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Mains Practice Questions

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Q. Systemic flaws in the appointment process among other reasons have contributed to vacancies in the lower judiciary. Comment.

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Approach

- Briefly introduce through facts on high rate of vacancies in lower judiciary.
- Elaborate on the systemic flaws in appointment process of lower judiciary.
- Give conclusion.

Introduction

- Nearly 2.6 crore cases are pending in the district and subordinate courts across the country. There are huge vacancies in these courts with 5,580 or 25% of posts lying empty against the sanctioned strength of 22,454 judges.
- The flawed approach in recruitment process contribute to high number of vacancies .

Body

Systemic flaws affecting recruitment process:

- Delays in recruitment process: the recruitment process does not take place in a regular and timely manner in a number of States. Even if the States complete a recruitment cycle, many are unable to fill the total number of advertised vacancies. As per the Supreme Court, a two-tier process be completed in 153 days and three tier should take 273 days. These guidelines are not followed by states.
- Infrequent conduct of recruitment process: Exams are not conducted frequently enough to fill vacancies as they arise. Further, High Courts are often unable to find enough meritorious candidates to fill the vacancies advertised.
- Complex procedures: Unclear recruitment procedures frequently give rise to litigation surrounding recruitment, delaying the process.
- Coordination problem: District Judges are appointed by Governor of the State in consultation with the High Court exercising jurisdiction in relation to such State. Further, appointments of persons other than district judges to the judicial service of a State shall be made by the Governor in accordance with rules made by him in this behalf after consultation with the State Public Service Commission and with the High Court. Due to involvement of different agencies there are difficulties in coordination giving rise to disputes surrounding recruitment, further stalling the process.

Conclusion

- There is thus a pressing need to analyze the systemic challenges that prevent vacancies in the lower judiciary from being filled. This would involve deliberation on fairness of recruitment processes, adequacy of incentive structures, and the culture of legal education and profession in the country.
- Further centralizing the current recruitment mechanism and institutionalizing All India Judicial Services can be discussed widely.