



# Marriage Can't be Grounds to Sack Women from the Military

**For Prelims:** Marriage can't be Ground to Sack Women from Military, [Supreme Court \(SC\)](#), [United Nations Peacekeeping Missions](#).

**For Mains:** Marriage can't be Ground to Sack Women from Military, Government policies and interventions for development in various sectors and issues arising out of their design and implementation.

[Source: IE](#)

## Why in News?

Recently, the [Supreme Court \(SC\)](#) has directed the Ministry of Defence to pay Rs 60 lakh in compensation to a former permanent commissioned officer in the **Military Nursing Service (MNS)**.

- It is ruled that the officer was “wrongly” released from **service in 1988 on grounds of her marriage**.

## Note

As of Aug 2023, over 7,000 women personnel are serving in the Indian Army followed by 809 in the Indian Air Force and 1306 in the Navy.

## What are the Key Facts of the Case?

- **Background:**
  - **Former permanent commissioned officer of the MNS**, was released from employment in **1988 on grounds of her marriage**, as stipulated by Army **Instruction No. 61 of 1977** titled “**Terms and Conditions of Service for the Grant of Permanent Commissions in the Military Nursing Service.**” It was later withdrawn by a letter dated 9<sup>th</sup> August, 1995.
  - It governed the **terms and conditions of MNS**.
    - Clause 11 dealt with the termination of an appointment on certain grounds. These included “**being pronounced** by a medical board to be unfit for further service in the Armed Forces”; **getting married; misconduct; breach of contract, or if services are found unsatisfactory.**”
  - In 2016, she sought recourse through the **Armed Forces Tribunal (AFT)**, established under the Armed Forces Tribunal Act of 2007 to adjudicate disputes related to commission, appointments, enrollment, and conditions of service. The **AFT deemed her termination**

**"illegal" and directed her reinstatement with back wages.**

- However, the **Central government contested this ruling by moving the Supreme Court** in the case titled **'Union of India & Others vs. Ex. Lt. Selina John'**.

▪ **SC's Observations:**

- The SC stated that her release from the service was **"wrong and illegal"**.
- The court also rejected the Centre's argument, based on a **rule in force at the time.**
  - Such **rule was ex facie manifestly arbitrary**, as terminating employment because the **woman has got married** is a coarse case of gender discrimination and inequality.

## Policy Framework to Recruit Women Military Officers

- Women officers were initially inducted into the Indian Army under the **Women Special Entry Scheme (WSES) in 1992.**
  - Under WSES, they served **for five-year periods in certain streams**, like the Army Education Corps and the Corps of Engineers.
- However, they faced restrictions on certain roles, such as infantry and armored corps.
- In **2006, WSES was replaced by the Short Service Commission scheme**, which allowed women officers the option to switch from WSES to SSC.
  - Men under SSC were commissioned for ten years, extendable up to fourteen years. Men in SSC have an option to **opt for a PC.**

## How has the SC Acted in Favour of Women Officers in the Armed Forces?

▪ **Union of India v. Lt Cdr Annie Nagaraja Case, 2015:**

- In 2015, seventeen **women officers who had joined the Indian Navy** as Short Service Commissioned (SSC) officers in various cadres (such as Logistics, Law, and Education) filed writ petitions **before the Delhi High Court.**
- These officers had **completed fourteen years of service as SSC** officers but were not considered for the grant of **Permanent Commissions (PCs)** and were subsequently discharged from service.
  - In 2020, the SC held that serving women Short Service Commission Officers in the Indian Navy were entitled to Permanent Commission at par with their male counterparts.

▪ **Secretary, Ministry of Defence vs. Babita Puniya Case, 2020:**

- In February 2020, SC upheld the demands of women in the SSC, stating that seeking a **Permanent Commission (PC) or a full-length career was "justified"**.
- Before the ruling, only male officers on Short Service Commission (SSC) could opt for PC after 10 years of service, leaving women unable to qualify for a government pension.
- The court's decision brought women officers in **10 streams of the Army at par with men.**

▪ **Government's Arguments:**

- The Centre argued that the issue was a matter of policy, adding that **Article 33** of the Constitution allows **fundamental rights to be restricted** when it comes to the armed forces.
- It also argued that there were "dangers involved in serving in the army" and adverse service conditions including **"absence of privacy** in field and insurgency areas, maternity issues and child care".
  - The case was first filed in the Delhi HC by **women officers in 2003** and the **HC awarded Permanent Commissions to women officers** in all branches where they were serving in 2010.

▪ **Following the 2020 Ruling:**

- Following the 2020 ruling, the Army constituted the **Number 5 Selection Board**, directing the Army to induct all eligible female officers as Permanent Commission (PC) officers.
- The **special board came into effect in September 2020**, led by a senior general officer. It also includes a woman officer of the rank of brigadier.

- Here, women officers qualifying for the screening process will be granted PC status, subject to being in the acceptable medical category.
- **Permanent Commission for Women In Indian Coast Guard:**
  - In **Priyanka Tyagi v. Union of India Case, 2024**, SC underscored the necessity for the Central government to ensure **that eligible women officers receive permanent commission in the Indian Coast Guard.**
  - The Attorney General presented arguments citing operational challenges in granting permanent commissions to women officers.
    - However, the Court dismissed these arguments, emphasising that in the year 2024, such justifications hold no merit.
  - The SC further urged the Centre to develop a **gender-neutral policy on this matter**, calling for a departure from patriarchal norms.
    - This instance underscores the ongoing struggle for gender equality and the necessity for proactive measures to ensure women's inclusion and empowerment in all spheres of society, including the armed forces.

## What is the Significance of Increasing the Representation of Women in the Armed Forces?

- **Gender is not a Hindrance:** As long as an **applicant is qualified for a position**, one's gender is arbitrary. In the modern high technology battlefield, technical expertise and decision-making skills are increasingly more valuable than simple brute strength.
- **Military Readiness:** Allowing a **mixed gender force keeps the military strong.** The armed forces are severely troubled by falling retention and recruitment rates. This can be addressed by allowing women in the combat role.
- **Effectiveness:** The blanket restriction for women limits the **ability of commanders in theatre to pick the most capable person for the job.**
- **Tradition:** Training will be required to facilitate the **integration of women into combat units.** Cultures change over time and the masculine subculture can evolve too.
- **Global Scenario:** When women officially became eligible for combat positions in the **American military in 2013**, it was widely hailed as another step towards the equality of sexes. In **2018, the UK military lifted a ban on women serving in close combat ground** roles, clearing the way for them to serve in elite special forces.

## What is MNS?

- MNS is the **only all women corps of the Armed Forces.** The MNS, an integral part of the **Armed Forces Medical Services (AFMS)**, encompasses the Army Medical Corps (AMC) and Army Dental Corps (ADC).
- The mission of Military Nursing Service is **'Excellence in patient care'** both in peace and war.
  - Officers of Military Nursing Service have always been resilient in meeting the ever changing and expanding demands of AFMS clientele in health care services and became the front line warriors in the healthcare system.
- Personnel of the AFMS serve in India's medical establishments and have actively participated in [United Nations Peacekeeping Missions](#) abroad.
- **Military nurses marched in the 2024 Republic Day parade for the first time**, they were still denied the status of ex-servicemen.
  - In February 2024, the Punjab and Haryana HC ruled that MNS officers cannot be denied ex-serviceman status under the **Punjab Recruitment of Ex-Servicemen Rules, 1982.**
  - Under this, officers who were released from service on completion of their term with a gratuity (as SSC officers do), are categorised as ex-servicemen.

## Way Forward

- Implement comprehensive policy reforms to eliminate discriminatory practices and ensure equal

opportunities for women officers, including granting them equal access to permanent commissions across all branches and ranks.

- Conduct regular awareness programs and sensitivity training for military personnel to promote a culture of gender equality, respect, and inclusion within the armed forces.
- Establish support systems and facilities tailored to the needs of women officers, including provisions for maternity leave, childcare assistance, and adequate medical facilities.

## **UPSC Civil Services Examination, Previous Year Questions (PYQs)**

### **Prelims**

**Q. Which of the following gives 'Global Gender Gap Index' ranking to the countries of the world? (2017)**

- (a)** World Economic Forum
- (b)** UN Human Rights Council
- (c)** UN Women
- (d)** World Health Organization

**Ans: (a)**

### **Mains**

**Q. What are the continued challenges for Women in India against time and space? (2019)**

**Q. Discuss the desirability of greater representation to women in the higher judiciary to ensure diversity, equity and inclusiveness. (2021)**

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