

JUDICIAL SERVICE EXAMINATION: POLITY

NEWS: The 3-year rule: a setback to judiciary aspirants

WHAT'S IN THE NEWS?

The Supreme Court has reinstated the rule requiring a minimum of three years' advocacy experience for entry-level judicial service exams to enhance judicial competence. While this aims to improve judgment quality, concerns remain about its impact on youth, women, and marginalized aspirants.

Supreme Court Verdict: Minimum 3-Year Practice Rule Restored

- The Supreme Court has reinstated the condition that candidates must have a minimum of three years of advocacy practice to be eligible for entry-level judicial service examinations.
- This decision marks a reversal of the earlier 2002 position which allowed fresh law graduates to directly apply for subordinate judiciary posts without courtroom experience.

Historical Context and Legal Developments

- 14th Law Commission Report (1958):
 - Recommended 3–5 years of legal experience for recruitment to subordinate judiciary to ensure practical competence.
 - Proposed the creation of All India Judicial Services (AIJS) for higher judiciary recruitment, which did not require prior practice.
- Supreme Court Judgments:
 - 1992 (All India Judges' Association case): Upheld that fresh graduates could apply for judicial posts under AIJS.
 - 1993 Review: The Court reversed its position and acknowledged the need for prior legal experience.
 - 2002 SC Ruling (Shetty Commission influence):
 - Scrapped the 3-year practice rule.
 - Argued that the rule discouraged brilliant students from joining the judiciary, especially from top-tier NLUs.

Arguments Supporting the Practice Rule

- Bridges Theory and Practice Gap:
 - Most law graduates lack exposure to real courtroom procedures.
 - Practical training helps candidates understand evidence rules, court language, etiquette, and filing systems.
- Enhances Quality of Judicial Decision-Making:
 - Experienced advocates display better analytical reasoning, procedural clarity, and empathy in dealing with litigants.
 - Leads to fewer procedural errors and more informed judgments.
- Builds Ethical and Psychological Resilience:
 - Lower judiciary is susceptible to local pressures, influence, and intimidation.
 - Prior experience instills confidence, independence, and integrity in judges.
- International Precedents:
 - Countries like Canada, the UK, and Australia require several years of experience before judicial appointment.
 - Emphasizes the importance of maturity and professional standing.

Arguments Against the Practice Rule

- Reduces Talent Pool:
 - Top law graduates, particularly from NLUs, are attracted to corporate law firms, consultancies, and foreign firms.
 - Waiting three years for eligibility discourages early-career judicial aspirations.
- State-wise Irregular Judicial Examinations:
 - Several states do not conduct exams annually.
 - When combined with a 3-year practice requirement, it can result in age-bar issues, especially for aspirants in their late twenties.
- Gender Disadvantage:
 - Women make up 38% of the district judiciary.

- Social expectations, maternity breaks, and mobility constraints can delay or prevent the accumulation of 3 years' practice.
- Barriers for Economically Marginalized:
 - Many from rural or disadvantaged backgrounds seek quick employment after law school due to financial necessity.
 - Delaying judicial entry by 3 years deepens socio-economic exclusion in judicial representation.

Suggested Way Forward

- Two-Year Comprehensive Training Programme:
 - Allow fresh graduates into the judicial stream but provide rigorous courtroom training, mentorship, and simulated legal sessions for two years.
 - Model similar to IAS or IPS training at academies.
- Exam Pattern Reforms:
 - Replace rote-based exams with problem-solving, case scenario analysis, evidence handling, and judgment writing exercises.
 - Fulfills the original vision of the 14th Law Commission for practical legal recruitment.
- Attracting Talent Through Incentives:
 - Offer competitive stipends, clear career progression, and greater professional prestige to judicial officers.
 - Tie in legal research opportunities and international exposure to make judicial careers more appealing.

Source: <https://www.thehindu.com/news/national/3-year-rule-a-setback-to-judiciary-aspirants/article69597321.ece>