

214. High Courts for States.—^{1***} There shall be a High Court for each State.

$$^2(3)^* \quad * \quad * \quad *$$

216. Constitution of High Courts.—Every High Court shall consist of a Justice and such other Judges as the President may from time to time it necessary to appoint.

3^* $*$ $*$ $*$ $*$

Provided that—

(b) a Judge may be removed from his office by the President in the

6. Subs. by the Constitution (Fifteenth Amendment) Act, 1963, s. 4(a), for "sixty years" (w.e.f. 5-10-1963).

manner provided in clause (4) of article 124 for the removal of a Judge of the Supreme Court;

(c) the office of a Judge shall be vacated by his being appointed by the President to be a Judge of the Supreme Court or by his being transferred by the President to any other High Court within the territory of India.

(2) A person shall not be qualified for appointment as a Judge of a High Court unless he is a citizen of India and—

(a) has for at least ten years held a judicial office in the territory of India; or

(b) has for at least ten years been an advocate of a High Court^{1***} or of two or more such Courts in succession.^{2***}

²(c)* * * * *

Explanation.—For the purposes of this clause—

³[(a) in computing the period during which a person has held judicial office in the territory of India, there shall be included any period, after he has held any judicial office, during which the person has been an advocate of a High Court or has held the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law;]

⁴[(aa)] in computing the period during which a person has been an advocate of a High Court, there shall be included any period during which the person⁵ [has held judicial office or the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law] after he became an advocate;

(b) in computing the period during which a person has held judicial office in the territory of India or been an advocate of a High Court, there shall be included any period before the commencement of this

1. The words "in any State specified in the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. The word "or" and sub-clause (c) were ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 36 (w.e.f. 3-1-1977) and omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 28 (w.e.f. 20-6-1979).

3. Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 28 (w.e.f. 20-6-1979).

4. Cl. (a) re-lettered as cl. (aa) by the Constitution (Forty-fourth Amendment) Act, 1978, s. 28 (w.e.f. 20-6-1979).

5. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 36, for "has held judicial office" (w.e.f. 3-1-1977).

Constitution during which he has held judicial office in any area which was comprised before the fifteenth day of August, 1947, within India as defined by the Government of India Act, 1935, or has been an advocate of any High Court in any such area, as the case may be.

¹[(3) If any question arises as to the age of a Judge of a High Court, the question shall be decided by the President after consultation with the Chief Justice of India and the decision of the President shall be final.]

218. Application of certain provisions relating to Supreme Court to High Courts.—The provisions of clauses (4) and (5) of article 124 shall apply in relation to a High Court as they apply in relation to the Supreme Court with the substitution of references to the High Court for references to the Supreme Court.

219. Oath or affirmation by Judges of High Courts.—Every person appointed to be a Judge of a High Court ^{2***} shall, before he enters upon his office, make and subscribe before the Governor of the State, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

³[**220. Restriction on practice after being a permanent Judge.**—No person who, after the commencement of this Constitution, has held office as a permanent Judge of a High Court shall plead or act in any court or before any authority in India except the Supreme Court and the other High Courts.

Explanation.—In this article, the expression “High Court” does not include a High Court for a State specified in Part B of the First Schedule as it existed before the commencement⁴ of the Constitution (Seventh Amendment) Act, 1956.]

221. Salaries, etc., of Judges.—⁵[(1) There shall be paid to the Judges of each High Court such salaries as may be determined by Parliament by law

1. Ins. by the Constitution (Fifteenth Amendment) Act, 1963, s. 4(b), (with retrospective effect).

2. The words “in a State” omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

3. Subs. by s. 13, *ibid.* (w.e.f. 1-11-1956).

4. 1st November, 1956.

5. Subs. by the Constitution (Fifty-fourth Amendment) Act, 1986, s. 3, for clause (1) (w.e.f. 1-4-1986).

and, until provision in that behalf is so made, such salaries as are specified in the Second Schedule.]

(2) Every Judge shall be entitled to such allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such allowances and rights as are specified in the Second Schedule:

Provided that neither the allowances of a Judge nor his rights in respect to leave of absence or pension shall be varied to his disadvantage after his appointment.

222. Transfer of a Judge from one High Court to another.—(1) The President may, ¹[on the recommendation of the National Judicial Appointments Commission referred to in article 124A], transfer a Judge from one High Court to any other High Court ^{2***}.

³[(2) When a Judge has been or is so transferred, he shall, during the period he serves, after the commencement of the Constitution (Fifteenth Amendment) Act, 1963, as a Judge of the other High Court, be entitled to receive in addition to his salary such compensatory allowance as may be determined by Parliament by law and, until so determined, such compensatory allowance as the President may by order fix.]

223. Appointment of acting Chief Justice.—When the office of Chief Justice of a High Court is vacant or when any such Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose.

⁴[**224. Appointment of additional and acting Judges.**—(1) If by reason of any temporary increase in the business of a High Court or by reason

1. Subs. by the Constitution (Ninety-ninth Amendment) Act, 2014, s. 7, for "after consultation with the Chief Justice of India" (w.e.f. 13-4-2015). This amendment has been struck down by the Supreme Court in the case of *Supreme Court Advocates-on-Record Association and Another Vs. Union of India* in its judgment dated 16-10-2015, AIR 2016 SC 117.

2. The words "within the territory of India" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 14 (w.e.f. 1-11-1956).

3. Ins. by the Constitution (Fifteenth Amendment) Act, 1963, s. 5 (w.e.f. 5-10-1963). Original cl. (2) was omitted by the Constitution (Seventh Amendment) Act, 1956, s. 14 (w.e.f. 1-11-1956).

4. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 15 for art. 224 (w.e.f. 1-11-1956).

of arrears of work therein, it appears to the President that the number of the Judges of that Court should be for the time being increased, ¹[the President may, in consultation with the National Judicial Appointments Commission, appoint] duly qualified persons to be additional Judges of the Court for such period not exceeding two years as he may specify.

(2) When any Judge of a High Court other than the Chief Justice is by reason of absence or for any other reason unable to perform the duties of his office or is appointed to act temporarily as Chief Justice, ¹[the President may, in consultation with the National Judicial Appointments Commission, appoint] a duly qualified person to act as a Judge of that Court until the permanent Judge has resumed his duties.

(3) No person appointed as an additional or acting Judge of a High Court shall hold office after attaining the age of ²[sixty-two years].]

³[**224A. Appointment of retired Judges at sittings of High Courts.**— Notwithstanding anything in this Chapter, ⁴[the National Judicial Appointments Commission on a reference made to it by the Chief Justice of a High Court for any State, may with the previous consent of the President], request any person who has held the office of a Judge of that Court or of any other High Court to sit and act as a Judge of the High Court for that State, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that High Court:

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that High Court unless he consents so to do.]

1. Subs. by the Constitution (Ninety-ninth Amendment) Act, 2014, s. 8, for "the President may appoint" (w.e.f. 13-4-2015). This amendment has been struck down, by the Supreme Court in the case of Supreme Court *Advocates-on-Record Association and Another Vs. Union of India* in its judgment, dated 16-10-2015, AIR 2016 SC 117.

2 Subs. by the Constitution (Fifteenth Amendment) Act, 1963, s. 6, for "sixty years" (w.e.f. 5-10-1963).

3. Ins. by s. 7, *ibid.* (w.e.f. 5-10-1963).

4. Subs. by the Constitution (Ninety-ninth Amendment) Act, 2014, s. 9, for "the Chief Justice of a High Court for any State may at any time, with the previous consent of the President" (w.e.f. 13-4-2015). This amendment has been struck down by the Supreme Court in the case of Supreme Court *Advocates-on-Record Association and Another Vs. Union of India* in its judgment dated 16-10-2015, AIR 2016 SC 117.

225. Jurisdiction of existing High Courts.—Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by this Constitution, the jurisdiction of, and the law administered in, any existing High Court, and the respective powers of the Judges thereof in relation to the administration of justice in the Court, including any power to make rules of Court and to regulate the sittings of the Court and of members thereof sitting alone or in Division Courts, shall be the same as immediately before the commencement of this Constitution:

¹[Provided that any restriction to which the exercise of original jurisdiction by any of the High Courts with respect to any matter concerning the revenue or concerning any act ordered or done in the collection thereof was subject immediately before the commencement of this Constitution shall no longer apply to the exercise of such jurisdiction.]

²[**226. Power of High Courts to issue certain writs.**—(1) Notwithstanding anything in article 32 ^{3***}, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including ⁴[writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.]

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power,

1. Omitted by the Constitution (Forty-second Amendment) Act, 1976, s. 37 (w.e.f. 1-2-1977) and subsequently ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 29 (w.e.f. 20-6-1979).

2. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 38 for art. 226 (w.e.f. 1-2-1977).

3. The words, figures and letters "but subject to the provisions of article 131A and article 226A" omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 7 (w.e.f. 13-4-1978).

4. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 30, for the portion beginning with "writs in the nature of *habeas corpus*, *mandamus*, *prohibition*, *quo warranto* and *certiorari*, or any of them" and ending with "such illegality has resulted in substantial failure of justice." (w.e.f. 1-8-1979).

notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.

¹[(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without—

(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard,

makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.]

²[(4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32.]

³[**226A.** *Constitutional validity of Central laws not to be considered in proceedings under article 226.*].—*Omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 8 (w.e.f. 13-4-1978).*

227. Power of superintendence over all courts by the High Court.—

⁴[(1) Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.]

1. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s.30, for cls. (3), (4), (5) and (6) (w.e.f. 1-8-1979).

2. Cl. (7) renumbered as cl. (4) by the Constitution (Forty-fourth Amendment) Act, 1978, s. 30 (w.e.f. 1-8-1979).

3. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 39 (w.e.f. 1-2-1977).

4. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 40, for cl. (1) (w.e.f. 1-2-1977) and further subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 31, for cl. (1) (w.e.f. 20-6-1979).

(2) Without prejudice to the generality of the foregoing provision, the High Court may—

- (a) call for returns from such courts;
- (b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and
- (c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts.

(3) The High Court may also settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein:

Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) shall not be inconsistent with the provision of any law for the time being in force, and shall require the previous approval of the Governor.

(4) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces.

¹(5)* * * *

228. Transfer of certain cases to High Court.—If the High Court is satisfied that a case pending in a court subordinate to it involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the case, ²[it shall withdraw the case and ³*** may—]

- (a) either dispose of the case itself, or
- (b) determine the said question of law and return the case to the court from which the case has been so withdrawn together with a copy of its judgment on such question, and the said court shall on receipt thereof proceed to dispose of the case in conformity with such judgment.

1. Cl. (5) was ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 40 (w.e.f. 1-2-1977) and omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 31 (w.e.f. 20-6-1979).

2. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 41, for "it shall withdraw the case and may—" (w.e.f. 1-2-1977).

3. The words, figures and letter, "subject to the provisions of article 131A," omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 9 (w.e.f. 13-4-1978).

¹[**228A.** *Special provisions as to disposal of questions relating to constitutional validity of State laws.*].—Omitted by the Constitution (Forty-third Amendment) Act, 1977, s. 10 (w.e.f. 13-4-1978).

229. Officers and servants and the expenses of High Courts.—(1) Appointments of officers and servants of a High Court shall be made by the Chief Justice of the Court or such other Judge or officer of the Court as he may direct:

Provided that the Governor of the State ^{2***} may by rule require that in such cases as may be specified in the rule no person not already attached to the Court shall be appointed to any office connected with the Court save after consultation with the State Public Service Commission.

(2) Subject to the provisions of any law made by the Legislature of the State, the conditions of service of officers and servants of a High Court shall be such as may be prescribed by rules made by the Chief Justice of the Court or by some other Judge or officer of the Court authorised by the Chief Justice to make rules for the purpose:

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor of the State ^{2***}.

(3) The administrative expenses of a High Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, shall be charged upon the Consolidated Fund of the State, and any fees or other moneys taken by the Court shall form part of that Fund.

³[**230. Extension of jurisdiction of High Courts to Union territories.**—(1) Parliament may by law extend the jurisdiction of a High Court to, or exclude the jurisdiction of a High Court from, any Union territory.

(2) Where the High Court of a State exercises jurisdiction in relation to a Union territory,—

(a) nothing in this Constitution shall be construed as empowering the Legislature of the State to increase, restrict or abolish that jurisdiction; and

(b) the reference in article 227 to the Governor shall, in relation to

1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 42 (w.e.f. 1-2-1977).

2. The words "in which the High Court has its principal seat" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

3. Subs. by s. 16, *ibid.*, for arts. 230, 231 and 232 (w.e.f. 1-11-1956).

any rules, forms or tables for subordinate courts in that territory, be construed as a reference to the President.

231. Establishment of a common High Court for two or more States.—(1) Notwithstanding anything contained in the preceding provisions of this Chapter, Parliament may by law establish a common High Court for two or more States or for two or more States and a Union territory.

(2) In relation to any such High Court,—

¹(a)* * * * *

(b) the reference in article 227 to the Governor shall, in relation to any rules, forms or tables for subordinate courts, be construed as a reference to the Governor of the State in which the subordinate courts are situate; and

(c) the references in articles 219 and 229 to the State shall be construed as a reference to the State in which the High Court has its principal seat:

Provided that if such principal seat is in a Union territory, the references in articles 219 and 229 to the Governor, Public Service Commission, Legislature and Consolidated Fund of the State shall be construed respectively as references to the President, Union Public Service Commission, Parliament and Consolidated Fund of India.]

[232. Interpretation.—Articles 230, 231 and 232 subs. by articles 230 and 231 by the Constitution (Seventh Amendment) Act, 1956, s. 16 (w.e.f. 1-11-1956)].

CHAPTER VI.—SUBORDINATE COURTS

233. Appointment of district judges.—(1) Appointments of persons to

1. Sub-clause (a) was omitted by the Constitution (Ninety-ninth Amendment) Act, 2014, s. 10 (w.e.f. 13-4-2015). This amendment has been struck down by the Supreme Court *vide its order the 16-10-2015 in the Supreme Court Advocates-on-Record Association and Another Vs. Union of India reported AIR 2016 SC 117*. Before amendment, sub-clause (a) was as under:—

"(a) the reference in article 217 to the Governor of the State shall be construed as reference to the Governors of all the States in relation to which the High Court exercises jurisdiction".

be, and the posting and promotion of, district judges in any State shall be made by the Governor of the State in consultation with the High Court exercising jurisdiction in relation to such State.

(2) A person not already in the service of the Union or of the State shall only be eligible to be appointed a district judge if he has been for not less than seven years an advocate or a pleader and is recommended by the High Court for appointment.

¹[**233A. Validation of appointments of, and judgments, etc., delivered by, certain district judges.**—Notwithstanding any judgment, decree or order of any court,—

(a) (i) no appointment of any person already in the judicial service of a State or of any person who has been for not less than seven years an advocate or a pleader, to be a district judge in that State, and

(ii) no posting, promotion or transfer of any such person as a district judge, made at any time before the commencement of the Constitution (Twentieth Amendment) Act, 1966, otherwise than in accordance with the provisions of article 233 or article 235 shall be deemed to be illegal or void or ever to have become illegal or void by reason only of the fact that such appointment, posting, promotion or transfer was not made in accordance with the said provisions;

(b) no jurisdiction exercised, no judgment, decree, sentence or order passed or made, and no other act or proceeding done or taken, before the commencement of the Constitution (Twentieth Amendment) Act, 1966 by, or before, any person appointed, posted, promoted or transferred as a district judge in any State otherwise than in accordance with the provisions of article 233 or article 235 shall be deemed to be illegal or invalid or ever to have become illegal or invalid by reason only of the fact that such appointment, posting, promotion or transfer was not made in accordance with the said provisions.]

234. Recruitment of persons other than district judges to the judicial service.—Appointments of persons other than district judges to the judicial service of a State shall be made by the Governor of the State in accordance with rules made by him in that behalf after consultation with the State Public Service Commission and with the High Court exercising jurisdiction in relation to such State.

1. Ins. by the Constitution (Twentieth Amendment) Act, 1966, s. 2 (w.e.f. 22-12-1966).

235. Control over subordinate courts.—The control over district courts and courts subordinate thereto including the posting and promotion of, and the grant of leave to, persons belonging to the judicial service of a State and holding any post inferior to the post of district judge shall be vested in the High Court, but nothing in this article shall be construed as taking away from any such person any right of appeal which he may have under the law regulating the conditions of his service or as authorising the High Court to deal with him otherwise than in accordance with the conditions of his service prescribed under such law.

236. Interpretation.—In this Chapter—

(a) the expression “district judge” includes judge of a city civil court, additional district judge, joint district judge, assistant district judge, chief judge of a small cause court, chief presidency magistrate, additional chief presidency magistrate, sessions judge, additional sessions judge and assistant sessions Judge;

(b) the expression “judicial service” means a service consisting exclusively of persons intended to fill the post of district judge and other civil judicial posts inferior to the post of district judge.

237. Application of the provisions of this Chapter to certain class or classes of magistrates.—The Governor may by public notification direct that the foregoing provisions of this Chapter and any rules made thereunder shall with effect from such date as may be fixed by him in that behalf apply in relation to any class or classes of magistrates in the State as they apply in relation to persons appointed to the judicial service of the State subject to such exceptions and modifications as may be specified in the notification.