

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
DEPARTMENT OF JUSTICE
RAJYA SABHA
UNSTARRED QUESTION No. 120
ANSWERED ON THURSDAY, THE 20.07.2023

IJR report on vacancies of Judges

120. Smt. Jebi Mather Hisham:

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

- (a) details of measures taken to fill the vacancies timely, subject to the sanctioned strength in view of India Justice Report (IJR) 2022, as of December 2022, which states that against a sanctioned strength of 1,108, High Courts were functioning with only 778 Judges;
- (b) whether the Report states that subordinate courts were functioning with 19,288 Judges against a sanctioned strength of 24,631, if so, whether Government has taken measures to fill up vacancies in subordinate courts across the country; and
- (c) whether steps will be taken to unify retirement age of Judges in the Supreme Court and High Courts, details thereof?

ANSWER

**MINISTER OF STATE (INDEPENDENT CHARGE) OF THE MINISTRY OF
LAW AND JUSTICE; MINISTER OF STATE IN THE MINISTRY OF
PARLIAMENTARY AFFAIRS; AND MINISTER OF STATE IN THE MINISTRY
OF CULTURE
(SHRI ARJUN RAM MEGHWAL)**

- (a) As per the existing Memorandum of Procedure for appointment of Judges of High Courts, the Chief Justice of the High Court is required to initiate the proposal for filling up of vacancies of a Judge in a High Court six months prior to the occurrence of vacancies. Government appoints only those persons as Judges of High Courts who are recommended by Supreme Court Collegium (SCC).

In the last three years, since 01.01.2021 till date, 349 Judges have been appointed in various High Courts of the country. As on 14.07.2023, against the sanctioned strength of 1114, 779 Judges are working in the High Courts leaving 335 vacancies. Against these 335 vacancies, 136 proposals are at various stages of processing between the Government and the Supreme Court Collegium. Further, recommendations from High Court Collegiums are yet to be received in respect of 199

vacancies in High Courts which is around 59% of the vacancies in the High Courts. Filling up of vacancies in the High Courts is a continuous, integrated and collaborative process between the

Executive and the Judiciary. It requires consultation and approval from various Constitutional Authorities both at the State and Centre level. While every effort is made to fill up the existing vacancies expeditiously, vacancies of Judges in High Courts do keep on arising on account of retirement, resignation or elevation of Judges and also due to increase in the strength of Judges.

(b): As per information available with the Department, as on 11.07.2023, there are 19,870 judicial officers working in the District and Subordinate judiciary against the sanctioned strength of 25,245 judicial officers, 5375 posts of judicial officers are thus vacant. In so far as filling up of vacancies in the Subordinate courts is concerned, the Central Government has no direct role in the matter. As per the Constitutional framework, in exercise of powers conferred under proviso to Article 309 read with Articles 233 and 234 of the Constitution, the respective State Government, in consultation with the High Court, frames the Rules and Regulations regarding the issues of appointment and recruitment of Judicial Officers in the State Judicial Service. Thus, the selection and appointment of judges in the District Courts is the responsibility of the High Courts and State Governments concerned. In so far as recruitment of judicial officers in the States is concerned, respective High Courts do it in certain States, whereas the High Courts do it in consultation with the State Public Service Commissions in other States. Therefore, the Central Government is not involved in the recruitment and appointment of judicial officers in District and Subordinate Courts.

(c): The retirement age of High Court Judges, which was fixed at 60 years in the beginning, was revised to 62 years w.e.f. 5.10.1963 by the Constitution (Fifteenth Amendment) Act, 1963 pursuant to the increase in the retirement age of Central Government employees from 55 to 58 years w.e.f. 1.12.1962 on the recommendations of the Second Central Pay Commission, mainly relying upon increase in life expectancy in India.

The Constitution (114th Amendment) Bill was introduced in 2010 to increase the retirement age of High Court judges to 65. However, it was not taken up for consideration in Parliament and lapsed with the dissolution of the 15th Lok Sabha. At present, there is no proposal to increase the retirement age of High Court Judges.
