



# High Court Judges Shortage

## Why in News?

Recently, the Punjab and Haryana [High Court](#) has been facing a judicial crisis due to a shortage of judges and delays in appointments.

## Key Points

- **Judge Shortage:**
  - The [Punjab and Haryana High Court](#) is functioning with only **54 judges** against a **sanctioned strength of 85**, leading to a **shortage of 31 judges**.
  - No new appointments have been made since November 2022.
  - 5 more judges are set to retire by 2025, with 2 expected to retire within 2024.
- **Pending Cases:**
  - The court faces a **backlog of 4,33,253 cases**, with 1,61,362 criminal matters involving [life and liberty](#).
  - 26% of all pending cases (1,12,754) are over 10 years old.
- **Elevations and Appointments:**
  - 15 judges are eligible for elevation from the category of [district and sessions judges](#), but appointments have stalled.
  - The delay was due to the absence of a regular Chief Justice for almost eight months.
- **Issues with Central Government and Collegium System:**
  - The [Supreme Court Collegium](#) recommended the elevation of five advocates over a year ago, but the Centre only notified three appointments. Two appointments remain pending despite the Supreme Court reiterating its recommendation.
- **Complicated Appointment Process:**
  - Even if new names are recommended, the appointment process is slow due to its complexity. Recommendations must pass through state governments, the **Supreme Court Collegium, the Union Law Ministry, and finally receive Presidential approval**.

## Appointment of HC Judges

- **Article 217 of the Constitution:** It states that the Judge of a High Court shall be appointed by the President in consultation with the [Chief Justice of India \(CJI\), the Governor of the State](#).
  - In the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court is consulted.
- **Consultation Process:** High Court judges are recommended by a Collegium comprising the CJI and two senior-most judges.
  - The proposal, however, is initiated by the Chief Justice of the High Court concerned in consultation with two senior-most colleagues.
  - The recommendation is sent to the Chief Minister, who advises the Governor to send the proposal to the Union Law Minister.
  - The Chief Justice of the High Court is appointed as per the policy of having Chief Justices from outside the respective States.
    - The Collegium takes the call on the elevation.
- **Ad-hoc Judges:** The appointment of retired judges was provided for in the Constitution under Article 224A.

- Under the Article, the Chief Justice of a High Court for any State may at any time, with the previous consent of the President, request any person who has held the office of judge of that court or of any other High Court to sit and act as a judge of the High Court for that State.
- The Supreme Court pushed for the [appointment of retired judges](#) to battle the pendency of cases in High Courts.
  - It orally outlined prospective guidelines for the appointment and functioning of an ad-hoc judge.

#### ▪ Collegium System:

- It is the system of appointment and transfer of judges that has evolved through judgments of the SC, and not by an Act of [Parliament](#) or by a provision of the Constitution.
- **Evolution of the System:**
  - **First Judges Case (1981):** It declared that the “primacy” of the Chief Justice of India (CJI) recommendation on judicial appointments and transfers can be refused for “cogent reasons.”
    - The ruling gave the Executive primacy over the Judiciary in judicial appointments for the next 12 years.
  - **Second Judges Case (1993):** SC introduced the Collegium system, holding that “consultation” really meant “concurrence”.
    - It added that it was not the CJI’s individual opinion, but an institutional opinion formed in consultation with the two senior-most judges in the SC.
  - **Third Judges Case (1998):** SC on President’s reference expanded the Collegium to a five-member body, comprising the CJI and four of his senior-most colleagues (for example for the transfer of HC judges).

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