

(2016) 08 P&H CK 0338

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 13551 of 2016.

H.C. Arora, Advocate - Petitioner @HASH State of Punjab and Others

Date of Decision : 04-08-2016

Acts Referred:

Constitution of India, 1950 — Article 224A, Article 226

Citation : (2017) 1 SCT 182

Hon'ble Judges : S.S. Saron and Lisa Gill, JJ.

Bench : Division Bench

Advocate : H.C. Arora, petitioner in person, for the Petitioner

Final Decision : Dismissed

Judgement

S.S. Saron, J. - The petition has been filed seeking mandamus to High Court of Punjab and Haryana through its Registrar General - respondent No. 4 to consider forwarding a proposal by the Hon''ble Acting Chief Justice for retaining all those sitting Judges, who are due for retirement within next few months and those Judges who have retired recently, for appointment as ad-hoc Judges as envisaged under Article 224-A of the Constitution of India particularly in view of the resolutions adopted in the Chief Justices'' conference held on 22.04.2016 and 23.04.2016.

2. Learned counsel, who is appearing in person, submits that the High Court has shortage of around 39 Judges, which affects the pendency of the cases; besides has created a huge burden on the sitting Judges and even the counsel practising in the High Court. This requires clearance by the President of India and it is in public interest for giving justice to the litigants at large.

3. It is also submitted that the appointment of adhoc judges in the present situation is now an imperative necessity on account of the unfortunate and constant persisting differences of opinion between the Union of India and the Collegium of the Hon''ble Supreme Court on the issue of memorandum of procedure for appointment of Supreme Court and High Court Judges. It is further submitted that proposals made by the Hon''ble Supreme Court Collegium are

often returned with one objection or the other. Reference has been made to resolution adopted at the Chief Justices' Conference, 2016, which reads as under:-

[3] FILLING UP VACANCIES IN THE HIGH COURTS

The position of vacancies in the High Courts was reviewed together with the steps taken towards the appointment of judges. Considering the urgent need to make judicial appointments in the High Courts to effectively address the problem of arrears in criminal and civil cases,

Resolved that the Chief Justices take proactive steps to initiate the process of appointment of Judges in their High Courts by forwarding their recommendations in respect of current vacancies and for vacancies anticipated over a period of the next six months.

Resolved further that, keeping in view the large pendency of civil and criminal cases, especially criminal appeals where convicts are in jail and having due regard to the recommendation made by the 17th Law Commission of India in 2003, the Chief Justices will actively have regard to the provisions of Article 224A of the Constitution as a source for enhancing the strength of Judges to deal with the backlog of cases for a period to two years or the age of sixty five years, whichever is later until a five plus zero pendency is achieved.

4. We have given thoughtful consideration to the contentions that are raised. A reading of the above resolution shows that it has already been resolved in the Chief Justices' Conference for achieving zero pendency, the Chief Justices are to take proactive steps to initiate the process of appointment of judges in their High Courts by forwarding their recommendations in respect of existing and anticipated vacancies over a period of next six months. Besides, the Chief Justices are to have active regard to the provisions of Article 224A of the Constitution as a source for enhancing the strength of Judges to deal with the backlog of cases. Therefore, it is quite apparent that the matter is already under due consideration. Steps in this regard are to be taken by the Chief Justices of the High Courts. Whatsoever proposals are there, it is for the Chief Justices of the High Courts to deal with them in accordance with the decision taken at the Chief Justices' Conference. No mandamus in the facts and circumstances, is liable to be issued in this regard.

5. The writ petition is, accordingly, dismissed.