

**"What are the implications of the Supreme Court's order granting permanent commission to women on a par with men? What are the issues in the case, and how did it reach the top court?"**

The Supreme Court on Monday brought women officers in 10 streams of the Army on a par with their male counterparts in all respects, setting aside longstanding objections of the government. The case was first filed in the Delhi High Court by women officers in 2003, and had received a favourable order in 2010. But the order was never implemented, and was challenged in the Supreme Court by the government.

### **Women in Army: Background of the case**

The induction of women officers in the Army started in 1992. They were commissioned for a period of five years in certain chosen streams such as Army Education Corps, Corps of Signals, Intelligence Corps, and Corps of Engineers. Recruits under the Women Special Entry Scheme (WSES) had a shorter pre-commission training period than their male counterparts who were commissioned under the Short Service Commission (SSC) scheme.

In 2006, the WSES scheme was replaced with the SSC scheme, which was extended to women officers. They were commissioned for a period of 10 years, extendable up to 14 years. Serving WSES officers were given the option to move to the new SSC scheme, or to continue under the erstwhile WSES. They were to be however, restricted to roles in streams specified earlier — which excluded combat arms such as infantry and armoured corps.

### **2 key arguments shot down**

The Supreme Court rejected arguments against greater role for women officers, saying these violated equality under law. They were being kept out of command posts on the reasoning that the largely rural rank and file will have problems with women as commanding officers. The biological argument was also rejected as disturbing.

While male SSC officers could opt for permanent commission at the end of 10 years of service, this option was not available to women officers. They were, thus, kept out of any command appointment, and could not qualify for government pension, which starts only after 20 years of service as an officer. The first batch of women officers under the new scheme entered the Army in 2008.

### **The battle in the courts**

In 2003, a PIL was filed before the Delhi High Court for grant of permanent commission (PC) to women SSC officers in the Army. Another writ petition was filed by Major Leena Gurav on October 16, 2006, primarily to challenge the terms and conditions of service imposed by circulars earlier that year, and to seek PC for women officers.

In September 2008, the Defence Ministry passed an order saying PC would be granted prospectively to SSC women officers in the Judge Advocate General (JAG) department and the Army Education Corps (AEC). This circular

was challenged before the Delhi High Court by Major Sandhya Yadav and others on the ground that it granted PC only prospectively, and only in certain specified streams.

The High Court heard the 2003, 2006, and 2008 challenges together, and passed its judgment in 2010. Women officers of the Air Force and Army on SSC who had sought permanent commission but were not granted that status, would be entitled to PC at par with male SSC officers, it ruled. However, this benefit was only available to women officers in service who had instituted proceedings before the High Court, and had retired during the pendency of the writ petitions. Women officers who had not attained the age of superannuation for permanently commissioned officers would be reinstated with all consequential benefits.

The government challenged the order in the Supreme Court, and even though the High Court judgment was not stayed, the Defence Ministry did not implement those directions. While the proceedings were on, the government passed an order in February 2019 for the grant of PC to SSC women officers in eight streams of the Army, in addition to the JAG and AEC, which had been opened up in 2008. But they would not be offered any command appointments, and would serve only in staff posts.

During the hearing, the government came up with a proposal whereby women officers of up to 14 years of service would be granted permanent commission in line with the letter of February 2019. Women officers with more than 14 years of service would be permitted to serve for up to 20 years without being considered for PC, but would retire with pension, and those with more than 20 years of service would be released with pensionary benefits immediately.

#### **Order and its implications**

The government put forth other arguments before the Supreme Court to justify the proposal on the grounds of permanent commission, grants of pensionary benefits, limitations of judicial review on policy issues, occupational hazards, reasons for discrimination against women, SSC as a support cadre, and rationalization on physiological limitations for employment in staff appointments.

The apex court has rejected these arguments, saying they are “based on sex stereotypes premised on assumptions about socially ascribed roles of gender which discriminate against women”. It has also said that it only shows the need “to emphasise the need for change in mindsets to bring about true equality in the Army”.

The SC has done away with all discrimination on the basis of years of service for grant of PC in 10 streams of combat support arms and services, bringing them on a par with male officers. It has also removed the restriction of women officers only being allowed to serve in staff appointments, which is the most significant and far-reaching aspect of the judgment.

It means that women officers will be eligible to tenant all the command appointments, at par with male officers, which would open avenues for further promotions to higher ranks for them: if women officers had served only in staff, they would not have gone beyond the rank of Colonel.

It also means that in junior ranks and career courses, women officers would be attending the same training courses and tenanted critical appointments, which are necessary for higher promotions.

The Army had not officially responded to the judgment until evening, although Defence Minister Rajnath Singh welcomed it. The implications of the judgment will have to be borne by the human resources management department of the Army, which will need to change policy in order to comply.

But the bigger shift will have to take place in the culture, norms, and values of the rank and file of the Army, which will be the responsibility of the senior military and political leadership. After the Supreme Court’s progressive decision, they have no choice but to bite the proverbial bullet.

### Expected Questions (Prelims Exams)

**Q. Consider the following statements in context of the new decision of the Supreme Court on the objection filed by the government to the petition of women army officers:**

1. All serving women officers will be eligible for permanent commission.
2. Women officers will be eligible for permanent commission in 15 departments of the army.
3. Women officers will now be eligible for all command posts.

Which of the above statements is / are correct?

- (a) 1 and 2                      (b) Only 2  
(c) 2 and 3                      (d) Only 3

**Note:** Answer of Prelims Expected Question given on 17 Feb., is 1 (c)

### Expected Questions (Mains Exams)

**Examine the feasibility of the Supreme Court's decision to give women equal rights equivalent to men in the military. (250 words)**

**Note: - The question of the main examination given for practice is designed keeping in mind the upcoming UPSC main examination. Therefore, to get an answer to this question, you can take the help of this source as well as other sources related to this topic.**

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