

HIGH COURT JUDGES
(LEAVE, PENSION AND PRIVILEGES)
ORDER, 1997

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Islamabad, the 12th February, 1997

No. F.2 (2)/97-Pub.- The following Order made by the President is hereby published for general information :-

PRESIDENT'S ORDER NO. 3 OF 1997

Whereas paragraph 2 of the Fifth Schedule to the Constitution of Islamic Republic of Pakistan relating to the High Courts provides that every Judge of the High Court shall be entitled to such privileges and allowances, and to such rights in respect of leave of absence and pension, as may be determined by the President ;

NOW, THEREFORE, in exercise of the said powers the President is pleased to make the following Order :-

NOW, THEREFORE, in exercise of the powers conferred by the aforesaid paragraph, the President is pleased to make the following Order :-

P A R T I – PRELIMINARY

1. SHORT TITLE AND COMMENCEMENT.-

(1) This Order may be called **the High Court Judges (Leave, Pension and Privileges) Order, 1997.**

(2) It shall come into force at once and paragraph 15 shall be deemed to have taken effect on the twenty-seventh day of July, 1991.

2. DEFINITIONS.-

In this Order, unless there is anything repugnant in the subject or context ,-

- (a) "Acting Chief Justice" means a Judge appointed by the President to act as Chief Justice ;

 - (b) "actual service" means the time spent by a Judge on duty as such or in the performance of such other functions as he may be required under any law to perform or may be requested by the President or the Governor to discharge and includes vacation (but excluding any time during which the Judge is absent on Leave) and joining time on transfer from-
 - (i) a High Court to the Supreme Court ;
 - (ii) the Supreme Court to a High Court ;
 - (iii) one High Court to another ;
 - (iv) one permanent seat of a High Court to another permanent seat ;
 - (v) a High Court to the place where he is required under any
 - (vi) law to perform any function ; and
 - (vii) from a place where he is required under any law to perform any function to another such place or to a High Court ;

 - (c) "additional Judge" means a Judge appointed by the President to be an Additional Judge ;
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- (d) "Chief Justice" means the Chief Justice of a High Court but does not include an Acting Chief Justice ;
- (e) "High Court" shall include a High Court which existed in Pakistan at any time before the commencement of the Constitution ;
- (f) "Judge" means a Judge of High Court and includes the Chief Justice, and Acting Chief Justice and an Additional Judge ;
- (g) "service for pension" means actual service and includes thirty days or the amount actually taken, whichever is less, of each period of leave on full salary ; and
- (h) "vacation" means the summer vacation of the High Court, as notified by such High Court.

P A R T II – LEAVE

3. KINDS OF LEAVE ADMISSIBLE.-

- (1) Subject to the provisions of this Order, leave granted to a Judge may, at his option, be either-
 - (a) leave on full salary ; or
 - (b) leave on half salary ; or
 - (c) leave partly on full salary and partly on half salary.
 - (2) For the purpose of this Part, any period of leave on full salary shall be reckoned as double the period of leave on half salary.
-

4. LEAVE ACCOUNT.-

(1) A leave account shall be kept for each Judge showing therein the amount of leave due to him in terms of leave on half salary and in such account there shall be-

(i) credited to him in two Separate columns-

(a) a period equal to one-fourth of actual service ; and

(b) where any duties not connected with the business of the High Court are assigned to a Judge and, for reasons of such assignment, the Judges does not avail of any vacation or avails of less than thirty days of vacation in any calendar year, in addition to the leave credited under the preceding sub-clause, a further period equal to double the period by which the vacation availed of by him falls short of thirty days ; and

(ii) debited to him the period of all leave on full or half salary granted to him :

Provided that the opening credit at commencement of his Order, shall not exceed six months in the case of any Judge.

(2) Any period of leave taken by a Judge before the commencement of this Order under the rules or orders then applicable to him as an Acting Judge, Additional Judge or Judge of a High Court shall for the purpose of this Order be treated as if it were leave taken by him under this Order.

5. AGGREGATE AMOUNT OF LEAVE ADMISSIBLE TO A JUDGE.-

- (1) The aggregate amount of leave granted to a Judge during his whole period of service as such shall not exceed, in terms of leave on half salary, thirty-six months.
- (2) The aggregate amount of leave on full salary granted to a Judge during his whole period of service as such shall not exceed one-twenty-fourth of the period spent by him on actual service, but the leave credited to a Judge under sub-clause (b), of clause (i) of paragraph 4 shall not be subject to the limit herein specified.
- (3) The period of leave granted at any one time shall not exceed, in the case of leave on full salary, six months and, in the case of leave of any other kind specified in paragraph 3 sixteen months.

6. GRANT OF LEAVE NOT DUE.-

Subject to the maximum limits specified in sub-paragraph (1) of paragraph 5, leave on half salary may be granted to a Judge in excess of the amount at his credit-

(a) on a medical certificate ; and

(b) for a period not exceeding six months and not more than once during the whole period of his service as Judge, otherwise than on medical certificate.

7. LEAVE SALARY.-

- (1) The monthly rate of leave salary payable to a Judge while on leave on full salary shall be equal to the monthly rate of his salary.
- (2) The monthly rate of leave salary payable to a Judge while on leave on half salary shall be equal to half the monthly rate of his salary.
- (3) A Judge appointed after the commencement of this Order shall not be entitled to draw his leave salary otherwise than in Pakistan rupees unless he, immediately before such appointment, was entitled, in the service of Pakistan, to draw leave salary in foreign exchange in which case he may draw leave salary in foreign exchange on the same terms and conditions as were applicable to him as a person in the service of Pakistan.

8. ENCASHMENT OF LEAVE.-

A Judge who has, at the time of retirement, three hundred and sixty- five days leave on full salary to his credit, shall be paid ²[with effect from the first day of July, 2012] ¹[twelve months] salary in lieu of leave not availed of.

1. Subs. by P.O. No.2/2014, dt:27/1/2014

2. Inserted by P.O. 4/2014, dt: 21/4/2014, and shall be deemed to have been taken effect on and from the first day of July, 2012

9. EXTRAORDINARY LEAVE.-

- (1) Leave in excess of any leave admissible under the foregoing provisions of this Order may be granted to a Judge for a period not exceeding six months and not more than once during the whole period of his service.
- (2) No leave under sub-paragraph (1) shall be granted to Judge so as to terminate with his retirement nor after he has tendered his resignation.
- (3) No leave salary shall be payable to a Judge in respect of the period of leave granted under sub-paragraph (1).

10. SPECIAL DISABILITY LEAVE.-

Special disability leave may be granted to a Judge when he is disabled by injury intentionally inflicted or caused in, or in consequence of, the due performance of his official duties or in consequence of his official position and the provisions of Fundamental Rules 83 shall, so far as may be, apply to a Judge as they apply to a Government servant under the rule-making power of the President.

11. COMBINING LEAVE WITH VACATION.-

A Judge may be permitted to combine vacation with leave of any kind if the leave is either at the commencement or at the end of vacation but not at both :

Provided that no such permission shall be granted to a Judge, if it becomes necessary thereby to appoint an Additional Judge.

12. CONSEQUENCES OF OVER STAYING LEAVE OR VACATION.-

If a Judge overstays his leave or any vacation whether combined with leave or not, he shall receive no salary for the period of his absence in excess of the leave granted to him or beyond the end of the vacation, as the case may be :

Provided that, if such absence is due to circumstances beyond his control, the period thereof may be treated as leave admissible to him.

13. AUTHORITY COMPETENT TO GRANT LEAVE, ETC.-

The authority competent to grant or refuse leave, or to revoke or curtail leave already granted shall in the case of Chief Justice, be the Governor and in case of other Judge, the Chief Justice.

P A R T III – PENSION

14. CONDITIONS OR ADMISSIBILITY OF PENSION.-

A Judge shall, on his retirement, resignation or removal, be paid a pension in accordance with the provisions of this Order if he has-

- (a) completed not less than five years of service for pension and attained the retiring age ; or
 - (b) completed not less than five years of service for pension and, before attaining the age, resigned [or sought retirement] ; or
 - (c) completed not less than five years of service for pension and, before attaining the retiring age, either resigned, his resignation having been medically certified to be necessitated by ill-health or been removed for physical or mental incapacity or been allowed by the President for sufficient cause of retire.
-

15. PAYABLE PENSION.-

The Chief Justice and a Judge on his retirement, resignation or removal as provided in paragraph 14 shall be entitled to the minimum pension equal to seventy per cent of the salary determined by the President from time to time payable to the Chief Justice or, as the case may be, a Judge on the completion of five years service for pension as Judge, and thereafter an extra pension at the rate of two per cent of such salary for each subsequent completed year of service as the Chief Justice or, as the case may be, the Judge, including his service, if any, in the service of Pakistan the maximum pension not exceeding eighty per cent of the said salary :

Provided that for the period between twenty-seventh day of July, 1991 and thirty-first day of May, 1994 the minimum and the maximum amounts shall refer to the amounts specified in the Pension of Judges of Superior Courts Order, 1993 (P.O. 2 of 1993).

¹
[Explanation.-The expression "salary" means the salary referred to in paragraph 1 of the Fifth Schedule to the Constitution of the Islamic Republic of Pakistan or such higher salary as the President may determine from time to time
²
[and shall include Superior Judicial Allowance] but shall not include any ² **[other]** allowance or amount representing any privilege or facility.]

¹
Added by P.O. No. 3 of 1998, dated 03.10.1998.

²
Inserted by P.O. No. 2 of 2008, dated 01.01.2008.

¹**[15 A. PENSION ON RE-EMPLOYMENT ETC.-**

² [(1) Where a retired Judge in receipt of pension is appointed to, or is holding, a post in connection with the affairs of the Federation or a Province or a body owned or controlled by the Federal Government or a Provincial Government, he shall be entitled to receive full pension in addition to pay, allowances and privileges of the post on which he is re-employed in accordance with the rules applicable on re-employment to retired civil servants.]

(2) Where a Judge who is receiving a pension-

(i) is appointed to act an arbitrator by the Federal Government or a Provincial Government, or a Commission or Inquiry ; or

(ii) is required by such Government to give a legal opinion in any matter,

he shall not receive any fee or compensation for so acting or tendering a legal opinion except reimbursement of out of pocket expenses.

(3) Nothing contained in sub-paragraphs (1) and (2) shall apply to a Judge who is in receipt of a pension before the commencement of the High Court Judges (Leave, Pension and Privileges) (Amendment) Order, 1998, and opts not to have his pension increased as a consequence of the increase in salaries provided thereby.].

¹ Inserted by P.O. No. 3 of 1998, dated 03.10.1998.

² Sub-paragraph (1) of Paragraph 15 (A), "(1) Where a Judge in receipt of a pension is appointed to a post in connection with the affairs of the Federation or a Province or a body owned or controlled by any such Government or is holding any such post he shall draw the pay sanctioned for the post minus his gross pension." Substituted by P.O. No. 3 of 2000, dated 6.12.2000.

16. PENSION OF JUDGES NOT COVERED BY PARAGRAPH 14.-

A Judge who immediately before his appointment as such was a member of a civil service in Pakistan or was holding a post in connection with the affairs of the Federation or of a Province and who does not fulfill the conditions laid down in paragraph 14 shall, on retirement, be entitled to such pension as would have been admissible to him in his service or post, had he not been appointed a Judge, his service as a Judge being treated as service for the purpose of calculating that pension.

17. TREATMENT OF ACTING APPOINTMENTS.-

For purpose of pension under this Order, the following acting service shall be treated as though it were service rendered as Chief Justice of a High Court, namely :-

- (a) service as an acting Judge of the Supreme Court, if preceded or followed by service as Chief Justice of a High Court ;
- (b) service as an Acting Chief Justice of a High Court, if followed by service as Chief Justice of a High Court.

18. EXTRAORDINARY PENSION.-

The Central Civil Services (Extraordinary Pension) Rules shall apply to a Judge who may suffer injury or die as a result of violence as they apply to an officer of the Federal Government subject to the modification that references in those Rules of tables relating to injury, gratuities and pensions and family gratuities and pensions shall be construed as references to the corresponding tables in the First Schedule.

¹**[19. COMMUTATION OF PENSION.-**

- (1) Subject to paragraphs (2) and (3) the Civil Pension (Commutation) Rules shall, with necessary modifications, apply to a Judge.
- (2) Where the pension of a Judges increases at any time after his retirement on account of a subsequent increase of salaries payable to Judges, he shall not be entitled to have the differential of the pension payable to him at the time of his retirement and the subsequent increase in pension commuted.
- (3) Where a Judge at the time of his appointment to a High Court was in receipt of a pension in respect of any post and had got any part of the said pension commuted, the amount of commutation so paid shall be deducted from the amount of commutation arrived at under sub-paragraph (1).].

²**[20. ABEYANCE OF PENSION.-**

- (1) The Pension admissible to a Judge under this Order shall be held in abeyance on his appointment as a Judge of the Supreme Court and shall cease to be payable if on his retirement as a Judge of the Supreme Court, he is entitled to a pension as Judge of that Court.

Explanation.- In this paragraph the expression "Judge of the Supreme Court" includes the Chief Justice of that Court.

- (2) Where a person before his appointment as a Judge is in receipt of a pension in respect of any post such pension, on his appointment as Judge, shall be held in abeyance and shall cease to be payable if on his retirement as Judge he is entitled to pension as Judge.]

¹ & ²

Substituted by P.O. No. 3 of 1998, dated 03.10.1998.

PART IV – MISCELLANEOUS

21. OFFICIAL RESIDENCE ETC.-

- (1) A Judge shall be entitled, without payment of rent, to the use of a residence throughout his term of office and for a period of thirty days thereafter and no charge shall fall on his personally in respect of its maintenance.
- (2) Where a Judge chooses to reside in a house not provided by Government he shall be entitled to be paid a monthly allowance of ^{1,2,3} [Substituted] ⁴ [sixty five thousand] rupees, and his residence shall also be maintained at Government expense.

Explanation.- In this paragraph,—

- (a) maintenance in relation to a residence includes the payment of local rates and taxes and the provision of electricity, gas and water ; and
- (b) residence includes the staff quarters and other buildings appurtenant to, and the gardens of, the residence.

¹ The words "thirteen thousand five hundred rupees" substituted by P.O. No. 3 of 1998, dated 03.10.1998.

² The words "twenty five thousand" substituted by P.O. No. 3 of 2003, dated 02.12.2003.

³ The words "twenty-eight thousand seven hundred and fifty" substituted by P.O. No. 4 of 2005, dated 10.12.2005, shall be deemed to have taken effect on and from the first day of July, 2005.

⁴ The words "fifty thousand" substituted by P.O. No. 3 of 2007, dated 03.08.2007, shall be deemed to have taken effect on and from the first day of July, 2007.

22. OFFICIAL CAR.-

(1) A Judge shall be entitled to the use of an official car maintained at Government expense, but shall have to bear the cost of petrol used in the car during a month in excess of [~~four~~⁸] [five] hundred liters.

(2) A car provided for the use of a Judge shall be used by him until he retires, subject to its replacement earlier, either because of its having completed the specified number of years of service or distance to be covered or of its having become unserviceable in accordance with the rules.

¹[23. SUPERIOR JUDICIAL ALLOWANCE.-

A Judge shall be entitled to be paid monthly, a superior Judicial Allowance amounting to ^{2,3,4,7,9,10,11,12} [Substituted] ^{13,14,15} [two hundred forty five thousand twenty three] rupees.

Explanation.- For the purpose of this paragraph "Judge" shall include "the Chief Justice" or "an Acting Chief Justice".]

⁵[24. COST OF LIVING ALLOWANCE] ⁶{Omitted}.

¹ Substituted by P.O. No. 3 of 1998, dated 03.10.1998.

² The words "six thousand" substituted by P.O. No. 3 of 2003, dated 02.12.2003, shall be deemed to have taken effect on and from the first day of July, 2003.

³ The words "ten thousand" substituted by P.O. No. 4 of 2005, dated 10.12.2005, shall be deemed to have taken effect on and from the first day of July, 2005.

⁴ The words "twelve" substituted by P.O. No. 2 of 2008, dated 01.01.2008.

⁵ In Section 24 the words "1188" substituted by P.O. No. 6 of 1997, shall come into force at once and shall be deemed to have taken effect on the first day of June, 1995.

⁶ Section 24 Omitted by P.O. No. 3 of 1998, dated 03.10.1998.

⁷ Substituted by P.O. No. 3 of 2009, dated 10.01.2009.

⁸ Substituted by P.O. No. 4 of 2009, dated 29.4.2009.

⁹ Substituted by P.O. No. 03 of 2010, dated 10.3.2010, and shall be deemed to have taken effect on and from the first day of July, 2009.

¹⁰ Substituted by P.O. No. 08 of 2010, dated 23.12.2010, and shall be deemed to have taken effect on and from the first day of July, 2010.

¹¹ Substituted by P.O. No. 04 of 2011, dated 11.10.2011, and shall be deemed to have taken effect on and from the first day of July, 2011.

¹² Substituted by P.O. No. 3 of 2013, dated, 1-2- 2013, and shall be deemed to have taken effect on and from the first day of July 2012.

¹³ Substituted by P.O. No. 8 of 2013, dated, 7-10- 2013.

¹⁴ Substituted by P.O. No. 4 of 2015, dated, 22-1- 2015.

¹⁵ Substituted by P.O. No. 10 of 2015, dated, 25-11- 2015 and shall be deemed to have taken effect on and from the first day of July 2015.

25. TRANSFER ALLOWANCE.-

Where a Judge of a High Court is transferred from one High Court to another or from the principal seat of a High Court to a Bench of that Court, or is appointed to an office other than that of Judge at a place other than the principal seat of the High Court, he shall, during the period for which he serves as a Judge of the High Court, or at the Bench, to which he is transferred, or holds such other office, be entitled, in addition to his salary, to a monthly allowance of ¹ [ten thousand] rupees.

26. TRANSFER PRIVILEGES.-

If the family of a Judge referred to in Article 22 does not join him at the place to which he is transferred or at which he is posted, he shall be provided at such place with-

- (a) single rent free accommodation maintained by Government ;
and
- (b) an official car maintained at Government expense, including the supply of petrol not exceeding one hundred and fifty litres per month for use in such car :

Provided that, if there are two Judges of the same Court serving as such at the same place, they shall share one official car provided with the aforesaid quantity of petrol.

¹The words "five thousand" substituted by P.O. No. 04 of 2007, dated 26.9.2007, shall be deemed to have taken effect on and from the first day of July, 2007.

27. EXEMPTION FROM INCOME TAX.-

No income tax shall be payable in respect of the allowance admissible to a Judge under paragraph 21 or paragraph 23¹ [Omitted] or the other benefits and perquisites to which a Judge is entitled under the said paragraph 21 or paragraph 22 or paragraph 26.

²**["28. FACILITIES TO RETIRED JUDGES.-**

- (1) A judge on retirement, and after his death, the spouse shall be entitled to the following benefits and perquisites at government expense, namely:—
 - (a) the services of a driver or an orderly at his option;
 - (b) 800 free local calls per month;
 - (c) 800 units of electricity per month as well as 25 HM³ of gas per month;
 - (d) free supply of water;
 - (e) 150 litres of petrol per month;
- (2) If during service a judge dies or has died before the commencement of this Order, the spouse shall also be entitled to the benefits and perquisites provided in sub-paragraph (1);
- (3) No income tax shall be payable in respect of benefits and perquisites to which a judge or the spouse, as the case may be, is entitled under this paragraph.
- (4) A judge on retirement opting to avail the facilities specified in sub-paragraph (1) shall undertake to perform the work of arbitration involving Government interest if assigned to him without charging any fee.”
- (5) The facility and benefits given to the retired judge under this paragraph shall stand suspended on his re-employment with Federal or Provincial Government.]

¹

The words "or paragraph 24" omitted by P.O. No. 3 of 1998, dated 03.10.1998.

²

Substituted by P.O. No. 6 of 2009, dated 09.7.2009.

29. SUBSIDIARY CONDITIONS OF SERVICE.-

Subject to the provisions of this Order and such other provisions as the President may make in this behalf, the other privileges and rights of a Judge shall be determined by the rules for the time being applicable to an officer appointed by the President and holding the rank of secretary to the Government of Pakistan :

Provided that nothing in this paragraph shall have effect so as to give to a Judge who is a member of a civil service less favourable terms in respect of his conditions of service than those to which he would have been entitled as a member of such service if he had not been appointed as a Judge, his service as Judge being treated as service for the purpose of determining those privileges and rights.

30. REPEAL.-

The High Court Judges (Leave, Pension and Privileges) Order, 1970 (P.O. No. 9 of 1970) and the Transfer of High Court Judges (Allowances and Privileges) Order, 1983 (P.O. No. 02 of 1983) are hereby repealed.

[FIRST SCHEDULE

(See paragraph 18)

INJURY GRATUITIES AND PENSIONS

JUDGE	GRATUITY	ANNUAL PENSION HIGHER SCALE	ANNUAL PENSION LOWER SCALE
Chief Justice, Judge or Additional Judge or	Rs. 37,500	Rs. 7,700	Rs. 5,500
Acting Chief Justice	Rs. 22,500	Rs. 7,200	Rs. 5,000

FAMILY GRATUITIES AND PENSIONS

A – WIDOWS

JUDGE	GRATUITY	ANNUAL PENSION
Chief Justice, Judge or Additional Judge or	Rs. 20,600	Rs. 8,000
Acting Chief Justice	Rs. 17,600	Rs. 7,000

B – CHILDREN

	ANNUAL PENSION FOR CHILD
If child is motherless :	Rs. 1,300
If child is not motherless :	Rs. 600.]

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