

Narindar Singh Kang v Law Society of Singapore
[2013] SGHC 195

Case Number : Originating Summons No. 298 of 2013
Decision Date : 30 September 2013
Tribunal/Court : Court of Three Judges
Coram : Chao Hick Tin JA; Andrew Phang Boon Leong JA; V K Rajah JA
Counsel Name(s) : Davinder Singh SC, Pardeep Singh Khosa and Timothy Lin (Drew & Napier LLC) for the applicant; K Anparasan and Sim Hui Lin Christine (KhattarWong LLP) for the respondent; Jeffrey Chan Wah Teck SC and Dominic Zou for the Attorney-General.
Parties : Narindar Singh Kang — Law Society of Singapore

Legal Profession

Reinstatement

Interest of the Public

30 September 2013

Chao Hick Tin JA (delivering the grounds of decision of the court):

Introduction

1 This was an application by one Narindar Singh (“the Applicant”) for reinstatement onto the roll of advocates and solicitors of the Supreme Court (“the Roll”) pursuant to s 102(1) of the Legal Profession Act (Cap 161, 2009 Rev Ed) (“the LPA”). He was struck off the Roll on 3 October 1997 for a conviction under s 5(a)(i) of the Prevention of Corruption Act (Cap 241, 1993 Rev Ed) (“the PCA”). Both the Attorney-General and the Law Society of Singapore (“the Law Society”) had no objection to the Applicant’s reinstatement onto the Roll, subject to certain conditions being imposed with which the Applicant was willing to comply. At the conclusion of the hearing, we allowed the application subject to certain additional conditions. These grounds are issued to explain, in particular, our rationale for the imposition of the additional conditions.

2 At this juncture we would pause to state that this was the Applicant’s second attempt at seeking reinstatement onto the Roll. His first unsuccessful attempt was made on 7 September 2007 (“the first application”), about 9 years and 11 months after he was struck off.

Cause for striking off

3 The Applicant is now 62 years of age. At the date he made this application he had been struck off the Roll for fifteen and a half years. He was admitted as an advocate and solicitor of the Supreme Court on 9 April 1975. The specific matter which led to him being struck off the Roll occurred when he was practising as a sole proprietor of his own law firm, M/s N S Kang, and was assigned by the Registrar of the Supreme Court to draft a petition for clemency for one of a pair of co-accused persons who had been jointly convicted and sentenced to suffer death for the offence of drug trafficking. His client’s petition for clemency was unsuccessful. The offensive conduct of the Applicant

occurred on 18 May 1995, the day before his client was due to be executed. He was tried and convicted by the District Court in May 1996 for the offence of having solicited, on his client's behalf, a gratification of S\$100,000 from his client's co-accused, in exchange for a confession that *only* the client was responsible for the trafficking (absolving any wrongdoing by the co-accused). The Applicant was sentenced to five months' imprisonment for the offence. In sentencing the Applicant, the District Judge noted that the fact that he had previously been a police officer was an aggravating factor. His appeal to the High Court against conviction and sentence was not only dismissed, but the sentence imposed by the District Court was enhanced from five months to 12 months imprisonment. Chief Justice Yong Pung How noted that the Applicant's conduct was "shocking and reprehensible" (see *Narindar Singh s/o Malagar Singh v Public Prosecutor* [1996] SGHC 233 at [60]).

4 Following his conviction and sentence, the Law Society applied under s 94A of the Legal Profession Act (Cap 161, 1994 Rev Ed) for the Applicant to show cause why he should not be dealt with under s 83 of the same Act. The Applicant did not challenge the application of the Law Society and made no submission thereon and instead threw himself at the mercy of the court. The Court of Three Judges of the Supreme Court ("the Court of Three Judges") found that the Applicant's "willingness to assist [his client] in essentially getting a bribe in return for a confession implied a defect of character which made him unfit to be a solicitor" and that he had conducted himself in a fashion which "was inimical to the administration of justice, by tilting the balance in favour of those who can afford to pay for evidence". However, the court noted that there was no evidence that the Applicant was to obtain any benefit for the transaction and that "it was possible" that he was "merely carrying out ... the last instructions of a condemned client" (*Law Society of Singapore v Narinder Singh s/o Malagar Singh* [1997] 3 SLR(R) 334 at [13] and [16]).

The period post striking off

5 After the Applicant's release from prison in June 1997, he tried his hand at some businesses but they failed. For most of the time between 2000 and 2009, he worked as an employee, and in each instance he made full disclosure of his background to the employer:

- (a) Between 2000 and 2002, he was employed as a legal advisor at a shipping company called M/s Kim An Shipping Co Pte Ltd ("Kim An") where he was responsible for preparing and reviewing legal documents. He left because the work at Kim An was drying up;
- (b) Between 2002 and 2003, he was a promotions manager at M/s Sunrise & Co Pte Ltd ("Sunrise"), a sports company that owns and represents certain brand trademarks. His scope of work included legal work relating to trademarks and sponsorship agreements;
- (c) Between 2003 and 2005, he returned to Kim An until it relocated to Thailand in 2005;
- (d) In 2005, he was self-employed in his own steel manufacturing and trade business; and
- (e) Between 2006 and 2010, he worked as a housing agent, first with Huttons Asia and later with City Homes. However, he was not successful as a housing agent.

6 In August 2010, the Applicant decided to return to legal work. He said that none of the jobs listed in the preceding paragraph provided him with "the same level of job satisfaction that [he] had when [he] was practising law". [\[note: 11\]](#) The Applicant thus applied under s 78(1) of the LPA for the High Court's consent to work as a paralegal at the legal firm of M/s Kertar and Co ("Kertar & Co"). The managing solicitor at Kertar & Co, Mr Kertar Singh, was a former pupil of the Applicant and was apprised of the Applicant's conviction and his being struck off the Roll.

7 On 7 September 2010, the Applicant was granted permission to work as a paralegal at Kertar & Co subject to certain restrictions as to his scope of work. The Applicant could assist lawyers in the firm provided always that any instructions, communications, or statements taken from any clients, witnesses and prosecution or other counsel be taken in the presence of the lawyers in the firm or through the lawyers of the law practice. Kertar & Co also undertook to ensure that the Applicant would not have any dealings with the firm's money, whether in respect of client's accounts, office accounts, or otherwise.

8 The Applicant is still employed at Kertar & Co. Two of his supervising solicitors had provided references in support of the present application by the Applicant for reinstatement onto the Roll.

The first application

9 At this juncture, we will refer briefly to the Applicant's first application made on 7 September 2007 for reinstatement onto the Roll. The application was objected to by the Attorney-General. The Court of Three Judges gave the following reasons for rejecting the first application (found at *Narindar Singh Kang v Law Society of Singapore* [2007] 4 SLR(R) 641 ("*Narindar Singh No 1*")):

(a) Reinstatement after 9 years and 6 months would not properly reflect the seriousness of the Applicant's attempt to interfere with the administration of justice. Public confidence and the general reputation of the legal profession might be affected if a solicitor were to be reinstated so quickly after such a serious offence. It was felt that the application was premature (*Narindar Singh (No 1)* at [40], [48], [49] and [51]);

(b) The supporting references provided by the Applicant were inadequate as they focused on how the applicant had been sufficiently punished but not also on how he had been rehabilitated. The references did not indicate whether there was a likelihood of the Applicant re-offending. In the interest of the public it is vitally important that the court should be satisfied that he was not likely to lapse into his old ways (*Narindar Singh (No 1)* at [26], [39] and [51]); and

(c) The court took into account the views of the Attorney-General, whose duty was to safeguard the public interest. The Attorney-General highlighted the fact that the offence for which the Applicant was struck off the Roll "went to the heart of the administration of justice" and was not one which could be regarded as a "momentary lapse of judgment" and that his reinstatement at that point in time would affect the standing of the profession (*Narindar Singh (No 1)* at [12], [14], [34] and [37]).

10 However, the Court of Three Judges also gave a rough indication (*Narindar Singh (No 1)* at [57] and [62]) that an appropriate juncture for the Applicant to make a fresh application was *possibly* five years from the date of the first application, subject to such conditions as may be appropriate or required at the point when the second application is made.

The present application

11 In bringing the present application, more than five years had passed since the first application and during that period the Applicant had conducted himself well and did not come to any adverse notice with the law. This application for reinstatement was also supported by references from two social and religious leaders (mainly from the Sikh community), two ex-employers, and seven members of the Singapore bar (including his present employer, Mr Kertar Singh).

12 The Applicant submitted that the following grounds warranted his reinstatement by this court:

(a) He had been excluded from the legal profession for a period of 15 years and 6 months, a period which was sufficiently long as a punishment for his misconduct as well as for his rehabilitation. For comparison, he referred to *Nirmal Singh s/o Fauja Singh v Law Society of Singapore* [2010] SGHC 336 ("*Nirmal Singh*") where the applicant successfully obtained reinstatement after 14 years and 5 months, notwithstanding that he had been convicted of three charges of corruption under the PCA and one charge of criminal breach of trust under the Penal Code (Cap 224, 1985 Rev Ed). Clearly the offences in *Nirmal Singh* were much worse than those to be considered in the present case. Accordingly, the reinstatement of the Applicant would not tarnish the reputation of the legal profession or undermine public confidence in the profession;

(b) He was willing to comply with the Law Society's conditions for reinstatement;

(c) He was fully and completely rehabilitated and was unlikely to lapse into his old ways. There was therefore no danger to the public from his restoration to the Roll. The Applicant was fully remorseful and, in his own words, "wanted to be known again as a person who can be trusted without question". [\[note: 2\]](#) He was truthful with his employers during the period of disbarment. He embarked on voluntary work to atone for his misdeeds. He discharged his para-legal work at Kertar & Co with "drive, honesty and integrity"; [\[note: 3\]](#)

(d) During the long period of disbarment he had kept his nose clean and observed the law with the lone exception of a traffic incident on 1 August 2008 when he was caught speeding on Nicoll Highway and beating a red light along Lavender Street. The two offences were compounded; and

(e) There was a public interest in the redemption of the Applicant as a contributing member of the legal profession.

13 The Law Society proposed that the following six conditions be attached to the Applicant's reinstatement:

(a) That the Applicant not practice as a sole proprietor, partner or director of any law practice for a period of two years;

(b) That he not hold or receive client money and/or trust money and/or conveyancing money for a period of one year;

(c) That he not act as a signatory to any client, conveyancing or trust account of a Singapore law practice for a period of one year;

(d) That for a period of two years, if he is to be employed in a law practice with a sole proprietor, sole partner or sole director, the sole proprietor, sole partner or sole director is to be approved by the Law Society and shall be of at least 12 years' standing;

(e) That, for the avoidance of doubt, the two year period referred to in clauses (a), (b), (c) and (d) is effective from the date of the practicing certificate issued to him following replacement on the Roll; and

(f) That by 31 December 2014, he is to attend at least 10 hours of ethics training conducted by the Law Society.

The Attorney-General supported the imposition of these conditions and the Applicant also agreed to comply with the same.

14 The rationale for the imposition of these conditions was to ensure that the public interest would be better protected and public confidence in the general reputation of the legal profession was maintained (particularly for the conditions relating to the handling of client's money). The Law Society also averred that these would be helpful for the Applicant's resumption of practice and his general professional competence.

Our assessment

15 The concerns expressed by the Attorney-General in opposing the first application were no longer of relevance as they had largely been addressed by the time of the present application. The Applicant now realised the errors of his way and his contrition was evident. A period of 15 years 6 months could not, by any stretch of the imagination, be considered to be short. Our view was that he had shown remorse and was fully rehabilitated.

16 As was observed in *Narindar Singh (No 1)* (at [38]–[41]), the reinstatement of an applicant onto the Roll was not a matter of mere sympathy for the applicant but must be balanced against a two-fold (and overlapping) public interest: (1) the public interest to be safeguarded from the applicant's possible re-offending and (2) the public confidence in the law and legal profession.

17 The Applicant had led a blemish free life for the past 18 years since the incident which constituted his criminal offence. For at least eight of the 18 years, the Applicant was involved in legal work – first at Kim An, then at Sunrise, before finally moving to Kertar & Co. During this eight year period, he had done work of a legal nature and had discharged them responsibly. The managing director of Kim An, Mr Mok Heng Tak, stated that he had “no doubt at all about [the Applicant's] honesty” both presently and during his employment at Kim An. [\[note: 4\]](#) The head of the Group Business Development department at Sunrise also stated that the Applicant enjoyed “a high level of confidence” at Sunrise and was found to be “honest and upright”, with the result that the company management “trusted him fully”. [\[note: 5\]](#) The managing partner of Kertar & Co, Mr Kertar Singh, similarly wrote a reference in support of the Applicant's reinstatement onto the Roll describing him as someone who worked with “drive, honesty and integrity”. [\[note: 6\]](#)

18 The only brush which the Applicant had with the law during the period of disbarment was in relation to a single traffic incident. His situation was very different from that in the case of *Nathan Edmund v Law Society of Singapore* [2013] 1 SLR 719 (“*Edmund Nathan*”), where the applicant had committed 19 regulatory offences (8 traffic offences, 8 parking offences, 2 ERP offences and 1 offence involving customs and excise) in a period of 11 years. The underlying offence in *Nathan Edmund* was one of attempted cheating under s 420, read with s 34 and s 511 of the Penal Code (Cap 224, 1985 Rev Ed). The Court of Three Judges was there concerned that the litany of regulatory offences might be indicative of a general cavalier attitude towards observing the law in both spirit and form. While the court there allowed the reinstatement of the applicant, being satisfied that he had then been fully rehabilitated, we ought to add that the applicant there in fact made an application for reinstatement two years earlier but withdrew it on the day it was due to be heard. It was clear that he withdrew his application because he realised that the court would look poorly at the litany of regulatory offences which he had committed over a period prior to his application and that he needed to show that he was a person who would and could observe the law : see *Edmund Nathan* at [30]. He did show this during the two year period which persuaded the court to look more kindly at his second reinstatement application.

19 The Applicant's journey towards rehabilitation was a holistic one and fitted within his spiritual

worldview. He became more involved in prayers and social work. He served as a volunteer at the Sikh Welfare Council and the Lions Club and, at the latter, he held a leadership position. The references which the Applicant obtained from the people in those organisations attested to his changed disposition and a genuine desire to walk a path which was different from that which he erroneously took in the past. Seven senior members of the bar also testified to the Applicant's reformed character and remorse for the underlying offence.

20 His employment at Kertar & Co gave him the opportunity to demonstrate his genuine desire to get back to the law and his determination to be a reliable and trustworthy person. Mr Kertar Singh testified that the applicant had "kept himself abreast of developments in the law... [and] was *au fait* with all the recent amendments made to the Penal Code and the Criminal Procedure Code." In addition, the Applicant had also abided by all timelines set by the court. [\[note: 71\]](#) His employer was completely satisfied with his performance as a para-legal. As held in *Edmund Nathan*, such actions and conduct were regarded as positive signs of rehabilitation.

21 We were satisfied that the Applicant had shown that he was now a reformed and rehabilitated person who would be extremely unlikely to commit a similar offence in the future. The public interest would be safeguarded.

Public confidence in the legal profession

22 Turning to the aspect of public confidence in the legal profession, we noted that one of the concerns that the Court of Three Judges had in *Narindar Singh (No 1)* was that the public confidence in the profession might be shaken if the Applicant was promptly reinstated to the Roll after such a serious offence. In other words, the period of time which a disbarred advocate and solicitor should be excluded from the profession before his reinstatement must be considered and must be proportionate to the seriousness of the offence(s) which gave rise to his disbarment. In this regard, the observations of this court in *Nirmal Singh* at [23] are germane:

In every case of reinstatement, the court has to resolve the tension between the protective and redemptive elements of public interest. While the redemptive element is essential, and must be considered in all cases, the weight to be given to this element must differ from case to case. For example, the longer the period of disbarment, or the lesser the severity of the offences committed, the greater will be the weight the redemption element will be accorded in the mind of this court.

23 In *Nirmal Singh* the applicant was guilty of three counts of corruption under the PCA (in addition to one offence under the Penal Code). It had been 20 years since the incident (and 14 years after being struck off) that the applicant in *Nirmal Singh* made his application. The Court of Three Judges found (at [22]) that "[b]y any standard, 20 years (or even 14 years if we reckon as from the date of striking off) cannot be said to be an insignificant period in the life of an individual", and that it was time for Nirmal Singh's redemption.

24 In the present application, it had been 18 years since the time of the incident, and 15½ years since the time of striking off. This was similar to the time scales in *Nirmal Singh*. Whether we took our measure from the time of the incident or the time of striking off, we thought the Applicant had been sufficiently debarred. This was all the more so because the Applicant's sole conviction here could not be regarded as of the same gravity as the applicant's several convictions in *Nirmal Singh (No 1)*.

25 Bearing in mind the court's indication in *Narindar Singh (No 1)* (at [57]) that 5 years from the date of the first application *might be* an appropriate time for the Applicant to apply for reinstatement,

subject to the caveat that any reinstatement would be fact sensitive, the present application could no longer be considered as premature. The Applicant had been debarred for an appropriate period of time for the wrong he had committed.

26 This is *a fortiori* the case with the conditions imposed by the Law Society, particularly those conditions relating to the taking of ethics classes and the requirement of accountability to a firm of lawyers (or a sole proprietor approved by the Law Society) for two years. We fully endorsed the imposition of these conditions as it sends out a clear signal that the reinstatement of a disbarred advocate and solicitor is a matter which the profession takes seriously and that all possible and practical measures will be put in place to protect the interest of clients. A further object of the conditions is to allow a reinstated advocate and solicitor to slowly win back the trust of the public and of the other members of the legal profession.

Additional conditions

27 Hitherto, for the purposes of reinstatement, so long as it was shown the application was not premature and the court was satisfied the applicant had been rehabilitated, and the reinstatement would not be against public interest, and subject to the conditions of the Law Society, the application would likely be acceded to. However, on this occasion, this court felt that there was another dimension relating to the need to protect the public interest which warranted further consideration. This concerned the Applicant's competence. As mentioned before, the Applicant had been disbarred for fifteen and a half years. This was a long period by any reckoning. While we noted his employment with Kim An and Sunrise involved some legal work, we would imagine that it would have been of a limited nature. Even his work as a para-legal in Kertar & Co would also by its very nature be lacking in breadth. To date the attention of the court had largely focused on the sufficiency of the period of disbarment, the rehabilitation of the applicant and the interests of both the profession and the public. In the context of public interest, we were of the view that the competence of the reinstated advocate and solicitor should also be deserving of careful consideration.

28 The court has observed, in *Knight Glenn Jeyasingam v Law Society of Singapore* [2007] 3 SLR(R) 704 (at [41]), that the conditions imposed should be tailored to what is most useful in the context of the facts at hand. It has generally been the practice of the court to endorse the conditions suggested by the Law Society and/or the Attorney-General if they are useful (see, for example, *Nirmal Singh* at [25]) or if neither party has contested the imposition of "boiler-plate" conditions (see, for example, *Nathan Edmund* at [31]). There is thus no reported case, to date, where the court has imposed any additional conditions for reinstatement. However, given the length of time that the Applicant has been away from the practice of law, we found that it would be useful both in the public interest and for the Applicant himself, to impose additional conditions relating to his legal knowledge and competency.

29 In view of the long period of disbarment, it would naturally follow that an applicant's knowledge of the substantive and procedural law would probably be lacking or at least in need of updating. We recognised that this matter could not be generalised and it would depend on the circumstances of each individual applicant. At one end of the spectrum, a diligent applicant could well have kept up to date on the law by, for example, regularly perusing our law reports as well as the Singapore Academy of Law publication, *Annual Review of Singapore Cases*. At the other end of the spectrum, an applicant could, during the period, have scarcely kept in touch with the law. We saw a need to ensure that every reinstated advocate and solicitor has brushed up on his law so as to be competent again. It cannot be denied that the law is constantly evolving. The public cannot be expected to deserve anything less from an advocate and solicitor just because he had only recently been reinstated onto

the Roll. Towards that end, we think it necessary to impose on the Applicant the following additional conditions that he shall have to:

- (a) attend conferences, lectures, seminars or workshops conducted by accredited institutions for the purposes of the Continuing Professional Development ("CPD") Scheme with a view to obtaining 16 CPD points per year for three years starting from 15 August 2013;
- (b) read online lectures and materials for the following 5 subjects for the Preparatory Course leading to Part B of the Singapore Bar Examinations 2013 within 6 months from 15 August 2013:
 - (i) Civil Litigation Practice
 - (ii) Criminal Litigation Practice
 - (iii) Insolvency Practice
 - (iv) Real Estate Practice
 - (v) Family Law Practice; and
- (c) read the annual issue of the Singapore Academy of Law *Annual Review of Singapore Cases* for three years starting from 15 August 2013.

30 This being the first occasion where such additional conditions have been imposed by this court, we envisage that further refinements could well be required in the light of the experience gained or new circumstances which may arise. We recall that when we raised the possibility of these conditions being imposed during the oral hearing, counsel for the Applicant expressed concern that there could be awkwardness or embarrassment if an applicant were to be required to attend classes for the listed Part B subjects together with recent law graduates. He also asked if the Applicant would need to sit for the examinations prescribed for those subjects like a recent law graduate would. We appreciated the concerns and indicated, in relation to both queries, that we did not have that in mind. Eventually, the Applicant advised the court that he accepted the additional conditions and would comply with the same.

Conclusion

31 In the result, as both the Attorney-General and the Law Society did not oppose the application, and as we were also satisfied that the Applicant had met the requirements for reinstatement, we granted the application subject to the Law Society's conditions and the additional conditions. We made no order as to costs.

[\[note: 1\]](#) Applicant's Affidavit filed on 4 April 2013 at [73]

[\[note: 2\]](#) Applicant's Affidavit filed on 4 April 2013 at [54]

[\[note: 3\]](#) *Ibid*, Volume 1 of 2, NSK-10, p189

[\[note: 4\]](#) Applicant's Affidavit filed on 4 April 2013 Volume 2 of 2, NSK-24, p 18

[\[note: 5\]](#) *Ibid*, p 19

[\[note: 6\]](#) Applicant's Affidavit filed on 4 April 2013 Volume 1 of 2, NSK-13, p 189

[\[note: 7\]](#) Applicant's Affidavit filed on 4 April 2013 Volume 1 of 2, NSK-13, p 6.

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