

1. Pre-Retirement Judgments and Post-Retirement Jobs

Context:

- A former CJI, Ranjan Gogoi, being nominated by the President to the Rajya Sabha and taking oath as Member of Parliament.

Independence of Judiciary:

- Constitutional appointees to the Supreme Court have been guaranteed several rights in order to secure their independence.
- Chapter 4 of Part V of the Constitution deals with the Supreme Court, and Chapter 5 of Part VI deal with the High Courts.
- The salaries of judges and their age of retirement are all guaranteed in order to secure their independence.
- **They cannot be easily removed except by way of impeachment under Articles 124(4) and 217(1)(b).**
- They have the power to review legislation and strike it down. They can also question the acts of the executive.
- All this makes it clear that the framers of the Constitution envisaged an unambitious judiciary for which the only guiding values were the provisions of the Constitution.

People losing Confidence in the Independent Judiciary:

- A few years ago, a former Chief Justice of India (CJI) was made a Governor by the ruling BJP government
- Now, a former CJI, Ranjan Gogoi, being nominated by the President to the Rajya Sabha and taking oath as Member of Parliament.
- During his tenure as CJI, Justice Gogoi presided over important cases such as Ayodhya and Rafale where all the decisions went in favour of the government.
- This gave rise to the impression that his nomination was a reward for these 'favours'. Thus his appointment — and that too within a few months of his retirement raised eyebrows.
- People are fast losing confidence in the so-called independent judiciary. The desire of a post-retirement job influences pre-retirement judgments.
- It is a threat to the independence of the Judiciary and once it influences pre-retirement judgments, it adversely impacts on the functioning of our Judiciary.

Importance of Independence Judiciary:

- Appointments of persons who have held constitutional office **will undermine the very constitutional values of impartiality in the dispensation of Justice.**
- It will also **go against the clear demarcation of separation of powers.**

Way Forward:

- If post-retirement appointments are going to undermine confidence in the judiciary and in constitutional democracy, it is time to have a law in place either by way of a constitutional amendment or a parliamentary enactment barring such appointments.
- Judges can be compensated by being given their last drawn salary as pension.
- Also, the age of retirement for judges can be increased by a year or two. This will undo the damage caused by post-retirement jobs.
- It is important **to remember that judges are Constitutional Servants, not Government Servants.**

Source: The Hindu

