



## C. B. MUTHAMMA V/S GENDER BIAS IN CIVIL SERVICE

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Utheerna\*

### INTRODUCTION

Gender bias is the tendency to prefer one gender over another. It is a type of unconscious bias or implicit bias in which one person unconsciously associates attitudes and stereotypes with another person or group of people. These biases can influence how many individuals perceive and interact with others. Gender discrimination is another phrase that is frequently used interchangeably with gender bias. It refers to the unequal treatment of a person or group of people due to gender-based prejudice.

From the distribution of toys among children to providing essential resources such as nutrition and education to the male child alone, while the female child is married off at a young age, deprived of formal education. Such bias is ingrained from the earliest stages of childhood. Gender bias manifests in various domains, such as education, employment, healthcare and societal interactions, leading to disparities in opportunities and outcomes.

In ancient India, women were often seen as equals to men. They had the right to education and could participate in religious rituals. Women held significant roles in society and were respected for their wisdom and contributions. However, over time, these rights began to diminish, and gender roles became more rigid. During the medieval period, the status of women saw a decline. Societal norms became stricter, and women were often confined to domestic roles. Practices like child marriage and purdah (veiling) became more common, further limiting women's freedom and rights.<sup>1</sup>

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<sup>1</sup> 'Gender Equality in India: A Historical Perspective And Modern Realities' (Sleepy Classes IAS)

<https://sleepyclasses.com/gender-equality-in-india-a-historical-perspective-and-modern-realities/> accessed on 14 September 2025

C. B. Muthamma vs Union of India<sup>2</sup> stands as a landmark judgment in independent India. It was a monumental fight against gender bias in the Indian Civil Services. Chonira Belliappa Muthamma was the first woman to clear one of the toughest exams, the Union Public Service Commission exams, in 1948. She also became the first woman IFS officer and High Commissioner. This case challenged the systematic biases that crippled women in matters of recruitment and promotion. She challenged service conditions that required women in service to resign if they ever married, which, at the time, violated the Right to Equality<sup>3</sup> enshrined in the Constitution of India. Despite her merit, she was also denied promotion from grade 2 to grade 1 on account of her gender, which led her to file public interest litigation in the apex court. Her case highlights the deep-rooted gender bias that women cannot simultaneously manage both official duties and domestic commitments, which restricts women to a limited choice of either sacrificing professional ambition to have a family or sacrificing family goals entirely for professional stakes. This case remains significant not only as Muthamma's personal fight but as a fight for the right of equality and dignity in public employment that helped pave the way for other women.

### **FACTS OF THE CASE**

The writ petition was filed under Article 32<sup>4</sup> of the Indian Constitution. This petition was filed against the gender discrimination faced by the petitioner for over 30 years while in service. When the petitioner qualified for UPSC, the chairman of UPSC tried to discourage her from joining the foreign service at the time of her interview. Further, the chairman had used his influence as chairman to give her minimum marks in the viva. To join the service, she had to write an undertaking that if she were to get married, she would resign from the service as per Rule 8 (2).<sup>5</sup> Male officers junior to her were promoted, while she was denied promotion despite being meritorious and in service for over 30 years.

The petition was also filed against Rule 18(4)<sup>6</sup> which discriminated against women and were contrary to Article 14, 15(1) and 16(2)<sup>7</sup> which prohibits discrimination against any person regardless of her religion, race, caste, sex or place of birth.

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<sup>2</sup> AIR 1979 SC 1868

<sup>3</sup> The Constitution of India, 1950, Art.14 -18

<sup>4</sup> The Constitution of India, 1950, Art.32

<sup>5</sup> The Indian Foreign Service (Conduct & Discipline) Rules, 1961.

<sup>6</sup> The Indian Foreign Service (Recruitment Cadre, Seniority and Promotion) Rules, 1961.

<sup>7</sup> The Constitution of India, 1950.

**ISSUES RAISED**

1. Whether the Petitioner was denied promotion on account of her gender.
2. Whether Rule 8(2) of the Indian Foreign Service (Conduct and Discipline) Rules 1961 and Rule 18(4) of the Indian Foreign Service (Recruitment, Cadre Seniority and Promotion) Rules 1961 are a gross violation of fundamental rights enshrined in Article 14 and 16 of the Constitution.

**ARGUMENTS BY PETITIONER (D.P. Singh, L.R. Singh and Sukumar Sahu, Advs)**

The petitioner argued that before joining the Indian Foreign Service, she was asked to sign an undertaking as per Rule 8(2)<sup>8</sup> which states the following:

*Rule 8(2) – “In cases where Sub-rule (1) does not apply, a woman member of the service shall obtain the permission of the Government in writing before her marriage is solemnised. At any time after the marriage, a woman member of the Service may be required to resign from service, if the Government is satisfied that her family and domestic commitments are likely to come in the way of the due and efficient discharge of her duties as a member of the service.”*

It was further argued that Rule 18(4)<sup>9</sup> was discriminatory against women. It stated the following: *Rule 18(4)- “No married woman shall be entitled as of right to be appointed to the service.”*

These rules were a gross violation of her fundamental rights enshrined in Articles 14, 15 and 16. The petitioner argued that the chairman of UPSC tried to dissuade her from joining the foreign service and used his influence by asking the appointment committee to give her minimum marks in viva. The petitioner argued that she was denied promotion while many officers who were junior to her were promoted without considering factors like seniority in service, merit and age.

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<sup>8</sup> The Indian Foreign Service (Conduct & Discipline) Rules, 1961.

<sup>9</sup> The Indian Foreign Service (Recruitment Cadre, Seniority and Promotion) Rules, 1961.

## **ARGUMENTS BY RESPONDENT (Soli J. Sorabjee, Solicitor General and A. Subhashini, Adv)**

The respondent, via the counter affidavit, averred that Rule 18(4)<sup>10</sup> was deleted on 12 November 1973. The Central Government, in their affidavit, averred that Rule 8(2)<sup>11</sup> was in the process of rescinding, as the deletion was being gazetted.

The respondent argued that the petitioner was promoted and appointed as Ambassador of India to the Hague after the institution of the proceedings. The central government argued that her promotion had been withheld due to a lack of meritocracy and not gender bias. She was duly promoted after being qualified for promotion.

## **JUDGEMENT AND RATIONALE OF THE CASE**

In this landmark judgement, the division bench, which was made up of Justice V.R. Krishna Iyer and Justice P.N. Shinghal, ruled on 17 September 1979 that the 2 impugned rules were prima facie discriminatory in nature. But as the impugned rules were already in the process of oblivion, the bench decided to relieve itself of the need to strike the rules.

The bench acknowledged the petitioner's grievance on seniority in the service and directed a review of the credentials of the officers who were promoted before her, alongside the petitioner. Further, the bench stated that "*The sense of injustice rankles and should be obliterated so that every servant in a strategic position gives of his or her best to the country.*"<sup>12</sup>

Finally, the apex court dismissed the petition as the respondent after institution of the proceedings found the petitioner meritorious, who was unqualified a few months before the proceedings, therefore promoting and appointing the petitioner as an ambassador. Since the petitioner was promoted, the court deemed that further probe would be futile. But the bench stressed that the petition was dismissed, but not the problem.

## **ANALYSIS**

This was a landmark judgment which, for the first time, upheld the rights of women not to be discriminated against in employment based on their marital status. The bench observed whether

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<sup>10</sup> The Indian Foreign Service (Conduct & Discipline) Rules, 1961.

<sup>11</sup> The Indian Foreign Service (Recruitment Cadre, Seniority and Promotion) Rules, 1961.

<sup>12</sup> MANU/SC/0580/1979

the guarantees of equality under Articles 14 and 16<sup>13</sup> belong to reality or myth. This petition shows that gender prejudice still exists in service rules, even decades after Independence. When the higher officials are not spared from being discriminated against under rules, then it can hardly be expected that the plight of ordinary citizens of this country is better. The presence of such bias in the rules, combined with the government's indifference to removing it, reflects a troubling failure to eliminate discrimination from public service.

The bench affirmed the discrimination against women while reading the service rules. It pointed out that if a woman officer had to seek government permission before marriage, the same requirement should also apply to a male officer. The Court further noted that family and domestic responsibilities could interfere with the duties of men just as much as women. It was remarked that in an age of nuclear families, international marriages, and unconventional lifestyles, such open bias against women was unjustifiable.

The bench further criticised that this discriminatory attitude comes from the hangover of masculine culture that restricts women, ignoring the fact that the freedom struggle was also a fight against women's oppression. The court acknowledged that the service rules requiring women officers to seek prior permission before marriage and exposing them to compulsory resignation after marriage were prima facie unconstitutional. The court emphasised to the government that there was a need to reform all service rules to eliminate gender discrimination, instead of waiting for another petition.

C. B. Muthamma Vs Union of India & Ors<sup>14</sup> was the earliest cases on the issue of discrimination based on marital status, which was referred to while pronouncing the judgement in the case of Air India Etc Vs Nergesh Meerza & Ors.<sup>15</sup> This kind of discrimination is a sort of "Maternity tax" which is the negative price paid by women as a result of gender-based stereotypes on the role of women at home and the presumption that mothers or married women are liable to employers. While in these cases the ground of pregnancy or marital status was not seen as a part of sex discrimination under Article 15 (1) of the Constitution, some of the later judgments do make that articulation. The Delhi High Court, in particular, has held in several

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<sup>13</sup> The Constitution of India, 1950

<sup>14</sup> MANU/SC/0580/1979

<sup>15</sup> 1981 (4) SCC 335

judgments that discrimination due to pregnancy amounts to sex-based discrimination under Article 15(1) and violates the Equality Code.<sup>16</sup>

## CONCLUSION

This case acknowledges the systemic gender bias in India. While it didn't expressly strike down the unconstitutional service rules, the decision was socially transformative, marking the judiciary's early intervention in challenging patriarchal norms within state institutions. This case exposed the gap between the Constitution as legislation and the law in action, showing how patriarchal norms continued to shape administrative practices decades after independence. It paved the way for subsequent cases and policy reforms addressing gender equality in public employment.

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<sup>16</sup> Janya Kothari & Nithya Rhea Rajshekar, 'Gendering Equality: Court Decisions on Women's Rights in India' Centre for Law & Policy Research <https://share.google/sMNzv0G1imaaNLg90> accessed on 14 September 2025