

**TRIBUTE TO LATE JUSTICE P.K. JAIN  
FULL COURT REFERENCE – MARCH 15, 2007**

MY LORD THE CHIEF JUSTICE, YOUR LORDSHIPS, MR. P.P. MALHOTRA - ADDITIONAL SOLICITOR GENERAL OF INDIA, MR. RAMESH GUPTA - CHAIRMAN, BAR COUCIL OF DELHI, STANDING COUNSEL FOR GOVT. OF INDIA AND THE GOVT OF NATIONAL CAPITAL TERRITORY, OFFICE BEARERS OF DELHI HIGH COURT BAR ASSOCIATION AND OTHER BAR ASSOCIATIONS, RESPECTED SENIOR MEMBERS OF THE BAR, MY COLLEAGUES AT THE BAR, RESPECTED MRS. JAIN AND OTHER MEMBERS OF THE BEREAVED FAMILY, LADIES AND GENTLEMEN:

We were here on the second of this month to pay homage to a departed senior member of the Bar and a legend in law. Within less than a fortnight, we have again assembled here, in a Full Court Reference, to condole the sad demise of Justice P.K. Jain, a senior member of the legal fraternity, who was also a Judge of this Hon'ble Court in 1994 and thereafter at Punjab & Haryana High Court, who left for his heavenly abode in the early hours of 7<sup>th</sup> March.

By the time I entered the profession, Jain Saheb had completed about thirteen years on the judicial side. If my memory serves correct, he was the Chief Metropolitan Magistrate of Delhi when I started my practice. Thus, from the very beginning of my practice, I have known him. So are many others who are here.

Justice Jain was a thorough gentleman, steeped in culture, who understood the value of politeness and humility. He was a comprehensive guide to beginners like me. I had appeared before him a number of times, at the District Court, this Hon'ble Court, and later on the Hon'ble Punjab & Haryana High Court as well. I have nothing to recollect, of any distasteful or bitter event, incident or moment, during my interaction with Justice P.K. Jain or in his Court. He was always cool, receptive and responsive. He was sympathetic

to the young Counsel before him, encouraging him to drive home the point clearly and easily. Very silently he imparted the best lessons of court room practice. As far as I remember, no Counsel came dissatisfied or displeased at the end of the hearing.

As an Arbitrator, he was well known for his simplicity and sincerity. Once he is convinced of the difficulty over the phone, he would adjourn the matter over the phone itself, without the exercise of written application, appearance and of course, without raising fat bills. He was flexible, yet firm.

He was greatly concerned about access to justice for all, particularly for the less privileged. He was of the firm view that equality as enshrined in our Constitution must be enforced in the judicial sphere in letter and spirit. He used to say before one could argue for the political right, one has to be self-reliant in respect of food, shelter, education and medial aid. Unless this is attained, aspiration to exercise political right or freedom of choice, would not be meaningful.

Though he was not to be seen much at public ceremonies in full throat about the lapses and lacunae of the system, he was fully in favour of keeping the Constitution in tact, insofar as the constitution of judiciary is concerned. Commenting on the Executive endeavour to have a Judicial Commission, he said any intervention in respect of the Constitutional Courts would be against the basic fibre of the Constitution and in its violation. He used to say enough has been said by various Committee reports and if the suggestions for improvement contained in them are not to be taken care of, what is the use of thinking of improvements and amendments. He was of the view that judiciary itself must find out ways and means to improve its performance and it must reflect the intellectual composition and diversity of the civil society. About Hon'ble Judges, his view was that they should never lack wisdom, vision and compassion. Privilege entails responsibility according to Justice Jain. Judgment writing is a judicial privilege. Therefore, responsibility is embedded into it. A Judge is not free like a loose canon, to inflict indiscriminate damage whenever he announces that he is acting in his

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judicial capacity. He propagated qualified, not absolute, immunity to Judges.

Justice Jain was a known author too. His book on Narcotic Drugs & psychotropic Substances Act, 1985 and his books for Judicial Service Examinations are well known.

The death of Justice Jain deprives the legal fraternity of a person who asked the right questions and was enlightened enough to give the right answers to questions put to him. His sincerity, simplicity, humility, learning and dedication are worth emulating.

In Justice Jain's death, I lost an old teacher. The fraternity lost a senior member and his family, a most dear member.

Bereavement has no equal. Nothing can repair the loss done by it. Time will dry the tears, but mind will keep the memories and play them. Our hearts go out to respected Mrs. Jain and other members of the family. Our condolences and prayers are with them. May God grant them enough strength to bear the loss and may his soul rest in peace.

A.S. Chandhiok  
President  
Delhi High Court Bar Association  
March 15, 2007