

**GOVERNMENT OF INDIA
LAW AND JUSTICE
LOK SABHA**

UNSTARRED QUESTION NO:5621
ANSWERED ON:29.04.2010
PROMOTION OF JUDGES
Joshi Shri Pralhad Venkatesh

Will the Minister of LAW AND JUSTICE be pleased to state:

- (a) whether cases of violation of rules regarding seniority in promotion of judges have been brought to light;
- (b) if so, the reaction of the Government thereto; and
- (c) the details of the basis on which the promotions given to Judges in the Supreme Court and High Courts during the last two years?

Answer

MINISTER OF THE STATE IN THE MINISTRY OF LAW AND JUSTICE (DR. M. VEERAPPA MOILY)

(a),(b) & (c): The Judges of the Supreme Court are appointed by the President of India under Article 124 of the Constitution of India. The appointment of Judges is made as per the procedure laid down in the 'Memorandum of Procedure for appointment of the Chief Justice of India and the Judges of the Supreme Court', which has been drawn up pursuant to the Supreme Court Judgement of October 6, 1993 in the Supreme Court Advocates-on-Record and Anr. Vs. Union of India read with the Advisory Opinion of October 28, 1998.

2. The proposal for appointment of a Judge of the Supreme Court is initiated by the Chief Justice of India who forms his opinion in consultation with a collegium of the four senior-most Justice of the Supreme Court. The collegium considers the comparative merit, ability, inter-se-seniority as Judges in the High Courts and combined seniority on all India basis of the Chief Justices and Judges of the High Courts who fall in the zone of consideration and recommends the person(s) considered the most suitable in all respect, for appointment as Judges of the Supreme Court.

3. Judges of the High Courts are appointed by the President under Article 217(1) of the Constitution.

4. The appointment of Judges of the High Courts is done keeping in view the educational qualifications, nature and extent of practice, length of practice, the field of specialization and professional income for the last three years of the persons being considered. Besides this, the competence of the person, his judicial potential, temperament and integrity are also considered. All this information, as also other background information of the recommendees are made available to the Chief Justice of India for consideration by the Supreme Court collegium consisting of the Chief Justice of India and two seniormost Judges of the Supreme Court of India. The collegium considers all the available information about the recommendees and forms an opinion regarding their suitability or otherwise for appointment as Judges of the High Court.