

### RESERVATION IN PROMOTION VIS-A-VIS 77<sup>TH</sup> AMENDMENT

7. The Supreme Court in Indra Sawhney's case had declared reservation in promotion ultra vires but had permitted to continue it for 5 years from the date of the judgement i.e. upto 15.11.1997. In order to continue reservation in promotion beyond 15.11.1997, the 77<sup>th</sup> Amendment was made to incorporate clause (4A) in Article 16 of the Constitution. Statement of Objects and Reasons of the Constitution (Eighty-Sixth Amendment) Bill which became the Constitution (77<sup>th</sup> Amendment) Act, stated that the object was to continue the then existing dispensation. Reservation was not available in case of promotions by selection within Group 'A' posts before the 77<sup>th</sup> Amendment to the Constitution. The same position continues after the amendment.

16(4A) Notwithstanding anything contained elsewhere in the Constitution, the Scheduled Castes and the Scheduled Tribes notified under article 341 and article 342, respectively, shall be deemed to be backward and nothing in this article shall prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class or class of posts in the services under the STATE IN FAVOUR OF THE SCHEDULED CASTES AND THE SCHEDULED TRIBES TO THE EXTENT OF THE PERCENTAGE OF RESERVATION provided to the SCs and the STs in the Services under the State.