

AS INTRODUCED IN LOK SABHA

12 MAY 2005

Bill No. 73 of 2005

THE HIGH COURT AND SUPREME COURT JUDGES (SALARIES AND
CONDITIONS OF SERVICE) AMENDMENT BILL, 2005

A

BILL

*further to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954
and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958.*

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the High Court and Supreme Court Judges (Salaries and
5 Conditions of Service) Amendment Act, 2005.

*Short title,
and
commencement.*

(2) It shall be deemed to have come into force on the 1st day of April, 2004.

CHAPTER II

AMENDMENTS OF THE HIGH COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE)

ACT, 1954

28 of 1954.

Amendment
of section 17A.

2. In the High Court Judges (Salaries and Conditions of Service) Act, 1954 (hereinafter referred to as the High Court Judges Act), in section 17A, in sub-section (1),—

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(i) after the words "family pension calculated at the rate of fifty per cent of his salary", the words "plus fifty per cent of his dearness pay" shall be inserted;

(ii) for the words "and thereafter at the rate of thirty per cent of his salary subject to a minimum of twelve hundred and seventy-five rupees per month", the words "and thereafter at the rate of thirty per cent of his salary plus thirty per cent of his dearness pay subject to a minimum of one thousand nine hundred and thirteen rupees per month" shall be substituted.

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Amendment
of section
22A.

3. In section 22A of the High Court Judges Act, in sub-section (2), for the words "of ten thousand rupees", the words "equivalent to an amount of thirty per cent of the salary plus thirty per cent of the dearness pay" shall be substituted.

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Amendment
of section
22C.

4. In section 22C of the High Court Judges Act, for the words "three thousand" and "two thousand", the words "seven thousand five hundred" and "six thousand" shall respectively be substituted.

Amendment
of the First
Schedule.

5. In the First Schedule to the High Court Judges Act,—

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(a) in Part I,—

(i) in paragraph 2,—

(A) in clause (a), for the letters and figures "Rs. 14,630", the letters and figures "Rs. 21,945" shall be substituted;

(B) in clause (b), for the letters and figures "Rs. 11,150", the letters and figures "Rs. 16,725" shall be substituted;

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(C) in the proviso, for the letters and figures "Rs. 1,80,000" and "Rs. 1,56,000", the letters and figures "Rs. 2,70,000" and "Rs. 2,34,000" shall respectively be substituted;

(ii) in paragraph 8, for the letters and figures "Rs. 1,80,000", the letters and figures "Rs. 2,70,000" shall be substituted;

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(iii) in paragraph 9, for the letters and figures "Rs. 51,190", the letters and figures "Rs. 76,785" shall be substituted;

(b) in Part II,—

(i) in the proviso to paragraph 2, for the letters and figures "Rs. 1,80,000" and "Rs. 1,56,000", the letters and figures "Rs. 2,70,000" and "Rs. 2,34,000" shall respectively be substituted;

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(ii) in paragraph 3, for the figures "11,265", "13,520", "15,766", "18,022", "20,280" and "22,533", the figures "16,898", "20,280", "23,649", "27,033", "30,420" and "33,799" shall respectively be substituted;

(c) in Part III,—

(i) in paragraph 2,—

(A) in clause (b), for the letters and figures “Rs. 5,200”, the letters and figures “Rs. 7,800” shall be substituted;

(B) in the proviso, for the letters and figures “Rs. 1,80,000” and “Rs. 1,56,000”, the letters and figures “Rs. 2,70,000” and “Rs. 2,34,000” shall respectively be substituted.

CHAPTER III

AMENDMENTS OF THE SUPREME COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) ACT, 1958

- 41 of 1958. 6. In section 13 of the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 (hereinafter referred to as the Supreme Court Judges Act), clause (a) shall be omitted. Amendment of section 13.
- 15 7. After section 13 of the Supreme Court Judges Act, the following section shall be inserted, namely:— Insertion of new section 13A.
- “13A. Subject to the provisions of this Act, a period of ten years shall be added to the service of a Judge for the purposes of his pension, who qualified for appointment as such judge under sub-clause (b) of clause (3) of article 124 of the Constitution.” Benefit of added years of service.
- 20 8. In the Supreme Court Judges Act, in section 16A, in sub-section (1),— Amendment of section 16A.
- (i) in clause (a),—
- (A) after the words “family pension calculated at the rate of fifty per cent of his salary”, the words “plus fifty per cent of his dearness pay” shall be inserted;
- 25 (B) after the words “and thereafter at the rate of thirty per cent of his salary”, the words “plus thirty per cent of his dearness pay” shall be inserted;
- (ii) in clause (b), after the words “family pension shall be thirty per cent of his salary”, the words “plus thirty per cent of his dearness pay” shall be inserted.
- 30 9. In section 23 of the Supreme Court Judges Act, in sub-section (1A), for the words “of ten thousand rupees”, the words “equivalent to an amount of thirty per cent. of the salary plus thirty per cent of the dearness pay” shall be substituted. Amendment of section 23.
10. In section 23B of the Supreme Court Judges Act, for the words “four thousand” and “three thousand”, the words “ten thousand” and “seven thousand five hundred” shall respectively be substituted. Amendment of section 23B.
- 35 11. In the Schedule to the Supreme Court Judges Act,— Amendment of the Schedule.
- (a) in Part I,—
- (i) in paragraph 2,—
- (A) the words “and who has completed not less than seven years of service for pension as a Judge in India” shall be omitted;
- 40 (B) in clause (b), for the letters and figures “Rs. 4,020”, “Rs. 1,21,880” and “Rs. 10,240”, the letters and figures “Rs. 6,030”, “Rs. 1,82,820” and “Rs. 15,360” shall respectively be substituted;
- (C) in the proviso, for the letters and figures “Rs. 1,98,000”, the letters and figures “Rs. 2,97,000” shall be substituted;

(ii) in paragraph 3,—

(A) the words “and who has completed not less than seven years of service for pension as a Judge in India” shall be omitted;

(B) in the proviso, for the letters and figures “Rs. 1,80,000”, the letters and figures “Rs. 2,70,000” shall be substituted; 5

(iii) paragraph 5 shall be omitted;

(b) in Part II,—

(i) in paragraph 2,—

(A) in clause (b), for the letters and figures “Rs. 11,265”, the letters and figures “Rs. 16,898” shall be substituted; 10

(B) in the proviso, for the letters and figures “Rs. 1,98,000” and “Rs. 1,80,000”, the letters and figures “Rs. 2,97,000” and “Rs. 2,70,000” shall respectively be substituted;

(c) in Part III,—

(i) in paragraph 2,— 15

(A) in clause (b), for the letters and figures “Rs. 5,200”, the letters and figures “Rs. 7,800” shall be substituted;

(B) in the proviso, for the letters and figures “Rs. 1,98,000” and “Rs. 1,80,000”, the letters and figures “Rs. 2,97,000” and “Rs. 2,70,000” shall respectively be substituted. 20

STATEMENT OF OBJECTS AND REASONS

In case of all Central Government employees, including members of All-India Services, 50 per cent of the Dearness Allowance (DA) was merged with the basic pay with effect from April 1, 2004. This is now separately shown as Dearness Pay (DP), which is counted for purposes like payment of allowances including House Rent Allowance (HRA), transfer grant, retirement benefits, contribution of GPF and various advances, etc.

Similarly, in case of pensioners, Dearness Relief equal to 50 per cent of the pension has, with effect from 1-4-2004 been merged with pension and shown distinctly as Dearness Pension. This has resulted in the increase in basic pension of the Central Government employees by 1.5 times.

2. In view of the above, a necessity is felt to increase the pension, additional pension and maximum pension of the Judges of the High Courts and Supreme Court by 1.5 times.

The family pension for Judges, with effect from 1-4-2004, is also proposed to be calculated, as in the case of Central Government employees, at the rate of 50 per cent of the salary plus 50 per cent of the Dearness Pay up to the age of sixty-five years or first seven years of death whichever is earlier and thereafter 30 per cent of salary plus 30 per cent of Dearness Pay subject to a minimum of, Rs. 1,913/-.

3. With the merger of 50 per cent of DA with the basic pay, the House Rent Allowance (HRA) admissible to the Central Government employees, including members of All-India Services has been revised to 30 per cent of basic pay plus 30 per cent of Dearness Pay, with effect from April 1, 2004.

On the same analogy, the allowance admissible to the Judges in lieu of Government accommodation, is also required to be revised and fixed at 30 per cent of the salary plus 30 per cent of Dearness Pay with effect from 1-4-2004.

4. Rates of sumptuary allowance admissible to the Judges of High Courts and Supreme Court are also proposed to be revised with effect from April 1, 2004.

5. Under the provisions of article 124(3)(b) of the Constitution, an Advocate having ten years practice can be directly appointed to the Bench of the Supreme Court. Generally, no Advocate below the age of 55 years is considered for appointment. These Judges get pension under Part I of the Schedule to Supreme Court Judges (Salaries and Conditions of Service) Act, 1958. They sometimes cannot even complete seven years of service required for eligibility of pension. As such they are entitled to a fixed amount as pension. For such Judges it is proposed to dispense with the condition of seven years of service and to add a period of ten years to the qualifying period of service for pension.

6. The Bill seeks to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 to achieve the above objects.

NEW DELHI;
The 9th May, 2005.

H.R. BHARDWAJ.

FINANCIAL MEMORANDUM

Clauses 2 and 8 of the Bill seek to amend section 17A(1) of the High Court Judges (Salaries and Conditions of Service) Act, 1954 (hereinafter referred to as the High Court Judges Act) and section 16A(1) of the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 (hereinafter referred to as the Supreme Court Judges Act), so as to revise the rate of Family Pension and fix it at 50 per cent of the salary plus 50 per cent of Dearness Pay up to the age of sixty-five years or first seven years of death whichever is earlier and thereafter 30 per cent of salary plus 30 per cent of Dearness Pay. The proposal does not involve any substantial financial implications as there are only few family pensioners.

2. Clauses 3 and 9 of the Bill seek to amend section 22A(2) of the High Court Judges Act and section 23(1A) of the Supreme Court Judges Act, respectively, to revise the rate of allowance admissible to the judges in lieu of Government accommodation with effect from April 1, 2004. The revised rate of allowance will be 30 per cent of the salary plus 30 per cent of Dearness Pay. The additional expenditure shall be borne mainly by the State Governments. The Central Government will have to meet the additional expenditure in respect of the Judges of Supreme Court, Delhi High Court and about 6 per cent of the expenses in respect of Judges of Punjab and Haryana High Court. At present all the Judges of Supreme Court and Delhi High Court are provided with official residences. Hence, there would be no additional expenditure to be borne by the Central Government.

3. Clauses 4 and 10 of the Bill seek to amend section 22C of the High Court Judges Act, and section 23B of the Supreme Court Judges Act, respectively, to revise the rates of sumptuary allowance admissible to the Judges of High Courts and Supreme Court with effect from 1st day of April, 2004. The additional expenditure in respect of the Judges of Supreme Court, Delhi High Court and about 6 per cent in respect of Judges of Punjab and Haryana High Court will be borne by the Central Government and will be charged on the Consolidated Fund of India. For other High Courts the additional expenditure will be borne by the respective State Governments. The approximate recurring expenditure of the Central Government, on this account, would be Rs. 30.00 lakhs per annum.

4. Clauses 5 and 11 of the Bill seek to amend the First Schedule to the High Court Judges Act, and the Schedule to the Supreme Court Judges Act, respectively, to revise the rates of pension, additional pension and total pension of the Judges with effect from 1st day of April, 2004. The additional expenditure in respect of the Judges of Supreme Court, Delhi High Court and about 6 per cent in respect of Judges of Punjab and Haryana High Court will be borne by the Central Government and will be charged on the Consolidated Fund of India. For other High Courts the additional expenditure will be borne by the respective State Governments. The approximate recurring expenditure of the Central Government would be Rs. 30.00 lakhs per annum.

5. Clauses 6 and 7 of the Bill seek to amend the provision to dispense with the condition of seven years of service and to add a period of ten years to the qualifying period of service for pension in case of Part I Judges of Supreme Court. The proposal does not involve any substantial financial implications as at present there is only one judge under this category. The approximate recurring expenditure of the Central Government, on this account, would be about Rs. 2.00 lakhs per annum. This will be charged on the Consolidated Fund of India.

6. The Bill does not involve any other expenditure of either recurring or non-recurring nature.

ANNEXURE

EXTRACTS FROM THE HIGH COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE)
ACT, 1954
(28 OF 1954)

* * * * *

17A. (1) Where a Judge who, being in service on or after the commencement of the High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1986, dies, whether before or after retirement in circumstances to which section 17 does not apply, family pension calculated at the rate of fifty per cent of his salary on the date of his death shall be payable to the person or persons entitled thereto and the amount so payable shall be paid from the day following the date of death of the Judge for a period of seven years or for a period up to the date on which the Judge would have attained the age of sixty-five years, had he survived, whichever is earlier, and thereafter at the rate of thirty per cent of his salary subject to a minimum of twelve hundred and seventy-five rupees per month:

Family pensions and gratuities.

Provided that in no case the amount of family pension calculated under this sub-section shall exceed the pension payable to the Judge under this Act.

Explanation.—For the purposes of determining the person or persons entitled to family pension under this sub-section,—

(i) in relation to a Judge who elects or is eligible to receive pension under Part I of the First Schedule, the rules, notifications and orders for the time being in force with regard to the person or persons entitled to family pension in relation to an officer of the Central Civil Services, Group 'A', shall apply;

(ii) in relation to a Judge who elects to receive pension under Part II or Part III of the First Schedule, the ordinary rules of his service if he had not been appointed a Judge with respect to the person or persons entitled to family pension shall apply and his service as a Judge being treated as service therein.

(2) Where any Judge, who has elected to receive the pension payable to him under Part II or Part III of the First Schedule, retires, or dies in circumstances to which section 17 does not apply, gratuity, if any, shall be payable to the person or persons entitled thereto under the ordinary rules of his service if he had not been appointed a Judge, his service as a Judge being treated as service therein for the purpose of calculating that gratuity.

* * * * *

22A.(1) *

Facility of rent-free houses.

(2) Where a Judge does not avail himself of the use of an official residence he may be paid every month an allowance of ten thousand rupees.

* * * * *

22C. The Chief Justice and each of the other Judges of every High Court shall be entitled to a sumptuary allowance of three thousand rupees per month and two thousand rupees per month, respectively.

Sumptuary allowance.

THE FIRST SCHEDULE
(See sections 14 and 15)
PENSIONS OF JUDGES
PART I

* * * * *

2. Subject to the other provisions of this Part, the pension payable to a Judge to whom this Part applies and who has completed not less than seven years of service for pension shall be,—

(a) for service as Chief Justice in any High Court, Rs. 14,630 per annum for each completed year of service;

(b) for service as any other Judge in any High Court, Rs. 11,150 per annum for each completed year of service:

Provided that the pension under this paragraph shall in no case exceed Rs. 1,80,000 per annum in the case of a Chief Justice and Rs. 1,56,000 per annum in the case of any other Judge.

* * * * *

8. Notwithstanding anything contained in the foregoing provisions of this Part, the pension payable to a Judge who has completed fourteen years of service for pension, including not less than six years of service as Chief Justice of one or more of the High Courts, shall be Rs. 1,80,000 per annum.

9. Where a Judge to whom this Part applies retires or has retired at any time after the 26th January, 1950 without being eligible for a pension under any other provision of this Part, then, notwithstanding anything contained in the foregoing provisions, pension of Rs. 51,190 per annum shall be payable to such a Judge:

Provided that nothing in this paragraph shall apply—

(a) to an additional Judge or acting Judge; or

(b) to a Judge who at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Union or a State.

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PART II

* * * * *

2. The pension payable to such a Judge shall be—

(a) the pension to which he is entitled under the ordinary rules of the Indian Civil Service if he had not been appointed a Judge, his service as a Judge being treated as service therein for the purpose of calculating that pension; and

(b) the additional pension, if any, to which he is entitled under paragraph 3:

Provided that the pension under clause (a) and the additional pension under clause (b) together shall in no case exceed Rs. 1,80,000 per annum in the case of a Chief Justice and Rs. 1,56,000 per annum in the case of any other Judge.

3. If such a Judge has completed not less than seven years of service for pension in a High Court, he shall be entitled to an additional pension in accordance with the following scale:—

	Per annum
(i) for seven completed years of service for pension	Rs. 11,265/-
(ii) for eight completed years of service for pension	Rs. 13,520/-
(iii) for nine completed years of service for pension	Rs. 15,766/-
(iv) for ten completed years of service for pension	Rs. 18,022/-
(v) for eleven completed years of service for pension	Rs. 20,280/-
(vi) for twelve or more completed years of service for pension	Rs. 22,533/-

PART III

* * * * *

2. The pension payable to such a Judge shall be—

(a) the pension to which he is entitled under the ordinary rules of his service if he had not been appointed a Judge, his service as a Judge being treated as service therein for the purpose of calculating that pension; and

(b) a special additional pension of Rs. 5,200/- per annum in respect of each completed year of service for pension:

Provided that the pension under clause (a) and the additional pension under clause (b) together shall in no case exceed Rs. 1,80,000 per annum in the case of Chief Justice and Rs. 1,56,000/- per annum in the case of any other Judge.

EXTRACTS FROM THE SUPREME COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE)
ACT, 1958
(41 OF 1958)

* * * * *

13. Subject to the provisions of this Act, a pension shall be payable in accordance with the provisions of Part-I of the Schedule to a Judge of the Supreme Court on his retirement if, but only if—

Pension payable to Judges.

(a) he has completed not less than seven years of service for pension as a Judge in India; or

(b) he has attained the age of sixty-five years; or

(c) his retirement is medically certified to be necessitated by ill health.

Explanation.—In this section, 'Judge' means a Judge who is not a member of the Indian Civil Service or has not held any other pensionable post under the Union or a State and includes a person who was in service as a Judge on the 20th May, 1954, and also includes a Judge who being a member of the Indian Civil Service or having held and other pensionable post under the Union or a State has elected to receive the pension payable under Part-I of the Schedule.

* * * * *

16A. (1) Where a Judge who, being in service on or after the commencement of the High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1986—

Family pension and gratuity.

(a) dies before retirement, family pension calculated at the rate of fifty per cent of his salary on the date of his death shall be payable to the person or persons entitled thereto and the amount so payable shall be paid from the day following the date of death of the Judge for a period of seven years or for a period up to the date on which the Judge would have attained the age of sixty-five years, had he survived, whichever is earlier, and thereafter at the rate of thirty per cent of his salary;

(b) dies after retirement on attaining the age of sixty-five years, family pension shall be thirty per cent of his salary and shall be payable to the person or persons entitled thereto; and

(c) dies after retirement after seeking premature retirement and before attaining the age of sixty-five years, family pension shall be calculated at the rate specified in clause (a) and shall be payable to the person or persons entitled thereto:

Provided that in no case the amount of family pension calculated under this sub-section shall exceed the pension payable to the judge under this Act.

Explanation.—For the purposes of determining the person or persons entitled to family pension under this sub-section,—

(i) in relation to a Judge who elects or is eligible to receive pension under Part I of the Schedule, the rules, notifications and orders for the time being in force with regard to the person or persons entitled to family pension in relation to an officer of the Central Civil Services Group 'A', shall apply;

(ii) in relation to a Judge who elects to receive pension under Part II or Part III of the Schedule, the ordinary rules of his service if he had not been appointed a Judge with respect to the person or persons entitled to family pension shall apply and his service as a Judge being treated as service therein.

Facilities for rent-free houses and other conditions of service.

23. (1) * * * * *

“(1A) Where a Judge does not avail himself of the use of an official residence, he may be paid every month an allowance of ten thousand rupees.

* * * * *

Sumptuary Allowance.

23B. The Chief Justice and each of the other Judge shall be entitled to a sumptuary allowance of four thousand rupees per month and three thousand rupees per month, respectively.

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THE SCHEDULE
(See sections 13 and 14)

PENSIONS OF JUDGES

PART I

* * * * *

2. Subject to the provisions of this Part, the pension payable to a Chief Justice to whom this Part applies and who has completed not less than seven years of service for pension as a Judge in India shall be an amount equal to the sum of the following amounts, that is to say,—

28 of 1954. (a) an amount equal to the pension which would have been payable to him in accordance with the scale and provisions of Part I of the First Schedule to the High Court Judges (Salaries and Conditions of Service) Act, 1954 if his service as a Judge had been rendered as the Chief Justice of a High Court;

(b) additional amount of Rs. 4,020/- per annum for each completed year of service as the Chief Justice of the Supreme Court until he has become entitled to a pension of Rs. 1,21,880/- per annum and thereafter an additional amount of Rs. 10,240/- for each completed year of such service:

Provided that the aggregate amount of his pension shall in no case exceed Rs. 1,98,000/- per annum.

28 of 1954. 3. The pension payable to any other Judge to whom this Part applies and who has completed not less than seven years of service for pension as a Judge in India shall be an amount equal to the pension which would have been payable to him in accordance with scale and provisions in Part I of the First Schedule to the High Court Judges (Salaries and Conditions of Service) Act, 1954, if his service as a Judge had been rendered as the Chief Justice of a High Court:

Provided that the pension under this paragraph shall in no case exceed Rs. 1,80,000 per annum.

* * * * *

5. Where a Judge, to whom this Part applies retires without being eligible for a pension under any other provision of this Part, then, notwithstanding anything contained in the foregoing provisions, a pension of Rs. 64,030 per annum shall be payable to such a Judge:

Provided that nothing in this paragraph shall apply to a Judge who at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Union or a State.

PART II

* * * * *

2. The pension payable to such a Judge shall be:

(a) the pension to which he is entitled under the ordinary rules of the Indian Civil Service, if he had not been appointed as a Judge, his service as a Judge in India being treated as service therein, and

(b) an additional pension of Rs. 11,265 per annum for each completed year of service of pension in the Supreme Court:

Provided that the pension under clause (a) and the additional pension under clause (b) together shall in no case exceed Rs. 1,98,000 per annum in the case of a Chief Justice and Rs. 1,80,000 per annum in the case of any other judge.

PART III

2. The pension payable to such a Judge shall be—

(a) the pension to which he is entitled under the ordinary rules of his service of he had not been appointed a Judge, his service as a Judge in India being treated as service therein for the purpose of calculating that pension;

(b) a special additional pension of Rs. 5,200/- per annum in respect of each completed year of service for pension as a Judge in India:

Provided that the pension under clause (a) and additional pension under clause (b) together with shall in no case exceed Rs. 1,98,000 per annum in the case of a Chief Justice and Rs. 1,80,000 per annum in the case of any other Judge.

LOK SABHA

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BILL

further to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954 and
the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958.

(Shri H.R. Bhardwaj, Minister of Law and Justice)