

# OBC Creamy Layer Criteria: Supreme Court Verdict Clarifies Key Rules

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## OBC Creamy Layer Latest News

- The Supreme Court ruled that income alone cannot determine the creamy layer among OBCs and addressed the issue of equivalence between PSU/private sector employees and government employees in this context.
- Those classified as part of the creamy layer are not eligible for OBC reservation benefits, and the ruling clarifies long-standing uncertainties regarding the criteria used for such classification.

## Supreme Court Clarifies Creamy Layer Criteria for OBCs

- **Background of the Case** – The SC delivered its verdict on petitions challenging a 2004 Department of Personnel and Training (DoPT) letter that interpreted the creamy layer criteria under the 1993 Official Memorandum (OM) on OBC reservations.
- **Issue with the 2004 Clarification** – The 1993 OM excluded salary and agricultural income from the income/wealth test for determining creamy layer status. However, the 2004 DoPT letter included salary

income of PSU and private sector employees, leading to differential treatment compared to government employees.

- **Court's Observation on Equality** – The Bench held that excluding some candidates from reservation solely based on salary income—without considering the nature or level of employment—creates artificial distinctions among similarly placed OBC members.
- **Ruling Against Discriminatory Treatment** – The Court ruled that treating children of PSU or private sector employees differently from government employees amounts to hostile discrimination. Such unequal treatment of similarly placed individuals violates the constitutional guarantee of equality under Articles 14, 15, and 16.

## Origin and Evolution of the OBC Creamy Layer Concept

- **Introduction through the Mandal Verdict** – The concept of the 'creamy layer' among OBCs was introduced by the Supreme Court in the 1992 *Indra Sawhney vs Union of India (Mandal) judgment*. The aim was to exclude the more advanced sections of OBCs from reservation benefits.
- **1993 Government Guidelines** – Following the ruling, the Department of Personnel and Training (DoPT) issued a circular in September 1993, defining the criteria for identifying the creamy layer within OBCs.
- **Categories Included in the Creamy Layer** – The guidelines identified several categories as creamy layer, including individuals holding constitutional posts, Group A/Class I and Group B/Class II government officers, PSU employees, Armed Forces officers, professionals, businesspersons, and property owners, along with those meeting the income/wealth criteria.
- **Service-Based Criteria for Government Employees** – Under these rules, children of Group A officers or those promoted to Group A before the age of 40 are excluded from OBC reservation benefits. Similarly, if both parents are Group B direct recruits, their children fall under the creamy layer.
- **Criteria for Armed Forces Personnel** – For the Armed Forces, officers up to the rank of Lieutenant Colonel remain eligible for OBC reservation benefits, while those holding higher ranks are classified under the creamy layer.
- **Income Criterion for Non-Government Sector** – For individuals outside government employment, the creamy layer was initially defined as those earning more than ₹1 lakh annually in 1993. This limit has been periodically revised and currently stands at ₹8 lakh per year since 2017.

## DoPT Clarifications on OBC Creamy Layer: 1993 Guidelines and 2004 Interpretation

- The 1993 OM issued by the DoPT laid down the criteria for identifying the creamy layer among OBCs, including service-based categories and income thresholds to exclude the more advanced sections from reservation benefits.
- In October 2004, the DoPT issued a clarification stating that for employees in organisations where equivalence with government posts had not been determined, creamy layer status would be assessed based on parental income from salaries and other sources.
- The clarification provided that if income from salary or other non-agricultural sources exceeded ₹2.5 lakh per year for three consecutive years (the then creamy layer limit), their children would be treated as belonging

to the creamy layer.

- Although issued in 2004, the clarification was not strictly implemented **until 2014**.
  - It began to be applied effectively from the Civil Services Examination (CSE) 2015, when the DoPT started verifying caste certificates using these criteria.
- The Union government had also considered a proposal to establish equivalence between posts in government organisations, public sector enterprises, universities, and private sector jobs for determining creamy layer status.
  - However, the proposal did not progress to the Cabinet stage.

## Income Criteria in OBC Creamy Layer and EWS Quota

- The 1993 DoPT circular clearly stated that income from salary and agricultural land would not be counted while determining the income and wealth criteria for identifying the creamy layer among OBCs.
- During hearings on petitions challenging the EWS reservation introduced in 2019, the Supreme Court questioned why the income limit for EWS and OBC creamy layer was the same at ₹8 lakh.
- The government explained, based on the **Ajay Bhushan Pandey Committee**, that the two criteria differ in their calculation.
- For OBC creamy layer determination, income from salary and agriculture is excluded, whereas for EWS eligibility, income from all sources, including salary and agricultural income, is included.

## Beneficiaries of the Supreme Court's OBC Creamy Layer Ruling

- **Impact on Future Candidates** – The ruling will benefit candidates appearing in upcoming examinations, as the revised interpretation of the creamy layer criteria may allow more OBC candidates to claim reservation benefits.
- **Relief for Existing Candidates in Services** – Candidates already selected in government services may also benefit. Their service allocation or cadre placement could be revised, potentially enabling them to secure higher-ranked services or different cadres based on their updated OBC status.
- **Opportunities for Previously Unallocated Candidates** – Some candidates who could not previously secure a service may now receive service allocation if their rank improves after being recognised as non-creamy layer OBC candidates.
- **Creation of Supernumerary Posts** – The Supreme Court has directed the government to create supernumerary posts if necessary to accommodate eligible candidates affected by the ruling, provided they meet the required eligibility conditions.

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