

Additional judges

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Manifest pedagogy: Judiciary is in news for historic judgements in the recent past. However certain flaws do remain in its functioning. Hence any topic on judiciary is important for the aspirants both from prelims as well as mains point of view.

In news: Recently a District judge plea challenging the appointment of an additional judge was rejected.

Placing it in syllabus: Judiciary

Static dimensions:

- Constitutional Provisions on Additional Judges
- Difference between Additional and Ad Hoc Judges

Current dimensions: Recent case and SC judgement

Content:

Constitutional Provisions on Additional Judges:

- Additional Judges can be **appointed by the President** under **clause (1) of Article 224** of the Constitution.
- The **State Government should first obtain the sanction of the Central Government** for the creation of such additional posts.
- After the post is sanctioned the **procedure** to be followed for making the appointment is **same as for the appointment of a permanent Judge**.
- However, a **medical certificate will not be necessary** from the person being appointed as an Additional Judge.
- When an Additional Judge is being considered for confirmation as an Additional Judge for a fresh term,

the relevant documents must be sent by the Chief Justice of the High Court concerned along with such recommendation.

- However, the **Chief Justice of the High Court should not make a recommendation for appointment of an Additional Judge when a vacancy of a permanent Judge is available in that High Court.**

Difference between Additional and Ad Hoc Judges:

- If there is any **temporary increase in the business of the High Court or by reason of arrears of work**, and the **President** feels that the number of the Judges of that Court should be for the time being increased, then he may **appoint duly qualified persons to be additional Judges of the Court.**
- The period of such service **must not exceed two years.**
- No additional Judge of a High Court shall hold office after attaining the **age of sixty-two years.**

Ad Hoc judges: If at any time,

- there is **no quorum of the Judges of the Supreme Court available to hold or continue any session of the Court,**
- the **Chief Justice of India** may, with the previous consent of the President and after consultation with the Chief Justice of the High Court concerned,
- **request in writing the attendance at the sittings of the Court, of a Judge of a High Court** who is qualified for appointment as a Judge of the Supreme Court to be designated by the Chief Justice of India as an ad hoc Judge, for such period as may be necessary, (**Article 127(1)**).

It shall be the duty of the ad hoc Judge in **priority** to other duties of his office, **to attend the sittings of the Supreme Court** at the time and for the period for which his attendance is required.

According to (**Article 127(2)**), while attending the sittings of SC, he shall have **all the jurisdiction, powers and privileges and shall discharge the duties of a Judge of the Supreme Court.**

Recent case and SC judgement:

- The Supreme Court recently declined to entertain a **plea challenging appointment of a “junior” as Additional Judge of the Karnataka High Court.**
- The appointment was challenged by Shivamogga Principal District Judge R.K.G.M.M. Mahaswamiji referring to **breach of seniority** and also sought stay on the swearing in.
- The notification released by Law Ministry on April 30 appointed judicial officers **Shivashankar Amarannavar, Smt M Ganeshiah Uma, Vedavyasachar Srishananda, Hanchate Sanjeev Kumar, and Padmaraj Nemachandra Desai** as additional judges of the Karnataka High Court, for a period of two years.
- However, in a **writ petition filed, Mahaswamiji had contended that the order passed to elevate Padmaraj Nemachandra Desai from district judiciary as additional judge**, was “arbitrary, unconstitutional, unlawful and in total disregard of existing binding executive instructions”.
- Petitioner contended that his name was ignored and was not taken into consideration for promotion or elevation, along with his batch mates.
- The plea argued the **recommendation was a violation of statutory rules/administrative instructions contained in the official memorandum, dated October 9, 1985.**
- The petitioner also cited **violation of Fundamental Rights under Articles 14 and 16** of the Constitution, challenging the swearing in.

SC judgement:

- The **SC Bench, comprising Justice Deepak Gupta and Justice Aniruddha Bose**, took up the plea through video link, half an hour before the scheduled swearing in of judges in the Karnataka High Court.
- The **petition was dismissed 15 minutes before** judicial officer Padmaraj N. Desai was to take oath as an additional judge of the high court.
- The **Bench said that it generally does not interfere with the President's order on appointment of judges at the 11th hour.**

Mould your thought: What are the differences between Additional and ad hoc judges? What are the constitutional provisions on Additional Judges?