

Reservation in promotion

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In news– Recently, the Supreme Court has refused to “lay down any yardstick” for granting reservation in promotion to SCs and STs in government jobs saying determination of their inadequate representation is the discretion of the State.

What did the Supreme Court say?

- The bench of Justices L Nageswara Rao, Sanjiv Khanna and B R Gavai pointed out that the court even in the past had refused to lay down any yardstick and had left it to states to determine the factors relevant for deciding adequate representation, depending upon the promotional posts in question.
- The bench said “laying down of criteria for determining the inadequacy of representation would result in curtailing the discretion given to the State Governments.
- The court said that “before providing for reservation in promotions to a cadre, the State is obligated to collect quantifiable data regarding inadequacy of representation of SCs and STs” but the exercise of collection of information “cannot be with reference to the entire service or ‘class’/‘group’, but it should be relatable to the grade/category of post to which promotion is sought”.
- Stating that there should be review of the data collected, it said the period of review should be “reasonable”.
- The bench also said that the Nagaraj judgement “would have prospective effect”.

Its judgements in previous cases-

Mandal judgment/ Indra Sawhney case 1992:

- This landmark judgment upheld reservations for Other Backward Classes (OBCs).
- However, this judgment also held that reservations in appointments, under Article 16(4) of the constitution, don't apply to promotions.
- **The Supreme Court upheld the Mandal Commission's 27 percent quota for backward classes, as well as the principle that the combined scheduled-caste, scheduled-tribe, and backward-class beneficiaries should not exceed 50 percent of India's population.**

M Nagaraj vs Union of India case 2006:

- It 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.
- Article 16 (4A) empowers the State to make provisions for reservation in matters of promotion to SC/ST employees if it feels they are not adequately represented in services, and (4B) enables the State to carry forward the unfilled SC/ST quota of a particular year without clubbing it with the regular vacancies of the year to which it is carried forward to.
- The Nagaraj ruling also laid down three conditions which the State must fulfil before granting reservation in promotion to SCs and STs, such as the State has to collect quantifiable data showing backwardness of the class and inadequacy of representation of that class in public employment in addition to compliance of Article 335.
- It is made clear that even if the State has compelling reasons, as stated above, the State will have to see that its reservation provision does not lead to excessiveness so as to breach the ceiling-limit of 50% or obliterate the creamy layer or extend the reservation indefinitely.

Jarnail Singh case:

- In this case, the court held that the government need not collect quantifiable data to demonstrate backwardness of public employees belonging to the SC/STs to provide reservations for them in promotions.