

**Bill No. 32 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. In article 124 of the Constitution, in clause (2), for the words "sixty-five years", the Amendment  
5 words "seventy years" shall be substituted. of article 124.

## STATEMENT OF OBJECTS AND REASONS

Clause (2) of article 124 of the Constitution of India allows every Judge of the Supreme Court to hold office until he attains the age of sixty-five years. The age of retirement of Supreme Court Judges, which was fixed at sixty-two years in the beginning, was enhanced to sixty-five years by the Constitution (Fifteenth Amendment) Act, 1963. Since then, no revision has taken place in this regard.

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, in its 39th Report dated the 29th April, 2010, has recommended to raise the retirement age of the Judges of the High Courts from sixty-two to sixty-five. Hence, in view of this it is expedient and necessary to enhance the age of Supreme Court Judges from sixty-five years to seventy years. Further, most of the reasons adduced by the Fifth Central Pay Commission in support of its recommendation for increasing the age of retirement of the Central Government employees, such as global practices, increase in life expectancy, improved health standards, need for utilization of experience and wisdom of senior employees, etc., would also apply to the Judges. Besides this, after their retirement the Judges are being appointed by Government in various Tribunals, Appellate Tribunals, etc. which is antithesis and not in consonance as well as spirit of preamble to Constitution of India. The increase in age of retirement will altogether put a check on the re-employment of the Judges of the Supreme Court after retirement.

Independence of judiciary is an essential attribute of rule of law, which is one of the basic features of the Constitution. Judiciary must be free from all pressures including the pressures from executive as well as psychological pressure on the Judges related to their future after retirement. The Judges are required to ensure the independence and impartiality of judiciary by keeping themselves free from any allurements of 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 Governments.

Article 148 (4) provides that the Comptroller and Auditor General 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 Union Public Service Commission, the Chairman of the State Public Service Commission and the Members of these Commissions are constitutional functionaries and they should be kept free from all kinds of allurements of employment under the Government after cessation of holding of their office. It is presumed that reappointment of Judges would have effect of undermining the independence and fairness of judiciary.

The Constitution prohibits the Comptroller and Auditor General of India, the Chairman, Public Service Commission and its members from getting employment after cessation of holding of their office, however, no such bar is there with regard to the Chief Justice and the Judges of the Supreme Court.

In view of the present state of vacancies of Judges in the Supreme Court, it is extremely difficult to clear the heavy pendency of cases in the Supreme Court. Increasing the age of

retirement by five more years would restrict occurrence of new vacancies on account of superannuation for the next five years during which time the existing backlog in vacancies could be cleared. This would have a clear impact on reduction of pendency of cases in the Supreme Court.

It is, therefore, proposed to increase the age of retirement of the Judges of Supreme Court from sixty-five years to seventy years.

The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;  
*January 28, 2020.*

P.P. CHAUDHARY

*ANNEXURE*

EXTRACT FROM THE CONSTITUTION OF INDIA

	*	*	*	*	*
Establishment and Constitution of Supreme Court.	124. (1) *	*	*	*	*
	(2) Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty-five years:				
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*(Shri P.P. Chaudhary, M.P.)*