



The High Court and Supreme Court Judges Amendment Bill 2021

Why in News

Recently, the [High Court and Supreme Court Judges \(Salaries and Conditions of Service\) Amendment Bill, 2021](#) was introduced in [Lok Sabha](#).

- The Bill seeks to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954, and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958.

Key Points

▪ About the Bill:

- It seeks to bring **clarity on when Supreme Court and High Court judges are entitled to an additional quantum of pension or family pension** on attaining a certain age.
- The Bill clarifies that the **increase in pension of retired judges** which come after attaining a certain age **shall be implemented from the first day of the month** in which they complete the age specified and not from the first day of his entering the age specified.

▪ Current Provisions:

- The High Court Judges (Salaries and Conditions of Service) Act, 1954, and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 regulate the salaries and conditions of service of the judges of High Courts and the Supreme Court of India.
- Through the High Court and Supreme Court Judges (Salaries and Conditions of Service) **Amendment Act, 2009, section 16B and section 17B were respectively inserted** (in the 1954 Act and 1958 Act).
 - The 2009 act **aims to provide that every retired Judge or after his death, the family will be entitled to an additional quantum of pension or family pension** in accordance with the scale specified therein.
- Accordingly, the additional quantum of pension to retired Judges of the High Court and Supreme Court is being sanctioned **on completing the age of 80 years, 85 years, 90 years, 95 years and 100 years**, as the case may be.
 - The additional quantum increases with age (from 20% to 100% of the pension or family pension).

High Court Judges

- **Article 217 of the Constitution:** It states that the Judge of a High Court **shall be appointed by the President in consultation with the [Chief Justice of India \(CJI\)](#), the [Governor of the State](#)**.
 - In the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court is consulted.

- The high court judge retires at the **age of 62 years**.
- **Consultation Process:** High Court judges are **recommended by a Collegium** comprising the **CJI and two senior-most judges**.
 - The proposal, however, is **initiated by the Chief Justice of the High Court** concerned in consultation with two senior-most colleagues.
 - The recommendation is sent to the Chief Minister, who advises the Governor to send the proposal to the Union Law Minister.
 - The Chief Justice of India would, in **consultation with the two senior most Judges of the Supreme Court**, form his opinion in regard to a person to be recommended for appointment to the High Court.

Supreme Court Judges

▪ Article 124 of the Constitution:

- The **Chief Justice of India (CJI) and the Judges of the Supreme Court** are appointed by the President under clause (2) of Article 124.
- Supreme Court Judges **retire upon attaining the age of 65 years**.
- The CJI is **appointed by the President after consultation with such judges** of the Supreme Court and high courts as he deems necessary.
- The other judges are appointed by the President after consultation with the CJI and such other judges of the Supreme Court and the high courts as he deems necessary. The consultation with the chief justice is obligatory in the case of appointment of a judge other than the Chief justice.

- The **SC collegium is headed by the CJI** and comprises four other senior most judges of the court.

▪ Appointment of Chief Justice from 1950 to 1973:

- The practice has been to appoint the **senior most judge of the Supreme Court as the chief justice of India**. This established convention was violated in 1973 when A N Ray was appointed as the Chief Justice of India by superseding three senior judges. Again in 1977, M U Beg was appointed as the chief justice of India by superseding the then senior-most judge.
- This discretion of the government was curtailed by the **Supreme Court in the Second Judges Case (1993)**, in which the Supreme Court ruled that the senior most judge of the Supreme Court should alone be appointed to the office of the Chief Justice of India.

[Source: TH](#)