

## **HIGH COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) ACT, 1954**

**28 of 1954**

**[20th May, 1954]**

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## **SCHEDULE 1 :- PENSIONS OF JUDGES**

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## **SCHEDULE 2 :- INJURY GRATUITIES AND PENSIONS**

### **HIGH COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) ACT, 1954**

[20th May, 1954]

STATEMENTS OF OBJECTS AND REASONS 1. "Under clause (2) of Art. 221 of the Constitution, every Judge of a High Court is entitled to "such allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament", provided that neither the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment. 2. This Bill seeks to determine the rights in respect of leave of absence and pension and certain other subsidiary conditions of Judges of High Courts in Part A States. 3. No substantial change is proposed in the leave terms' hitherto admissible to these High Court Judges, nor in their pensionary rights, except to the extent indicated below : (a) Under Part I of the Third Schedule to the Government of India (High Court Judges) Order, 1937, the service of a Judge for purposes of additional and maximum pension is classified into five different grades, under which non-Service Judges are entitled to draw additional pensions ranging from 20 pounds to 75 pounds and maximum pensions ranging from 1,000 pounds to 1,800 pounds. These different rates of pension were in consequence of the different rates of salary prescribed in the order. Under the Constitution, however, one uniform rate of salary has been laid down for Chief Justices and another uniform rate of salary for other Judges of High Courts in Part A States. Accordingly in paragraphs 4 and 5 of Part I of the First Schedule to this Bill, provision is made for one common scale of pensions for Chief Justices and another common scale for other Judges. Separate provision has been made, on the same terms as provided in the Govt. of India (High Court Judges) Order, 1937, for the pensions of Indian Civil Service and other Service Judges. (b) Hitherto, no pension has been admissible to a non-Service Judge of a High Court, unless, on attaining the age of sixty years, he completed not less than seven years' qualifying service for pension. Provision has been made in paragraph 9 of Part I of the First Schedule to this Bill for a minimum pension of Rs. 6,000 per annum even if the service put in by a Judge is less than seven years. This is considered necessary, mainly because of Article 220 of the Constitution barring practice after retirement, a provision which adversely affects the recruitment of desirable candidates who would not be able to put in the minimum seven years on attaining the age

of sixty to qualify for pension. (c) Special provision has also been made to govern certain other subsidiary conditions of service, such as medical attendance facilities which are enjoyed by all Government servants and which, up to the commencement of the Constitution, were admissible also to High Court Judges under paragraph 26 of the Government of India (High Court Judges) Order, 1937."-Gazette of India, 1952, Part II, Sec. 2, page 654.

## CHAPTER 1 PRELIMINARY

### **1. Short title :-**

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

### **2. Definitions :-**

(1) 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 <sup>1</sup>[\* \* \*] appointed to act as a Judge under sub-section (2) of S.222 of the Government of India Act, 1935<sup>2</sup>[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

(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 <sup>3</sup>[ \* \* \*] appointed as an additional Judge under sub-section (3) of Section 222 of the Government of India Act, 1935 <sup>4</sup>[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 <sup>5</sup>[for a State] and includes a High Court which was exercising jurisdiction <sup>6</sup>[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, <sup>7</sup>[an acting Chief Justice, an additional Judge and an acting Judge of the High Court];

<sup>8</sup>[(gg) "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;

<sup>9</sup> [(ii) the amount actually taken of each period of a leave on full allowances at a rate equal to the monthly rate of salary;]

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

(1) "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 period 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.

(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.

1. Words "who was", omitted by 3 A.L.O., 1956.
2. Added, Words "who was", omitted by 3 A.L.O., 1956.
3. Words "who was", were omitted by 3 A. L. O., 1956.
4. Added, Words "who was", were omitted by 3 A. L. O., 1956.
5. Substituted for "in any Part A State" by 3 A. L. O., 1956.
6. Inserted, Substituted for "in any Part A State" by 3 A. L. O., 1956.
7. Substituted for "and acting Chief Justice of a High Court" by the High Court Judges (Conditions of Service) Amendment Act, 1958 (46 of 1958), Section 2 (with retrospective effect from 1-11-1956).
8. Inserted, and deemed always to have been inserted by Act 50 of 1961, S. 2.
9. Inserted by High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1980 (57 of 1980). S. 2(10-12-1980).

## CHAPTER 2

### LEAVE

#### **3. Kinds of leave admissible to a Judge :-**

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

<sup>1</sup> [(a) leave on full allowances (including commuted leave on half allowances into leave on 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.

1. Substituted for "sixty years" by Act 27 of 1964, S. 2 (w.r.e.f. 5-10-1963).

#### **4. Leave account showing the amount of leave due :-**

(1) 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; <sup>1</sup>[\*]

(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 he 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

<sup>1</sup> [(iii) 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, [\*\*\*] and]

(b) There shall be debited to him all leave without allowances taken by him.

1. Substituted for "sixty years" by Act 27 of 1964, S. 2 (w.r.e.f. 5-10-1963).

#### **4A. Leave encashment :-**

A Judge shall be entitled in his entire service, including the period of service rendered in a pensionable post under the Union or State or on re-employment, if any, to claim the cash equivalent of leave salary on his retirement in respect of the period of earned leave at his credit, to the extent of the maximum period prescribed for encashment of such leave under the All-India Services (Leave) Rules, 1955.

#### **5. Aggregate amount of leave which may be granted :-**

(1) 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 sent by him on actual serve 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) <sup>1</sup> [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.

1. Substituted for "sixty years" by Act 27 of 1964, S. 2 (w.r.e.f. 5-10-1963).

**5A. Commutation of leave on half allowances into leave on full allowances :-**

(1) Notwithstanding anything contained in sub-section (2) of section 5, a Judge may be permitted to commute leave on half allowances into leave on full allowances on medical certificate up to a maximum of three months during the whole period of his service as a Judge.

(2) In computing the maximum period of leave on full allowances which may be granted at one time to a Judge under sub-section (3) of section 5, the amount of commuted leave permitted to him under this section shall not be taken into account.]

**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 <sup>1</sup> [or 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.

1. Substituted for "sixty years" by Act 27 of 1964, S. 2 (w.r.e.f. 5-10-1963).

**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 Service, 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 consequences of his official position, shall apply in relation to a

Judge.

### **8. Extraordinary leave :-**

<sup>1</sup> [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.

1. Substituted for "sixty years" by Act 27 of 1964, S. 2 (w.r.e.f. 5-10-1963).

### **9. Leave allowances :-**

(1) The monthly rate of leave allowances payable to a Judge while on leave on full allowances shall be <sup>1</sup>[for the first forty-five days of such leave] a rate equal to the monthly rate of his salary, <sup>2</sup>[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] <sup>3</sup> [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 one thousand one hundred and ten rupees.

1. Substituted for "sixty years" by Act 27 of 1964, S. 2 (w.r.e.f. 5-10-1963).

2. Substituted, and deemed always to have been substituted, for the words "Pensionable Civil Post" by High Court and Supreme Court Judges (Conditions of Service; Amendment Act. 1980 (57 of 1980), S. 4.

3. Inserted by the High Court Judges(Conditions of Service) Amendment Act. 1958 (46 of 1958), Section 5 (w.r.e.f. 1-11-1956).

### **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 at 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 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**

### **SALARIES AND PENSIONS**

### **13A. Salaries of the Judges :-**

(1) There shall be paid to the Chief Justice of a High Court, by way of salary, thirty thousand rupees per mensem.

(2) There shall be paid to a Judge of a High Court, by way of salary, twenty-six thousand rupees per mensem.

### **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 <sup>1</sup>[sixty-two years;] or

(c) his retirement is medically certified to be necessitated by ill-health:

<sup>2</sup> [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

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

1. Section 22A inserted by Act 35 of 1976, S. 4 (w.r.e.f. 1-10-74).

2. Substituted for the words "an amount equal to twelve and a half per cent, of his salary" by H. C. and S. C. Judges(Conditions of Service) Amendment Act (48 of 1987), S. 2 (16-12-1987).

**15. Special provision for pension in respect of Judges who are members of service :-**

<sup>1</sup>[(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 II of the First Schedule;

(b) who is not a member of the Indian Civil Service but has held any other <sup>2</sup>[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.

<sup>1</sup> [(2) 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 II 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, 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.]

1. Section 22A inserted by Act 35 of 1976, S. 4 (w.r.e.f. 1-10-74).
2. Substituted for the words "an amount equal to twelve and a half per cent, of his salary" by H. C. and S. C. Judges(Conditions of Service) Amendment Act (48 of 1987), S. 2 (16-12-1987).

**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.

**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.

**17A. Family pensions and gratuities :-**

<sup>1</sup>

<sup>2</sup> [(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 "puls fifty per cent of his salary"] 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 thirty per cent of his salary plus thirty per cent of his dearness pay subject to a minimum of one thousand nine hundred and thirteen rupees per month "].

Provided that in no case the amount of family pension calculated under this sub-section shall exceed the pension payable to the Judge under this Act.

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, his 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; [x x x]

(ii) the amount of gratuity shall be calculated on the basis of ["ten days"] salary for ["each completed six months period"] of service of judge.

(iii) Omitted by amendment act, 28 of 1998 w.r.e.f. 1-1-1986.

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

1. Section 22A inserted by Act 35 of 1976, S. 4 (w.r.e.f. 1-10-74).
2. Substituted for the words "an amount equal to twelve and a half per cent, of his salary" by H. C. and S. C. Judges (Conditions of Service) Amendment Act (48 of 1987), S.2 (16-12-1987).

### **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 : <sup>1</sup> [ \* \* \* \* ]

1. Section 22A inserted by Act 35 of 1976, S. 4 (w.r.e.f. 1-10-74).

### **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.

### **20A. Deposit Linked Insurance Scheme :-**

The Deposit Linked Insurance Scheme for the time being in force under the General Provident Fund (Central Services) Rules, 1960, shall apply to every Judge whether he subscribed to the General Provident Fund (Central Services) or any other Provident Fund referred to in section 20 .]

**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 rent free 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 [equivalent to an amount of thirty per cent of the salary plus thirty per cent of the dearness pay ].

**22B. Conveyance facilities :-**

Every Judge shall be entitled to a staff car and two hundred litres of fuel every month or the actual consumption of fuel 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 seven thousand five hundred]rupees per month and [six thousand]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 ,

<sup>1</sup> [(d) the value of leave 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 .]

1. Substituted and deemed always to have been substituted for the words 'Pensionable civil post' by Act 57 of 1980, S. 6.

**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.

**23A. Vacation of High Courts :-**

(1) Every High Court shall have a vacation or vacations for such period or periods as may, from time to time, be fixed by the President, by order notified in this behalf in the Official Gazette, and every such order shall have effect, notwithstanding anything contained in any other law, rule or order regulating the vacation of the High Court.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.]

**23B. Special provisions in respect of continuing Judges :-**

(1) In the calculation of the service for pension of a continuing Judge for the purposes of this Act, his previous service for pension as a Chief Justice or as a Judge of a former High Court in a Part B State, under the provisions of the High Court Judges (Part B States) Order, 1953, or any other order or rule then applicable to him, shall be reckoned as service for pension as a Chief Justice or, as the case may be, as a Judge under this Act.

(2) In the calculation of the amount of leave at the credit of a continuing Judge for the purposes of this Act, the amount of leave due to him immediately before the 1st day of November, 1956, under the provisions of the High Court Judges (Part B States) Order, 1953, or any other order or rule then applicable to him, shall be added to the amount of leave at his credit under this Act.

(3) In this section, "continuing Judge" means a Judge of a former High Court in a Part B State who on the 1st day of November, 1956, or on any date subsequent thereto has become or been appointed as a Judge of a High Court for a State.]

1. Substituted and deemed always to have been substituted for the words 'Pensionable civil post' by Act 57 of 1980, S. 6.

**23C. Special provisions in respect of Judges transferred from the High Court of Jammu and Kashmir :-**

**1**

(1) In the calculation of service for pension of a Judge of the High Court of Jammu and Kashmir transferred to any other High Court, his service for pension as a Judge of the High Court of Jammu and Kashmir shall also be reckoned as service for pension under this Act.

(2) In the calculation of the amount of leave at the credit of a Judge of the High Court of Jammu and Kashmir transferred to any other High Court, the amount of leave due to him as a Judge of the High Court of Jammu and Kashmir shall be added to the amount of leave at his credit under this Act.]

1. Substituted and deemed always to have been substituted for the words 'Pensionable civil post' by Act 57 of 1980, S. 6.

**23D. Medical facilities for retired Judges :-**

**1**

(1) Every retired Judge shall, with effect from the date on which

the High Court Judges (Conditions of Service) Amendment Act, 1976 receives the assent of the President, be entitled, for himself and his family, to the same facilities as respects medical treatment and on the same conditions as a retired officer of the Central Civil Services, Class I, and his family, are entitled under any rules and orders of the Central Government for the time being in force.

(2) Notwithstanding anything contained in sub-section (1) but subject to such conditions and restrictions as the Central Government may impose, a retired Judge of the High Court for a State may avail, for himself and his family, any facilities for medical treatment which the Government of that State may extend to him.]

1. Substituted and deemed always to have been substituted for the words 'Pensionable civil post' by Act 57 of 1980, S. 6.

#### **24. Power to make rules :-**

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

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :--

(a) leave of absence of a Judge;

(b) pension payable to a Judge;

(c) travelling allowances to a Judge;

[(ca) use of official residence by a Judge under sub-section (1) of section 22A ;]

(d) facilities for medical treatment and other conditions of service of a Judge;

(e) any other manner which has to be, or may be, prescribed.

[(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however,

that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

1. Substituted and deemed always to have been substituted for the words 'Pensionable civil post' by Act 57 of 1980, S. 6.

## **25. Savings :-**

<sup>1</sup>[(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.

<sup>1</sup> [(2) Nothing contained in this Act, as amendment by the High Court Judges (Conditions of Service) Amendment Act, 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 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.]

1. Substituted and deemed always to have been substituted for the words 'Pensionable civil post' by Act 57 of 1980, S. 6.

### SCHEDULE 1

#### PENSIONS OF JUDGES

#### PART

.

#### **1. . :-**

The provisions of this Part apply to a Judge who is not a member of the Indian Civil Service or has not held any other <sup>1</sup>[pensionable post] under the Union or a State and also apply to a Judge who. being a member of the Indian Civil Service or having held any other <sup>1</sup> [pensionable post] under the Union or a State, has elected to receive the pension payable under this Part.

1. Paras 10 and 11 omitted by H. C. and S.C.Judges (Conditions of Service) Amendment Act (20 of 1968), S.4 (w.r.e.f. 1-11-1986).

#### **2. . :-**

**1** Subject to the other provisions of this Part, the pension payable to a Judge to whom this Part applies and who has completed not less than seven years of service for pension shall be,-

(a) for service as Chief Justice in any High Court, [Rs 21,945]per annum for each completed year of service:

(b) for service as any other Judge in any High Court, [Rs 16,725] per annum for each completed year of service :

Provided that the pension under this paragraph shall in no case exceed [Rs 2,70,000] per annum in the case of a Chief Justice and [Rs 2,34,000] per annum in the case of any other Judge.]

1. Paras 10 and 11 omitted by H. C. and S.C.Judges (Conditions of Service) Amendment Act (20 of 1968), S.4 (w.r.e.f. 1-11-1986).

**3.** . :-

Omitted by amendment act, 20 of 1998 w.r.e.f. 1-11-1986.]

**4.** . :-

Omitted by amendment act, 20 of 1998 w.r.e.f. 1-11-1986.]

**5.** . :-

Omitted by amendment act, 20 of 1998 w.r.e.f. 1-11-1986.]

**6.** . :-

A Judge who has rendered service for pension both as Chief Justice and other Judge in any High Court may claim that any period of service of less than a completed year rendered by him as Chief Justice, or any portion of any such period, shall be treated for the purposes of paragraph 2 as service rendered by him as other Judge.

**7.** . :-

For the purposes of this Part, service as an acting Chief Justice of a High Court or as an ad hoc Judge of the Supreme Court, shall be treated as though it were service rendered as Chief Justice of a High Court.

**8.** . :-

Notwithstanding anything contained in the foregoing provisions of this Part, the pension payable to a Judge who has completed [fourteen years] of service for pension, including not less than six years of service as Chief Justice of one or more of the High Courts, shall be Rs. [Rs 2,70,000] per annum.

**9. . :-**

Where a Judge to whom this Part applies retires or has retired at any time after the 26th January, 1950 without being eligible for a pension under any other provision of this Part, then, notwithstanding anything contained in the foregoing provisions, a pension of Rs. [Rs 76,785]per annum shall be payable to such a Judge :

**1** [Provided that nothing in this paragraph shall apply-

(a) to an additional Judge or acting Judge; or

(b) to a Judge who 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 under the Union or a State.]

1. Paras 10 and 11 omitted by H. C. and S.C.Judges (Conditions of Service) Amendment Act (20 of 1968), S.4 (w.r.e.f. 1-11-1986).

**10. . :-**

**1** [Omitted by amendment act, 20 of 1998 w.r.e.f. 1-11-1986.]

1. Paras 10 and 11 omitted by H. C. and S.C.Judges (Conditions of Service) Amendment Act (20 of 1968), S.4 (w.r.e.f. 1-11-1986).

**11. . :-**

**1** [Omitted by amendment act, 20 of 1998 w.r.e.f. 1-11-1986.]

1. Paras 10 and 11 omitted by H. C. and S.C.Judges (Conditions of Service) Amendment Act (20 of 1968), S.4 (w.r.e.f. 1-11-1986).

**PART**

.

**1. . :-**

The provisions of this Part apply to a Judge who is a member of the Indian Civil Service and who has not elected to receive the pension payable under Part 1.

**2. . :-**

The pension payable to such a Judge shall be-

(a) the pension to which he is entitled under the ordinary rules of the Indian Civil Service if he had not been appointed a Judge, his service as a Judge being treated as service therein for the purpose of calculating that pension; and

(b) the additional pension, if any, to which he is entitled under paragraph 3. [Provided that the pension under clause (a) and the

additional pension under clause (b) together shall in no case exceed [Rs 2,70,000]per annum in the case of a Chief Justice and [Rs 2,34,000]per annum in the case of any other Judge.

**3. . :-**

**<sup>1</sup>** [If such a Judge has completed not less than seven years of service for pension in a High Court, he shall be entitled to an additional pension in accordance with the following scale :- [16,898

1. Paragraph 4 omitted by H.C. and S. C.Judges (Conditions of Service) Amendment Act (20 of 1988), S.4 (w.r.e.f. 1-11-1986).

**4. . :-**

**<sup>1</sup>** [ Omitted by amendment act, 20 of 1998 w.r.e.f. 1-11-1986.]

1. Paragraph 4 omitted by H.C. and S. C.Judges (Conditions of Service) Amendment Act (20 of 1988), S.4 (w.r.e.f. 1-11-1986).

**PART**

.

**1. . :-**

The provisions of this Part apply to a Judge who has held any **<sup>1</sup>** [pensionable post] under the Union or a State (but is not a member of the Indian Civil Service) and who has not elected to receive the pension payable: under Part 1.

1. Substituted for the figures "500" and "2,500" by H.C. and S.C. Judges (Conditions of Service) Amendment Act(20 of 1988), S. 4 (w.r.e.f. 1-11-1986).

**2. . :-**

The pension payable to such a Judge shall be-

(a) the pension to which he is entitled under the ordinary rules of his service if he had not been appointed a Judge, his service as a Judge being treated as service therein for the purpose of calculating that pension; and

(b) a special additional pension of Rs.**<sup>1</sup>**[Rs 7800] per annum in respect of each completed year of service for pension **<sup>2</sup>**[\*\*\*]

**<sup>3</sup>**[Provided that the pension under clause (a) and the additional pension under clause (b) together shall in no case exceed **<sup>4</sup>**[Rs 2,70,000]per annum in the case of a Chief Justice and **<sup>4</sup>** [Rs 2,34,000]per annum in the case of any other Judge.]

1. In sch-1 in part-3, in para- 2, in clause (b), for the letters and figures "Rs. 5,200", the letters and figures "Rs. 7,800" shall be

substituted by the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2005

2. omitted for "but in no case such additional pension together with the additional or special pension, if any, to which he is entitled under the ordinary rules of his service, shall exceed Rs.[8,000] per annum." clause(b) of paragraph (2) of part III of schedule 1 by The High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 1998 (7 of 1999) dated January 8, 1999

3. Inserted, Substituted for the figures "500" and "2,500" by H.C. and S.C. Judges (Conditions of Service) Amendment Act (20 of 1988), S. 4 (w.r.e.f. 1-11-1986).

4. In sch-1 in part-3, in the proviso, for the letters and figures "Rs. 1,80,000" and "Rs. 1,56,000", the letters and figures "Rs. 2,70,000" and "Rs. 2,34,000" shall respectively be substituted by the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2005

### **3. . :-**

Omitted by amendment act, 20 of 1998 w.r.e.f. 1-11-1986.]

### **4. . :-**

Omitted by amendment act, 20 of 1998 w.r.e.f. 1-11-1986.]

## **SCHEDULE 2**

### **INJURY GRATUITIES AND PENSIONS**

Injury Gratuities and Pensions			
Officer		Gratuities	Annual Pension
			Higher scale Lower scale
1.	Chief Justice	20,000	5,400 4,700
2.	Any other Judge	13,500	4,700 4,000
Family Gratuities and Pensions			
AWidow			
Officer		Gratuity	Annual Pension
1.	Chief Justice	15,000	5,400
2.	Any other Judge	13,500	4,000
BChildren			
Office		Annual Pension	
		if motherless	if not motherless
1.	Chief Justice	550	320
2.	Any other Judge	550	320