

## 4. Supreme Court dismisses pleas against post-based reservation in Karnataka

**Prelims Syllabus: Policies**

**Mains Syllabus: GS-II Welfare schemes for vulnerable sections of the population by the Centre and States and the performance of these schemes; mechanisms, laws, institutions and Bodies constituted for the protection and betterment of these vulnerable sections.**

### Why in News?

- The Supreme Court has rejected a bunch of pleas seeking exclusion of creamy layer or better-off individuals among Scheduled Castes (SC) and Scheduled Tribes (ST) communities at the entry-level when it comes to the reservation in promotions.

### What is the Issue?

- The applications were filed in the **BK Pavitra case** in which the top court had, in 2019, upheld the constitutional validity of the Karnataka Extension of Consequential Seniority to Government Servants Promoted on the Basis of Reservations (to the Posts in the Civil Services of the State) Act.
- The Supreme Court in its 2019 judgment had held that the Act was a valid exercise of power by the government under **Article 16 (4A)** which empowers the state to provide reservations to SC/STs in matters of promotion.

### What did the Karnataka Law Say?

- The Act enacted by the Karnataka government provides, among other things, for consequential seniority to persons belonging to SC and ST categories promoted under the reservation policy of Karnataka. Consequential seniority enables reserved category candidates to retain their seniority for subsequent promotions.
- That is, if an SC/ST candidate is promoted ahead of a general category candidate by reason of reservation in promotion, then the promoted SC/ST candidate will retain that seniority for subsequent promotions and will thus be considered senior to general category candidate who was promoted later.

### Why this is Significant?

- This Supreme Court order is significant because it underlines “a **‘meritorious’ candidate** is not merely one who is ‘talented’ or ‘successful’ but also one whose appointment fulfils the constitutional goals of uplifting members of the SCs and STs and ensuring a diverse and representative administration”.

---

### **What is the Creamy Layer Concept?**

- The ‘means-test and creamy layer’ first finds expression in the Supreme Court’s landmark judgment in Indra Sawhney versus Union of India, delivered by a nine-judge Bench on November 16, 1992.
- ‘Creamy layer’ are “some members of a backward class who are highly advanced socially as well as economically and educationally.

### **Constitutional basis for special measures under Article 335:**

- Article 335 recognises that special measures need to be adopted for considering the claims of SCs and STs in order to bring them to a level-playing field.

### **Why it is Needed?**

- Centuries of discrimination and prejudice suffered by the SCs and STs in a feudal, caste-oriented societal structure poses real barriers of access to opportunity.
- The proviso contains a realistic recognition that unless special measures are adopted for the SCs and STs, the mandate of the Constitution for the consideration of their claim to appointment will remain illusory.

