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News: Post – retirement appointment of judges

- The practice of judges accepting official posts after retirement has become a subject of debate, particularly in light of recent events where a former judge joined a political party shortly after resigning from the judiciary raised questions about judicial conduct.

Constitutional Provisions Related to Retired Judges in India

Constitutional Provisions

Article 124(7)

- Article 124 (7) prohibits a retired judge of the Supreme Court from practising before any court or authority in India.
- This restriction is aimed at maintaining the independence and impartiality of the judiciary.
- However, the Constitution does not explicitly prohibit retired judges from accepting post-retirement assignments or appointments.

Article 128

- The Chief Justice of India, with the President's consent, may request a retired Judge of the Supreme Court, Federal Court, or High Court qualified for Supreme Court appointment to sit and act as a Supreme Court Judge.

Article 220

- Article 220 bars High Court judges from pleading before “any authority in India except the Supreme Court and the other High Courts.”

Related Cases and Recommendations

- *Bombay Lawyers Association v. Union of India*: The Supreme Court dismissed a public interest litigation (PIL) petition seeking a mandatory cooling-off period of two years for retired judges before accepting post-retirement appointments.
- The apex court stated that it was not within the court's jurisdiction to mandate a cooling-off period.
- While dismissing the PIL, the court underscored the importance of enacting legislation to regulate post-retirement appointments for judges, thereby leaving the matter to the discretion of the concerned judge or legislative intervention.

- 14th Law Commission: The 14th Law Commission, headed by MC Setalvad, had recommended that judges should not take up post-retirement jobs from the government; it also recommended setting the Cooling-off Period after retirement.
- However, there is no specific rule that prevents judges from accepting such positions.