

Seniority within the Supreme Court

What is the issue?

\n\n

\n

- High Court Chief Justice KM Joseph's delayed elevation to the apex court has affected his seniority in the Supreme Court.

\n

- Notably, seniority is the main criteria for elevation of a SC judge to become Chief Justice of India (CJI).

\n

\n\n

What is Justice Joseph's case?

\n\n

\n

- Justice Joseph was recommended by the Collegium for elevation to the Supreme Court (SC) in early 2018.

\n

- But his elevation was withheld by the government on the unsubstantiated ground that it affected the regional balance of the SC.

\n

- Notably, ensuring proper representation for all regions is indeed a criterion for elevating judges to the SC, but it is usually interpreted in the liberal sense.

\n

- While Mr. Joseph's appointment was cleared recently, the delay has cost him his seniority within the SC, which might hinder his chances of becoming CJI.

\n

- Notably, Justice Indira Banerjee and Vineet Saran, whose names were recommended after Justice Joseph's are now placed ahead of him in seniority.

\n

\n\n

How is the seniority of judges in the Supreme Court decided?

\n\n

\n

- Seniority within the SC is decided on the basis of date of induction in the court, and the time of induction if dates coincide.

\n

- In short, a judge who takes oath earlier becomes senior to another who takes oath later - the order is decided by order proposed by the Collegium.

\n

- But as the government can withhold names from the collegium's list till the second reiteration, the seniority can be effectively altered by the government.

\n

- Notably, the current "CJI Deepak Mishra" and "judge Chelameswar" were inducted into the Supreme Court on the same day.

\n

- But as Mr. Mishra was administered oath 1st, it secured him the position of CJI and Mr. Chelameswar had retired recently without becoming CJI.

\n

\n\n

What are the allegations against the government?

\n\n

\n

- In Justice Joseph's case, it is alleged that government had intentionally delayed his appointment to prevent his possible rise to the position of CJI.

\n

- Additionally, as seniority is also the criteria for heading benches, Justice Joseph will now get to head benches only later than the other new judges.

\n

- But the government has denied any malicious intent and reiterated that its actions were governed merely by technicality.

\n

\n\n

\n\n

Source: Indian Express

\n\n

\n



SHANKAR
IAS PARLIAMENT
Information is Empowering