

THE HIGH COURT JUDGES (CONDITIONS OF SERVICE) AMENDMENT ACT, 1958

No. 46 OF 1958

1958

[17th December, 1958]

An Act further to amend the High Court Judges (Conditions of Service) Act, 1954.

Enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the High Court Judges (Conditions of Service) Amendment Act, 1958. Short title and commencement.

(2) It shall be deemed to have come into force on the 1st day of November, 1956.

2. In section 2 of the High Court Judges (Conditions of Service) Act, 1954 (hereinafter referred to as the principal Act), in sub-section (1), in clause (g), for the words "and acting Chief Justice of a High Court", the words "an acting Chief Justice, an additional Judge and an acting Judge of the High Court" shall be substituted. Amendment of section 2.

3. In section 6 of the principal Act, for the words "and not more than once", the words "or for two or more periods, not exceeding in the aggregate, six months" shall be substituted. Amendment of section 6.

4. In section 8 of the principal Act, for the words "Extraordinary leave not exceeding six months in duration may be granted to a Judge not more than once" the words "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" shall be substituted. Amendment of section 8.

5. In section 14 of the principal Act, after the proviso, the following further proviso shall be inserted, namely:— Amendment of section 14.

"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."

Amendment  
of section  
18.

6. In section 18 of the principal Act, the proviso shall be omitted.

Insertion of  
new sections  
23A and 23B.

7. After section 23 of the principal Act the following sections shall be inserted, namely:—

Vacation of  
High Courts.

“23A. (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.

Special pro-  
visions in  
respect of  
continuing  
Judges.

23B. (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.”

Amendment  
of section  
24.

8. In section 24 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) All rules made under this section shall be laid for not less than thirty days before each House of Parliament as soon as may be after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.”

Amendment  
of section  
25.

9. Section 25 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the

following sub-section shall be inserted, namely:—

“(2) Nothing contained in this Act, as amended 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.”

Amendment  
of the First  
Schedule.

10. In the First Schedule to the principal Act,—

(a) in Part I to paragraph 9, the following proviso shall be added, namely:—

“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.”;

(b) in Part II, for paragraph 3, the following paragraph shall be substituted, namely:—

“3. 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:—

	Per annum Rs.
For seven completed years of service for pension	1,333
For eight completed years of service for pension	1,600
For nine completed years of service for pension	1,866
For ten completed years of service for pension	2,133
For eleven completed years of service for pension	2,400
For twelve or more completed years of service for pension	2,666.”