

RESERVATION IN PROMOTION IN PUBLIC POSTS NOT A FUNDAMENTAL RIGHT: SC

Relevant for: Indian Polity | Topic: Indian Constitution - Features & Significant Provisions related to Fundamental Rights, Directive Principles and Fundamental Duties

Reservation in promotion in public posts cannot be claimed as a fundamental right, the Supreme Court has reiterated in a judgment.

A Bench of Justices L. Nageswara Rao and Hemant Gupta observed that State governments are not bound to make reservations. Even the courts could not issue a mandamus directing the States to provide reservations.

“There is no doubt that the State government is not bound to make reservations. There is no fundamental right which inheres in an individual to claim reservation in promotions. No mandamus can be issued by the court directing the State government to provide reservations,” the court observed in its February 7 verdict. Citing Constitution Bench precedents that had settled the law, the court said 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 reservation in matters of appointment and promotion in favour of the Scheduled Castes and the Scheduled Tribes only “if in the opinion of the State they are not adequately represented in the services of the State”.

“The inadequacy of representation is a matter within the subjective satisfaction of the State,” the judgment said. Thus, the State government has discretion “to consider providing reservations, if the circumstances so warrant”.

“It is settled law that the State government cannot be directed to provide reservations for appointment in public posts. Similarly, the State is not bound to make reservation for Scheduled Castes and Scheduled Tribes in matters of promotions,” the top court explained.

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