

THE CONSTITUTION (FORTY-FIRST AMENDMENT) ACT, 1976

India

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Act 41 of 1976

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Statement of Objects and Reasons appended to the Constitution (Forty-third Amendment) Bill, 1976 which was enacted as the Constitution (Forty-first Amendment) Act, 1976

STATEMENT OF OBJECTS AND REASONS Article 316(2) of the Constitution provides that the Chairman and Members of a State Public Service Commission or Joint Commission shall retire at 60 or hold office for a term of six years from the date on which they enter service, whichever is earlier. This was the position when the Constitution came into force. Subsequently, while the age of retirement of the High Court Judges was raised to 62, that of the Chairman and the Members of the State Public Service Commissions remained unchanged. The same article provides that one-half of the members of every Public Service Commission shall be employees of the Government of India or the Government of a State. The age of retirement of Government employees was 55 originally but was later raised to 58 in the case of All-India Services, Central Government servants and the Government servants of several States. Membership of the Commission is no attraction, therefore, to them, as they will have only two years to serve on the Commission which position is not desirable from the point of view of the efficient functioning of the Commission. Academicians like University Professors are eligible for appointment to the State Public Service Commissions. The age of retirement of University Professors has been recently raised to 60. It will not be attractive for these academicians to serve on a Public Service Commission if the age of retirement remains sixty. The Chairman/Members of a State Public Service Commission are forbidden to serve under the Government of India or a State Government after retirement. Consequently, no eminent academician will be eager to accept appointment on the Commission unless the age of retirement is raised to 62. The proposal is to raise the age of retirement of the Chairman and Members of the State Public Service Commissions to 62. The Bill seeks to give effect to this proposal. An Act further to amend the Constitution of India. BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:-

1. Short title.-

This Act may be called the Constitution (Forty-first Amendment) Act, 1976.

2. Amendment of article 316.-

In article 316 of the Constitution, in clause (2), for the words "sixty years", the words "sixty-two years" shall be substituted.[The Constitution (Forty-First Amendment) Act, 1976, changed the retirement age of the Chairman and members of the State Public Service Commissions from 60 to 62 years, by amending Article 316(2) of the Constitution. However, it was later amended to 58 for employees of the All-India Services, the Central Government, and many State governments. Consequently, they are not interested in joining the Commission because they will only have two years to serve, which is seen as undesirable for the efficient functioning of the Commission. Also Refer]