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## SC makes it more difficult for tainted judges to shake off stigma

NEW DELHI: Adopting a 'zero tolerance' policy towards stigmatised judges, the Supreme Court in an emphatic ruling has said that the taint acquired during judgeship will be a big disqualification for the person's post-retirement appointment as head of a tribunal or a commission.

Serious about maintaining public trust in judiciary as an institution, the SC said if an additional judge of a High Court was found ineligible for an extension or being confirmed as a judge, the same person could not be appointed as the head of a statutory body like the State Consumer Disputes Redressal Commission (SCDRC).

"Judiciary holds a central stage in promoting and strengthening democracy, human rights and rule of law. People's faith is the very foundation of any judiciary. Injustice anywhere is a threat to justice everywhere and therefore the people's faith in the judiciary cannot be afforded to be eroded," said a Bench comprising Justices S B Sinha and MK Sharma.

Dealing with 'who had been a judge of the HC' qualification for post-retiral appointments as head of tribunals and commissions, the Bench said: "A judge whose tenure ended by way of non-extension as a stigma would not come within the purview of the definition of the term 'has been a judge of the HC'."

This judgment, delivered on March 6 but made available on Thursday, came in the peculiar case concerning Justice S Kannadasan, who had to demit office as a judge of the Madras HC on November 5, 2005, after serving for two years as an additional judge as his term was neither extended nor was he confirmed as a permanent judge.

In November 2006, the TN government appointed him as an additional advocate general. In June 2008, the HC in a full court meeting presided by then Chief Justice resolved to treat Kannadasan as a former judge of the HC and decided to recommend his name along with two others for appointment as the chairman of SCDRC.

From the three, the TN government chose Justice Kannadasan as the chief of SCDRC. Interestingly, acting on the judicial side, the HC had on December 12 last year allowed PILs which had challenged his appointment as president of SRDRC. Justice Kannadasan had moved the SC challenging the HC's order.

While dismissing his appeal, the Bench headed by Justice Sinha expressed its anguish that the then CJ of the Madras HC appeared to have taken lightly the decision of the Collegium headed by the Chief Justice of India not to confirm the services of Justice Kannadasan as a judge of HC, which had required him to quit the HC on November 5, 2005.

Noticing the cogent reason for the Collegium's decision not to confirm Justice Kannadasan as a permanent judge, the Bench asked: "An additional judge who had not been made permanent, technically could be appointed as an acting or additional judge but then the question which was required to be asked was: Should a person who had not been found fit be so appointed? The answer to the aforementioned question clearly would be a big emphatic 'no!'"

Justice Sinha, writing the judgment for the Bench, said "If a person has made himself disqualified to hold the post of a judge, the Chief Justice should not consider his name at all" for appointment to any statutory post like president of SCDRC.

What followed was even more hard-hitting. "If the collegium of the Supreme Court judges including the CJ, which is a constitutional authority in the matter of appointment of judges and re-appointment of additional judges, did not find him (Justice Kannadasan) eligible, it would be beyond anybody's comprehension as to how the Chief Justice of a high court could find him eligible/suitable for holding statutory post requiring possession of qualification of holder of a constitutional office," the Bench said.

*dhananjay.mahapatra@timesgroup.com*

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