



SC Refuses to Give a Yardstick for Reservation in Promotions

For Prelims: Reservation, Promotions, Supreme Court, Schedule Caste, Schedule Tribe, Indira Sawhney Case, M Nagaraj Case

For mains: Judgements & Cases, Issues Related to SCs & STs, Reservation in Promotion and Various Cases Related to it.

Why in News

Recently, the [Supreme Court \(SC\)](#) refused to lay down the “yardstick” for determining the inadequacy of representation for granting [reservation in promotions](#) for [Scheduled Caste \(SC\)/Scheduled Tribe \(ST\)](#) candidates in government jobs.

- The court’s judgement came in a batch of **petitions** from across the country **seeking further clarity on the modalities for granting reservation in promotion.**

Key Points

- **SC’s Ruling:**
 - **Cadre for Collecting Data:**
 - It held ‘cadre’ and not class, group or the entire service as the unit for the purpose of collection of quantifiable data for giving promotion quotas.
 - It said otherwise the **entire exercise of reservation in promotions would be rendered meaningless** if data pertaining to the representation of SCs and STs was done with reference to the entire service.
 - **No Yardstick:**
 - The question of **adequate representation of an SC/ST community ought to be left to the respective States** to determine and it cannot lay down any yardstick for determining the inadequacy of representation.
 - **Set Aside the Judgement in B.K. Pavithra Case (2019):**
 - With the recognition of ‘cadre’ as the unit for collection of quantifiable data, the court **set aside its earlier judgement in the B.K. Pavithra case.**
 - **SC held that the conclusion of this court approving the collection of data on the basis of groups and not cadres is contrary to the law** laid down by the SC in Nagaraj and Jarnail Singh judgments.
 - The court held that the **Nagaraj judgement would have “prospective effect.”**
 - **Review Ordered:**
 - The SC **ordered that a review had to be conducted regarding the data** for the purpose of determining the inadequacy of representation in promotions.
 - However, **the court left it to the Union government to fix a “reasonable” time** for the States to conduct the review.
- **Background:**
 - **Reservation in Promotions:**

- The **Central and the State Government since the 1950s have been following a policy of reserving seats in promotions** in favours of SC and ST communities on the ground that they are not adequately represented at the decision making level of public services.
- **Indra Sawhney Case 1992:**
 - This policy was held to be unconstitutional and void by the SC in [Indra Sawhney v. Union Of India 1992](#) case on the ground that under Article 16(4) the State is provided with the power to make reservations in favour of backward classes of citizens only at the entry level that is at the time of recruitment into public services but not subsequently.
 - The Parliament responded by enacting the [77th Constitutional Amendment Act which introduced Article 16\(4A\)](#).
- **M Nagaraj Case 2006:**
 - In this case applying the creamy layer concept in SC/ST reservation in promotions, the SC reversed its earlier stance in the **Indra Sawhney case (1992), in which it had excluded the creamy layer concept on SCs/STs** (that was applicable on OBCs).
 - The SC had **upheld the Constitutional amendments by which Articles 16 (4A) and 16 (4B) were inserted**, saying they flow from Article 16 (4) and do not alter its structure.
 - It also laid down **three conditions for promotion of SCs and STs** in public employment.
 - The SC and ST community should be socially and educationally backward.
 - The SC and ST communities are not adequately represented in Public employment.
 - Such a reservation policy shall not affect the overall efficiency in the administration.
 - The court held that the **government cannot introduce a quota in promotion for its SC/ST employees unless** it proves that the particular community was backward, inadequately represented and providing reservation in promotion would not affect the overall efficiency of public administration.
 - The opinion of the government should be **based on quantifiable data**.
- **Jarnail Singh Case 2018:**
 - Later in 2018, in the Jarnail Singh case, SC modified the Nagaraj judgement to the extent that **State need not produce quantifiable data to prove the “backwardness”** of a Scheduled Caste/Scheduled Tribe community in order to provide quota in promotion in public employment.
 - The court had given a **huge fillip to the government’s efforts to provide “accelerated promotion with consequential seniority”** for Scheduled Castes/ Scheduled Tribes (SC/ST) members in government services.

Constitutional Provisions for Promotion in Reservation

- **Article 16 (4):** Provides that the State can make any provision for the reservation of appointments or posts in favour of any backward class of citizens who, in the opinion of the state, are not adequately represented in the services under the State.
- **Article 16 (4A):** Provides that the State can make any provision for reservation in matters of promotion in favour of the Scheduled Castes and the Scheduled Tribes if they are not adequately represented in the services under the State.
- **Article 16(4B):** Added by the **81st Constitutional Amendment Act, 2000** which enabled the unfilled SC/ST quota of a particular year to be carried forward to the next year.
- **Article 335:** It recognises that special measures need to be adopted for considering the claims of SCs and STs to services and posts, in order to bring them at par.
 - **82nd Constitutional Amendment Act, 2000** inserted a condition at the end of Article 335 that enables the state to make any provision in favour of the members of the SC/STs for relaxation in qualifying marks in any examination.

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