

Court No 2
(Ser No 14)

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

ORIGINAL APPLICATION NO. 990 of 2022

Monday, this the 20th day of February, 2023

Hon'ble Mr. Justice Anil Kumar, Member (J)

Hon'ble Maj Gen Sanjay Singh, Member (A)

No. 14233205P, Ex. Hav./Hony Nb. Sub Karan Lal son of Shri Sugandh Singh R/O ;:- New Fauji Colony Bholepur, Fatehgarh Farrukhabad (U.P.)-209601,, Permanent R/O-Village-Pamarkheria, P.O.-Sankisha, District-Farrukhabad(U.P.)-209601.

.....Applicant

Ld. Counsel for the: **Shri Vijay Kumar Pandey,**
Applicant **Shri Vishnu Kant Awasthi,**
Shri Sandeep Tripathi,
and Shri Girish Tiwari, Advocates

Versus

1. Union of India, through Secretary, Ministry of Defence, South Block, R.K. Puram, New Delhi-110011.
2. OIC Records, Record Signals, Jabalpur(M.P.).
3. PCDA (P), Draupadi Ghat, Allahabad (U.P.).
4. Treasury Officer, District-Farrukhabad (U.P.)-209601.

.....Respondents

Ld. Counsel for the : **Mrs Anju Singh,** Advocate
Respondents. Central Govt Counsel

ORDER (Oral)

1. This O.A. has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 by the applicant whereby the applicant has sought following reliefs:-

(i) That this Hon'ble Tribunal may kindly be pleased to direct the opposite parties to grant the benefits of MACP-III/MACP Nb. Subedar with all consequential benefits including terminal benefits w.e.f. 01.01.2006, to the applicant, with compound interest @ 18% p.a. from due date to till the date of actual and final payment of the amount, in the interest of justice.

(ii) That this Hon'ble Tribunal may kindly be pleased to award the cost Rs. 20,20,000/- (Rupees Twenty Lac and Twenty Thousand only) to the applicant against the opposite parties and allow the same..

(iii) That this Hon'ble Tribunal may be pleased to pass any other order or direction which this Hon'ble Court may deem just and proper be passed in favour of the applicant.

2. The factual matrix on record is that the applicant was enrolled in the Army on 18.01.1980 and was discharged from service on 31.01.2006 (AN) under Army Rule 13 (3) item III (i) of the Army Rules, 1954 after rendering 26 years and 14 days service i.e. after fulfilling the conditions of enrolment. The applicant was promoted to the rank of Naik with effect from 01.08.1993 and Havildar with effect from 01.01.1997 and he is in receipt of service pension of the rank of Havildar vide PPO No S/046860/2005 (Army) dated 07.12.2005 and Hony Naib Subedar vide Corrg. P.P.O. No. S/Corr/199470/2009 dated 04.09.2009. Grievance of the applicant is that he has been denied benefit of Modified Assured Career Progression Scheme (MACP) i.e. Naib Subedar grade in contravention to the recommendation of the 6th Central Pay Commission after completion of 8 years of service in the same rank i.e. Havildar. The applicant preferred a representation dated 29.03.2022 before respondent No. 1 to 3 for grant of MACP-III (Nb Sub Grade) with effect from 01 January 2006 since he has served for more than 08 years of requisite service in the rank of Havildar for grant MACP-III as per the Office of the PCDA (P) Circular No. 566 dated 16.09.2016 (Annexure No. 05) and the Hon'ble Supreme Court Judgment passed in Civil Appeal Diary No 3744 of 2016 dated 08 December, 2017, **Union of India vs Balbir Singh**, but the same has been rejected stating that MACP is not applicable to the

applicant who has been granted two promotion i.e Naik and Havildar. Being aggrieved, the applicant has filed present original application.

3. Learned counsel for the applicant submitted that MACP is applicable w.e.f. 01.01.2006, hence after completion of 8 years of service in the rank of Havildar he is eligible for MACP-III (Nb Sub Grade) and he should be granted benefit accordingly. He has placed reliance on judgment of AFT Chennai dated 23.11.2017 passed in O.A. No. 108 of 2016, **Ex Hav M Sankarraj vs Union of India & Ors** and judgment of AFT, Chandimandir dated 21.05.2014 passed in O.A. No. 619 of 2013, **Daya Nand vs Union of India & Ors**.

4. On the other hand, learned counsel for the respondents submitted that MACP scheme was made operational for the PBORs w.e.f. 01.09.2008 vide Govt. of India letter dated 30.05.2011 but later, it was made effective w.e.f. 01.01.2006 instead of 01.09.2008. His further submission is that the applicant had completed 26 years 14 days of service on 31.01.2006. However, provisions of MACP scheme initially came into effect w.e.f. 01.09.2008, thereafter the same were amended to be made applicable w.e.f. 01.01.2006 instead of 01.09.2008. Accordingly, the applicant is entitled for MACP-III w.e.f. 01.01.2006 and PCDA (P), Allahabad has issued fresh Pension Payment Order No. 157200503229-0107 dated 10.12.2019 for the rank of Hony Naib Subedar (Photocopy marked as Annexure CA-5).

5. We have heard learned counsel for the parties and have perused the record.

6. It is not disputed that the applicant was enrolled in the Army on 18.01.1980 and was discharged from service w.e.f. 31.01.2006 (AN). It is also not disputed that the applicant was promoted to the rank of Havildar on 01.01.1997 and he completed 26 years and 14 days service on 31.01.2006. This implies that the applicant was eligible for MACP-III on 01.01.2005 on completion of 08 years of service in the same rank but since the benefits of MACP were made available w.e.f. 01.01.2006, he is entitled for MACP-III benefits w.e.f. 01.01.2006 only. Accordingly, Signal Records had granted 3rd MACP (Naib Subedar Grade) to the applicant with effect from 01.01.2006 vide Signal Records Part II Order No 1/6013/009/2018 dated 18 December 2018 and LPC-cum-Data Sheet was processed to

PAO (OR), Corps of Signals alongwith applicants' service documents for authentication and fixation of revised pay and calculation of arrears and PAO (OR),Corps of Signals processed to PCDA (P), Allahabad. PCDA (P), Allahabad has issued fresh PPO No. 157200503229-0107 to the applicant duly granted pensionary benefits of MACP-III (Naib Subedar Grade) with effect from 01.01.2006.

7. In view of the above, we find that the applicant is eligible for grant of MACP-III which fact was admitted by the respondents on 10.01.2023 through counter affidavit. We also find that the applicant has been granted corrigendum PPO granting MACP-III w.e.f. 01.01.2006.

8. Subject to aforesaid observations, the O.A. is **allowed**. The respondents to consider the claim of the applicant for implementation of the Modified Assured Career Progression Scheme with effect from 01.01.2006 and grant all consequential benefits (Naib Subedar grade w.e.f. 01.01.2006, subsequent increments and pensionary benefits) to the applicant. The respondents shall take appropriate decision expeditiously, preferably within three months from the date of receipt of a certified copy of this order. Delay shall invite interest @ 8% per annum till actual payment.

9. No order as to costs.

10. Pending applications, if any, are disposed off.

(Maj Gen Sanjasy Singh)
Member (A)

Dated : 20.02.2023

rpm/-

(Justice Anil Kumar)
Member (J)