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**PERMANENT COMMISSION FOR FEMALE ARMED FORCE
OFFICERS (THE SECRETARY, MINISTRY OF DEFENCE v. BABITA
PUNIYA & ORS)**

- Aishwary Thapliyal¹

ABSTRACT

This research paper tells us about the struggle of the women to permanent commission in the Indian army. In all three defence forces, Indian Air force was the first defence force to grant Permanent commission to women. This is the struggle began in 2003 when the advocate Babita Puniya instituted the petition in Delhi High Court. In 2010, the judgment of the Hon'ble High court was in the favour of the petitioner. Then, the union challenged this decision in the Hon'ble Supreme Court of India, the supreme court also restored the decision of the Hon'ble Delhi High court.

INTRODUCTION OF THE CASE

The permanent commission case for females as armed force officers was a case to celebrate all over the country as it gives "Right to Equality" among all. It tells that the Constitution of India is equal for all whether men or women.

Now coming to the topic which is "PERMANENT COMMISSION FOR FEMALE ARMED FORCE OFFICERS" Babita Puniya case. In Defense Force, the Indian Air Force was the first to grant 'PERMANENT COMMISSION (Jasmine Kaur v. Union of India) to women. Lieutenant Colonel Seema Singh was the first one to file the case for permanent commission in the army. Countries such as the United Kingdom, the United States and Israel have commissioned women in their armed forces. Now India has also on the correct path. The order will be helpful for women who want to join the armed forces in future.

HISTORY OF THE CASE

It was all started in 2003 when, Babita Puniya, an advocate instituted a writ petition in the form of PIL before the Delhi High Court for granting a PC to women SSC Officers in the

¹Student, Law College Dehradun, Uttarakhand University.

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army. Major Leena Gaurav also filed a writ petition on 16 October 2006 to challenge the terms and conditions of service imposed on circulated dates 20 July 2006 and for the Permanent commission of women officers in the army.

This was a very long struggle that began in 2003 which was started by a common civilian “BABITA PUNIYA” who filed a PIL in Delhi High Court was represented by Rakhi Palli. Several Petitioner also joined them and in 2010 Delhi High Court decision in their favour. Lawyer Aishwarya Bhatti who was representing over 50 petitioners called the policy discriminatory.

Both the petition were heard together by the Division Bench of Delhi High Court and the judgement was delivered on 12 March 2010. The Delhi High Court issued a judgement granting PC to women in the Army, and quash the union’s appeal which directed the union to appeal to Supreme Court

Judges who delivered the judgement in Delhi High Court were Justice Sanjay Kishan Kaul and Justice Mool Chand Garg. Delhi High Court Judgement was delivered under Article 14, Article 15, Article 16, and Article 21 of the Constitution of India. Justice Sanjay Kishan Kaul also mentioned that ‘Nature gave women too much power but the law gave them too much little’.

The union was not satisfied with the Delhi High Court Decision, so the union decided to appeal before the Hon’ble Supreme Court. The union challenged the Delhi High Court judgement and issue which was raised by union in SC were-

Grant of PC, Pensionary Benefits, Policy Considerations, Occupational Hazards, Discrimination, child care leave, maternity leave, SSC support as Cadre, Employment in staff appointment.

ARGUMENTS OF THE RESPONDENTS

Battle field Scenario, Unit cohesion, National Security, no pensionary and promotional benefits, a claim of the appellant was the enemy was discriminatory and thirty percent of women are posted in a combat zone, due to gender discrimination, only male officers are eligible to take PCs.

The decision of Supreme Court by the bench of Hon'ble Dr Chandrachud, Hemant Gupta was that-

Women officers on SSC shall be considered for the grant of PC whether they have crossed they have fourteen or twenty years of service, It should be granted to all women in service as SSC officers, The Delhi High Court decision is affirmed in this case, SSC women officers who are granted PC will be titled with all the promotion and financial benefits.

ANALYSIS OF THE CASE

The court's analysis-

A-Delhi High Court's decision analysis-

The decision was delivered by Justice Sanjay Kishan Kaul and Mool Chand Garg. Justice Sanjay Kaul told that women don't have power according to law. This matter of women's serving in the armed force as it is an important matter of discussion as it is the discrimination against women. It is putting the men above the women in society. If women join the armed force, it will be the more modernization of the armed force. In some countries, women are part of combat forces and some countries.

Are thinking about this issue. In India, this issue has been a slow and steady process and it has not received favourable support from any government. In SSC servicewomen can only serve for 14 years in the armed forces.

Not granting PC's to these women officer's, will face the consequence of keeping them deprived of certain benefits like pension benefits, ex-service man status, medical benefits etc.

In our country, the Indian Air Force in 1991 was the first to induct women on Non-Tech Ground Duty branches as SSC officer's and the intake of women officer's in the Indian Air force would be restricted to 10 percent. The women officers would initially be granted SSC for 5 years and at the end of SSC tenure, the willing officer's would be asked for PC's and officers unwilling for PC but seeking a job extension would be granted a six-year extension. But some terms & conditions for women in Non-Tech Ground Duty branches were-

- 1- The age limit for graduates was 22 to 26 and the age limit for non-graduates were – 20 to 25 and 27 who were perusing higher education like P.H.D, M.TECH etc.
- 2- Entry Qualification- 1st class graduate/2nd class post-graduate in a subject which is mentioned in the advertisement at the time of selection.
- 3- Mode of Selection will be directed by Air Force through advertisement.

- 4- Candidates selected will be granted SSC on successful completion of 52-week training at Air force Academy. Failure to pass the required examination will result in suspension from the course.
- 5- Term of Engagement will be of 5 years from the day of commission and on completion of this period, the officer may opt for PC's or another SSC's tenure of 6 years.
- 6- SSC officers who will be granted PC will be eligible for all benefits which are for PC's officers.

The Delhi High Court Judgement was given under Articles 14, 15, 16, & 21B-The Supreme Court Judgement analysis-

The judgement was given by the bench of Justice DY Chadrachud and Justice Ajay Rastogi. The Supreme Court gave the judgement that-

- 1- All SSC serving women will be granted the status of PC'S whether they have served the service of fourteen years or twenty years.
- 2- All the specialisation which will be available to women officers will be as same which are available to a male officer. No difference between males and women.
- 3- SSC women officers who will be granted PC will be entitled to all financial and promotion benefits.
- 4- The Delhi High Court was restored in this issue.

AUTHOR'S ANALYSIS

According to my, I was satisfied with Supreme Court and Delhi High court decision, as it tells us that right of women is available in our Constitution of India. It also tells us that we are the country that treats men and women equally. As in India goddess is worshipped, so women also should be part of combat forces as they have equal power as men have. Women should be PC in the armed force as when they were SSC, they were not provided with promotion and other financial benefits but now after the SC decision, they will be provided with all the benefits whether it is financial or promotion benefits.

The judgment was given under grounds-

- 1- According to Article 15, prohibition of discrimination on the ground of religion, caste, sex etc. In the above-mentioned case, it was regulating Article 15 of the Constitution of India.

- 2- Article14, which is Every person is equal be for the law. Right to Equality
- 3- Article16, equality of opportunity in public employment like states etc.
- 4- Article21, no person shall be deprived of his life, personal liberty.

Right to Life.

According to me, the most important and turning point of the case which turned the case towards respondent i.e., Babita Puniya was Article 14 & Article 15 of the Constitution of India. This case is the most important as it has now opened an opportunity for women who were interested to serve armed forces and it has also raised the opportunity for women officers to raise to the high post of armed force like Chief of Army Staff, Chief of Naval Staff, Chief of Air force. We have never had any women as their chief but now we have an opportunity and I hope in future we have a woman as chief of these armed forces.

