

ALL INDIA JUDGES' ASSOCIATION AND OTHERS VS UNION OF INDIA AND OTHERS

Citations: WP(C) No. 1022 of 1989; 2025 INSC 735

Date of order: 20 May 2025

3 judge bench: B.R. GAVAI, CJI (Author); Augustine George Masih; K. Vinod Chandran

HISTORY

First AIJA Case

By order dated 13th November 1991 in the *First All India Judges' Association case* [(1992) 1 SCC 119; 1991 NSC 290], the Hon'ble Supreme Court directed measures for the improvement of service conditions of the subordinate judiciary. Pursuant to this order, the Government of India, by resolution dated 21st March 1996, constituted the *First National Judicial Pay Commission* under the chairmanship of Justice K.J. Shetty, widely known as the Shetty Commission.

The Shetty Commission undertook a detailed study of pay scales, allowances, and conditions of service of judicial officers and ultimately submitted its report on 11th November 1999.

Second AIJA Case

In proceedings dated 24th August 1993 in the *Second AIJA case* [(1993) 4 SCC 288; 1993 INSC 272], the Hon'ble Court examined the 117th Report of the Law Commission of India dated 28th November 1986 titled "*Training of Judicial Officers.*" The report had suggested that, instead of insisting on three years' practice at the Bar, candidates appearing in the Civil Judge (Junior Division) examination should undergo two years of intensive training.

While considering this suggestion, the Court emphasised that from the very first day in office, a judge is required to adjudicate upon matters affecting the life, liberty, property, and reputation of litigants. It was observed that knowledge gained from academic study or institutional training cannot substitute the value of actual practice before courts. The Court, therefore, concluded that a minimum of three years of practice at the Bar is essential as a qualification for appearing in the Civil Judge (Junior Division) examination.

Third AIJA Case

In its order dated 21st March 2002 in the *Third AIJA case* [(2002) 4 SCC 247: 2002 INSC 165], the Hon'ble Court considered the Shetty Commission Report insofar as it pertained to appointments in the Higher Judicial Service (District Judge cadre).

Upon a detailed analysis, the Court framed a tripartite method of recruitment: fifty per cent of posts were to be filled by promotion from Civil Judges (Senior Division) on the basis of merit-cum-seniority and on passing a suitability test; twenty-five per cent were to be filled by promotion strictly through a Limited Departmental Competitive Examination (LDCE) from Civil Judges (Senior Division) with not less than five years' qualifying service; and the remaining twenty-five per cent were to be filled by direct recruitment from eligible advocates through a written test and viva voce conducted by the respective High Courts.

Fourth AIJA Case

On 20th April 2010, in the *Fourth AIJA case* [(2010) 15 SCC 170], the Hon'ble Court considered the difficulties faced by several High Courts in implementing the 25% quota kept for LDCE. It was pointed out that the quota often remained unfilled, since in many High Courts Civil Judges were being promoted under the principle of merit-cum-seniority and suitability test even before they had completed five years of service, thereby making them ineligible for LDCE.

After reviewing these concerns, the Court decided to modify the recruitment scheme prescribed in the Third AIJA case. It was directed that twenty-five per cent of the posts should be filled by direct recruitment from among eligible advocates through written test and viva voce; sixty-five per cent by promotion from Civil Judges (Senior Division) on the basis of merit-cum-seniority and passing a suitability test; and the remaining ten per cent by LDCE. The Court further clarified that if suitable candidates were not available for the ten per cent quota, or if no candidate qualified in the LDCE, the posts would be filled by regular promotion in accordance with the applicable service rules.

Fifth AIJA Case

In the proceedings dated 19th April 2022 in the *Fifth AIJA case* [(2022) 7 SCC 494: 2022 INSC 445], the Hon'ble Supreme Court revisited the scheme framed in the Third AIJA case. By way of modification, para 28(1)(b) of the order dated 21st March 2002 was altered specifically for the Delhi High Court.

The revised provision stipulated that twenty-five per cent of the posts shall be filled by promotion strictly on the basis of merit through LDCE from amongst Civil Judges having seven years of qualifying service, i.e., five years as Civil Judge (Junior Division) and two years as Civil Judge (Senior Division), or, in the alternative, ten years of qualifying service exclusively as Civil Judge (Junior Division).

ISSUES

1. As to whether the 10% quota reserved for the Limited Departmental Competitive Examination (for short, 'LDCE') for promotion to Higher Judicial Service i.e., cadre of District Judge, needs to be restored to 25% as determined by this Court in the case of All India Judges' Association and Others v. Union of India and Others, reported in (2002) 4 SCC 247?
2. As to whether the minimum qualifying experience for appearing in the aforesaid examination needs to be reduced, and if so, by how many years?
3. As to whether a quota needs to be reserved for meritorious candidates from the Civil Judge (Junior Division) to Civil Judge (Senior Division) so that there is an incentive for merit in the cadre of Civil Judge (Junior Division)?
4. If yes, then what should be the percentage thereof, and what should be the minimum experience as a Civil Judge (Junior Division)?
5. As to whether the quota to be reserved for the aforementioned departmental examinations in a particular year should be calculated on the cadre strength or on the number of vacancies occurring in the particular recruitment year?
6. As to whether some suitability test should also be introduced while promoting the Civil Judge (Senior Division) to the Cadre of District Judges against the existing 65% quota for promotion to Higher Judicial Services on the basis of merit-cum-seniority.
7. As to whether the requirement of having minimum three years practice for appearing in the examination of Civil Judge (Junior Division), which was done away by this Court in the case of All India Judges Association & Ors. (supra), needs to be restored? And if so, by how many years?
8. If the requirement of certain minimum years of practice for appearing in the examination of Civil Judge (Junior Division) is restored, should the same be calculated from the date of the provisional enrolment/registration or from the date of the passing of the AIBE?

ANALYSIS

Issue 1→

The Hon'ble Court referred to the *First, Third, and Fourth AIJA cases* while considering the issue of whether the 10% quota reserved for posts to be filled through LDCE ought to be restored to 25%. At that stage, the recruitment rules operated in the ratio of 65:10:25. However, with the passage of time, a considerable number of candidates in the cadre of Civil Judge (Senior Division) had become eligible for promotion as District Judges through LDCE. This led to the filing of several IAs seeking restoration of the quota from 10% back to 25%.

The Court directed all states to file affidavits, which were then examined. On consideration, it was found that the majority of states were in favour of increasing or restoring the LDCE quota to 25%. They further suggested that in case some seats remained unfilled in a given recruitment year, the same could be diverted to regular promotion in accordance with the service rules.

At the same time, the Court noted that this approach was not without its own complications. In some states, judicial officers were promoted even before completing the mandatory five years of experience required to qualify for LDCE. To address this difficulty, the Hon'ble Court framed Issue No. 2 for determination.

Issue 2→

To address the issue of whether the minimum qualifying experience for appearing in the LDCE should be reduced, and if so, to what extent, the Hon'ble Court referred to the decision rendered in the *Fifth AIJA Case*. Pursuant to this, the affidavits submitted by the various states were examined.

The Court thereafter compared the average time taken for a judicial officer to reach the post of District Judge through LDCE and by way of regular promotion. On such a comparison, it was revealed that both streams required nearly the same length of time, thereby diminishing the incentive intended to be created by introducing LDCE as an accelerated channel of promotion.

In view of the above, the Hon'ble Court held that the qualifying experience of Civil Judges (Senior Division) for appearing in the LDCE should be reduced from five years to three years. At the same time, it was clarified that a candidate must possess a minimum cumulative service

of seven years in the cadres of Civil Judge (Junior Division) and Civil Judge (Senior Division), taken together, in order to be eligible for LDCE.

Issue 3 & 4→

In examining the issue of whether a quota ought to be reserved for promotion from the cadre of Civil Judge (Junior Division) to Civil Judge (Senior Division), and further, what percentage of the quota and minimum qualifying experience should be prescribed, the Hon'ble Supreme Court referred to and analysed the principles laid down in the *Third AIJA Case*.

Upon consideration, the Court held that a quota must indeed be carved out for such promotions. It was decided that 10% of the posts in the cadre of Civil Judge (Senior Division) shall be reserved for promotion from Civil Judge (Junior Division) through the Limited Departmental Competitive Examination (LDCE). The Court further clarified that only those judicial officers who have completed a minimum of three years of qualifying service would be eligible to appear for such examination and be considered for promotion.

Issue 5→

In addressing the issue of whether the quota reserved for the Limited Departmental Competitive Examination (LDCE) should be determined with reference to the total cadre strength or the vacancies arising in a particular recruitment year, the Hon'ble Court sought recommendations from all states. Except for four states, Haryana, Madhya Pradesh, Punjab, and West Bengal, all others recommended that vacancies be filled on the basis of the total cadre strength.

The Hon'ble Supreme Court held that the rule must be applied uniformly across the country. Since the majority of states already adhere to the principle of calculating the quota on the basis of total cadre strength, the Court concluded that the quota reserved for LDCE shall likewise be determined with reference to cadre strength.

Issue 6→

In considering whether a suitability test should be introduced for promotion from Civil Judge (Senior Division) to the cadre of District Judge under the 65% quota on the basis of merit-cum-seniority, the Hon'ble Court referred to the *Third AIJA Case*. In paragraph 27 of its order dated 21st March 2002, the Court had observed that High Courts ought to evolve a mechanism to assess the legal knowledge of candidates while considering them for promotion.

The Court then examined the affidavits submitted by various High Courts and State Governments, which revealed that in some States, a form of suitability test was already in place for promotions to the Higher Judicial Service from the cadre of Civil Judge (Senior Division).

Upon consideration, the Hon'ble Court concluded that a suitability assessment must indeed be introduced. It emphasized that such evaluation should not be confined to a single factor, but must take into account multiple criteria, including:

- whether the candidate possesses updated knowledge of law;
- The quality of judgements rendered by the judicial officer;
- Annual Confidential Reports (ACRs) of the Judicial Officer of the preceding five years;
- disposal rate in the preceding five years;
- performance of the Judicial Officer in the *viva voce*; and
- general perceptions and awareness as well as communication skills

Issue 7 & 8→

The issue for consideration was whether the requirement of three years of practice at the Bar, which had earlier been removed with the *Third AIJA Case*, ought to be restored, and if so, for how long such practice should be prescribed.

The Hon'ble Supreme Court first referred to the *Second AIJA Case*, wherein the recommendations of the 117th Report of the Law Commission of India were analysed, and the requirement of three years of practice was considered both essential and necessary. Thereafter, the Court examined the *Third AIJA Case*, where reliance had been placed on the Shetty Commission Report, and in consequence, the minimum practice requirement had been removed.

The Court then considered the affidavits filed by various High Courts and State Governments. Since several states had recommended the restoration of the three-year practice requirement, the Court concluded that the minimum requirement of three years' practice at the bar should be restored for eligibility to appear in the Civil Judge (Junior Division) examination.

The Court also addressed the issue of whether the qualifying practice should be reckoned from the date of provisional enrollment or from the date of passing the All India Bar Examination (AIBE). It noted that delays in the declaration of results and issuance of degrees by certain universities often compelled students to appear for the AIBE in the subsequent year, thereby

placing them at a disadvantage. To remove such unfairness, the Court held that practice shall be counted from the date of provisional enrollment with the Bar Council.

Another concern raised was that candidates may obtain provisional enrollment without engaging in actual practice. To address this, the Court directed that candidates must produce a certificate of actual practice duly issued and certified by:

- The Principal Judicial Officer of the district court concerned, or
- An advocate with a minimum of ten years' standing at that court, duly endorsed by the Principal Judicial Officer of that district.

In the case of candidates practicing before the High Courts or the Hon'ble Supreme Court, such certificates must be issued by an advocate with at least ten years' standing at the respective court and duly endorsed by an officer designated by the concerned High Court or the Supreme Court.

The Court further directed that experience gained as a law clerk with a judge of the Supreme Court, High Court, or with any judicial officer in the country shall also be considered while computing the three years of practice.

Lastly, it was mandated that candidates selected and appointed to the post of Civil Judge (Junior Division) must undergo compulsory training of at least one year before presiding over a court of law.

CONCLUSION

1. The quota of reservation for LDCE for promotion from the cadre of Civil Judge (Senior Division) to the Higher Judicial Service, i.e., District Judge Cadre is increased to 25%;
2. The minimum qualifying service required to appear in the LDCE for promotion from the cadre of Civil Judge (Senior Division) to the Higher Judicial Service be reduced to 3 years' service as a Civil Judge (Senior Division) and the total service required to be undertaken, including service rendered as a Civil Judge (Junior Division) and Civil Judge (Senior Division), be set at a minimum of 7 years' service;
3. 10% of the posts in the cadre of a civil judge (Senior Division) be reserved for accelerated promotion of a civil judge (Junior Division) candidate through the LDCE mechanism. The

minimum qualifying service required for appearing in the said LDCE shall be three years' service as a civil judge (Junior Division) ;

4. If any post reserved for LDCE for either Civil Judge (Senior Division) or for the Higher Judiciary remains vacant, the same shall be filled through regular promotion based on 'merit-cum-seniority' in that particular year. Filling up the vacant posts in the ration considered for LDCE will have to be carried out from the simultaneous selection process carried out for regular promotions of the same year;
5. The High Courts and the Governments of the States where the vacancies for the LDCE are not being calculated based on the cadre strength shall amend the relevant service rules to the effect that the vacancies for LDCE be calculated based on cadre strength;
6. Rules to judge the suitability of candidate for being promoted to the Cadre of Higher Judicial Service from the cadre of Civil Judge (Senior Division) shall be framed or amended keeping in mind various factors like: (i) whether the candidate possesses updated knowledge of law; (ii) The quality of judgements rendered by the Judicial Officer; (iii) ACRs of the Judicial Officer of the preceding five years; (iv) disposal rate in the preceding five years; (v) performance of the Judicial Officer in the *viva voce*; and (vi) general perceptions and awareness as well as communication skills;
7. Candidates desirous of appearing in the examination for the post of civil judge (Junior Division) must have practiced for a minimum period of 3 years to be eligible for the said examination. To fulfill the said requirement, the candidate has to produce a certificate to that effect duly certified either by the principal judicial officers of that court or by an advocate of that court having a minimum standing of 10 years duly endorsed by the principal judicial officers of such a district or a Principal judicial officer at such a station. Candidates practicing before the High Courts or the Hon'ble Supreme Court shall be certified by an advocate who has a minimum standing of 10 years duly endorsed by an officer designated by that High Court or the Hon'ble Supreme Court. Experience gained by candidates while working as law clerks with any of the judges or judicial officers in this country should also be considered while calculating their total number of years of practice. Candidates who are appointed to the post of Civil Judge (Junior Division) pursuant to their selection through the examination must compulsorily undergo at least 1 year of training before presiding in a court;
8. The number of years of practice completed by a candidate desirous of appearing in the examination for the post of Civil Judge (Junior Division) be calculated from the date of their provisional enrolment/registration with the concerned State Bar Council.