

PERMANENT COMMISSION FOR WOMEN IN ARMED FORCES

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“I ask no favour for my sex. All I ask of our brethren is that they take their feet off our necks”¹

ABSTRACT

The profession of Arms is a way of life that requires sacrifice and commitment beyond the call of duty. To serve the country by joining the armed forces, one has to be physically, mentally, emotionally and physiologically strong. Women were discriminated against and stereotyped owing to their biological and physiological limitations and hence were granted only Short Service Commission and not the Permanent Commission. The tenure of Short Service Commission is 10+ 4 years whereas the tenure of the Permanent Commission is for the period until one retires, i.e. until the full age of retirement. This article provides an insight on Women getting Permanent Commission in the Indian Army, the challenges and stereotypical notions too are discussed in detail.

INTRODUCTION

India is the seventh-largest country in the world. India shares a land boundary of 15, 200 Km., with its neighbouring countries. It has a long coastline of about 7516.6 Km. To safeguard this vast territory we have Indian Armed forces namely – “Indian Army”, “Indian Navy” and “Indian Air Force” and “Coast Guard”. The President of India is the supreme commander of Defence Forces in India. Indian Armed Force is politically controlled by the Government of India. Whereas the executive control is exercised through the Union Cabinet, Defence Minister, Chiefs of Staff Committee and Chiefs of Army, Naval and Air Staff of their respective services. Ministry of Defence manages the matters related to finance, personnel and resources.²

¹ Late Justice Ginsburg quoted Sara Grimké, noted abolitionist and advocate of equal rights of men and women, while arguing before the Supreme Court of the United States of America in Sharron A. Frontiero and Joseph Frontiero v. Elliot L. Richardson, Secretary of Defense, et al., 411 U.S 677.

² Indian Army,

<https://indianarmy.nic.in/Site/FormTemplate/frmTempSimple.aspx?MnId=w3/OYjQUqovHoOpqywTopA==&ParentID=aj4xhbUiADqTlBkLdF7VJA=> accessed on 29th September 2021.

India has the fourth-largest army in the world. Due to continuous attacks by the neighbouring countries, chiefly Pakistan and China necessitates the maintenance of strong armed forces. Armed forces are the guards of the country without their service the safety and security of the country are at the stake.

The role of women in the Indian Army began in 1888 when the 'Indian Military Nursing Service' was formed during the British Raj but in 1992 that the organisation opened doors and started inducting women in non-medical roles. In 2015, India also opened new combat air force roles for women as fighter pilots.³

Depriving the women in the Armed Forces from the permanent commission had hindered their professional growth, denied their job security and left them behind without promotional and pensioner benefits.

After a prolonged fight, the Judiciary played a major role in eliminating this difference and granted the Women officers too with the Permanent Commission.

JOURNEY OF WOMEN IN GETTING PERMANENT COMMISSION IN THE INDIAN ARMY

Services in the Army are classified into three broad categories: (i) Combat Arms; (ii) Combat Support Arms; and (iii) Services. SSC (Short Service Commission) for women was available only in Combat Support Arms and Services. Combat Arms have been excluded from SSC appointments for women in the Army.

Section 12 of the Indian Army Act, 1950 read as:

12. Ineligibility of females for enrolment or employment.- No female shall be eligible for enrolment or employment in the regular Army, except in such corps, department, branch or other body forming part of, or attached to any portion of, the regular Army as the Central Government may, by notification in the Official Gazette, specify in this behalf."⁴

³ Wion, < <https://www.wionews.com/opinions-blogs/opinion-changing-role-of-women-in-the-indian-armed-forces-391292>> accessed on 29th September 2021.

⁴ Indian Kanoon, <https://indiankanoon.org/doc/117198144/> Accessed on 29th September 2021.

The Union Government under the power conferred on it by Section 12 of the Indian Army Act, 1950 had issued a notification dated 30 January 1992 making women eligible for appointment as officers in specific branch/cadres of the office, which were –

- Army Postal Service;
- Judge Advocate Generals Department;
- Army Education Corps;
- Army Ordnance Corps (Central Ammunition Depots and Material Management); and
- Army Service Corps (Food Scientists and Catering Officers).

Women became ineligible under the following categories of corps/departments of the regular army –

- Corps of Signals,
- Intelligence Corps,
- Corps of Engineers,
- Corps of Electrical and Mechanical Engineering,
- Regiment of Artillery.”

When the induction of women in the Army was envisaged with effect from 15 February 1992 in stipulated branches and cadres, the tenure of engagement was five years. The above stipulation of five years was deleted on 12 December 1996. On 19 November 2005, the MoD (Ministry of Defence) provided that the tenure of WSES (Women Special Entry Scheme) officers would be extended up to fourteen years. The Army instruction broadly followed the same course, as a consequence of which a cap on the length of service was introduced. The initial process of induction under the WSES was replaced by SSCs with an outer period of fourteen years. In February 2003, Babita Puniya filed a writ petition in the name of public interest litigation before the Delhi High Court for the grant of Permanent Commission to Women SSC officers in the Army.

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Reasons given for not giving permanent commission to Women are summarised below:

- The Union Government gave the reason that it is entitled to frame a policy regarding the grant of PCs to women officers after accounting for the need for a balanced approach involving military services and national security and hence is entitled to take into account the inherent dangers involved in serving in the Army, adverse conditions of service which include an absence of privacy in field and insurgency areas, maternity issues and child care. These considerations are not open to judicial review;

- The Army has to cater for spouse postings, “long absence on account of maternity leave, child care leave” as a result of which the legitimate dues of male officers have to be compromised.
- There is a physiological limitation on the employment of women officers. There are even dangers of a woman officer being captured by the enemy and becoming a prisoner of war.
- Though the provisions of the 1950 Act, insofar as they infringe or affect fundamental rights, are protected by Article 33 of the Constitution, which empowers the parliament to determine to what extent any of the right conferred under Part III (Fundamental Rights) would apply to Armed Forces, be restricted or abrogated to ensure the proper discharge of their duties and the maintenance of discipline among them.
- According to the Union of India, women are not employed on duties that are hazardous unlike their male counterparts in the same Arm/Service who are liable to be employed in combat duties.
- Women officers must deal with pregnancy, motherhood and domestic obligations towards their children and families and may not be well suited to the life of a soldier in the armed force. A career in the Army comes with a serious set of trials and tribulations of a transferable service with postings in difficult terrains, even in times of peace. This is rendered infinitely more difficult when society relegates functions of domestic labour, care giving and childcare exclusively on the shoulders of women.
- The deployment of women officers is not advisable in areas where members of the Armed forces are confronted with “minimal facility for habitat and hygiene”.
- The Union of India has also alleged that the presence of women has a negative impact on unit cohesion.

The grievance of Women in depriving them of Permanent Commission

- The Army considers women officers as an effective workforce until they complete fourteen years of service. The nature of duties is similar to male officers. But after having served

shoulder to shoulder with male officers for twenty-five years, they do not get the benefit of Permanent Commission as their male counterparts.

- Women officers on SSC have suffered from serious discrimination comprising of:
 - (i) Lack of opportunity for professional growth;
 - (ii) Absence of job security due to the ambiguous status of the cadre; and
- Women officers have been left in the lurch without pensioner and promotional benefits at par with their male counterparts despite having dedicated prime years of their lives to the service of the nation.
- 30 per cent of women are posted in combat fields and it is wrong to suggest that the security of women is periled.
- Not granting them with the permanent commission is violative of Article 14, Article 15(1) and Article 16(1) and cannot be protected under the garb of Article 33.

The Supreme Court in the Landmark judgement of *Secretary Ministry of Defence v. Babita Puniya & Ors*⁵. held that – “All serving women officers on SSC shall be considered for the grant of PCs irrespective of any of them having crossed fourteen years or, as the case may be, twenty years of service; The option shall be granted to all women presently in service as SSC officers; Women officers on SSC with more than fourteen years of service who do not opt for being considered for the grant of the PCs will be entitled to continue in service until they attain twenty years of pensionable service; SSC women officers who are granted PC in pursuance of the above directions will be entitled to all consequential benefits including promotion and financial benefits”.

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CONCLUSION

The **United States, Israel, North Korea, France, Germany, Netherlands, Australia and Canada** are among the global militaries that employ women in **front-line combat positions**.⁶ In India, there are still restrictions on it.

⁵ [2020] 7 SCC 469.

⁶ Dhristi, < <https://www.drishtiiias.com/daily-updates/daily-news-analysis/women-in-military>> accessed on 29th September, 2021.

Seventy-three years after the birth of a post-colonial independent state, there is still a need for change in attitudes and mindsets to recognize the commitment to the values of the Constitution. If society holds strong beliefs about gender roles – that men are socially dominant, physically powerful and the breadwinners of the family and those women are weak and physically submissive, and primarily caretakers confined to a domestic atmosphere – it is unlikely that there would be a change in mindsets. There are bundles of instances where the Women Officers have brought laurels to our country. Not even one field is left untouched by the achievement of women. In the Armed Forces too, women have represented our country in the Military exercises, United Nations Mission etc. and even lead the contingents including the all-men contingent.

Here are a few examples- **Lieutenant Colonel Sophia Qureshi** (Army Signal Corps) is the first woman to lead an Indian Army contingent at a multi-national military exercise named “Exercise Force 18” which is the largest ever foreign military exercise hosted by India. **Lieutenant Colonel Anuvandana Jaggi** served as the Women’s Team Leader of the United Nations Military Observers Team in the UN mission in Burundi. She was awarded the United Nations Force Commander’s Commendation and an Appreciation Epistle from the Chief of Army Staff for her commendable effort. **Major Madhumita (Army Education Corps)** is the first woman officer in the country to receive the Gallantry Award (Sena Medal) for fighting Taliban terrorists in Afghanistan. **Lieutenant Bhavana Kasturi** recently led a contingent of the Indian Army Service Corps, becoming the first woman to lead an all-men Army contingent in the history of India. Similarly, **Captain Tania Shergill** recently became the first Indian woman Parade Adjutant to lead an all-men contingent in New Delhi on 15 January 2020. The decision of the Supreme Court turned to be a great milestone in changing the lives of Women under the Short Selection Commission by granting them the permanent commission. The battle for equality has been long-drawn, engaging as much with reforming mindsets as with implementing constitutional principles.⁷ The onus is now on the women to measure up to the exacting physical, intellectual, psychological and performance standards, and the conditions of service.⁸

⁷ *Lt.Col Nitisha v. Union of India &Ors.*, 2021 SCC Online SC 261.

⁸ The Print, < <https://theprint.in/opinion/sc-cleared-way-for-permanent-commission-but-women-must-measure-up-for-their-armed-forces-role/632087/>> accessed on 29th September 2021.