

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**ORIGINAL APPLICATION NO. 781 of 2020**

Monday, this the 20th day of September, 2021

Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

Service No. 14820512-L Ex Hav Manik Chand Gupta, son of Shri Gobardhan Gupta, resident of Village-Ajhua, Post-Ajhua, Tehsil-Sirathu, District-Allahabad (U.P.), Pin-212217.

.....Applicant

Ld. Counsel for the: **Shri VP Pandey**, Advocate
Applicant

Versus

1. Union of India, through the Secretary, Ministry of Defence, New Delhi-110011.
2. The Chief of the Army Staff, Integrated Headquarters, Ministry of Defence (Army), South Block, New Delhi-110011.
3. Additional Directorate General Personal Services, Adjutant General's Branch, Integrated Headquarters of MoD (Army), New Delhi-110011.
4. Officer-in-Charge Records, Sena Seva Corps Abhilekh (Dakshin), ASC Records (South), Pin-900493, C/O 56 APO.
5. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Allahabad.

...Respondents

Ld. Counsel for the : **Mrs Kavita Belaura**,
Respondents. Central Govt Counsel.

ORDER

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:-

- (a) To issue/pass an order or direction to the respondents to grant the third financial upgradation under Modified Assured Career Progression (MACP) Scheme from the date of discharge i.e. 30.04.2018.
- (b) Any other relief as considered proper by this Hon'ble Tribunal be awarded in favour of the applicant.
- (c) Cost of the O.A. be awarded to the applicant.

2. Brief facts as borne out from the record are that the applicant was enrolled in the Army as a Sepoy on 28.04.1994. He was promoted to the rank of Havildar w.e.f. 03.11.2009 and was discharged from service on 30.04.2018 under Rule 13 (3) iii (i) of the Army Rules, 1954. As per applicant he had put in more than 24 years of service at the time of discharge, therefore, he is entitled to MACP-III which he has not been granted after discharge. This O.A. has been filed for grant of MACP-III.

3. Learned counsel for the applicant submitted that the Government had introduced Assured Career Progression (ACP) Scheme w.e.f. 07.08.2003 for two financial upgradation at an interval of 10 and 20 years of service for Sepoy to Naik and Naik to Havildar as per Army HQ, Adjutant General's Branch letter dated 29.09.2003. He further submitted that applicant was promoted to the rank of Havildar on 03.11.2009 and since he had served in the Army for more than 24 years, he is entitled to be granted MACP-III in terms of policy letter dated 30.05.2011 and Administrative Instructions issued vide letter dated 13.06.2011 which was made effective w.e.f. 01.01.2006 and that entitles three financial upgradations w.e.f. May, 2011 after completion of 08, 16 and 24 years of service. His submission is that since applicant has rendered more than 24 years of service, he should be granted benefits of MACP-III.

4. On the other hand learned counsel for the respondents submitted that since applicant was discharged from service after rendering 24 years and 03 days of service (including 25 days Non Qualifying Service for pension), therefore, he is entitled to receive pension of the rank of Havildar and no MACP-III is applicable in his case as he has not put in mandatory service for grant of MACP-III. He pleaded for dismissal of O.A.

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

6. From the material placed on record, we find that applicant had overstayed 03 days leave for the period from 21.01.2004 to 23.01.2004 while serving with 5685 Army Service Corps Battalion and 22 days leave for the period from 03.06.2006 to 25.06.2006 while serving with 5 Rashtriya Rifles. Thus, applicant was lacking aggregate non qualifying service of 25 days for grant of MACP-III. Hence, applicant was not granted MACP-III financial upgradation to the rank of Naib Subedar at the time of discharge.

7. In view of the above, it is obvious that since applicant is lacking 25 days of qualifying service (which is overstayal of leave while serving in the Army) for grant of MACP-III, he does not seem to be entitled to MACP-III.

8. This O.A. lacks merit and is accordingly dismissed.

9. No order as to costs.

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

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated : 20th September, 2021

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