

Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991

UNION OF INDIA

India

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Act 11 of 1991

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1510.

Object and Reason.- The Committee on Electoral Reforms have made certain recommendations with regard to the terms and conditions of service of the Chief Election Commissioner and the other Election Commissioners. After having studied those recommendations, the Government have decided that the salary, pension and other conditions of service of the Chief Election Commissioner should be equivalent to those of a Judge of the Supreme Court and the Comptroller and Auditor-General of India. It is also decided that the salary, pension and other conditions of service of the Election Commissioners should be equivalent to those of a Judge of a High Court.² The Bills seeks to achieve the above objects. -Gazette of India, 31-5-1990, Pt. II - Section 2, Ext. p. 19. Act 4 of 1994 :- The President in exercise of his powers under Article 324(2) of the Constitution fixed the number of Election Commissioners other than the Chief Election Commissioner at two with effect from 1-10-1993. To provide for better transaction of business in the multi-member Election Commission as also to bring on par the conditions of service of Election Commissioners with that of the Chief Election Commissioner in matters relating to salary, term of office, pension and other conditions of service, the President promulgated the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Amendment Ordinance, 1993 on 1-10-1993.² The Bill seeks to replace the aforesaid Ordinance. -Gazette of India, 6-12-1993, Pt. II - Section 2, Ext. p. 13. [25th January, 1991] An Act to determine the conditions of service of the Chief Election Commissioners and other Election Commissioners [and to provide for the procedure for transaction

of business by the Election Commission and for matters] [Substituted for the word "and for matters" by Act 4 of 1994] connected therewith or incidental thereto. Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:-

Chapter I

Preliminary

1. Short title.-

This Act may be called [the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business)] [Substituted for the words and brackets "the Chief Election Commissioner and other Election Commissioners (Conditions of Service)" by Act 4 of 1994, Section 3.] Act, 1991.

2. Definitions.-

In this Act, unless the context otherwise requires, (a) "Chief Election Commissioner" means the Chief Election Commissioner appointed under Article 324 of the Constitution. (b) ["Election Commission" means the Election Commission referred to in Article 324 of the Constitution.] [Inserted by Act 04 of 1994, section 4] (c) [[Original clause (b) re-lettered as clause (c) by Act 04 of 1994] "Election Commissioner" means any other Election Commissioner appointed under Article 324 of the Constitution.

Chapter II

Salary And Other Conditions Of Service Of The Chief Election Commissioner And Election Commissioners

3. Salary.-

[(* * *)] [Bracket and figure (1) omitted by Act 04 of 1994, section 5] There shall be paid to the Chief Election Commissioner [and other Election Commissioners] [Inserted by Act 04 of 1994, section 5] a salary which is equal to the salary of a Judge of the Supreme Court. [* * * * *] [Sub-section 2 is omitted by Act 04 of 1994, section 5] Provided that if a person who, immediately before the date of assuming office as the Chief Election Commissioner or, as the case may be, an Election Commissioner, was in receipt of, or, being eligible so to do, had elected to draw, a pension (other than a disability or wound pension) in respect of any previous service under the Government of the Union or under the Government of a State, his salary in respect of service as the Chief Election Commissioner or, as the case may be, an Election Commissioner shall be reduced (a) by the amount of that pension; and (b) if he had, before assuming office, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension.

4. Term of office.-

The Chief Election Commissioner or an Election Commissioner shall hold office for a term of six years from the date on which he assumes his office:[Provided that where the Chief Election Commissioner or an Election Commissioner attains the age of sixty-five years before the expiry of the said term of six years, he shall vacate his office on the date on which he attains the said age.] [Substituted by Act 04 of 1994, section 6] Provided further that the Chief Election Commissioner or an Election Commissioner may, at any, time, by writing under his hand addressed to the President, resign his office. Explanation.- For the purpose of this section, the term of six years in respect of the Chief Election Commissioner or an Election Commissioner holding office immediately before the commencement of this Act, shall be computed from the date on which he had, assumed office.

5. Leave.-

(1) A person who, immediately before the date of assuming office as Chief Election Commissioner or an Election Commissioner, was in service of Government may be granted during his tenure of office but not thereafter, leave in accordance with the rules for the time being applicable to the Service to which he belonged before such date and he shall be entitled to carry forward the amount of leave standing at his credit on such date, notwithstanding anything contained in section 6. (2) Any other person who is appointed as the Chief Election Commissioner or an Election Commissioner may be granted leave in accordance with such rules as are for the time being applicable to a member of the Indian Administrative Service. (3) The power to grant or refuse leave to the Chief Election Commissioner or an Election Commissioner and to revoke or curtail leave granted to him, shall vest in the President.

6. Pension payable to Election Commissioners.-

(1) A person who, immediately before the date of assuming office as the Chief Election Commissioner or an Election Commissioner was in service of Government, shall be deemed to have retired from service on the date on which he enters upon office as the Chief Election Commissioner or an Election Commissioner but his subsequent service as the Chief Election Commissioner or an Election Commissioner shall be reckoned as continuing approved service counting for pension in Service to which he belonged. (2) Where the Chief Election Commissioner [or an Election Commissioner] [Inserted by Act 04 of 1994, section 7] demits office [whether in any manner specified in [sub-section (3)] [Inserted by Act 04 of 1994, section 7] or by resignation], he shall, on such demission be entitled to (a) a pension which is equal to the pension payable to a Judge of the Supreme Court in accordance with the provisions of Part III of the Schedule to the Supreme Court Judges (Conditions of Service) Act, 1958, as amended from time to time; and (b) such pension (including commutation of pension), family pension and gratuity as are admissible to a Judge of the Supreme Court under the said Act and the Rules made thereunder, as amended from time to time. [* * * *] [Omitted by Act 04 of 1994, section 7] (3) [Original sub-section 4 is re-numbered as sub-section 3 by Act 04 of 1994, section 7(c)] Except where the Chief Election Commissioner or an Election Commissioner demits office by resignation, he shall be deemed, for the purpose of this Act, to have demitted his office if, and only if, (a) he has completed the term of office specified in section

4, or(b)he has attained the age of sixty ,five years [* * * *] [Certain word omitted by Act 04 of 1994, section 7(c)](c)his demission of office is medically certified to be-necessitated by ill-health.

7. Right to subscribe to General Provident Fund.-

Every person holding office as the Chief Election Commissioner or an Election Commissioner shall be entitled to subscribe to the General Provident Fund (Central Services).

8. Other conditions of service.-

Save as otherwise provided in this Act, the conditions of service relating to travelling allowance, provision of rent-free residence and exemption from payment of income-tax on the value of such rent-free residence, conveyance facilities, sumptuary allowance, medical facilities and such other conditions of service as are, [for the time being, applicable to a Judge of the Supreme Court under Chapter IV of the Supreme Court Judges (Conditions of Service) Act, 1958 and the rules made thereunder, shall, so far as may be, apply to the Chief Election Commissioner and other Election Commissioners] [Substituted by Act 04 of 1994, section 8].[CHAPTER III [Inserted by Act 04 of 1994, section 9 and 10] Transaction Of Business Of Election Commission

9. Transaction of business of Election Commission.-

(1)The business of the Election Commission shall be transacted in accordance with the provisions of this Act.

10. Disposal of business by Election Commission.-

(1)The Election Commission may, by unanimous decision, regulate the procedure for transaction of its business as also allocation of its business amongst the Chief Election Commissioner and other Election Commissioners.(2)Save as provided in sub-section (1), all business of the Election Commission shall, as far as possible, be transacted unanimously.(3)Subject to the provisions of sub-section (2), if the Chief Election Commissioner and other Election Commissioners differ in opinion on any matter, such matter shall be decided according to the opinion of the majority.]