

Constitution of India Art 16 - Equality of opportunity in matters of public employment

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making 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.

(4A) Nothing in this article shall prevent the State from making any provision for reservation 5[in matters of promotion, with consequential seniority, to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.

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**(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent reservation on total number of vacancies of that year.**

**(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.**

**(6) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any economically weaker sections of citizens other than the classes mentioned in clause (4), in addition to the existing reservation and subject to a maximum of ten per cent of the posts in each category.**

#### SYNOPSIS

#### **Cited in Sankaranarayanan 2017**

Reservation in Special Post/Services—Reservations is not permissible where high level of skill, intelligence and excellence required, like defence services, technical posts, specialities in medicine, engineering, atomic energy, space research, physical sciences, posts of professors, pilots, etc., *Indra Sawhney v Union of India*, 1992 Supp (3) SCC 217.

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“Backward class of citizens” includes Scheduled Castes and Scheduled Tribes both, E.v. Chinniah v. State of A.P., (2005) 1 SCC 394.

Public Employment-Absorption, regularisation, or permanent continuance of temporary, contractual, casual, daily-wage or ad hoc employees appointed/recruited and continued for long in public employment de hors the constitutional scheme of public employment, State of Karnataka v. Umadevi (3), (2006) 4 SCC 1: 2006 SCC (L&S) 753.

Reasonable Classification—Classification between employee obtaining higher qualification after joining service and an employee already in possession of such qualification before joining service bears just and rational nexus to the object sought to be achieved and does not amount to discrimination offending Articles 14 and 16, Food Corporation of India v. Bhartiya Khadya Nigam Karamchari Sangh, (2012) 2 SCC 307.

Nature—Article 16(4) is not an exception to Article 16(1), rather the two operate in different fields, M. Nagaraj v. Union of India, (2006) 8 SCC 212.

Principle of Equality—Violation of the principle of equality enshrined in Article 16(1) does not take place by the rotational system of fixing seniority in a cadre—half of which consists of direct recruits and the other half of promotees. Such a system cannot be said to defy the principles of equality. Mervyn Continho v. Collector of Customs, AIR 1967 SC 52.

Article 16(1) and (2) actually give effect to equality before the law guaranteed in Article 14 and to the prohibition of discrimination guaranteed under Article 15(1). Southern Railway v. Rangachari, AIR 1962 SC 36.

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Nature & Scope—Article 16(1) and Article 14 are closely connected and deal with the individual rights of a person. Article 16(1) has its roots in Article 14 itself. *Ajit Singh (II) v. State of Punjab*, (1999) 7 SCC 209.

Promotion—Right to be considered for a benefit of promotion should be distinguished from a mere chance as to obtaining the benefit. *High Court of Judicature of Madras v .R. Perachi*, (2011) 12 SCC 137.

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