

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

UNSTARRED QUESTION NO:3162

ANSWERED ON:11.12.2014

APPOINTMENT OF JUDGES

Banerjee Shri Kalyan;Boianapalli Shri Vinod Kumar;Nayak Shri B.V.;Ranjan Smt. Ranjeet;Rao (Avnithi) Shri Muthamsetti Srinivasa

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

- (a) the criteria and qualifications laid down for appointment of Judges in Supreme Court from various High Courts;
- (b) whether any quota is prescribed for the appointment of Judges in Supreme Court from various High Courts and if so, the details thereof along with the reasons therefor;
- (c) whether any transfer policy is followed in transfer of Judges and if so, the salient features thereof;
- (d) whether certain cases of violation of this policy including the instances of relatives of Judges practicing in the same court have been noticed and if so, the reaction of the Government thereto; and
- (e) whether any proposal to raise the retirement age and emoluments of the Judges is under consideration of the Government and if so, the details thereof?

Answer

MINISTER OF LAW AND JUSTICE (SHRI D.V. SADANANDA GOWDA)

(a) & (b): Under Article 124 of the Constitution of India every Judge of the Supreme Court shall be appointed by the President by Warrant under his hand and seal. The High Court Judge, who has been for at least five years as a Judge of a High Court or of two or more such Courts in succession may be appointed as a Judge of the Supreme Court. Pursuant to the Supreme Court Judgment of October 6, 1993 read with their Advisory Opinion of October 28, 1998, the process of initiation of proposal for appointment of a Judge in the Supreme Court rests with the Chief Justice of India. This Article does not provide any quota for the appointment of Judges in Supreme Court from various High Courts.

(c): Article 222 of the Constitution makes provision for the transfer of a Judge (including Chief Justice) from one High Court to any other High Court. All transfers are to be made in public interest i.e. for promoting better administration of justice throughout the country. The initiation of the proposal for the transfer of a Judge or a Chief Justice of a High Court should be made by the Chief Justice of India (CJI) whose opinion in this regard is determinative. The opinion of the CJI should be formed in consultation with the collegium of four senior-most puisne Judges of the Supreme Court. In the formation of his opinion for the transfer of a Judge, other than the Chief Justice, the Chief Justice of India is expected to take into account the views of the Chief Justice of the High Court from which the Judge is to be transferred, as also the Chief Justice of the High Court to which the transfer is to be effected. The Chief Justice of India should also take into account the views of one or more Supreme Court Judges who are in a position to offer his/their views which would assist in the process of deciding whether or not a proposed transfer should take place. In the case of transfer of a Chief Justice, only the views of one or more knowledgeable Supreme Court Judges need to be taken into account. The proposals are to be forwarded by the CJI with his recommendation to the Union Minister of Law and Justice (MLJ). After receipt of the recommendation of the CJI, the MLJ will put up the recommendations to the Prime Minister who will advise the President in the matter of transfer.

(d): The Supreme Court of India in its full court meeting held on 07.05.1997 adopted the "Restatement of Values of Judicial Life" to serve as a guide to be observed by Judges, essential for an independent, strong and respected judiciary, indispensable in the impartial administration of justice. The said charter of values inter alia mentioned that a Judge should not permit any member of his immediate family, such as spouse, son, daughter, son-in-law, or daughter-in-law or any other close relative, if a member of the Bar, to appear before him or even be associated in any manner with a cause to be dealt with by him.

As per the Memorandum of Procedure for appointment of a Judge in the High Court, in case the spouse or any other blood relation of the candidate is an Advocate in a particular High Court, an Undertaking from the spouse/blood relation to the effect that he/she will not practice in the concerned High Court or in a court subordinate to it for at least two years from the date of appointment of Judge is invariably obtained before the proposals for appointment is processed further.

(e): A Bill titled "The Constitution (One Hundred and Fourteenth Amendment) Bill" was moved by the Government in the previous Lok Sabha. The Bill provided for increasing the retirement age of High Courts from 62 to 65 years. However, the Bill could not be passed and lapsed due to dissolution of the 15th Lok Sabha. There is no proposal under consideration at present for raising the emoluments of the Judges of the Supreme Court and the High Courts.