

**Bill No. 31 of 2021**

THE CONSTITUTION (AMENDMENT) BILL, 2021

By

SHRI P. P. CHAUDHARY, M.P.

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*further to amend the Constitution of India.*

BE it enacted by Parliament in the Seventy-Second Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2021. Short title.
2. After article 220 of the Constitution, the following article shall be inserted, namely:— Insertion of  
new article  
220A.

Prohibition as to the holding of office by the Chief Justice or a Judge of a High Court on cessation of office.

"220A. The Chief Justice or any other Judge of a High Court shall not be eligible for further office either under the Government of India or under the Government of any State or in any Public Sector Undertaking after he has ceased to hold office."

## STATEMENT OF OBJECTS AND REASONS

Independence of judiciary is an essential attribute of rule of law, which is a basic feature of the Constitution. Judiciary must be free from all pressure including the pressure from executive as well as psychological pressure relating to their appointment after retirement. The Judges are required to ensure the independence and impartiality of judiciary by keeping themselves free from any allurements or employment under the Government after their retirement.

The Constitution specifically prohibits the Chairman of Union Public Service Commission and its Members, the Chairman of State Public Service Commission and its Members for further employment either under the Government of India or under the Government of any State. The Constitution on the other hand nowhere restricts or prohibits retired Chief Justice and Judges of the High Courts to hold further employment either under the Government of India or under any of the State Government.

Likewise article 148(4) provides that the Comptroller and Auditor General of India shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

The Chief Justice and Judges of the various High Courts, the Comptroller and Auditor General of India, the Chairman of the Union Public Service Commission, the Chairmen and members of the State Public Service Commissions are constitutional functionaries and they should be kept free from all kinds of allurements or employment under the Government after cessation of their office. It is presumed that reappointment of Judges would have effect of undermining the independence and fairness of judiciary.

In the present scenario, the Chief Justice and Judges of High Courts are getting handsome salary, other amenities, perks and post retirement benefits. The Chief Justice and Judges of the High Courts are adjudicating rights of citizens which have been jeopardized by the Government. The Judges are coming in contact with the Government on every step. As such need of the moment is to insert a provision in the Constitution for prohibiting the retired Chief Justice and Judges of the High Courts from holding any office/employment under the Government of India or under the Government of any State or in any Public Sector Undertakings.

Hence this Bill.

NEW DELHI;  
*January 28, 2020.*

P.P. CHAUDHARY

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*(Shri P.P. Chaudhary. M.P.)*