

**THE SUPREME COURT JUDGES (LEAVE, PENSION
AND PRIVILEGES) ORDINANCE, 1982**

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***THE SUPREME COURT JUDGES (LEAVE, PENSION
AND PRIVILEGES) ORDINANCE, 1982**

ORDINANCE NO. XX OF 1982

[26th July, 1982]

**An Ordinance to provide for the leave, pension and
privileges of the Judges of the Supreme Court.**

WHEREAS it is expedient to provide for the leave, pension and privileges of the Judges of the Supreme Court and for matters connected therewith;

NOW, THEREFORE, in pursuance of the Proclamation of the 24th March, 1982, and in exercise of all powers enabling him in that behalf, the Chief Martial Law Administrator is pleased to make and promulgate the following Ordinance:-

PART I

PRELIMINARY

1. (1) This Ordinance may be called the Supreme Court Judges (Leave, Pension and Privileges) Ordinance, 1982. Short title and commencement

(2) It shall be deemed to have come into force on the 1st day of December, 1977.

2. (1) In this Ordinance unless there is anything repugnant in the subject or context,- Definitions

(a) “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 required by the ¹[President] to discharge and includes vacation (but excluding any time during which the Judge is absent on leave) and joining time on transfer from-

(i) the Supreme Court to the place where he is required under any law to perform any function; and

* The Ordinance was declared void by the Appellate Division of the Supreme Court of Bangladesh in Civil Appeal No. 48 of 2011 and subsequently the Ordinance has been made effective as an Act of Parliament by section 4 and Schedule of ১৯৮২ সনের ২৪ মার্চ হইতে ১৯৮৬ সালের ১১ নভেম্বর তারিখ পর্যন্ত সময়ের মধ্যে জারীকৃত কতিপয় অধ্যাদেশ কার্যকরণ (বিশেষ বিধান) আইন, ২০১৩ (২০১৩ সনের ০৭ নং আইন)।

¹ The word “President” was substituted for the words “Chief Martial Law Administrator” by section 2 of the Supreme Court Judges (Leave, Pension and Privileges) (Second Amendment) Ordinance, 1984 (Ordinance No. LIV of 1984).

(ii) the place where he is required under any law to perform any function to the Supreme Court;

¹[* * *]

(c) “Additional Judge” means a Judge appointed by the ²[President] under sub-paragraph (2) of paragraph 3 of the Schedule to the Proclamation to be an Additional Judge;

³[(d) “Chief Justice” means the Chief Justice of Bangladesh;]

(e) “Judge” means a Judge of a Division of the Supreme Court and includes the Chief Justice ⁴[* * *] and an Additional Judge;

(f) “Proclamation” means the Proclamation of 24th March, 1982;

(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;

(h) “Supreme Court” means the Supreme Court as was in existence immediately before the Proclamation;

(i) “Schedule” means a Schedule to this Ordinance; and

(j) “vacation” means a vacation fixed in paragraph 4(6) of the Schedule to the Proclamation.

(2) ⁵[In] the calculation of service for the purpose of this Ordinance, the previous service for any period or periods immediately before the Proclamation as Chief Justice, Judge,

¹ Clause (b) was omitted by section 2 of the Supreme Court Judges (Leave, Pension and Privileges) (Second Amendment) Ordinance, 1984 (Ordinance No. LIV of 1984).

² The word “President” was substituted for the words “Chief Martial Law Administrator” by section 2 of the Supreme Court Judges (Leave, Pension and Privileges) (Second Amendment) Ordinance, 1984 (Ordinance No. LIV of 1984).

³ Clause (d) was substituted by section 2 of the Supreme Court Judges (Leave, Pension and Privileges) (Second Amendment) Ordinance, 1984 (Ordinance No. LIV of 1984).

⁴ The comma and words “, an Acting Chief Justice” were omitted by section 2 of the Supreme Court Judges (Leave, Pension and Privileges) (Second Amendment) Ordinance, 1984 (Ordinance No. LIV of 1984).

⁵ The word “In” was substituted for the word “in” by section 2 of the Supreme Court Judges (Leave, Pension and Privileges) (Second Amendment) Ordinance, 1984 (Ordinance No. LIV of 1984).

Additional Judge or Acting Judge of a High Court shall be reckoned as service as a Judge.

PART II

LEAVE

3. (1) Subject to the provisions of this Ordinance, leave granted to a Judge may, at his option, be either- Kinds of leave admissible

- (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. 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- Leave account

(1) 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 Supreme Court are assigned to a Judge and, for reasons of such assignment, the Judge 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

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

Provided that the opening credit at the commencement of this Ordinance shall not exceed six months in the case of any Judge.

5. (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. Aggregate amount of leave admissible to a Judge

(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 (1) of section 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, five months and, in the case of leave of any other kind specified in section 3, sixteen months.

Grant of leave
not due

6. Subject to the maximum limits specified in sub-section (1) of section 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.

Leave salary

7. (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 shall not be entitled to draw his leave salary otherwise than in Bangladesh currency unless, in the case of a Judge appointed before the commencement of this Ordinance, he was so entitled.

Extraordinary
leave

8. (1) Leave in excess of any leave admissible under the foregoing provisions of this Ordinance 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-section (1) shall be granted to a 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-section (1).

9. 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 Rule 83 shall, so far as may be, apply to a Judge as they apply to a Government servant.

Special disability leave

10. 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 the vacation but not at both:

Combining leave with vacation

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

11. 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:

Consequences of overstaying leave or vacation

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

12. The authority to grant or refuse leave, or to revoke or curtail leave already granted, shall be the ¹[President].

Authority competent to grant leave, etc.

PART III

PENSION

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

Conditions of admissibility of pension

- (a) completed not less than five years of service for pension and attained the retiring age; or
- (b) completed not less than ten years of service for pension and, before attaining the retiring age, resigned; or

¹ The word "President" was substituted for the words "Chief Martial Law Administrator" by section 3 of the Supreme Court Judges (Leave, Pension and Privileges) (Second Amendment) Ordinance, 1984 (Ordinance No. LIV of 1984).

- (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:

Provided that for the purpose of clause (a) of Part I of the First Schedule, a deficiency of three months or less in the service for pension as Judge shall be deemed to have been condoned.

Determination of pension of Judges covered by section 13

14. Subject to the provisions of this Ordinance, the pension payable to a Judge who is entitled to a pension under section 13 shall be calculated-

- (a) in the case of a Judge who was not a member of a service in Bangladesh or who immediately before his appointment as Judge did not hold any other pensionable civil post in the service of the Republic, in accordance with the provisions of Part I of the First Schedule;
- (b) in the case of a Judge who was a member of a civil service in Bangladesh or who immediately before his appointment as a Judge held any other pensionable civil post in the service of the Republic, in accordance with the provisions of Part II of the First Schedule unless he elects to receive pension under Part I of the said Schedule.

Pension of Judges not covered by section 13

15. A Judge who, immediately before his appointment as such, was a member of a civil service in Bangladesh or was holding a pensionable post in the service of the Republic and who does not fulfil any of the conditions laid down in section 13, shall, ¹[on his ceasing to be a Judge], be entitled to-

- (a) such pension as would have been admissible to him in his previous service or post, had he not been appointed a Judge, his service as Judge being treated, for the purpose of calculating his pension, as continuation in the service to which he belonged or the post he held immediately before his appointment as a Judge; and

¹ The words and letter “on his ceasing to be a Judge” were substituted for the words “on retirement” by section 2 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Act, 1993 (Act No. XXIII of 1993).

- (b) an extra pension at the rate of ¹[Taka ²[two hundred and fifty]] per month for each completed year of service as Judge, subject to a maximum total pension of ³[Taka ⁴[eight thousand and five hundred]] per month.

16. For the purpose of pension under this Ordinance, the service as temporary Chief Justice of the Supreme Court, if followed by service as Chief Justice of the Supreme Court, shall be treated as service rendered as Chief Justice of the Supreme Court.

Treatment of temporary appointments

17. The Civil Service (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 in the service of the Republic subject to the modification that reference in those Rules to tables relating to injury/gratuities and pensions and family gratuities and pensions shall be construed as reference to the corresponding tables in the Second Schedule.

Extraordinary pension

18. [Commutation of pension.- Omitted by section 3 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Ordinance, 1984 (V of 1984).]

19. The authority competent to grant any pension or gratuity to a Judge under this Ordinance shall be the ⁵[President].

Authority competent to grant pension

¹ The words “Taka one hundred eleven” were substituted for the words “Taka fifty” by section 2 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Ordinance, 1985 (Ordinance No. XLVI of 1985).

² The words “two hundred and fifty” were substituted for the words “one hundred thirty nine” by section 2 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Act, 1993 (Act No. XXIII of 1993).

³ The words “Taka four thousand” were substituted for the words “Taka one thousand eight hundred” by section 2 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Ordinance, 1985 (Ordinance No. XLVI of 1985).

⁴ The words “eight thousand and five hundred” were substituted for the words “five thousand” by section 2 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Act, 1993 (Act No. XXIII of 1993).

⁵ The word “President” was substituted for the words “Chief Martial Law Administrator” by section 4 of the Supreme Court Judges (Leave, Pension and Privileges) (Second Amendment) Ordinance, 1984 (Ordinance No. LIV of 1984).

Abeyance of
pension

20. (1) The pension admissible to a Judge under this Ordinance shall be held in abeyance on his appointment to any other office and shall not be payable for the period he holds that office.

(2) Any pension admissible to a Judge for his having been in any service or post before his appointment as Judge shall be held in abeyance and shall not be payable, for the period he holds office as Judge.

Gratuity and
family pension

21. ¹[(1)] Notwithstanding anything contained in any other provision of this Ordinance, ²[one-half] of the gross pension payable to a Judge of the class mentioned in section 14(a) shall be deemed to have been surrendered to Government and in lieu thereof, he, after his retirement or, his family in case of his death, shall be entitled to the following benefits:-

- (a) on retirement or death before retirement after rendering pensionable service for 3 years or more but less than 5 years—a gratuity equal to 3 months' salary;
- (b) on retirement after rendering pensionable service for 5 years or more—a gratuity at the following rates for each taka of pension surrendered-
 - (i) when the age at retirement is 40 years or more but less than 45 years-³[Taka ⁴[230]],
 - (ii) when the age at retirement is 45 years or more but less than 50 years-⁵[Taka ⁶[215]],

¹ The previous provision was re-numbered as sub-section (1) by section 2 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Act, 2001 (Act No. VII of 2001).

² The word "one-half" were substituted for the word "one-fourth" by section 4 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Ordinance, 1984 (Ordinance No. V of 1984).

³ The word and figure "Taka 210 " were substituted for the letters and figure "Tk. 192" by section 4 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Ordinance, 1984 (Ordinance No. V of 1984).

⁴ The figure "230" was substituted for the figure "210" by section 3 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Act, 1990 (Act No. XXIV of 1990).

⁵ The word and figure "Taka 195 " were substituted for the letters and figure "Tk. 178" by section 4 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Ordinance, 1984 (Ordinance No. V of 1984).

⁶ The figure "215" was substituted for the figure "195" by section 3 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Act, 1990 (Act No. XXIV of 1990).

(iii) when the age at retirement is 50 years or more-¹[Taka
²[200]]

Plus

a monthly pension equal to ³[one-half] of the gross
pension;

- (c) on death before retirement, after rendering pensionable
service for 5 years or more-a gratuity at the rates at (b) above
and family pension for ⁴[15 years] from the date following
the date of death at the rate of one-half of the gross pension
which would have been admissible had the Judge retired on
the date of his death;
- (d) on death after but within ⁵[15 years] of retirement (after
rendering pensionable service for 5 years or more) family
pension for the unexpired portion of ⁶[15 years] of
retirement at the rate of ⁷[one-half of the gross pension]
from the date following the date of death.

⁸[* * *]

⁹[(2) Subject to the provisions of sub-sections (4) and (5), if-

¹ The word and figure “Taka 180 ” were substituted for the letters and figure “Tk. 165” by section 4 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Ordinance, 1984 (Ordinance No. V of 1984).

² The figure “200” was substituted for the figure “180” by section 3 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Act, 1990 (Act No. XXIV of 1990).

³ The words “one-half” were substituted for the words “three-fourth” by section 2 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Act, 2001 (Act No. VII of 2001).

⁴ The figure and word “15 years ” were substituted for the figure and word “15 years” by section 4 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Ordinance, 1984 (Ordinance No. V of 1984).

⁵ The figure and word “15 years ” were substituted for the figure and word “10 years” by section 4 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Ordinance, 1984 (Ordinance No. V of 1984).

⁶ The figure and word “15 years ” were substituted for the figure and word “10 years” by section 4 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Ordinance, 1984 (Ordinance No. V of 1984).

⁷ The words “one half of the gross pension” were substituted for the words, brackets and comma “one-half of the reduced pension (i. e., one-half of the pension remaining after surrender of one-half of the gross pension) ” by section 2 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Act, 2001 (Act No. VII of 2001).

⁸ The Explanation was omitted by section 2 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Act, 2001 (Act No. VII of 2001).

⁹ The sub-sections 2, 3, 4, 5 and the explanation were inserted by section 2 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Act, 2001 (Act No. VII of 2001).

- (a) a Judge, to whom section 14 (a) applies, after rendering pensionable service for 5 years or more, dies, before retirement or within 15 years after retirement; or
- (b) a Judge, to whom section 14 (b) applies, dies at any time before retirement or within 15 years after retirement,

the spouse of the Judge, till death or remarriage, whichever occurs first, and a retarded child or children of the Judge, if any, till his or her or their death, shall be entitled to family pension at the following rate, namely:-

- (c) in the case of death of the Judge before retirement, one-half of the gross pension which would have been admissible had the Judge retired on the date of his death; or
- (d) in the case of death of the Judge after but within 15 years of his retirement, one-half of the gross pension admissible to him on the date he actually retired.

(3) Any Judge may, after retirement, opt to surrender the whole of his gross pension at a time and, on such option, he shall be entitled to-

- (a) for the first one-half of the gross pension surrendered, the benefits mentioned in clause (b) of sub-section (1); and
- (b) for the remaining one-half of the gross pension surrendered, fifty per cent of the benefits mentioned in clause (b) of sub-section (1):

Provided that, if the Judge surrenders the whole of the gross pension at a time, he and, in the event of his death, his family, shall not be entitled to the benefit of the monthly pension mentioned in the said clause (b).

(4) A Judge may, at any time before or after retirement nominate any one or more members of his family to receive the family pension either wholly or in such proportion as the Judge may specify.

(5) In the absence of any nomination under sub-section (4), the proportion of the family pension receivable by the members of the family, if there are more members than one, shall be determined by the Chief Justice.

Explanation.- In this section-

- (a) “family” means the spouse, and also the legitimate children of the Judge solely dependent upon him;
- (b) “gross pension” means full pension admissible to a Judge before any portion thereof is surrendered or commuted; and
- (c) “retarded child” means a son or daughter of any age in respect of whom a certificate has been issued by a registered medical practitioner to the effect that because of physical or mental infirmity the child is incapable of earning livelihood for himself or herself or for members of his or her family and the certificate is countersigned by an officer of the Supreme Court authorised in this behalf by the Chief Justice.]

¹[21A. A Judge who retired before or after the 1st June, 1982, shall be entitled to dearness allowance *per mensem* at the rate as admissible to a Government servant.]

Provision for dearness allowance

22. No provision of this part shall apply to a Judge, who, immediately before the commencement of this Ordinance, was holding office as such and who, within a period of three months from such commencement, exercises in writing communicated to the Accountant General, Bangladesh, his option to be governed by the provisions relating to pensions and gratuities applicable to him immediately before such commencement.

Option for existing benefits

23. Subject to the provisions of this Ordinance and such other provisions as the ²[President] may make in this behalf, the the other privileges and rights of a Judge ³[or a person entitled to any benefit under this Ordinance shall be determined by the rules or other similar instrument] for the time being applicable to an officer appointed by the ⁴[President] and holding the rank of Secretary to the Government:

Subsidiary conditions of service

¹ Section 21A was inserted by section 5 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Ordinance, 1984 (Ordinance No. V of 1984).

² The word “President” was substituted for the words “Chief Martial Law Administrator” by section 5 of the Supreme Court Judges (Leave, Pension and Privileges) (Second Amendment) Ordinance, 1984 (Ordinance No. LIV of 1984).

³ The words “or a person entitled to any benefit under this Ordinance shall be determined by the rules or other similar instrument” were substituted for the words “shall be determined by the rules” by section 3 of the Supreme Court Judges (Leave, Pension and Privileges) (Amendment) Act, 2001 (Act No. VII of 2001).

⁴ The word “President” was substituted for the words “Chief Martial Law Administrator” by section 5 of the Supreme Court Judges (Leave, Pension and Privileges) (Second Amendment) Ordinance, 1984 (Ordinance No. LIV of 1984).

Provided that nothing in this section 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 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.

Repeal

24. The High Court Judges (Leave, Pension and Privileges) Order, 1970 (P. O. No. 9 of 1970), and the Supreme Court Judges (Leave, Pension and Privileges) Order, 1968 (P.O. No. 1 of 1968), are hereby repealed.

¹[**THE FIRST SCHEDULE**

(See section 14)

PART I

A Judge to whom section 14 (a) applies, and a Judge to whom section 14 (b) applies but who elects to receive pension under this Part, shall be entitled to receive, for the first five years of his service for pension, pension equivalent to five-eighths of the salary last drawn by him per month and thereafter, for each completed year of such service, equivalent to one-eighth of such salary, subject to a maximum pension per month which shall not, in the aggregate, exceed the amount of the salary last drawn by him as a Judge.

PART II

The pension payable to a Judge to whom section 14 (b) applies and who does not elect to receive pension under Part I shall be-

- (a) the ordinary pension to which he is entitled under the ordinary rules applicable to persons belonging to his service or holding the post held by him as if he had not been appointed a Judge, his service as a Judge being treated, for the purpose of calculating his pension, as continuation in the service to which he belonged immediately before his appointment as Judge or as service against the post which he held before such appointment; and

¹ The First Schedule was substituted by section 3 of the Supreme Court Judges (Leave, Pension and Privileges)(Amendment) Act, 1993 (Act No. XXIII of 1993).

- (b) an extra pension at the rate of one-eighth of the salary last drawn by him per month for each completed year of service for pension as Judge, subject to a maximum pension per month which shall not, in the aggregate, exceed to amount of the salary last drawn by him as a Judge.]

THE SECOND SCHEDULE

(See section 17)

INJURY GRATUITIES AND PENSIONS

Judge.	Gratuity.	Annual Pension (Higher Scale).	Annual Pension (Lower Scale).
	Taka	Taka	Taka
Chief Justice	15,000	5,000	4,400
Judge or Additional Judge ¹ [* * *].	15,000	4,700	4,000

FAMILY GRATUITIES AND PENSION

A-Widows

Judge	Gratuity	Annual Pension
	Taka	Taka
Chief Justice	15,800	4,600
Judge or Additional Judge ² [* * *].	13,500	4,000

B- Children

	Annual Pension per child.
	Taka
If child is motherless	500
If child is not motherless	320

¹ The words "or Acting Chief Justice" were omitted by section 6 of the Supreme Court Judges (Leave, Pension and Privileges) (Second Amendment) Ordinance, 1984 (Ordinance No. LIV of 1984).

² The words "or Acting Chief Justice" were omitted by section 6 of the Supreme Court Judges (Leave, Pension and Privileges) (Second Amendment) Ordinance, 1984 (Ordinance No. LIV of 1984).