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New York State's top court makes ruling on its own pay raises

BY KENNETH LOVETT
DAILY NEWS ALBANY BUREAU CHIEF
Tuesday, February 23, 2010

ALBANY - The state's top court ruled on its own pay raises Tuesday morning, insisting the governor and Legislature violated the constitution by linking judicial salary hikes to other non-related issues.

The Court of Appeals, in a 5-1 ruling, stopped short of ordering that judges, who have gone more than a decade without a raise, should automatically get a bump in pay.

Instead, Gov. Paterson and Legislature will have to reconsider the pay boost on its own merits.

In the 35-page decision written by Judge Eugene Pigott, the court majority said it expects "appropriate and expeditious legislative consideration."

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New York State's Court of Appeals ruled Tuesday that linking judicial... (Balderas/Getty)

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New York's judges, who last received a raise in 1999, now rank nearly last in the country in terms of salary.

Several frustrated judges brought lawsuits after their pay raises were tied to everything from campaign finance and ethics reform to the hiking of lawmakers' pay.

The state's chief appellate judge, Jonathan Lippman, recused himself from Tuesday's ruling because he was a lead plaintiff in one lawsuit.

In its majority decision, the Court of Appeals found the Legislature violated the constitutional separation of powers by failing to consider judicial salaries based upon an "objective assessment of the judiciary's needs."

Pigott wrote that the governor and lawmakers "overlook the fact that they are treating judicial compensation - which falls within the scope of their constitutional duties - as if it were merely another government program appropriation as opposed to compensation for members of a co-equal branch."

The ruling knocked the Legislature for failing to give "appropriate respect and attention" to the needs of the judicial branch.

In a dissenting opinion, Judge Robert Smith expressed "dismay" at the Legislature's lack of action on judicial salaries, but disagreed that it rose to being unconstitutional.

"Separation of powers is violated not when one of the three branches acts irresponsibly - that happens all the time - but when one threatens the place of another in the constitutional scheme," Smith wrote.

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