

Ad-Hoc Appointments of High Court Judges

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Context

India's judiciary is grappling with a **massive backlog of cases**, particularly in High Courts. As of **January 25, 2024**, data from the **National Judicial Data Grid** indicates that:

- **62 lakh cases** are pending in High Courts.
- **18.2 lakh cases** are criminal cases.
- **44 lakh cases** are civil cases.

One major reason for this backlog is **judicial vacancies**. High Courts often struggle with a shortage of judges, leading to delays in hearings and case resolutions. To address this issue, the Supreme Court has now allowed the appointment of **retired judges on an ad-hoc basis**, ensuring that criminal cases are heard and cleared more efficiently.

This decision marks a **significant shift** in judicial administration, as it relaxes restrictions previously imposed on ad-hoc appointments.

The Supreme Court's Latest Decision

On **January 30, 2024**, a Supreme Court Bench comprising **Chief Justice of India (CJI) Sanjiv Khanna** and Justices **B.R. Gavai** and **Surya Kant** issued a ruling permitting **High Courts to appoint retired judges on an ad-hoc basis**.

- These judges **must only hear criminal appeals** and work as part of a **Bench led by a sitting judge**.
- The ruling **relaxes a condition** set in the **2021 Lok Prahari case**, which had earlier **limited ad-hoc appointments** to High Courts where **judicial vacancies exceeded 20%** of the sanctioned strength.

This change is expected to **accelerate the resolution** of long-pending criminal cases.

How Are Ad-Hoc Judges Appointed?

Ad-hoc judicial appointments are governed by **Article 224-A of the Indian Constitution**, introduced through the **Fifteenth Amendment Act, 1963**.

- **Who can be appointed?** - Retired High Court judges.
- **Who approves the appointment?** - The **President of India**, after obtaining consent from the retired judge.
- **What powers do they have?** - Ad-hoc judges **exercise the same jurisdiction, powers, and privileges** as sitting High Court judges.
- **What allowances do they receive?** - As determined by a **Presidential order**.

The **1998 Memorandum of Procedure (MoP)** provides detailed guidelines on the process of such appointments.

When Are Ad-Hoc Judges Appointed?

In the **Lok Prahari case (2021)**, the Supreme Court outlined specific conditions, or "**trigger points**," for appointing ad-hoc judges. These include:

1. **High Judicial Vacancies** - If vacancies in a High Court **exceed 20%** of its sanctioned strength.
2. **Long-Pending Cases** - If certain categories of cases have been pending for **more than five years**.
3. **High Court Case Backlog** - If more than **10% of cases in a High Court** have been pending for over five years.
4. **Case Clearance Rate** - If a High Court is **disposing of fewer cases than it is receiving** (low clearance rate).

To ensure availability, the Supreme Court recommended that each **Chief Justice of a High Court maintain a panel of retired and soon-to-retire judges** for ad-hoc appointments.

Key Highlights of the Latest Supreme Court Order

1. **Relaxation of Conditions** - The Supreme Court **removed the requirement** that ad-hoc appointments could only be made if vacancies exceeded **20% of sanctioned strength**.
 2. **Focus on Criminal Cases** - Ad-hoc judges **can only hear criminal appeals** to reduce pendency.
 3. **Limited Number of Appointments** - The number of ad-hoc judges **cannot exceed 10%** of a High Court's sanctioned judicial strength.
 - This means each High Court can appoint **only 2 to 5** such judges, depending on its total number of judges.
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Previous Instances of Ad-Hoc Appointments

Despite being constitutionally permitted, **ad-hoc judicial appointments have been rare** in India.

Only **three documented cases** exist:

1. **Justice Suraj Bhan (1972)** - Appointed to the **Madhya Pradesh High Court** to handle election-related petitions.
2. **Justice P. Venugopal (1982)** - Served as an ad-hoc judge in the **Madras High Court**.
3. **Justice O.P. Srivastava (2007)** - Appointed to the **Allahabad High Court** to preside over the sensitive **Ayodhya title dispute cases**.

This rarity highlights the **hesitation in using ad-hoc judges** despite the increasing backlog of cases.

Conclusion

The Supreme Court's decision to **expand the scope of ad-hoc appointments** is a significant move to tackle judicial delays. By allowing retired judges to assist in clearing **criminal appeals**, the judiciary aims to **reduce case pendency without compromising on judicial quality**.

However, this **should not replace** the need for **regular judicial appointments**. The government and judiciary must work together to **fill permanent vacancies** and **strengthen the justice delivery system** in a sustainable manner.



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