Supreme Court Judgement on Creamy Layer Exclusion for OBC Quota

Mains: *GS II – Governance| Judiciary*

Why in News?

Recently, the Supreme Court of India recently delivered a significant judgement clarifying the application of the creamy layer exclusion for Other Backward Classes (OBCs).

What is the background of creamy layer the concept?

- **Indra sawhney case** – The concept of the creamy layer was introduced by the Supreme Court in the landmark Indra Sawhney v. Union of India judgement.
- The objective was to ensure that the benefits of reservation reach the most *socially and educationally backward sections* within OBCs, rather than the relatively advanced members of the community.
- **Issue of OM** – Following this judgement, the Department of Personnel and Training (DoPT) issued an *Office Memorandum (OM)* in September 1993 to specify criteria for identifying the creamy layer.
- **Creamy Layer Exclusion under the 1993 Office Memorandum –** The **1993 OM** outlined specific categories of OBC candidates who would be excluded from reservation benefits.
- These included:
    - **Children of persons holding constitutional posts**, such as:
        - President and Vice-President
        - Judges of the Supreme Court and High Courts
    - **Children of senior government officials**, including:
        - Directly recruited **Class I (Group A) officers**
        - Directly recruited **Class II (Group B) officers**
    - **Children of officers in the Armed Forces and Paramilitary Forces** above a certain rank.
- **The Income/Wealth Test –** Apart from these service-based categories, the OM also introduced an income/wealth test for individuals engaged in professions, business, trade, or property ownership.
- The income/wealth test acts as a residual criterion to determine whether a candidate falls under the creamy layer.
- Initially, the annual income limit was ₹1 lakh in 1993, which has been revised several times.
- The current limit stands at ₹8 lakh per annum, revised in 2017.

- A crucial provision in the 1993 OM stated that income from salaries and agricultural land should not be included when calculating income for the purpose of the creamy layer determination.
- Instead, only income from sources such as:
    - Business or trade
    - Property
    - Capital gains
    - Investments, would be counted.
- **The 2004 Clarificatory Letter –** In October 2004, the DoPT issued a clarificatory letter addressing concerns regarding the application of the income/wealth test.
- However, Paragraph 9 of this letter suggested that salary income should be included while determining whether the ₹8 lakh income threshold had been crossed for three consecutive years, particularly in cases where parents were employed in PSUs without established equivalence to government posts.
- This created ambiguity and inconsistent application of the rules across different categories of candidates.

What is the Supreme Court's interpretation?

- **Income/Wealth Test –** The Court held that the income/wealth test operates as a residual mechanism for determining creamy layer status.
- **Exclusion of Salary and Agricultural Income –** The judgement reaffirmed that the plain language of the 1993 OM excludes salary and agricultural income from the income calculation.
- **Conflict between 1993 OM and 2004 Letter –** The Court observed that the 2004 clarificatory letter contradicted the 1993 OM by calling for inclusion of salary income, thereby creating confusion.
- **Issue of Hostile Discrimination –** The Court highlighted that including salary income only for children of PSU or private sector employees would result in "hostile discrimination**."**
- **Other Observations of the Court:**
    - Children of government employees were assessed based on the rank or status of the post.
    - Children of PSU or private sector employees were assessed solely on the basis of income from salary.
    - This created an unequal treatment among similarly placed individuals within the same backward class, violating the principle of equality under Article 14 of the Constitution.
- **Beneficiaries of the Judgement –** The judgement provides relief to around 100 candidates who appeared in the Civil Services Examinations (CSE) from 2015 onwards and were denied OBC reservation due to incorrect application of the income/wealth test.
- The ruling will benefit:
    - Children of *PSU employees*
    - Children of *private sector employees*

    - **Candidates previously *excluded due to salary-based income calculations***

- The Court also directed authorities to create supernumerary posts where necessary to accommodate candidates who now qualify under the clarified criteria.

What is the significance of the judgement?

- **Clarity** – Clarifies long-standing ambiguity in the application of the creamy layer criteria.
- **Uniformity** – Ensures uniform treatment across candidates from government, PSU, and private sector backgrounds.
- **Equality** – Strengthens the constitutional principle of equality by preventing discrimination within the OBC category.
- **Fairness** – Improves fairness in competitive examinations, particularly in recruitment to civil services.

What lies ahead?

- The Supreme Court's judgement marks an important step in ensuring equitable implementation of OBC reservations.
- By clarifying that salary income alone cannot determine creamy layer status, the Court has reinforced the principle that reservation policies must remain focused on social and structural backwardness rather than purely economic indicators.
- This decision is likely to have long-term implications for reservation policy, administrative procedures, and the interpretation of creamy layer criteria in India.

Reference

The Hindu| SC Ruling on OBC Creamy Layer

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