



drishti

Reservations in Promotion is Not a Fundamental Right: SC

 drishtias.com/printpdf/reservations-in-promotion-is-not-a-fundamental-right-sc

Why in News

The Supreme Court has recently ruled that the **states are not bound to provide reservation in appointments and promotions** and that there is **no fundamental right to reservation in promotions**.

Related Constitutional Provisions about Reservation

- **Article 16(4)** empowers the state to make any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the state, is not adequately represented in the services under the state.
- By way of the **77th Amendment Act**, a new clause (**4A**) was added to Article 16, empowering the state to make provisions for reservation in matters of promotion to **Scheduled Caste/Scheduled Tribe** employees if the state feels they are not adequately represented in services.

Key Points from the Ruling

- **Article 16 (4) and 16 (4A) of the Constitution are in the nature of enabling provisions**, vesting a discretion on the state government to consider providing reservation, if the circumstances so warrant.

The state government cannot be directed to provide reservation for appointment in public posts. Similarly, the state is not bound to make reservations for Scheduled Castes and Scheduled Tribes in matters of promotions.

- **Articles 16 (4) and 16 (4-A)** of the Constitution did not confer individuals with a fundamental right to claim reservations in promotion.
 - The Articles empower the State to make reservations in matters of appointment and promotion in favour of the Scheduled Castes and Scheduled Tribes only “if in the opinion of the State they are not adequately represented in the services of the State”.
 - Thus, the State government has discretion “to consider providing reservations, if the circumstances so warrant”.
 - However, if a State wishes to exercise its discretion and make reservation in promotions, it has to first collect quantifiable data showing inadequacy of representation of a class or community in public services.
- **Subject to Judicial Review**

If the decision of the state government to provide SC/ST reservation in promotion to a particular public post is challenged, it would have to place the data and prove before the court that reservation was necessary and does not affect the efficiency of administration.

Source: IE