary exception into a blanket rule that nullifies the prerequisite of having three years of experience. The Court cannot endorse an interpretation that undermines the regulation's intended framework.

7. The decision rendered in *Vibhas Kumar Jha* (supra), which has been relied upon by the Petitioner, was passed in an entirely different context. The grievance in the said case related to selection of formal judicial officers of the rank of an Additional District and Sessions Judge. The Petitioner in the said case claimed that the selection was contrary to Regulation 8(3) of the NALSA regulations as one of the selected candidates did not have 3 years’ experience at the bar. Hence, the grievance in the said petition related to the selection of such a candidate, despite the mandate of the said Regulation. In that context, the Court held that the candidate who had been selected, despite having less than 3 years’ experience, could be given the benefit of Regulation 8 which includes the word “ordinarily”. The factual situation in the instant writ petition, as noted above, is entirely different and therefore, the judgment relied upon by the Petitioner is wholly inapplicable to the present case.

8. Mr. Ghai further contends that the notice dated 7th June, 2024, issued by the DHCLSC uses the word “apprenticeship,” and therefore, his



internship experience should be factored into the calculation of the three year experience requirement. In support of his case, Mr. Ghai emphasizes that his law degree program mandated a compulsory six-month internship during the final semester. In compliance with this requirement, he asserts that he actively interned with various established lawyers over a substantial period of time. In light of the above, he urges that his internship experience should be included for fulfilment of the eligibility criteria of 3 years which would make him eligible for participating in the interview process. In this regard, he points to the relevant eligibility criteria for the Jail Visiting Panel, which reads as follows:

<i>“S. No.</i>	<i>Panel</i>	<i>Eligibility</i>
6.	<i>Jail Visiting Panel</i>	<i>An advocate must have minimum three (3) years experience as on 31.05.2024 (including apprenticeship period, if any)”</i>

9. Mr. Ghai’s contention equates the terms “internship” and “apprenticeship,” suggesting that the internship experience gained before being formally enrolled as an Advocate should be treated as equivalent to an apprenticeship under legal terminology. However, this interpretation overlooks a critical distinction. The legal practice is officially recognized as commencing only after formal enrolment as an Advocate with the relevant Bar Council. Internships undertaken as part of legal education, though valuable in providing practical exposure, do not satisfy the professional experience requirement for practicing law. The period of “internship” as a



student does not amount to the active legal practice contemplated under the eligibility criteria, and as such, cannot be counted towards the three-year experience required for empanelment. The term “apprenticeship” in the DHCLSC notice clearly refers to the period after formal enrolment when an advocate might work under the guidance of a senior practitioner. In this regard, it is important to note that certain government bodies also engage the services of law graduates as apprentices in their legal departments for a stipulated time and under the Apprentices Act, 1961, however, these opportunities are available for people who have graduated with a LLB degree. Therefore, to equate a law student’s internship with post-enrolment practice would blur the distinction between academic training and professional legal experience, thereby undermining the clear intent of the eligibility requirement. Hence, the Petitioner’s practice must be calculated from the date of his enrolment with the Bar Council, not from any internship period during his legal studies.

10. The Petitioner, by his own admission, does not meet the stipulated requirement of having three years of practice as of the cut-off date set by the DHCLSC. While it is true that the Monitoring Committee of the DHCLSC has the discretion to consider candidates who may not strictly fulfil this criterion, such discretion was not exercised in favour of the Petitioner. The decision on whether to relax the experience requirement lies solely within the purview of the Committee, and the Court cannot compel the exercise of this discretion in a particular manner. Accordingly, there is no ground for the Court to invoke its extraordinary jurisdiction under Article 226 of the Constitution of India to intervene in the DHCLSC’s decision-making process or to grant the relief sought by the Petitioner in the present writ



petition.

11. In view of the above, the writ petition is dismissed along with pending application(s).

SANJEEV NARULA, J

OCTOBER 4, 2024/nk