

## APPELLATE CIVIL—FULL BENCH.

*Before Sir Lionel Leach, Chief Justice, Mr. Justice Mockett  
and Mr. Justice Krishnaswami Ayyangar.*

IN RE AN ADVOCATE, PETITIONER.\*

1930,  
August 21.

*Advocate—Struck off the rolls for professional misconduct—  
Reinstatement—Circumstances held sufficient.*

Though the act of professional misconduct for which the name of an Advocate was struck off the roll of Advocates was a very grave one, the Court is not precluded from reinstating him when adequate punishment has been imposed and he has shown that he has rehabilitated himself in such a manner that he is fitted to be admitted into the profession again.

PETITION praying that in the circumstances stated therein the High Court may be pleased to review the order, dated 15th October 1931, disbarring him and reinstate him on the roll of Advocates.

*T. R. Venkatarama Sastri* (with him *K. S. Sankara Ayyar*) for petitioner.—The petitioner who was in affluent circumstances in the beginning, got into financial troubles later on. He was charged with having misappropriated his client's money to the extent of Rs. 4,800. He was suspended from practice on 25th April 1927 and final orders removing him from the roll of Advocates were passed on 15th October 1931. The petitioner was adjudicated an insolvent on 14th February 1927 and the final discharge was made on 8th December 1930. He rendered all possible help to the Official Assignee in the collection of the assets. After his final discharge he worked as a clerk in the office of Mr. Shamanna, a solicitor in Madras, till 1934. Then he obtained a clerk's post in the firm of Messrs. King and Partridge, who are also solicitors in Madras. Mr. Shamanna and Messrs. Jones and Miller of Messrs. King and Partridge, who had opportunities of observing him closely, speak highly of his honesty and integrity of character. Mr. Nugent Grant, who also had opportunities of knowing the petitioner intimately, testifies to his probity.

\* Civil Miscellaneous Petition No. 3117 of 1939.

AN ADVOCATE, *In re.* [The certificates given by Mr. Shamanna, Mr. Jones, Mr. Miller and Mr. Grant were then referred to.] The petitioner no doubt misappropriated his client's money and was thus guilty of professional misconduct. He has been sufficiently punished for that. He has mended his character thoroughly as observed by very respectable persons. So he may be re-admitted into the profession.

*Advocate-General (Sir A. Krishnaswami Ayyar)* for the Crown was not called upon.

### ORDER.

LEACH C.J.

LEACH C.J.—The name of the petitioner was struck off the roll of Advocates of this Court on 15th October 1931, as it had been shown that he had misappropriated a sum of Rs. 4,800 belonging to a client. The petitioner, who had considerable property, got into financial difficulties in 1927 and on 14th February of that year he was adjudicated an insolvent. On 25th April 1927 he was suspended from practice. The delay in the passing of the order striking the petitioner's name off the rolls was due to the fact that the Court desired to know the position disclosed by the insolvent's public examination before arriving at a decision. The justice of the order of this Court striking the petitioner's name off the roll of Advocates is not and could not be questioned. It is said, however, that during the twelve years that have elapsed since the petitioner was first suspended he has worked hard to rehabilitate himself and has succeeded in establishing an honourable reputation. The petitioner rendered all assistance that he could to the Official Assignee and secured his discharge on 8th December 1930. After his suspension from practice he obtained a clerkship in the office of Mr. Shamanna, a well-known solicitor of Madras, and retained this post until 1934 when he obtained a clerkship with Messrs. King and Partridge, also well-known solicitors of the city. He

has continued in their service ever since. Mr. Shamma and Messrs. H. Maitland Jones and Leslie D. Miller of Messrs. King and Partridge have given the petitioner certificates of character. Mr. Shamma says that while he was employed by him the petitioner was dealing with his cases and with his clients and that he found his conduct and dealings both with his clients and the other members of his establishment to be satisfactory, and guided by a high sense of probity. Mr. Maitland Jones says that while in the employment of his firm the petitioner has been entrusted with important work. Mr. Maitland Jones had many opportunities of observing his conduct which he says was excellent and in addition his probity was above suspicion. Mr. Miller says: "From my knowledge of him, in spite of what happened in the past, I personally would place every confidence in his integrity." The petitioner has also filed a certificate given to him by Mr. Nugent Grant in April of this year. Mr. Grant says that the petitioner has throughout the period of his exclusion from the profession exhibited a consciousness of the injury he has done to himself and the profession of which he was once an honourable member. Mr. Grant believes that he had made every endeavour to atone for his lapse from morality.

AN ADVOCATE,  
*In re.*  
LEACH C.J.

The act of professional misconduct committed by the petitioner was a very grave one and it was not possible to allow him to continue practising in an honourable profession. But that does not mean that the Court is precluded from reinstating him when adequate punishment has been imposed and he has shown that he has rehabilitated himself in such a manner that he is fitted to be admitted into his profession again. I consider that there is here ground

AN ADVOCATE, for the Court holding that the petitioner has been  
In re. fully punished and that he has regained his character  
 to an extent that justifies his re-admission as an Advoca-  
 te of this Court. For these reasons I would allow  
 the petition.

MOCKETT J.—I agree.

KRISHNASWAMI AYYANGAR J.—I agree.

V.V.G.

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### APPELLATE CIVIL—FULL BENCH.

*Before Sir Lionel Leach, Chief Justice, Mr. Justice Mockett  
 and Mr. Justice Krishnaswami Ayyangar.*

1939,  
 August 21.

IN RE AN ADVOCATE, PETITIONER.\*

*Advocate—Struck off the rolls for misappropriation—  
 Reinstatement—Circumstances held not sufficient.*

Before the Court can re-admit an Advocate who has been struck off the rolls for misappropriation it must be fully satisfied that he has fully regained his character and is fitted for re-admission into the ranks of an honourable profession. Mere opinion expressed by gentlemen in the shape of certificates of character is not sufficient. The re-admission of the Advocate does not depend on the fact that he has been suspended or struck off the rolls for several years. He can only be re-admitted if he can show that there is no likelihood of his committing the same offence again and that he has become worthy to act as an Advocate.

PETITION praying that in the circumstances stated therein the High Court may be pleased to reconsider the orders of the High Court, dated 9th February 1931, 29th September 1933, 3rd May 1937 and 21st October 1938 and re-admit him to the roll of Advocates.

Petitioner appeared in person.

*Advocate-General (Sir A. Krishnaswami Ayyar) for  
 the Crown.*

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\* Civil Miscellaneous Petition No. 3207 of 1939.

## ORDER.

AN ADVOCATE,

*In re.*

LEACH C.J.

LEACH C.J.—The petitioner applies to be re-admitted as an Advocate of this Court. In August 1930 he was suspended from practice for misappropriation of moneys belonging to a client. On 9th February 1931 his name was struck off the rolls as the result of further misappropriation of client's money. He was adjudicated an insolvent on 29th October 1925. His liabilities were Rs. 90,000 and he had no assets. On 11th April 1938 my learned brother, MOCKETT J. granted him his discharge on the ground that he would be condemned to insolvency for life if it were not granted. The petitioner had no prospects of being able to pay anything to his creditors and the discharge was unopposed. In 1933 the petitioner applied to the Court to review its order striking his name off the roll of Advocates, but the application was dismissed on 29th September 1933 by a Full Bench composed of BEASLEY C.J., SUNDARAM CHETTI and STONE JJ. In support of that application the petitioner filed three certificates of character, two of them being signed by individual members of the Bar and the third being a joint certificate signed by forty-six members of the Bar. The Bench refused the petition for two reasons. The first was that the Court required, before re-admitting a person to the profession, solid facts and cogent reasons, not merely the opinions expressed by gentlemen who had given the petitioner certificates. It was not enough to say that the petitioner was a fit and proper person for re-admission without stating the grounds on which the opinion was based. The second reason was that the petitioner was still an insolvent.

The petitioner has now obtained his discharge, but the first ground of the Full Bench for refusing to re-admit the petitioner still exists. The petitioner

AN ADVOCATE;  
*In re.*  
LEACH C.J.

has filed three further certificates, but these do not carry the matter further. Since he was suspended from practice in 1930 the petitioner has had no employment. According to his statement in Court, he has throughout been supported by his daughter. Before the Court could re-admit an Advocate who has been struck off the rolls for misappropriation, the Court must be fully satisfied that the petitioner has fully regained his character and is fitted for re-admission into the ranks of an honourable profession. Mere opinion is not sufficient.

Here there are no cogent reasons for the Court holding that the petitioner has become fitted to be re-admitted as an Advocate. He has not attempted to obtain any employment. In fact he has stated that he refused two offers of employment made to him. One offer was employment as a manager of an estate and the other was employment in an insurance company. The re-admission of an Advocate who has been struck off the rolls for misappropriation does not depend on the fact that he has been suspended or struck off the rolls for several years. He can only be re-admitted if he can show that he has become worthy to act as an Advocate. In deciding such matters the Court has a duty to the public and, where an Advocate has been guilty of misappropriation, it must be shown that there is no likelihood of such an offence being committed again. In view of the previous decision and the fact that the position is now the same as it was then, except that the petitioner has obtained his discharge, I consider that the Court would not be justified in allowing this petition.

MOCKETT J.—I agree.

KRISHNASWAMI AYYANGAR J.—I agree.