

High Court Judges (Conditions Of Service) Act, 1954

28 of 1954

[20 May 1954]

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High Court Judges (Conditions Of Service) Act, 1954

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An Act to regulate certain conditions of service of the Judges of High Courts 1 BE it enacted by Parliament in the Fifth Year of the Republic of India as follows:-

CHAPTER 1 PRELIMINARY

1. Short Title :-

This Act may be called the High Court Judges (Conditions of Service) Act, 1954 .

2. Definitions :-

In this Act, unless the context otherwise requires,-

- (a) " acting Chief Justice" means a Judge appointed under article 223 of the Constitution to perform the duties of the Chief Justice;
 - (b) " acting Judge" means a person 2[appointed to act as a Judge under sub- section (2) of section 222 of the Government of India Act, 1935 3[or under clause (2) of article 224 of the Constitution];
 - (c) " actual service" includes-
 - (i) time spent by a Judge on duty as a Judge or in the performance of such other functions as he may, at the request of the President of India, undertake to discharge;
 - (ii) vacations, excluding any time during which the Judge is absent on leave;
 - (iii) Joining time on transfer from a High Court to the Supreme Court or from one High Court to another or from the Supreme Court to a High Court;
 - (iv) time spent by a Judge on duty as a Judge of a former Indian High Court;
 - (v) time spent by a Judge to attend the sittings of the Supreme Court as an ad hoc Judge under article 127 of the Constitution; and
1. The words and letter" in Part A States" omitted by the Adaptation of Laws (No. 3) Order, 1956.
2. The words" who was" omitted, ibid.

3. Added, *ibid.*

(vi) vacation (excluding any time during which the Judge was absent on leave) taken by a Judge as a Judge of a former Indian High Court;

(d) " additional Judge" means a person 1[appointed as an additional Judge under sub- section (3) of section 222 of the Government of India Act, 1935 2[or under clause (1) of article 224 of the Constitution];

(e) " former Indian High Court" means the High Court at Rangoon, the High Court at Lahore, the Chief Court of Sind or the Judicial Commissioner s Court of North- West Frontier Province;

(f) " High Court" means a High Court 3[for a State]and includes a High Court which was exercising Jurisdiction 2[in a Part A State or] in the corresponding Province before the commencement of the Constitution;

(g) " Judge" means a Judge of a High Court and includes the Chief Justice 4[an acting Chief Justice, an additional Judge and an acting Judge of the High Court];

(gg) 5[" pension" means a pension of any kind whatsoever payable to or in respect of a Judge, and includes any gratuity or other sum or sums so payable by way of death or retirement benefits;]

(h) " service for pension" includes-

(i) actual service;

(ii) 6[the amount, actually taken, of each period of leave on full allowances at a rate equal to the monthly rate of the salary;]

(iii) joining time on return from leave out of India;

(i) " prescribed" means prescribed by rules made under this Act.

(2) In the calculation of service for the purposes of this Act, previous service for any period or periods as acting Judge or additional Judge or as a Judge of a former Indian High Court shall be reckoned as service as a Judge but, save as otherwise expressly provided, previous service as an acting Chief Justice shall not be reckoned as service as Chief Justice.

1. The words" who was" omitted by the Adaptation of Laws (No. 3) Order, 1956.

2. Added, *ibid.*

3. Subs:., *ibid.*, for" in any Part A State".

4. Sub. by Act 46 of 1958, s. 2, for" and acting Chief (w. e. f. 1-11- 1956).

5. Ins by Act 50 of 1961. s. 2 (retrospectively).

6. Subs. by Act 57 of 1980 s. 2, for sub- clause (ii).

(3) Any period of leave taken by a Judge before the

commencement of this Act under the rules then applicable to him as an acting Judge, additional Judge or a Judge shall, for the purposes of this Act, be treated as if it were leave taken by him under this Act.

(4) Any period of leave taken by a Judge while serving as a Judge of a former Indian High Court before his appointment to a High Court shall for the purposes of this Act be treated as if it were leave taken by him under this Act.

CHAPTER 2 LEAVE

3. Kinds Of Leave Admissible To A Judge :-

Subject to the provisions of this Act, leave granted to a Judge may be at his option either-

- (a) 1[leave on full allowances (including commuted leave on half allowances into leave or full allowances on medical certificate); or]
- (b) leave on half allowances; or
- (c) leave partly on full allowances and partly on half allowances.

(2) For the purposes of this Chapter, any period of leave on full allowances shall be reckoned as double that period of leave on half allowances.

4. Leave Account Showing The Amount Of Leave Due :-

A leave account shall be kept for each Judge showing therein the amount of leave due to him in terms of leave on half allowances.

(2) In the leave account of a Judge-

(a) there shall be credited to him-

- (i) one- fourth of the time spent by him on actual service;
- (ii) where the Judge, by reason of his having been detained for the performance of duties not connected with the High Court, cannot enjoy any vacation which would otherwise have been entitled to enjoy had he not been so detained, as compensation for the vacation not enjoyed, a period equal to double the period by which the vacation enjoyed by him in any year falls short of one month; and

(iii) 2[where the Judge had, prior to his appointment as such, held any pensionable post under the Union or a State, the period of leave earned by him in the said post, so, however, that such period shall not exceed two hundred and forty days in terms of leave on full allowance; and.

(b) there shall be debited to him all leave with all by him.

1. Subs. by Act 78 of 1971, s. 3, for clause (a) (w. e. f. 15. 1. 1972)
2. Omitted and ins. by Act 38 of 1986, s. 2 (w. e. f. 1- 11- 1986)
3. Subs. by Act 32 of 1989, s. 2 (w. e. f. 1- 11- 1986)

5. Aggregate Amount Of Leave Which May Be Granted :-

The aggregate amount of leave which may be granted to a Judge during the whole period of his service as such shall not exceed in terms of leave on half allowances three years together with the aggregate of the periods, if any, credited to his leave account under sub- section (2) (a) (ii) of section 4 as compensation for vacation not enjoyed.

(2) The aggregate amount of leave on full allowances which may be granted to a Judge during the whole period of his service as such shall not exceed one- twenty- fourth of the period spent by him on actual service together with one- half of the aggregate periods, if any, credited to his leave account under sub- section 2 a ii of section 4 as compensation for vacation not enjoyed.

(3) 1[Subject to the provisions of sub- section (2) of section 5A, the maximum period of leave which may be granted] at one time shall be, in the case of leave on full allowances, five months and in the case of leave with allowances of any kind, sixteen months.

6. Grant Of Leave Not Due :-

Subject to the maximum limit specified in sub- section 1 of section 5, leave on half allowances may be granted to a Judge in excess of the amount at his credit-

(i) on medical certificate; or

(ii) otherwise than on medical certificate, for not more than six months 3[for for two or more periods, not exceeding in the aggregate, six months] during the whole period of his service as a Judge; Provided that no such leave shall be granted if the Judge is not expected to return to duty at the end of such leave and earn the leave granted.

7. Special Disability Leave :-

The rules for the time being in force with respect to the grant of special disability leave in relation to an officer of the Central Civil

1. Subs. by Act 78 of 1971, s. 4, for certain words.

2. Ins. by s. 5, ibid. (w. e. f. 15- 1- 1972).

3. Subs. by Act 46 of 1958, s. 3. for" and not more than once" (w. e. f. 1- 11- 1956).

Services, Class I who has entered service on or after the 16th July, 1931 and who may be disabled by injury caused in, or in consequence of, the due performance of his official duties or in consequence of his official position, shall apply in relation to a Judge.

8. Extraordinary Leave :-

Extraordinary leave may be granted to a Judge for a period not exceeding six months, or for two or more periods, not exceeding in the aggregate, six months] during the whole period of his service as a Judge in excess of any leave permissible under the foregoing provisions of this Chapter, but no salary or allowances shall be payable during, or in respect of, such leave.

9. Leave Allowances :-

The monthly rate of leave allowances payable to a Judge while on leave on full allowances shall be 2[for the first forty- five days of such level a rate equal to the monthly rate of his salary, 3[and thereafter in the case of the Chief Justice, fifty- five per cent. of the monthly rate of his salary and in the case of each of the other Judges, sixty per cent. of the monthly rate of his salary]; 3[Provided that where leave on full allowances is granted to a Judge on medical certificate, the monthly rate of leave allowances shall, for the first one hundred and twenty days of such leave, be a rate equal to the monthly rate of his salary.]

(2) The monthly rate of leave allowances payable to a Judge while on leave on half allowances shall be 4[in the case of the Chief Justice, twenty seven and a half per cent. of the monthly rate of his salary and in the case of each of the other Judges, thirty per cent. of the monthly rate of his salary"].

10. Allowances For Joining Time :-

There shall be payable to a Judge in respect of joining time on his return from leave out of India an allowance at the rate of one thousand one hundred and ten rupees a month in lieu of salary.

11. Combining Leave With Vacation :-

A Judge may be permitted to combine vacation on full salary with

leave, if.-

(a) where the vacation consists of one continuous period, the leave is taken either at the commencement or at the end of the vacation but not a both;

(b) where the vacation is divided into two separate periods, the leave is taken for the interval, or part of the interval, between the two periods of that vacation, or for the interval, or part of the interval, between the second period of that

1. Subs. by Act 46 of 1958, s. 4, for" Extraordinary leave not exceeding six Months in duration may be granted to a Judge not more than once" (w. e. f. 1- 11- 1956).

2. Subs. by Act 78 of 1971. s. 6 for certain words (w. e. f. 15- 1- 1972).

3. Added by Act 57 of 1980, s. 3.

4. Subs. by Act 32 of 1989, s. 3 (w. e. f. 1- 4- 1986)

vacation and the commencement of the next ensuing vacation: Provided that no such permission to combine vacation with leave shall be granted if it becomes necessary to appoint an acting Chief Justice during the period of vacation or if the Judge is not expected to return to duty at the end of such leave.

12. Consequences Of Overstaying Leave Or Vacation :-

If a Judge overstays his leave or any vacation, whether combined with leave or not, he shall receive no salary for the period of his absence in excess of leave granted to him or beyond the end of the vacation, as the case may be: Provided that if such absence is due to circumstances beyond his control, the period thereof may be treated as leave and may be debited to his leave account.

13. Authority Competent To Grant Leave, Etc :-

The authority competent to grant or refuse leave to a Judge or revoke or curtail leave granted to a Judge shall be the Governor of the State in which the principal seat of the High Court is situate, after consultation with the Chief Justice of that High Court.

CHAPTER 3 PENSIONS

14. Pension Payable To Judges :-

Subject to the provisions of this Act, every Judge shall, on his retirement, be paid a pension in accordance with the scale and provisions in Part I of the First Schedule: Provided that no such

pension shall be payable to a Judge unless-

(a) he has completed not less than twelve years of service for pension; or

(b) he has attained the age of 1[sixty- two years, and, in the case of a Judge holding office on the 5th day of October, 1963 , sixty years]; or

(c) his retirement is medically certified to be necessitated by ill-health: 2[Provided further that if a Judge at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service in the Union or a State, the pension payable under this Act shall be in lieu of, and not in addition to, that pension.]

1. Sub. by Act 27 of 1964, s. 2, for" sixty years".

2. Ins. by Act 46 of 1958, s. 5 (w. e. f. 1- 11- 1956),

Explanation.- In this section Judge means a Judge who is not member of the Indian Civil Service or has not held any other 1[pensionable post] under the Union or a State and includes a Judge who being a member of the Indian Civil Service or having held any other 1[pension able post] under the Union or a State has elected to receive the pension payable under Part I of the First Schedule.

15. Special Provision Of Pension In Respect Of Judges Who Are Members Of Service :-

(1)] Every Judge-

(a) who is a member of the Indian Civil Service shall, on his retirement, be paid a pension in accordance with the scale and provisions in Part 11 of the First Schedule;

(b) who is not a member of the Indian Civil Service but has held any other 1[pensionable post] under the Union or a State, shall on his retirement, be paid a pension in accordance with the scale and provisions in Part III of the First Schedule; Provided that every such Judge shall elect to receive the pension payable to him either under Part I of the First Schedule or, as the case may be, Part II or Part III of the First Schedule, and the pension payable to him shall be calculated accordingly.

(2) 3[Notwithstanding anything contained in sub- section (1), any Judge to whom that sub- section applies and who is in service on or after the 1st day of October, 1974 , may, if he has elected under the proviso to that sub- section to receive the pension payable to him under Part 11 or, as the case may be, Part III of the First Schedule before the date on which the High Court Judges

(Conditions of Service) Amendment Act, 1976 , (35 of 1976 .) receives the assent of the President, cancel such election and elect afresh to receive the pension payable to him under Part I of the First Schedule and any such Judge who dies before the date of such assent shall be deemed to have elected afresh to be governed by the provisions of the said Part I if the provisions of that Part are more favourable in his case.

16. Power Of President To Add To The Service For Pension

:-

The President of India may for special reasons direct that any period not exceeding three months shall be added to the service for pension of a Judge: Provided that the period so added shall be disregarded in calculating any additional pension under Part I or Part II or Part III of the First Schedule.

1. Subs. by Act 57 of 1980, s. 4, for the words" pensionable civil post". 2 S. 15 re- numbered as sub- section (1) of that section by Act 35 of 1976, s. 2 (w. e. f. 1- 10- 1974).
3. Ins. by s. 2, ibid. (w. e. f. 1- 10- 1974).

17. Extraordinary Pensions :-

The rules for the time being in force with respect to the grant of extraordinary pensions and gratuities in relation to an officer of the Central Civil Services, Class I who has entered service on or after the 1st April, 1937 and who may suffer injury or die as a result of violence, shall apply in relation to a Judge, subject, however, to the modification that references in those rules to tables of injury, gratuities and pensions and of family gratuities and pensions, shall be construed as references to the tables in the Second Schedule. 1[17Family pensions and gratuities. (1) Where a Judge who, being in service on or after the commencement of the High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1986 , dies, whether before or after retirement in circumstances to which section 17 does- not apply, family pension calculated at the rate of fifty per cent of the pension admissible to him on the date of his death shall be payable to the person or persons entitled thereto and the amount so payable shall be paid from the day following the date of death of the Judge for a period of seven years or for a period up to the date on which the Judge would have attained the age of sixty- five years, had he survived, whichever is earlier, and thereafter at the rate of half of the family pension so

admissible subject to a minimum of three hundred and seventy-five rupees per months. Explanation.- For the purposes of determining the person or persons entitled to family pension under this sub-section,-

(i) in relation to a Judge who elects or is eligible to receive pension under Part I of the First Schedule, the rules, notifications and orders for the time being in force with regard to the person or persons entitled to family pension in relation to an officer of the Central Civil Services, Group A, shall apply;

(ii) in relation to a Judge who elects to receive pension under Part II or Part III of the First Schedule, the ordinary rules of his service if he had not been appointed a Judge with respect to the person or persons entitled to family pension shall apply and his service as a Judge being treated as service therein.

(2) Where any Judge, who has elected to receive the pension payable to him under Part II or Part III of the First Schedule, retires, or dies in circumstances to which section 17 does not apply, gratuity, if any, shall be payable to the person or persons entitled thereto under the ordinary rules of his service if he had not been appointed a Judge, this service as a Judge being treated as service therein for the purpose of calculating that gratuity.

(3) The rules, notifications and orders for the time being in force with respect to the grant of death-cum-retirement gratuity benefit to or in relation to an officer of the Central Civil Services, Class I (including the provisions relating to deductions from pension for the purpose) shall apply to or in relation to the grant of death-cum-retirement gratuity benefit to or in relation to a Judge who, being in service on or after the 1st day of October, 1974, retires, or dies in circumstances to which section 17 does not apply, subject to the modifications that-

(i) the minimum qualifying service for the purpose of entitlement to the gratuity shall be two years and six months;

(ii) the amount of gratuity shall be calculated on the basis of twenty days salary for each completed year of service as a Judge;

1. Subs. by Act 38 of 1986, s. 3 (w. e. f. 1- 11- 1986).

3. Omitted by Act 20 of 1988, s 2, (w. e. f. 1- 11- 1986).

2. Subs. by Act 32 of 1989, s. 4 (w. e. f. 1- 11- 1986).

Explanation.- In sub-section (3)] 3[the expression " Judge" has the same meaning as in section 14.

18. Conversion Of Sterling Pension Into Rupees :-

Pensions expressed in sterling only shall, if paid in India, be converted into rupees at such rate of exchange as the Central Government may, from time to time, specify in this behalf.

19. Commutation Of Pensions :-

The Civil Pensions (Commutation) Rules for the time being in force shall, with necessary modifications, apply to Judges.

20. Provident Fund :-

Every Judge shall be entitled to subscribe to the General Provident Fund (Central Services): Provided that a Judge who is a member of the Indian Civil Service or has held any other pensionable civil post under the Union or a State shall continue to subscribe to the Provident Fund to which he was subscribing before his appointment as a Judge: Provided further that a Judge who was appointed before the commencement of this Act may continue to subscribe to the Provident Fund to which he was subscribing immediately before such commencement.

21. Authority Competent To Grant Pension :-

Save as may be otherwise expressly provided in the relevant rules relating to the grant of extraordinary pensions and gratuities, the authority competent to grant pension to a Judge under the provisions of this Act shall be the President of India.

CHAPTER 4 MISCELLANEOUS

22. Travelling Allowances To A Judge :-

Every Judge shall receive such reasonable allowances to reimburse him for expenses incurred in travelling on duty within the territory of India and shall be afforded such reasonable facilities in connection with travelling as may, from time to time, be prescribed.

22A. Facility Of Rentfree Houses :-

(1) Every Judge shall be entitled without payment of rent to the use of an official residence in accordance with such rules as may, from time to time, be made in this behalf.

(2) Where a Judge does not avail himself of the use of an official residence, he may be paid every month an allowance of 5[two thousand five hundred rupees].

2. Proviso omitted by Act 46 of 1958, s. 6 (w. e. f. 1- 11- 1986)

4. Ins. by Act 35 of 1976, s. 4 (w. e. f 1- 10- 1974)
1. Subs. by Act 38 of 1986, s. 3 (w. e. f. 1- 11- 1986)
3. Ins. by s. 4 ibid. (w. e. f. 5- 9- 1977)
5. Subs. by Act 48 of 1987, s. 2

22B. Conveyance Facilities :-

Every Judge shall be entitled to a staff car and one hundred and fifty liters of petrol every month or the actual consumption of Petrol per month, whichever- is less.

22C. Sumptuary Allowance :-

The Chief Justice and each of the other Judges of every High Court shall be entitled to a sumptuary allowance of five hundred rupees per month and three hundred rupees per month, respectively"].

22D. Exemption From Liability To Pay Income- Tax On Certain Perquisites Received By A Judge :-

Notwithstanding anything contained in the Income- tax Act, 1961 .-

- (a) the value of rent- free official residence provided to a Judge under sub- section (1) of section 22A or the allowance paid to him under sub- section (2) of that section;
- (b) the value of the conveyance facilities provided to a Judge under section 22B;
- (c) the sumptuary allowance provided to a Judge under section 22C,
- (d) 3[the value of leave travel concession provided to a judge and members of his family"]. shall not be included in the computation of his income chargeable under the head" Salaries" under section 15: of the Income- tax Act 1961 .

23. Facilities For Medical Treatment And Other Conditions Of Service :-

- (1) Every Judge and the members of his family shall be entitled to such facilities for medical treatment and for accommodation in hospitals as may, from time to time, be prescribed.
- (2) The conditions of service of a Judge for which no express provision has been made in this Act shall be such as may be

determined by rules made under this Act.

(3) This section shall be deemed to have come into force on the 26th January, 1950 and any rule made under this section may be made so as to be retrospective to any date not earlier than the commencement of this section.

24. Power To Make Rules :-

(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

25. Savings :-

(1) Nothing contained in this Act shall have effect so as to give to a Judge who is serving as such at the commencement of this Act less favourable terms in respect of his allowances or his rights in respect of leave of absence (including leave allowances) or pension than those to which he would be entitled if this Act had not been passed.

(2) Nothing contained in this Act, as amended by the High Court Judges (Conditions of Service) Amendment Act, 1958 , (46 of 1958), shall have effect so as to give to a Chief Justice or a Judge of a former High Court in a Part B State less favourable terms in respect of his allowances or his rights in respect of leave of absence (including the leave allowances) or pension than those to which he would be entitled under the High Court Judges (Part B States) Order, 1953 , or any other order or rule then

1. Ins. by Act 35 of 1976, s. 6 (w. e. f. 1- 10- 1974).

2. Subs. by s. 6, *ibid.*, for sub- section (3) (w. e. f. 1- 10- 1974).

3. S. 25 re- numbered as sub- section (1) of that section by Act 46 of 1958, s. 9 (w. e. f. 1- 11- 1956).

4. Ins. by s. 9, *ibid.*, (w. e. f, 1- 11- 1956),

applicable to him, if he had continued as a Judge of that High Court, his service as a Judge on or after the 1st day of November, 1956 , being treated as service in that High Court.