

A person shall not be qualified for appointment as a judge of the Supreme Court unless he is (a) a citizen of India; and (b) either — (i) **Qualifications for appointment as Judge.** a distinguished jurist; or (ii) has been a high court judge for at least five years; or (iii) has been an Advocate of a high court (or two or more such courts in succession) for at least 10 years [Article 124(3)].

No minimum age is prescribed for appointment as a judge of the Supreme Court, nor any fixed period of office. Once appointed, a judge of the Supreme Court may cease to be so, on the happening of any one of the following contingencies (other than death):

(a) On attaining the age of 65 years; (b) On resigning his office by writing addressed to the President; (c) On being removed by the President upon an address to that effect being passed by a special majority of each House of Parliament (*viz.*, a majority of the total membership of that House and by majority of not less than two-thirds of the members of that House present and voting).

The only grounds upon which such removal may take place are (1) "proved misbehaviour" and (2) "incapacity". In Article 124(4) of the Constitution "misbehaviour" means wrong conduct or improper conduct. Every act or conduct or error of judgment or negligence by a Constitutional authority *per se* does not amount to misbehaviour. Misconduct implies a creation of some degree of *mens rea* by the doer. Wilful abuse of constitutional office, wilful misconduct in the office, corruption, lack of integrity or any other offence involving moral turpitude would be "misbehaviour".<sup>5</sup>

The combined effect of Article 124(4) and the Judges (Inquiry) Act, 1968 is **Impeachment of a Judge.** that the following procedure is to be observed for removal of a Judge. This is commonly known as impeachment —

(1) A motion addressed to the President signed by at least 100 members of the Lok Sabha or 50 members of the Rajya Sabha is delivered to the Speaker or the Chairman.

(2) The motion is to be investigated by a Committee consisting of three members of whom—

(a) one shall be chosen from among the Chief Justice and other Judges of the Supreme Court;

(b) one shall be chosen from among the Chief Justices of the High Courts; and

(c) one shall be a person who is in the opinion of the Speaker or, as the case may be, the Chairman, a distinguished jurist.

(3) If the Committee finds the judge guilty of misbehaviour or that he suffers from incapacity the motion (para 1, *above*) together with the report of the Committee is taken up for consideration in the House where the motion is pending.

(4) If the motion is passed in each House by majority of the total membership of that House and by a majority of not less than two-thirds of that House present and voting the address is presented to the President.

(5) The judge will be removed after the President gives his order for removal on the said address.

The procedure for impeachment is the same for judges of the Supreme Court and the high courts. After the Constitution this procedure was started against Shri R Ramaswamy in 1991–93. The Committee found the judge guilty. In the Lok Sabha the Congress Party abstained from voting and so the motion could not be passed with requisite majority.

A judge of the Supreme Court gets a salary of Rs 2,50,000 *per mensem*<sup>6</sup> and the **Salaries, etc.** use of an official residence free of rent. The salary of the Chief Justice is Rs 2,80,000.<sup>5</sup>