Syllabus subtopic: Functions and Responsibilities of the Union and the States, Issues and Challenges Pertaining to the Federal Structure, Devolution of Powers and Finances up to Local Levels and Challenges Therein.

Prelims and Mains focus: about the SC judgement on reservations in promotions/judgements and related constitutional provisions

News: The Supreme Court has ruled that states are not bound to provide reservation in appointments and promotions and that there is no fundamental right to reservation in promotions.

Constitutional provisions regarding reservations/promotions in jobs

- Article 16(4) empowers the state to make 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.

- By way of the 77th Amendment Act, a new clause (4A) was introduced to Article 16, empowering the state to make provisions for reservation in matters of promotion to SC/ST employees if the state feels they are not adequately represented in services. The Supreme Court had upheld the amendment as constitutional.

What was the case about?
The Supreme Court was deciding a group of appeals pertaining to reservations to SCs and STs in promotions in the posts of Assistant Engineer (Civil) in PWD, Uttarakhand.

What did the SC say?
- Article 16 (4) and 16 (4-A) are in the nature of enabling provisions, vesting a discretion on the state government to consider providing reservation, if the circumstances so warrant.
• It is a settled law that the state government cannot be directed to provide reservation for appointment in public posts.

• Similarly, the state is not bound to make reservation for Scheduled Castes and Scheduled Tribes in matters of promotions.

• However, if they (state) wish to exercise their discretion and make such provision, the state has to collect quantifiable data showing inadequacy of representation.

• If the decision of the state to provide reservations in promotion is challenged, the state concerned shall have to place before the court the requisite quantifiable data and satisfy the court that such reservations became necessary on account of inadequacy of representation of Scheduled Castes and Scheduled Tribes in a particular class or classes of posts without affecting general efficiency of administration.

• The state can form its own opinion on the basis of the material it has in its possession already or it may gather such material through a Commission/Committee, person or authority. All that is required is that there must be some material on the basis of which the opinion is formed. The court should show due deference to the opinion of the state. Such opinion is not beyond judicial scrutiny.

• On the requirement for data collection, the court said this is only to justify reservation to be made in the matter of appointment or promotion to public posts, according to Article 16 (4) and 16 (4-A) of the Constitution. As such, collection of data regarding the inadequate representation of members of the Scheduled Castes and Schedules Tribes is a prerequisite for providing reservations, and is not required when the state government decided not to provide reservations.