Gnaguru s/o Thamboo Mylvaganam v Law Society of Singapore
[2008] SGHC 34

Case Number : OS 1573/2007

Decision Date : 29 February 2008

Tribunal/Court : High Court

Coram : Andrew Phang Boon Leong JA; Tan Lee Meng J; Tay Yong Kwang J

Counsel Name(s) : Vergis S Abraham and Clive Myint Soe (Drew & Napier LLC) for the applicant; Lok Vi Ming SC and Koh Kia Jeng (Rodyk & Davidson LLP) for the respondent; Mavis Chionh (Attorney-General's Chambers) for the Attorney-General

Parties : Gnaguru s/o Thamboo Mylvaganam — Law Society of Singapore

Legal Profession – Reinstatement on roll of advocates and solicitors – Second attempt at reinstatement – Application made 13 years and two months after striking off – Lawyer struck off after conviction for offence implying defect of character – Whether lawyer fit to be restored on roll – Section 102 Legal Profession Act (Cap 161, 2001 Rev Ed)

29 February 2008

Andrew Phang Boon Leong JA (delivering the grounds of decision of the court):

Introduction

1 This is the *second* attempt by Gnaguru s/o Thamboo Mylvaganam ("the Applicant") to be reinstated to the roll of advocates and solicitors of the Supreme Court of Singapore ("the Roll") pursuant to s 102(1) of the Legal Profession Act (Cap 161, 2001 Rev Ed) ("the Act"). The Applicant had been struck off the Roll on 31 August 1994 as a result of his conviction under s 174 read with s 109 of the Penal Code (Cap 224, 1985 Rev Ed) ("the PC"), which fell within the meaning of s 83(2)(*a*) of the Legal Profession Act (Cap 161, 1990 Rev Ed) ("the 1990 Act"). After hearing the submissions of the respective parties, we allowed the application. We now give the reasons for our decision.

Factual background

2 The Applicant is 55 years of age. He was called as a barrister-at-law of England in 1984, and was subsequently admitted as an advocate and solicitor of the Supreme Court of Singapore on 11 December 1985. In early 1986, the Applicant commenced his own legal practice under the name M/s Guru & Partners.

Events leading to the Applicant's striking off

3 The Applicant was an advocate and solicitor of some eight years' standing when he was convicted under s 174 read with s 109 of the PC on 28 June 1993.

4 The events leading to the Applicant being charged for the above-mentioned offence were as follows. In late January 1989, the Applicant's friend and family doctor, Dr Ramaswami s/o R V Narasimhalu Naidu ("Dr Ramaswami"), agreed to provide the Applicant's clients with medical certificates excusing them from attending court even if they were not ill. Thereafter, some of the Applicant's clients, including Mr Teo In Hin ("Mr Teo"), took advantage of the arrangement which the

Applicant had with Dr Ramaswami.

5 In Mr Teo's case, Mr Teo had, a few days before 3 December 1990, sought legal advice from the Applicant concerning a case fixed for hearing on 3 and 4 December 1990 in the Subordinate Courts. The Applicant advised Mr Teo to seek an adjournment on the first day of the hearing. To that end, the Applicant instigated Mr Teo to obtain a medical certificate from Dr Ramaswami to certify that Mr Teo was unfit to attend court. On the morning of 3 December 1990, Mr Teo went to see Dr Ramaswami and was asked how many days of medical leave he required. Mr Teo informed Dr Ramaswami that the trial was fixed for 3 and 4 December 1990, and was duly issued with a medical certificate certifying that he was unfit to attend court on those two days even though he was not ill. The Applicant tendered that medical certificate to the court and Mr Teo's case was adjourned.

6 On 28 June 1993, the Applicant pleaded guilty in the Subordinate Courts to one charge, under s 174 read with s 109 of the PC, of abetting Mr Teo in intentionally omitting to attend the court hearing scheduled for 3 and 4 December 1990 by instigating the latter to obtain a medical certificate from Dr Ramaswami to certify that he (Mr Teo) was unfit to attend court on those dates. Seven similar charges were taken into consideration. The Applicant was sentenced to three weeks' imprisonment and fined $1,000. He did not appeal against the sentence.

7 Following the Applicant's conviction, the Law Society of Singapore ("the Law Society") commenced disciplinary proceedings against the Applicant and preferred the following charge against him:

> You, Gnaguru s/o Thamboo Mylvaganam are charged that on the 28th day of June 1993, you were convicted in District Court No. 4 in DAC 85 of 1993 of a charge of abetting a client, one Teo In Hin, in the commission of the offence of intentionally omitting to attend at the Subordinate Court from the 3rd to the 4th December 1990, in obedience to an order made by a Judicial Officer, an offence punishable under Section 174 read with Section 109 of the Penal Code, Chapter 224, and together with seven (7) other similar charges which were taken into consideration, you were sentenced to three (3) weeks' imprisonment and to pay a fine of $1,000.00, and further, you committed these said offences whilst acting in your capacity as an Advocate and Solicitor and you are thereby guilty of conduct implying a defect of character which makes you unfit for your profession within the meaning of Section 83(2)(a) of the Legal Profession Act, Chapter 161.

In its report dated 30 May 1994, the disciplinary committee of the Law Society determined that cause of sufficient gravity existed for disciplinary action to be taken against the Applicant. As such, the Law Society made an application under s 98(1) of the 1990 Act for the Applicant to show cause as to why he should not be struck off the Roll.

8 On 31 August 1994, at the show cause proceedings, the Applicant chose not to appear before this court (see *Re Gnaguru s/o Thamboo Mylvaganam* [1994] SGHC 229 at [1]). This court concluded (*id* at [6]) that the conviction of the Applicant implied a defect of character which made him unfit for his profession within the meaning of s 83(2)(*a*) of the 1990 Act as the offence committed by him involved an obstruction of the machinery of justice. Accordingly, this court was satisfied that due cause had been shown, as required by s 83(1) of the 1990 Act, for disciplinary action to be taken, and the Applicant was struck off the Roll.

Events subsequent to the Applicant's striking off

9 After being struck off the Roll, the Applicant worked as a legal officer for Spandeck Engineering

(S) Pte Ltd, a company specialising in precast prestressed concrete components for the construction of buildings, from 1995 to 1999. He was subsequently an in-house legal adviser to Pilecon Engineering Bhd, a public listed construction company based in Malaysia offering soil and foundation engineering services for building and civil engineering projects, from 1999 to 2003. From 2003 to 2004, the Applicant assisted Mr Ravi s/o Madasamy of M/s M Ravi & Co in the research and drafting of submissions for various criminal matters which the latter was involved in.

The Applicant's first application for reinstatement

10 On 7 April 2004, almost ten years after being struck off the Roll, the Applicant applied via Originating Motion No 15 of 2004 to be reinstated to the Roll ("the first reinstatement application"). That application was dismissed (see *Re Gnaguru s/o Thamboo Mylvaganam* [2004] SGHC 180 ("*Gnaguru*")).

11 In considering the first reinstatement application, this court was satisfied that the application was not premature, given that the Applicant had been kept off the Roll for almost ten years such that it could hardly be said that he had not felt the full effects of the penalty imposed on him (see *Gnaguru* at [10]). The Applicant had already paid a high price for his misdeeds, and, in principle, sentences of exclusion from the legal profession need not be exclusive forever (*id* at [18], citing *Re Chan Chow Wang* [1982-1983] SLR 413 at 414, [6]).

12 However, it was still incumbent on the Applicant to show that he was, by the time of the first reinstatement application, of such reformed character that he could be relied upon to discharge the professional duties of an advocate and solicitor with honour and integrity. In this respect, this court found that the Applicant's case was woefully inadequate. In its grounds of decision, this court noted (*Gnaguru* at [19]) that, apart from the Applicant's own affidavits, there was no real evidence to substantiate the Applicant's claims of rehabilitation. The letters of recommendation from other members of the Bar which the Applicant had submitted merely spoke of his deep interest in the law and his friendly and affable disposition. There was not a single letter which attested to the Applicant's trustworthiness and good character. As a consequence, in the absence of any substantive evidence, the court held (*ibid*) that it could not accept the Applicant's bare assertion that his character had so changed that he was fit to be re-admitted to the Bar. Accordingly, the first reinstatement application was dismissed.

Events since the first reinstatement application

13 The Applicant was employed by the Singapore branch of USANA Inc, a company involved in the wellness network marketing business, in 2004. Two years later, he joined Melaleuca Inc, a referral marketing company based in the United States of America, as a marketing executive.

The present application for reinstatement

14 On 23 October 2007, the Applicant filed the present application (Originating Summons No 1573 of 2007) to have his name replaced on the Roll ("the present application"). The present application was made some 13 years and two months after the Applicant was removed from the Roll, and some three years and two months after the first reinstatement application was rejected.

The Applicant's submissions

15 The Applicant submitted that, in considering the first reinstatement application, this court found that that application, made some ten years after his striking off from the Roll, was not premature and

that he had already paid a high price for what he had done (see [11] above). He added that his record had remained unblemished since his conviction in June 1993 and that his offence was less serious compared to the offences concerned in other applications for reinstatement under s 102 of the Act.

16 The Applicant also tendered letters in support of the present application from both members of the legal fraternity as well as other members of the community. To this end, the Applicant contended that his contributions to the legal fraternity over the last few years evinced not only his love for the law, but also his claim of having been reformed and rehabilitated. He further stated that he had been offered a position by Mr K Ravintheran of M/s K Ravi Associates should the present application be granted.

17 For reasons that will become apparent in a moment, of significance to the present case was a letter of commendation by Mr Daniel Tint Lwin ("Daniel") dated 17 July 2007 ("the Letter of Commendation"), which was tendered by the Applicant together with the present application. Daniel is the manager of the Training, Services and Business Development Division of RSVP ProGuide Pte Ltd ("RSVP ProGuide"), a social enterprise company formed by the Retired and Senior Volunteer Programme (Singapore) ("RSVP"). RSVP is a non-profit organisation which provides community-based services to a broad spectrum of society by providing opportunities for seniors to serve the community with their talents and experience. In May 2006, the Applicant joined RSVP as a member. RSVP ProGuide later offered him an appointment as a technical adviser to the Kingdom of Cambodia's Royal Academy for Judicial Professions ("the Cambodian Judicial Academy") in Phnom Penh, where he was to conduct courses and train student judges and prosecutors in the technical and legal use of the English language. This was part of the "English for Law" initiative spearheaded by Singapore's Ministry of Foreign Affairs and the Cambodian Judicial Academy. The Applicant conducted an initial course in December 2006 and – given the positive feedback from participants of the first course – repeated the course in June and July 2007. In this connection, Daniel wrote the Letter of Commendation praising the Applicant's contributions to this programme. The Applicant also received a letter of appreciation from the president of the Cambodian Judicial Academy.

18 It bears mention that at the time the Applicant was offered the above appointment, neither RSVP ProGuide nor RSVP was aware that he had been struck off the Roll. The Applicant made no mention of this fact when he registered with these two organisations. As such, Daniel, in his affidavit filed on 7 January 2008 ("Daniel's affidavit"), stated that had RSVP ProGuide and RSVP known that the Applicant was a disbarred lawyer, they would not have offered him the appointment. Accordingly, via that affidavit, Daniel withdrew the Letter of Commendation.

The Law Society's position

19 In the light of the Applicant's failure to disclose the fact of his striking off from the Roll to the organisers of the "English for Law" course, some members of the council of the Law Society ("the Council") questioned the completeness of the Applicant's rehabilitation. However, the majority of the Council decided not to object to the present application provided the Applicant undertook to abide by the following terms, which were to be added as conditions to his practising certificate should he be reinstated to the Roll:

(a) the Applicant would not practise as a sole proprietor for a period of two years;

(b) for a period of two years, the Applicant would not seek or accept employment as an advocate and solicitor from a sole proprietor unless the latter was a "senior category" member under the classification adopted by the Law Society;

(c) the Applicant would not hold and receive moneys or act as a signatory to any client's account;

(d) the Applicant would, by 31 December 2008, attend ten hours of training under the Law Society's "Continuing Professional Development" scheme, of which two hours would involve professional ethics or responsibilities; and

(e) the Applicant would, by 31 December 2008, perform 25 hours of voluntary *pro bono* service with the Law Society's *pro bono* services department.

20 The undertakings in the preceding paragraph were communicated to the Applicant's solicitors on 15 January 2008, and the Applicant confirmed his acceptance of the conditions on the same day.

The Attorney-General's position

21 The Attorney-General had initially objected to the present application. This was due to Daniel's affidavit stating his (Daniel's) withdrawal of the Letter of Commendation (see [18] above).

22 However, as the Applicant agreed not to rely on the references which mentioned his participation in the "English for Law" programme and also agreed to the conditions imposed by the Law Society (as set out at [19] above), counsel for the Attorney-General, Ms Mavis Chionh, informed this court that the Attorney-General was no longer objecting to the present application. This was because any doubts which had been raised by the Applicant's failure to disclose his status as a disbarred lawyer had been sufficiently mitigated by the terms imposed by the Law Society.

The law

23 Section 102 of the Act empowers the court to replace on the Roll the name of a solicitor whose name has been struck off. This particular provision reads as follows:

102.—(1) The court may, if it thinks fit, at any time order the Registrar to replace on the roll the name of a solicitor whose name has been removed from, or struck off, the roll.

(2) Any application that the name of a solicitor be replaced on the roll shall be by originating summons, supported by affidavit, before a court of 3 Judges of the Supreme Court of whom the Chief Justice shall be one.

(3) The originating summons shall be served on the Society which shall —

(*a*) appear at the hearing of the application; and

(*b*) place before the court a report which shall include —

(i) copies of the record of any proceedings as the result of which the name of the solicitor was removed from or struck off the roll; and

(ii) a statement of any facts which have occurred since the name of the solicitor was removed from or struck off the roll and which in the opinion of the Council or any member of the Councils [*sic*] are relevant to be considered or to be investigated in connection with the application.

24 The basic principles that guide the court in relation to an application for reinstatement to the Roll were recently restated by this court in *Knight Glenn Jeyasingam v Law Society of Singapore* [2007] 3 SLR 704 ("*Glenn Knight*") and *Narindar Singh Kang v Law Society of Singapore* [2007] 4 SLR 641 ("*Narindar Singh Kang*"). In *Glenn Knight* (which constitutes the seminal decision), Chan Sek Keong CJ observed thus (at [43]):

> [W]e would like to emphasise that we have not laid down a general principle that if an advocate and solicitor has been disbarred for any particular lengthy period of time, say ten years and longer, he will automatically be entitled to be restored to the roll if he has a subsequent blemish-free history and receives the support of prominent members of the legal community. Each case must be decided on its own facts. One of the most important considerations must be the nature of the transgression that had resulted in his disbarment in the first place. The transgression, in terms of its criminality and its gravity, will invariably feature prominently in the court's assessment of the adequacy of the period of time that has lapsed since the applicant has ceased practice. But equally, if not more, important would be its effect or potential effect on the integrity of the courts and the administration of justice. Every advocate and solicitor is an officer of the court and a serious failure to support and uphold the administration of justice cannot be lightly papered over notwithstanding the passage of time. It is not possible to enumerate all the material factors. Indeed, as a matter of principle, it is possible that the transgression of the advocate and solicitor could result in his being disbarred for a very long time (although we hope that this would be rare) if the nature of his misconduct shows he does not deserve to be restored to the roll.

25 In *Narindar Singh Kang*, this court emphasised two related aspects (or factors) which would guide the court in arriving at its decision – both of which were described (at [38]) as "often pivotal to applications of this nature". Further, this court pointed out that both of these factors are "*equally* important" [emphasis in original] and "both interact – and [are] integrated – with each other" (*ibid*). These two factors correspond to a focus on the *individual applicant* and the *public interest, respectively*, as embodied in the following observations (*Narindar Singh Kang* at [39]–[41]):

> 39 The first is the focus on the *applicant* himself or herself. More specifically, the issue is whether or not the applicant has demonstrated, through his or her conduct and actions during the interim period, that he or she has been fully rehabilitated and is now a fit person to be restored to the roll. Or is it likely that the applicant might, on the contrary, lapse into the same (or similar) conduct that resulted in him or her being struck off the roll in the first instance? In this regard, both the objective evidence of what he or she has been involved in during the relevant period (between being struck off the roll and applying for restoration to the roll) as well as references (particularly from members of the legal fraternity) would constitute the best evidence as to whether or not the question just posed ought to be answered in the affirmative. The categories of evidence are, of course, not closed and would include evidence of the applicant's medical condition (in particular, where it is alleged that the applicant is suffering from a medical condition that renders him or her unfit for practice, albeit through no fault of his or her own …). This particular consideration is, in many ways, a threshold one because if, for example, the applicant might lapse back into the same (or similar) conduct that resulted in him or her being struck [off] the roll in the first instance, then it is clear beyond peradventure that the applicant cannot be restored to the roll. It is important to note, at this juncture, that this (first) focus *overlaps* with one key element of the second inasmuch as in so far as the applicant is found to be fully rehabilitated and is now fit to be restored to the roll, to *that* extent, there is *no likelihood of danger of any harm to the wider public*. …
>
> 40 The second broad area of focus is on the *public interest* … In this regard, the *key*

considerations or elements are, respectively, the *protection* of the public *and public confidence* in *the general reputation of the legal profession*. This particular area of focus is broader than the first inasmuch as it extends beyond the applicant's own circumstances and personal situation. …

41 It is important to emphasise that whilst the possible (and *specific*) *harm* which might be caused to *the public* is clearly a factor that must be considered, this is (as already mentioned above) *related*, in point of fact, to the issue as to whether or not the *applicant* is sufficiently rehabilitated and therefore has ceased to pose a danger to the public in this particular respect. *However*, this factor is, as alluded to above, *but one* of the *two elements of public interest* which this court must consider. There is a *further* (and *second*) element … This relates to *the need to maintain public confidence in the general reputation and standing of the legal profession*. Put simply, would the restoration of the applicant concerned *diminish public confidence in the general reputation and standing of the legal profession*? A *negative* answer to this question is, in our view, necessary before the applicant can be restored to the roll. In other words, the fact that the applicant can demonstrate to this court's satisfaction that he or she has repented fully and will not commit the same (or a similar) disciplinary infraction again is a necessary, *but not sufficient*, condition for restoration to the roll. …

[emphasis in original]

Our decision

Whether the Applicant has been fully rehabilitated

26 Applying the principles set out in the preceding section of these grounds of decision to the present application, and turning, first, to the issue of whether or not the Applicant has demonstrated, through his conduct and actions during the interim period, that he has been fully rehabilitated and is now a fit person to be restored to the Roll, we note that two main periods of time need to be considered.

27 The first is the period from the time the Applicant was struck off the Roll to the time of the first reinstatement application. A brief background was given above (at [12]) as to why this court rejected the first reinstatement application. However, the court was not altogether negative towards that application, and it is relevant, in our view, to now examine its reasons in more detail. In particular, Yong Pung How CJ was of the view that the first reinstatement application "was not premature" and that "[g]iven that the [A]pplicant had been kept off the [R]oll for almost ten years, it could hardly be said that he [had] not felt the full effects of the penalty imposed on him" (*Gnaguru* ([10] *supra*) at [10]).

28 However, the Applicant failed in the first reinstatement application because (*id* at [19]):

Apart from [the Applicant's] own affidavits, there was no real evidence to substantiate his claims of rehabilitation. *The letters of recommendation from other members of the Bar*, which we considered at length, *merely spoke of the [A]pplicant's deep interest in the law and his friendly and affable disposition. We found it telling that not a single letter attested to his trustworthiness and good character, which was our essential concern here*. The letters from the Red Cross also added little, if any, value to his application. In the absence of any substantive evidence, we could not accept the [A]pplicant's bare assertion that his character had so changed that he was now fit to be re-admitted to the Bar. [emphasis added]

29 It should also be noted that although the Law Society did not object to the first reinstatement

application, the Attorney-General objected on the basis that the Applicant had attended a pre-trial conference with another lawyer before a district judge some four months earlier on 20 April 2004 and, in the course of the proceedings, had addressed the district judge on certain aspects of the case (see *Gnaguru* at [15]). However, this court was of the view that although the Applicant should not have addressed the district judge on that occasion, that mistake was "a minor incident" (*id* at [16]) and should not be taken into account when considering the substantive merits of the first reinstatement application.

30 Turning to the second relevant period of time (*ie*, that between the time of the first reinstatement application and the present), slightly over three years have passed since the first reinstatement application was dismissed. In total, the present application was made some 13 years and two months after the Applicant had been struck off the Roll. The Applicant has not only been gainfully employed throughout this (as well as the first) period (see above at [9] and [13]), but has also successfully completed an external Masters of Law programme offered by the University of London. More importantly, his references in respect of the present application are a far cry from those which he tendered for the first reinstatement application (as to which, see the comments of Yong CJ in *Gnaguru* at [19] (set out at [28] above)). This time round, his references included those from six senior members of the Bar (of between 16 years' and 27 years' experience), who attested to the Applicant's honesty, integrity and trustworthiness, as well as the fact that he had been truly rehabilitated.

31 Further, neither the Law Society nor the Attorney-General objected to the present application (although the Law Society did not object on condition that the Applicant undertook to abide by the terms referred to above (at [19]), which he did).

32 At this juncture, brief mention ought to be made of a matter that has been referred to above (at [17]) – namely, the Letter of Commendation and the Applicant's work pursuant to the "English for Law" initiative.

33 It is clear, in our view, that the Applicant had – objectively speaking – conducted the courses under the above programme with great success and commitment. This was clear from the contents of the Letter of Commendation itself.

34 However, one issue that arose was whether or not, in failing to disclose his status as a disbarred lawyer to RSVP and RSVP ProGuide, the Applicant had demonstrated that he had not been truly rehabilitated. The withdrawal, at the request of the Attorney-General, of the Letter of Commendation was (in our view) irrelevant as it did not, *ipso facto*, remove this alleged doubt *vis-à-vis* the Applicant's rehabilitation.

35 It was clear that at no point was the Applicant asked, during his involvement with RSVP and RSVP ProGuide, to disclose his status as a disbarred lawyer. Indeed, in an affidavit filed on 9 January 2008 in response to Daniel's affidavit, the Applicant stated that while conducting courses under the "English for Law" initiative, all he taught was basic English, and that he did not know that it was a precondition that a person teaching under this programme had to be an advocate and solicitor of the Supreme Court of Singapore. In this connection, the Applicant appended to his affidavit of 9 January 2008 the teaching transparencies which he had utilised for his lectures. He further stated (at para 3 of his affidavit) that:

> It … honestly did not occur to me at the material time that the fact that I was struck off the Roll was relevant or would be an issue if I accepted this appointment to teach English for Law.

36 The question that then arose was whether or not, in the *circumstances and the context* concerned (namely, of voluntary work in the form of teaching the technical and legal use of the English language pursuant to the "English for Law" initiative), the Applicant ought nevertheless to have disclosed his status as a disbarred lawyer. Whilst it might have been ideal if the Applicant had done so, we are not convinced that his non-disclosure evinced a defect in character, given the nature of the above programme (which did not involve, either directly or indirectly, the practice of law and which was voluntary in nature). This might well have constituted an oversight on the Applicant's part, given his perception (as set out in his affidavit of 9 January 2008) as well as his enthusiasm to volunteer his services. In this respect, the great success with which the Applicant had conducted the courses under the "English for Law" programme (see above at [17]) is of some relevance and assistance to this court. We earlier noted (at [29] above) that the Applicant had, prior to the *first* reinstatement application, committed the error of addressing a district judge at a pre-trial conference on certain aspects of a case. As we also observed (at [29] above), *even at the time of the first reinstatement application*, this court (in considering that application) was of the view that the Applicant's mistake in this regard was "a *minor* incident" [emphasis added] (*Gnaguru* ([10] *supra*) at [16]) and therefore did *not* take it into account in assessing the substantive merits of that particular application. It is also significant to note that the conduct of the Applicant in addressing the district judge involved the *actual practice of law*, whereas his participation in the "English for Law" programme did *not*.

The public interest

37 We turn now to the second factor that is pertinent to applications under s 102 of the Act, *viz*, that centring on the public interest (see [25] above). In this regard, the following observations by Yong CJ concerning the first reinstatement application are particularly apposite (see *Gnaguru* at [17]):

> We recognised that the nature of the [A]pplicant's offence was *less serious* than those in a number of previous [application for reinstatement] cases such as *Re Lim Cheng Peng* [1987] SLR 486, *Re Ram Kishan* [[1992] 1 SLR 529] and [*Re Nirmal Singh s/o Fauja Singh* [2001] 3 SLR 608]. *In all these cases, the respective applicants had abused their authority as advocates and solicitors and [had] exploited their clients. The [A]pplicant's conduct in this case, though reprehensible, was nonetheless essentially a misguided attempt at helping his clients*. [emphasis added]

38 It is, of course, true that Yong CJ also acknowledged (*id* at [18]) that "the offence committed by the [A]pplicant clearly involved a dishonest and deliberate obstruction of the administration of justice". However, the learned Chief Justice also "accepted that the [A]pplicant had already paid a high price for his misdeeds" (*ibid*) (see also above at [11]).

39 It is appropriate, at this juncture, to review the decisions in some of the previous applications for reinstatement to the Roll.

40 In *Re Ram Kishan* [1992] 1 SLR 529, the lawyer in question was an advocate and solicitor of over 20 years' standing at the time of his striking off from the Roll on 15 August 1983. The disciplinary committee of the Law Society had found him guilty of violating the provisions of the then Solicitors' Accounts Rules 1967 (GN No S 119/1967) and of grossly improper conduct in the discharge of his professional duties. While the disciplinary proceedings were in progress, the lawyer was also charged with criminal breach of trust. It appeared that his conduct was the result of a long history of a mental disorder known as manic depressive psychosis. About ten years after being struck off, by which time he was no longer suffering from any manic depressive illness, the lawyer applied for his name to be

reinstated to the Roll. The application was dismissed as the psychiatrists treating the lawyer were not prepared to state that there was no likelihood of a relapse of the latter's mental disorder. This court held that, in those circumstances, "in the interests of the public and the [legal] profession as a whole" (at 533, [15]), it would be wrong to restore the lawyer's name to the Roll.

41 *Re Nirmal Singh s/o Fauja Singh* [2001] 3 SLR 608 involved a lawyer who was convicted of three charges of corruption and one charge of criminal breach of trust and sentenced to a total of 18 months' imprisonment as well as a fine of $5,000. The lawyer was struck off the Roll in December 1995, which was roughly six years after his admission as an advocate and solicitor of the Supreme Court of Singapore. About five years and four months after his striking off, the lawyer applied for reinstatement pursuant to s 102 of the Act. This court found, *inter alia*, that the nature of the offences committed by the lawyer was of such a degree of severity that a restoration of his name to the Roll was not warranted at that point in time. Accordingly, the application was similarly dismissed.

42 In *Narindar Singh Kang* ([24] *supra*), the lawyer was struck off the Roll following his conviction under s 5(*a*) of the Prevention of Corruption Act (Cap 241, 1993 Rev Ed). He had been charged with acting in conjunction with his client ("Hartej"), a convicted drug trafficker facing the death sentence, to corruptly solicit, on the eve of the execution of Hartej and his co-accused ("Sarjit"), a sum of money from Sarjit's son in exchange for a confession signed by Hartej which purported to exonerate Sarjit. The lawyer was a senior practitioner of some 14 years' standing at the time of his conviction. He applied under s 102 of the Act for reinstatement some nine and a half years after being struck off. The Law Society did not raise any objections. However, the Attorney-General objected on the basis that it was not in the public interest for the lawyer to resume practice as the corruption offence which he had committed was one that "went to *the heart of the administration of justice*" [emphasis added] (*Narindar Singh Kang* at [12]). This court agreed and held, *inter alia*, that the lawyer's application was premature given the seriousness of the offence committed. Accordingly, the application was dismissed.

43 Reverting to the present application, in view of all the material facts and circumstances, we agreed with Yong CJ's comments at the hearing of the first reinstatement application (see the extract from *Gnaguru* ([10] *supra*) at [17], which is reproduced at [37] above) that the offence committed by the Applicant, although serious, could be distinguished from the misconduct of other errant lawyers who had likewise been struck off the Roll. We were of the view that the reinstatement of the Applicant to the Roll would not diminish public confidence in the general reputation and standing of the legal profession.

Conclusion

44 We reiterate, however, that reinstatement to the Roll will not be granted as a matter of course (see also *Glenn Knight* (above at [24]) *per* Chan CJ). On the contrary, such reinstatement will be the exception rather than the rule. In this regard, the court will scrutinise each application carefully, bearing in mind that the very fact that the applicant concerned was struck off the Roll in the first place means that there has necessarily been extremely serious professional misconduct on his or her part. The present application was unusual inasmuch as the Applicant had (as we noted at [27]–[29] above) very nearly satisfied the court in the first reinstatement application that he ought to be reinstated. Further, as we also noted earlier, the court had on that occasion found that the Applicant's misconduct, "though reprehensible, was nonetheless essentially a misguided attempt at helping his clients" (see *Gnaguru* at [17], which is reproduced at [37] above). Such misconduct can be easily distinguished from more serious and reprehensible conduct – for example, the criminal misappropriation of clients' funds (a point which was, in fact, also made by this court when ruling on the first reinstatement application (see the passage from *Gnaguru* at [17] just referred to)). Looked

at in this light, the circumstances in the present application were *sui generis*, and would therefore be of little – or even no – precedent value in so far as future reinstatement applications are concerned. In any event, as this court observed in *Narindar Singh Kang* at [31]:

> [T]he broad language utilised in s 102(1) of the Act is appropriate inasmuch as it is consistent with the inherent nature of the application in general and the corresponding decision by the court in particular. Put simply, the outcome of such an application is *necessarily dependent on the precise facts of the case itself*. Prior precedents (of which there are, in any event, a dearth because such applications are, by their nature, rare in the first instance) are of assistance only to the extent that they enunciate general principles that are relevant to all applications. What must, however, be avoided is the temptation to follow the *end result* of a prior decision whose *starting point* was *different*, owing to a different factual matrix. This would also signal to potential applicants the need for an assessment of the *unique* circumstances of their respective situations in relation to the applicable general principles, rather than a blind reliance on the *end result* in prior decisions without more. This would, in turn, result in a more realistic assessment of the potential success of the application; it would also simultaneously encourage realistic applications and (correspondingly) discourage unrealistic ones. [emphasis in original]

45 Having regard to all the circumstances before us (including the undertakings given by the Applicant to the Law Society) in this particular case, we granted the present application. As neither the Attorney-General nor the Law Society had sought costs, we made no order as to costs.