

BEING JUDGE

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A person is not born as a Judge. A person generally takes up education in Law to become a Lawyer. Now-a-days one more avenue for which students take education in law is a job in Corporate Sector. There are very few who join education of law to become a judge. A person is transformed into a judge after he joins judiciary.

Qualities of a Judge

2. An ancient Jurist Katyayana has enumerated 7 qualities of a judge which are : 1) No ill-will, 2) Politeness, 3) Dispassionate, 4) Forgiveness, 5) Educated having analytical mind, 6) Spirited and Hardworking, 7) Having no greed.

3. Hon'ble Chief Justice of India K.C. Lahoti (as he then was) in one of his speech before Delhi Judiciary Academy while describing qualities of judges stated that dispensation of Justice is attribute of god, blessed are those on whom that godly assignment is fallen. As per him a Judge should be : 1) A gentleman, 2) He should be a Judge for 24 hours a day, 3) He should be impartial, 4) He should be transformer of Society, 5) While discharging Judicial or Administrative work he should be just as well as merciful.

4. Lord Denning while describing qualities of a Judge states that he must enjoy confidence of people by acting independently of Executives. As per Lord Denning integrity is essential virtue of a judge.

5. Website of Canadian Superior Court Judges Association describes qualities of Judges as : 1) striving for highest standard of integrity, 2) have knowledge of law, 3) willing to undertake in-depth legal research, 4) able to write judgments that are clear and cogent, 5) Fair and open minded, 6) Good Listener, 7) Courteous but firm to rein in a rambling lawyer, disrespectful litigant or unruly spectator.

Let's consider what our system is doing to transform a person in a Judge with above said qualities.

Selection as a Judge

5. First of all selection of a person as a Judge in Trial court judiciary may it be at Junior Civil Judge level or at District Judge Level is similar. In this process basically legal knowledge of a person is determined. In case of Trial court judiciary written examination of subject of law is taken to test knowledge on various legislations. Capability to appreciate the evidence and to

apply law to the given facts is tested by asking him to write judgments. In case of Trial court judges after their successful written examinations they are subjected to viva voce before Hon'ble Chief Justice and Hon'ble judges of High court. Here also basic test applied is knowledge of law. His social background is checked by calling police report, by calling report of judges before whom he has practiced as an advocate. Normally a positive police report is given when no offence is registered against said person. Report of judges is many times illusive particularly in case of advocates practicing in cities like Mumbai, Pune, Nagpur where number of advocates is so high that it is difficult for judges to appreciate work of young advocates. Taking into account this selection process a Judge is basically selected on the basis of knowledge of law.

Training for Transformation

6. After selection of a judge in Trial court Judiciary he is sent to judicial academy for training. Newly appointed judge has to undergo rigorous training at Academy again in various subjects of law. He is taught how to write judgments and how to appreciate evidence. A major concern during the training is to make newly appointed judge suitable to take up the job of a judge to deliver judgments. The main object of the training is to make the newly appointed judge ready to take over the job of trial of Civil and Criminal cases and deliver judgments so that the cases piled in the courts are disposed of at expected rate. So most part of the training is like training an Engineer or a Manager who after joining a particular job is trained to apply the knowledge he has acquired in college to the specified requirements of the employer. For example a Mechanical Engineer employed by a Car manufacturer will initially be trained how to apply his knowledge of mechanical engineering in manufacturing process of Cars of that company.

7. It is not that during the training no steps are taken to inculcate in the newly appointed judge attitude to develop qualities of a judge. The appointed Judges are made to hear Hon'ble High court Judges and other judges and learn from their enriched experiences. Judges are also exposed to read books and view art works like movies in order to make them aware of social ethos. The judges are made aware of their duty to protect fundamental rights of the citizen while acting as a judge. The judge is exposed to various observations of Hon'ble High Court and Hon'ble Apex Court regarding their responsibilities as a Judge. He is made aware how judicial discretion shall be used. He has to read and follow observations of Apex court to broaden his vision and transform him as a Judge. He is exposed to observations as in the case of Municipal Council, Ratlam V/s. Vardhichand&Ors. (AIR 1980 S.C. 1622) which is quoted as under:

	“Although the two Codes are of ancient vintage, the new social justice orientation imparted to them by the Constitution of India makes it a remedial weapon of versatile use. Social Justice is due to the people and, therefore, the people must be able to trigger off the	
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	jurisdiction vested for their benefit in any public functionary like a Magistrate under S.133 Cr. P.C. In the exercise of such power, the judiciary must be informed by the broader principle of access to justice necessitated by the conditions of developing countries and obligated by Art.38 of the Constitution.”	
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8. The judges thus made aware and sensitized that they are not only protectors of fundamental rights of people but **they have** to see that fundamental principles of State Policy are also properly applied to the benefit of citizens of India.

Enrichment of experience from the system

9. After training the Judge starts functioning as an Independent Judge. Now, it is for him to continue the process of transformation of himself as a Judge by enriching himself with the **gained** experience of senior judges. The judge who develops habit of selecting a proper role model and perfecting himself as a Judge is expected to soon transform himself into a judge having above said qualities.

Negative impressions of system

10. A Judge sitting on higher pedestal while discharging his duties and engrossed with discretionary powers may be a victim of ego. Severance of a judge from the society affects his sensitivity as he is not aware of changes in the society. In the result his responses become blunt and he cannot draw conclusion like a prudent man, Security of employment also develop easy-go-lucky tendency in some judges which in turn stops their transformation. The Judge who conserves himself from these negativities continues to groom him as a good Judge.

Conclusion

11. Being a judge a person is expected to have good knowledge of law. He is also expected to be generous and committed to the moral virtues. He shall have potential to inculcate all the qualities of a good judge. Moral virtues are taught to a person since childhood. If it is so then a person at the time of selection already has moral virtues. It is necessary to have some process during course of selection to identify a person who is a gentleman and have inculcated good moral values since his childhood, so that his transformation as a Judge will be an easier task. During selection there can be a pursuit to identify candidates with Following qualities.

1. Judicial Temperament: A candidate should exhibit the following aspects of proper judicial temperament: Patience, open-mindedness, courtesy, tact, courage, punctuality, firmness, understanding, compassion, humility and common sense.

2. Intelligence: This is the ability to know and apply legal rules, analyze different facts and circumstances, and the ability quickly to perceive, comprehend, and understand new concepts and ideas.

3. Ethics: There should be no doubt about an applicant's personal or professional ethics. As a lawyer, a candidate should have maintained a standard of conduct above the minimum standard set forth in the disciplinary rules by Advocate's association.

4. Courage and Integrity: Legal "Courage" is "the willingness to do what the law requires the judge to do even though the course the judge must follow is not the popular one". "Integrity" is not being influenced by the identity, race, gender, political status, wealth or relationship of the party or lawyer before the judge. More basically it is not doing what the judge knows to be wrong. A judicial applicant should possess both courage and integrity.

5. Experience and Education: Prior professional activities, legal education, teaching, bar activities, and publications are very important. The type and amount of experience necessary varies depending on the judicial position sought.

12. During the training of a judge equal importance should be given for developing and **maneuvering these** qualities in the appointed judge. Transformation is ongoing process and therefore head of the station where newly appointed judges start their working should be made responsible for their further transformation into a good judge. A Judge with good virtue and desired qualities will be a tool for transformation of society into a Society which is truly justice oriented respecting liberty of others, striving to achieve equality and assuring fraternity and dignity of individuals as expected by We, the People of India.

(Dr. Ajay Nathani)