Seniority within the Supreme Court

What is the issue?

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- High Court Chief Justice KM Joseph’s delayed elevation to the apex court has affected his seniority in the Supreme Court.
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- Notably, seniority is the main criteria for elevation of a SC judge to become Chief Justice of India (CJI).
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What is Justice Joseph’s case?

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- Justice Joseph was recommended by the Collegium for elevation to the Supreme Court (SC) in early 2018.
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- But his elevation was withheld by the government on the unsubstantiated ground that it affected the regional balance of the SC.
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- 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.
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- 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.
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- Notably, Justice Indira Banerjee and Vineet Saran, whose names were recommended after Justice Joseph’s are now placed ahead of him in seniority.
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How is the seniority of judges in the Supreme Court decided?

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- Seniority within the SC is decided on the basis of date of induction in the court, and the time of induction if dates coincide.
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- 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.
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- 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.
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- Notably, the current "CJI Deepak Mishra" and "judge Chelameswar" were inducted into the Supreme Court on the same day.
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- But as Mr. Mishra was administered oath 1st, it secured him the position of CJI and Mr. Chelameswar had retired recently without becoming CJI.
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What are the allegations against the government?

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

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