

Breaking Armour-plated ceiling: Struggle for gender equality in Indian Armed Forces

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Abstract

This case has been set up in the backdrop of continuous struggle of women officers in the Indian Army for gender equality and justice. The struggle is for granting Permanent Commission to women SSC officers at par with their male counterparts and occupying command positions. Gender norms, cultural stereotypes, operational problems and weaker-sex arguments were cited in favour of the discriminatory practice. However, these sisters-in-arms persisted. In this case we meet Justice Javeri, who although does not belong to armed forces, has pioneered the movement by filing a PIL in Delhi High Court. At the end of the case we find her reflecting on the chequered history of the seventeen-year-old struggle and eagerly waiting for the judgment to be delivered. The case may be used to build discussion around the invisible glass ceiling at workplace and addressing gender equality.

Key words: *Armed Forces, Women, Glass ceiling, Gender Equality*

Prologue:

Justice Javeri looked outside the window. It was 16th February 2020. The night sky of Delhi looked clear and bright. Was it the signal for a new beginning? Would there be a happy ending to the seventeen-year-old legal battle for equality? Would the sisterhood of women army officers who joined the struggle over years with a dogged persistence bear fruit? She reflected. Seventeen years!!! It was nearly two decades!!! In the meantime, she had progressed from the position of an Advocate to a Judge in the Tis Hazari court. But the case seemed never ending. Would the next morning bring an end the age-old discrimination against women Short Service Commission (SSC) officers in the Army? She knew that it would be a sleepless night for her,

the 70 odd petitioners, advocates fighting the case and the more than six hundred women officers in Indian army looking forward to the Supreme Court judgment the next day.

The struggle started in 2003 when had she filed a Public Interest Litigation (PIL) in the Delhi High Court struck by the discrimination faced by her friend Nirmala, an SSC army officer. Nirmala had joined her dream job in 1993 as one of the first female officers in Indian Army. She liked the job and had a good performance record. Unfortunately, her job was only for 10 years. Like her other SSC women colleagues in the Indian army, she too did not have access to Permanent Commission unlike their male counterparts. Male Short Service Commissioned officers were eligible for consideration for Permanent Commission (PC) in the tenth year of their service. If they qualified, they were granted PC and received all the attendant benefits associated with permanent service. On the other hand, women officers had to leave the army after the SSC term got over. Nirmala was frustrated at being the victim of a discriminatory policy.

Career in the Armed Forces:

The Indian armed forces comprise of three wings the Army, Navy, Air Force and supported by the Coast Guard. The President of India is the supreme commander of the armed forces. . The services in Indian Army are of three categories: Combat Arms, Combat Support Arms and Services. Indian citizens can join the army as officers in two tracks, PC and SSC by qualifying the respective examinations. PC provides a career in the army till one reaches the age of superannuation. SSC enabled the qualifier to work in the army for a period of 10 years with the option of extending it by another 4 years. Indian men can join the PC directly or through the SSC route. As SSC officers, during the final tenth year of their service, male officers in the army had the option to join Permanent Commission. For direct entry into PC, Indian males have to clear the National Defence Academy entrance examination after class XII or the Combined Defence Services examination after Graduation and undergo rigorous training before being enrolled in Indian Army as officers. While men can join all the three categories of services in the Indian Army, including Combat Arms, women are barred entry into Combat Arms. Indian women can only join as SSC officers in the ten departments under Combat Support Arms and Services notified by Government of India. Unlike men the end of 10 years in SSC, they do not have the option for PC. Women can only opt for extension up to another 4 years or opt out of the service.

Eligible women, who successfully qualify various tests, serve as Short Service Commissioned officers in the various branches of the Armed Forces as depicted in **Exhibit 1**.

In 2019, Indian Army had only 3.84 % women officers, Indian Navy 5.12 % and Indian Air Force 13.81 %. According to a report, women in the three armed forces were only 6 % of the total strength (PIB Report, 2020). In comparison with the same figures worldwide, representation of women in Indian Army is abysmally low. The same figures stand at 19 % for Hungary, 16 % for US, 15 % for France, 10 % for United Kingdom (Bhatia & Devulappalli, 2020).

Women undertaking frontline combat roles in army have been a contentious issue around the world. Indian women are yet to be allowed to enter combat roles in Indian Army. As per National Geographic (Addario, 2019), at least 16 industrialized nations permit women to serve on the frontline or in combat roles (PTI, 2020). Scandinavian countries such as Norway, Denmark have allowed women in combat roles since 1980s. Israel opened up combat role for women in 1985 but did not permit them to hold command positions. Canada allowed combat roles for women in 1989. The United Kingdom Military lifted its ban on women serving in combat ground roles in 2018. The United States has had women serving in noncombat roles since 1990 and in 2016; the Pentagon lifted the ban on allowing women in frontline combat roles. As per International Institute of Strategic Studies (IISS), women comprise 10 percent of Russian armed forces (PTO, 2020).

The Issue at Hand:

The issue at hand pertains to the 17-year-old struggle of women SSC officers seeking equality of opportunity for grant of Permanent Commission in the Indian army. The entry of women in Indian army has a chequered history. As envisaged by section 12 of the Army Act, 1950, Women were not eligible for employment in the army, but the Government of India could by special notification consider appointment of women in certain corps or departments. It took forty-two long years for Government to issue such notification in 1992, creating the Women Special Entry Scheme (WSES) to recruit women officers in certain branches of Army for a period of five years. These branches were Army Postal Service, Army Services Corps, Army Education Corps, Army Ordinance Corps and Judge Advocate General's department. A subsequent notification in 1992 extended appointment of women officers to additional five

departments. In 1996, the provision of induction into the army for five years was extended by another five years. An amendment in 2006, abolished the 'WSES' and unified the recruitment of women officers and male officers under the pre-existing SSC scheme. The first batch of women SSC officers joined in 2008. The women officers, who had joined before 2008, could opt for the new SSC scheme within six months. Alternatively, they could continue as per the old scheme. The tenure of SSC for both men and women was extendable up to 14 years but women were not to be considered for PC like their male counterparts at the end of the ten-year tenure. They were released after 14 years whereas their male counterparts were given extensions and subsequently PC. Consequently, women officers could not hold any command position, were not eligible for pension or medical and other benefits associated with PC.

The struggle for gender equality in armed forces started with filing of a Public Interest Litigation (PIL) by Advocate Javeri, in 2003 in the Delhi High Court, for grant of permanent commission to women SSC officers in the Army. This was followed by women officers from the armed forces coming forward to file writ petitions against the terms and conditions of service in general and for grant of PC in particular since 2006.

While the case was subjudice in Delhi High Court, the Ministry of Defence (MoD) issued a circular in 2008 with a provision to prospectively grant PC to SSC women officers in two departments:- Judge Advocate General (JAG) department and the Army Education Corps (AEC). This was challenged in Delhi High Court in 2008. The petitioners claimed extension of PC to all SSC women officers serving in different departments and with retrospective effect. The support for the petitions continuously grew (see **Exhibit 3**).

The Delhi High Court heard the three challenges (PIL 2003, Writ Petitions 2006 & 2008) together in 2010. It ruled in favour of women officers in SSC entitling them to PC at par with male SSC officers in March 2010. The verdict of Delhi High Court was challenged by Government of India in the Supreme Court of India in July, 2010.

In 2019, while the case was subjudice in the Supreme Court, Government of India, passed an order for the grant of PC to SSC women officers in eight more departments of the Army along in addition to the two departments mentioned in the 2008 order. This paved the way for women SSC officers in all the ten departments, to be eligible for PC. However, it also stated that the women officers could not hold any command appointments, but only staff posts.

On February 5, 2020, the Supreme Court while reserving the verdict on the issue asked the petitioner women officers and the Ministry of Defence (MoD) to submit their written arguments supporting their case. The apex court was hearing an appeal by the Ministry of

Defence (MoD) against the March 2010 judgment of the Delhi High Court. The arguments submitted by both the sides are summarized below.

Arguments and Rationale Presented by Ministry of Defence:

The Government's rationale can be compiled under following heads.

Physical limitations and domestic obligations. The note highlighted physiological limitations of women. It was argued that the biological requirement of pregnancy and childbirth needing long absence limits their ability to respond to the call of duty. The nature of army job with its frequent transfers affected education of children and career of spouse. In summary, the domestic responsibility of women was given priority over their role in the army and was contended to be more challenging for women officers especially when the spouse also worked in the armed forces

Risk of being taken as POW: The note by the Ministry pointed to the extreme stress for the government and army in case of women were captured as prisoners of war (POW). It could create high tension, psychological stress and even loss of morale for the force if they were not able to protect their women officers.

Command positions to women. The Ministry's defense further pointed to the absence of acceptability of women officers in command positions by juniors. This they argued was due to the cultural conditioning of the units which were composed of male soldiers used to taking commands from male superiors. Here also the inferior physical capacity of women was cited by the government as a challenge to lead all male contingents from the front.

The proposal. The Ministry had then put forward a proposal to address the issue at hand. The women SSC officers were classified into three categories as per their length of service: up to 14 years, more than 14 years but less than 20 years and above 20 years. Women up to 14 years of service would be offered PC but for staff appointments only, women above 14 years of service would be granted extension up to 20 years and then released with pension. Women with more than 20 years of service would be immediately released with pension. It meant the Government would consider PC for younger women prospectively. Most of the women petitioners falling under the later categories and would not be considered for PC. This was against the order of Delhi High Court which had ruled in favour of extension of PC to all the petitioners.

Argument Presented by the Petitioners:

The submission of petitioners can be summarized under the following headings.

Capability of Women. The petitioners submitted that in their service they had proved themselves several times in various challenges as being physically fit and mentally capable for their roles in the ten Combat Support Arms. They had been chosen to lead units, platoons composed of male soldiers in peace as well as in hostile locations. They argued that they had quite effectively responded to the call of duty as evident in their blemish free service records. Their plea was that they were in no way inferior to male officers in discharge of their duties and that the argument of physiological limitation was based on stereotypical opinion and contrary to the demonstrated record. .

Cultural stereotype: They refuted the argument of cultural conditioning of soldiers from rural background as coming in the way of accepting and obeying orders from women officers. They cited evidence from their experience as not having faced any such stereotypical barriers. They had been accepted by the juniors as supervisors and successfully led male contingents.

Command post to women. The Government's proposal to grant PC to women SSOs for staff appointments was considered discriminatory by the petitioners. They argued that they be given PC for Command appointments. The rationale being that no such policy was envisaged in the initial notification and recruitment advertisement of 1992 and thereafter. They had worked in hostile and combat zones alongside their male counterparts demonstrating equal courage and bravery in leading from the front (see **Exhibit 4**). They had already worked as company commanders as Captains and Majors successfully. They further stated that denying them command posts would be a retrograde step by Indian army and highly derogatory and discriminatory for women.

Gender Bias. The Petitioners contended that women SSC officers had suffered conventional gender bias resulting in lack of career development, lack of job security and working subordinate to junior officers despite sufficient experience and capability. Besides the issue of grant of PC, the policies for women officers in the army also lowered their status to Junior Commissioned Officers (JCOs) as represented in **Exhibit 2**.

Epilogue

Both the sides had put forth their arguments. The apex court was deliberating on the issue; Justice Javeri reflected. The petitioners along with her friend Nirmala had been in the

waiting line since long. Though the issue had been zeroed down to grant of PC to women SSC officers, the battle seemed to be long drawn one against the discriminatory policy and practice in Indian Army. A judgment in favour would be a small step in paving the way for abolishing discrimination in other areas in the army such as opening up the combat postings for women. Would the judgment be in their favour? Would the esteemed Judges in the Supreme Court be able to see through the discrimination and go for a progressive judgment? The hearing and deliberations were over. The next day was 17th February 2020, the judgment day. She started pacing up and down. Would the armour plated ceiling be broken? Would the judgment be a milestone in the way of establishing gender justice??? Tomorrow would tell.

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Exhibit 1: Branches in the Armed Forces for Women SSC officers

Eligible women, who successfully qualified various tests, serve as Short Service Commissioned officers in the following branches of the Armed Forces.

- **Army:** Army Air Defence (AAD), Army Aviation Services (AAC), Electronic and Mechanical Engineering (EME), Signals, Engineers, Army Education Corps (AEC), Army Ordnance Corps (AOC), Army Service Corps (ASC), Intelligence (In) and Judge Advocate General's branch (JAG).
- **Navy:** All branches of the Navy (except submariners and divers).
- **Air Force:** Flying (transport aircraft and helicopters), Technical and Administration branches.
- **Coast Guard:** All branches of the Coast Guard

Exhibit 2: Benefits Offered in the Armed Forces Category wise

Categories	Pension	Ex-servicemen status(ESM)	Ex-servicemen contributory Health (ECHS)	Re-employment	Leave encashment
<i>PC Male Officers</i>	After 20 years	Yes	Yes	Yes	300 days
<i>JCO</i>	After 15 years	Yes	Yes	Yes	300 days
<i>SSC Male Officers</i>	Can opt for PC and authorized for all the benefits of PC officers after grant of PC				
<i>SSC Female Officers</i>	No pension	No ESM status	No ECHS facility	No provision for re-employment	90 days

Source: Compiled by author

Exhibit 3: Chronology of Major Events for Grant of PC since 2003

Sl. No	Event Date	Details
1	2003	PIL filed in Delhi High Court for grant of PC to Women Officers in armed forces at par with their male counterparts
2	2006	A policy revision extended SSC to women officers for 14 years. Writ petition filed against 2006 circular in October 2006 from rank & file
3	2007	A separate petition was filed for grant of PC
4	2008	The Centre issued circular providing for grant of PC in two departments: JAG and AES prospectively
5	2008	More petitions filed in Delhi High Court against 2006 and 2008 circulars claiming grant of PC to all departments and with retrospective effect
6	2010	Delhi High Court Bench ruled in favour of petitioners in March 2010 and directed the Union Government to extend permanent commission benefits to the SSC women officers of Air Force and Army.
7	2010	The army challenged the Delhi High Court order in Supreme court in July, 2010.
	2011	The army issued notice to release 11 women SSC officers in January 2011 on completion of tenure.
8	2011	The Supreme Court refused to stay the order of Delhi High court implying that the Government should implement the Delhi High Court order. It allowed application for impleadment and the operation of release order passed by Union of India on 19 th January 2011 was stayed.
9	2011	On 2nd September 2011, the Supreme Court directed the Union of India and Indian Army for reinstatement of the 11 women officers in terms of judgment of Delhi High Court subject to outcome of the appeal.
10	2012	Further impleadments allowed and release order of April 2012, stayed
11	2018	On May 9, Centre informs Supreme Court that grant of PC to women SSC officers is under active consideration of the Government.
12	2019	On 15 th August Union of India further to its circular in 2008 extended option of PC to women SSC officers in rest of the eight departments they have been working with. Thus, women SSC officers all the ten departments that they are part of can exercise the option for PC.

Source: <http://www.legalservicesindia.com>, Retrieved 4th April 2020.

Exhibit 4: Few Achievements of SSC Women Army Officers as tendered in their report

Name & Department	Achievement
Lieutenant Colonel Sophia Qureshi (Signals)	Successfully led 'Exercise Force 18', a multinational military exercise hosted in India. Part of UN Peace Keeping Force (UNPKF) in Congo, 2006.
Lieutenant Colonel Anuvandana Jaggi	Awarded the United Nations Force Commander's Commendation and an Appreciation Epistle for her commendable job as Women's Team Leader of the United Nations Military Observers Team in the UN mission in Burundi
Major Madhumita (AEC)	First woman officer in the country to receive the Gallantry Award.
Lieutenant Bhavana Kasturi	The first woman to lead an all men contingent of the Indian Army Service Corps
Lieutenant A Divya	Awarded the Sword of Honour in the Officers' Training Academy, Chennai in 2010
Major Gopika Ajitsingh Pawar	As a military member of the United Nations Interim Force in Lebanon awarded the United Nations Peacekeeping Medal.
Major Madhu Rana, Preeti Singh and Anuja Yadav	United Nation Medal awardees as military members of the United Nations Mission in the Democratic Republic of Congo;
Captain Ashwini Pawar (Army Ordinance Corps)	Awarded the Sena Medal by the President of India in 2007
Captain Shipra Majumdar (Army Engineer Corps)	Awarded the Sena Medal by the President of India in 2007
Major Gopika Bhatti	Successfully led complex tasks of transporting convoys of between thirty to fifty vehicles in the militant prone areas from Leh to Pathankot in 2010.
Captain Tania Shergill(Signals)	The First Republic Day parade adjutant to lead an all men contingent , 2020

Source: *The Secretary, Ministry of Defence s. Babita Puniya & Ors (Civil Appeal Nos 9367-9369 of 2011), Supreme Court of India. https://main.sci.gov.in/supremecourt/2010/20695/20695_2010_8_1501_20635_Judgement_17-Feb-2020.pdf, Retrieved 4th April 2020.*

Glossary of Terms Used in the Case:

- AAD: Army Air Defence
- AAC: Army Aviation Corps
- AEC: Army Education Corps
- AOC: Army Ordnance Corps

- ASC: Army Service Corps
- EME: Electronic and Mechanical Engineering
- JAG: Judge Advocate General
- JCO: Junior Commissioned Officer
- PC: Permanent Commission
- PIL: Public Interest Litigation
- SSC: Short Service Commission

Source: <http://joinindianarmy.nic.in/types-of-commission.htm>

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