

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.....D.No..53205 OF 2024

PRIYANKA SAXENA

... APPELLANT

Versus

UNION OF INDIA & ORS.

... RESPONDENTS

O R D E R

1. Delay condoned.

2. The appellant joined the Indian Air Force (for short 'IAF') at the Air Force Academy, Hyderabad in January 2002 and after her commissioning on 20th December, 2003, she joined the 41 Wing, Jaisalmer as her first posting. Subsequently, she got married to late Wing Commander Harshit Sinha on 13.11.2006. Even after her marriage, the appellant had continued her services in the Indian Air Force, maintaining dedication and loyalty to her work. She also received the award of Commendation by Air Officer Commanding-in-Chief, HQ WAC AF. The appellant

gave birth to her first daughter, Vanshika Sinha, on 22nd May, 2012.

Subsequently, due to her family commitments and for the purpose of looking after the child and supporting her husband, who was a fighter pilot, she expressed

unwillingness for further extension of service or permanent commission and left the service without opting for any extension of service. On 15.06.2016, the appellant gave birth to her second daughter, Miss Vanisha Sinha. The appellant's husband was posted to Srinagar, where he was the Flight Commander of the fighter squadron, 51 Squadron, "Sword Arms". Unfortunately, her husband met with a tragic death due to MiG-21 Bison aircraft crash near Jaisalmer Airfield on 24.12.2021.

3. Subsequent to this, the appellant submitted a series of applications to various officials of the IAF, and other authorities requesting that she be reinstated in the IAF, considering the fact that she had already served 10 years as a Short Service Commissioned Officer. However, the request for reinstatement was not acceded to, citing various policies of the Government of India and instructions. On 11.4.2022, the appellant was informed that her case for reinstatement has not been recommended by the competent authority and, therefore, rejected.

4. The appellant filed Original Application No. 2157 of 2022 before the Armed Forces Tribunal, Principal Bench, New Delhi (for short, 'the Tribunal') seeking the following relief:

“(a) To call for records on the basis of which the Respondents have not considered her case for grant of age relaxation to join the Indian Air Force in the special category of Veer Nari by taking into consideration her past 10 years of SSC service which she has rendered as Logistics Branch Officer by either granting her re-commission/reinstatement or even extending the method by treating her as a fresh case of appointment to bring her case within the policy framework with further order of grant of benefit of Past Service for the purpose of rank, seniority, pay protection and other benefits as well as rejected her case In terms of impugned orders dated 02.02.2022, 07.02.2022 and 11.04.2022, and thereafter quash the same.

(b) Direct the respondents to induct the applicant as an officer in the Indian Air Force with all consequential benefits by either granting her re-commission/reinstatement or to bring her case within the policy framework and treat her case as fresh case of appointment for the purpose of induction only with further direction to extend the benefit of past service of 10 years rendered by the applicant as SSC Officer for the purpose of training, rank, seniority, pay protection and other benefits.

(c) Pass such and other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case."

5. The appellant, relying upon her service profile from the time of her commissioning in December 2003 until her release in December 2013, submitted that she is seeking only a relaxation of the prescribed age criteria and reinstatement in service. She contended that, having regard to her status as a widow of a defence personnel who had herself previously served in the Armed Forces, she ought to be granted an additional relaxation in the prescribed age limit so as to enable her to seek re-entry into the Armed Forces. The appellant further contended that several similarly situated persons had been granted such relaxation and emphasized that, with the increasing induction of women into the Armed Forces, it was incumbent upon the Government of India to take cognizance of this emerging category and suitably modify its policy to accommodate aspirants similarly situated to her. The appellant submitted that the mere absence of an existing policy governing such cases could not, by itself, constitute a justification for declining to examine her case. She, therefore, prayed that the existing policy be reviewed and suitably modified to make it inclusive of persons similarly situated to her, namely, women officers who had previously served in the Armed Forces and had subsequently become widows of defence personnel.

6. The respondents opposed the prayer of the appellant and contended that she had given up on her claim for continuation or permanent commission in 2013 and, therefore, her rights ceased to exist and she has no fundamental right to seek reinstatement or re-employment. The respondents contended that there is an eligibility criteria which has been fixed at a maximum of 35 years by policy letter dated 30.11.2017, and since the appellant has crossed that age of 35, her case cannot be considered and relaxation cannot be granted to her, and that, at best, they can only provide assistance for seeking alternate employment through the placement cell of the Indian Air Force.

7. The Tribunal took note of the issue as to whether the services need to have appropriate policy to facilitate the return of women officers, who are unfortunately widowed, placed in a compelling situation, and seeking re-entry into the services, when in the first place they may not have been found fit for extension/grant of permanent commission.

8. The Tribunal took note of the policy of 30.11.2017, which was essentially to provide an opportunity to the family of a service personnel, who dies in harness, to have another breadwinner who is willing to serve the armed forces and, therefore, are given relaxation in age for entry into pre-commission training. It also considered that the selection for extension/permanent commission apart, the fact remains that such officers who are released at 10/14 years are a trained pool of officers who can still contribute to the organisation, if given an opportunity to re-enter the services and also, it is an opportunity to rehabilitate our "Veer Naris". The Tribunal took note of the fact that this class of women officers do not have a policy under which they can seek consideration for re-entry into the services. The Tribunal, therefore, felt that the Government need to review the policy letter dated 30.11.2017 to make it inclusive for this class of women officers and also, that the Union could

also review the mode of induction in such cases and examine whether a separate pre-induction training would suffice in place of the regular pre-commission training as being done. The Tribunal disposed of the application on 18.05.2023 with the following directions:

“(a) Examine the necessity of having a suitable policy for women SSCOs who have since been released from service, and are widowed when their spouses serving in the Armed Forces die in harness, and they wish to re-join the Services due to the compelling circumstances.

(b) In the light of the above, review the policy letter dated 30.11.2017 as applicable.

(c) File a compliance report within three months of this order, giving details of the decisions arrived at.

(d) The exercise as indicated in '(a)' above be undertaken within a period of three months and in case the policy change accrues in favour of such a category, the benefit thereof be extended to this applicant.”

9. Thus, no effective relief was granted to the appellant herein and the OA was closed with the above directions. Subsequently, the appellant filed MA No. 2390 of 2024 with MA 2391/2024 in OA No. 2157 of 2022, seeking compliance of the directions. However, the Union of India filed a short affidavit, in which it was pointed out that a decision has been taken and the minutes were recorded as below:

“21. Chairman PPOC directed that as there is an existing policy on the subject of induction of widows of Armed Forces personnel into the Armed Forces, a separate policy is not needed on the subject”

10. By its order dated 02.07.2024, the Tribunal rejected the prayer made by the appellant.

11. The present Civil Appeal was filed before this Court, along with leave to appeal under Section 31 of the Armed Forces Tribunal Act, 2007, as against the impugned final judgment and orders dated 18.5.2023 and 02.07.2024 passed in OA No.2157 of 2022 and MA No.2390/2024 with MA 2391/2024 in OA No.2157/2022 by the Tribunal.

12. This Court, vide order dated 09.12.2024, granted leave to appeal and issued notice on the application seeking condonation of delay as well as on the appeal.

13. In the subsequent hearing dated 23.07.2026, the respondents were directed to seek instructions. The respondents contended that since the appellant has been released from service at her own will and after completion of initial SSC tenure, she cannot be reinstated under the ambit of the judgment in Secretary, Ministry of Defence vs. Babita Puniya and others, (2020) 7 SCC 469. The only compassionate relaxation permitted for widows of armed forces member is their age eligibility criteria for pre-commissioning training. It was explained that the appellant was also not covered under that criteria for joining.

14. We have heard learned counsel, appearing on behalf of the appellant as well as learned Additional Solicitor General of India, appearing on behalf of the respondents and carefully perused the material placed on record.

15. We have taken note of the fact that the case of the appellant is a very peculiar one and not covered by any of the policies in existence framed by the Union of India. The contentions raised as far as the eligibility and the age relaxation of the appellant are without considering the fact that the appellant has served in the armed forces earlier as a Short Service Commissioned Officer, and in normal course ought to have got the benefit of relaxation of age as provided by the Government, even for a SSC officer in civil services. The appellant's case is one of a widow of a fighter

pilot who was serving in the Indian Air Force and who lost his life in an aircraft crash. The appellant is a war widow having two school-going minor daughters, and her case deserves to be considered sympathetically. The respondents have formulated a Policy for war widows with a noble object for their rehabilitation by giving them various concessions, including reservation of seats but a class of such war widows like the appellant have been left out completely. It seems to us that the appellant's past service ought to have been given weightage, and her experience of service need not even require her to undergo a fresh training, a fresh pre-commission training, which is mandatory in case of other war widows who are inducted based on their academic qualification. This is a case of the appellant becoming eligible on both counts; her being an ex-Air Force officer, and she being a war widow of an Air Force officer.

16. Considering the peculiarity of the facts of the present case, and the circumstances under which the appellant had to approach the Court for reinstatement, and exercising our powers under Article 142 of the Constitution of India, we direct that the case of the appellant be treated as a single case without creating any precedent, and she be re-inducted and reinstated into the Air Force in the following terms :

1. The appellant is to undergo refresher training for a period of one year from next course, as applicable.
2. During the training, the appellant will be governed by the rules and regulations as applicable to trainees.
3. The appellant is to undergo and clear the medical requirements for re-instatement.
4. On completion of training, the appellant would be reinstated as Squadron Leader in the eleventh year of service (counting her previous

service rendered).

5. The appellant shall continue to be a short service commissioned officer and would be granted extension of four years as per policy.

6. The appellant's *inter-se* seniority will be fixed along with her current peer group only and she shall be considered for Permanent Commission, promotion etc. in future as per policy applicable along with her current peer group.

17. Accordingly, we allow the present appeal with a direction that the appellant shall be reinstated in the Indian Air Force, subject to the conditions mentioned above. The impugned orders of the Armed Forces Tribunal, Principal Bench, New Delhi, dated 18.05.2023 and 02.07.2024 are hereby set aside.

18. It is clarified that the present order has been passed keeping in view the peculiar facts and circumstances of this case, and it shall not be treated as a precedent in any other case.

19. As a sequel to the above, the pending interlocutory application, if any, also stand disposed of. No costs.

.....CJI.
(SURYA KANT)

.....J.
(JOYMALYA BAGCHI)

.....J.
(V. MOHANA)

NEW DELHI;
SEPTEMBER 21, 2026.

ITEM NO.45

COURT NO.1

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEALDiary No(s).53205/2024

PRIYANKA SAXENA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

IA No. 278324/2024 - CONDONATION OF DELAY IN FILING

Date : 21-09-2026 This matter was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE JOYMALYA BAGCHI
HON'BLE MRS. JUSTICE V. MOHANA

For Petitioner(s) Mr. S.S. Pandey, Adv.
Mr. Abhishek Ritabh Shukla, AOR
Mr. Naman Jain, Adv.
Mr. Roshan Kumar, Adv.
Mr. H.S. Tiwari, Adv.
Ms. Garima Singh, Adv.
Ms. Nandita Lal, Adv.

For Respondent(s) Ms. Aishwarya Bhati, A.S.G.
Mr. Mohan Prasad Gupta, Adv.
Ms. Chitrangda Rastravara, Adv.
Ms. Aarushi Singh, Adv.
Mr. Shubham Prakash Mishra, Adv.
Ms. Shreya Jain, Adv.
Mr. Abhijeet Singh, Adv.
Ms. Atmika Patnaik, Adv.
Mr. Shreekant Neelappa Terdal, AOR

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

The appeal is allowed in terms of the signed order.

As a sequel to the above, the pending interlocutory application, if any,
also stand disposed of. No costs.

(SATISH KUMAR YADAV)
ADDITIONAL REGISTRAR

(PREETHI DILEEP KUMAR)
DEPUTY REGISTRAR

(Signed order is placed on the file)