

RESERVED
Court No 2
(Ser No 13)

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

ORIGINAL APPLICATION NO. 894 of 2022

Friday, this the 21st day of April, 2023

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

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

No. 629945N Ex Sgt Satish Chandra son of Prem Shanker, Resident of House No. 551/K/827, Aazad Nagar, Alambagh, Lucknow, PIN-226005.

.....Applicant

Ld. Counsel for the: **Shri Sudhir Kumar Singh**, Advocate
Applicant **Shri Abhishek Singh**, Advocate

Versus

1. Union of India through Secretary, Ministry of Defence, South Block, New Delhi-110011.
2. The Chief of Air Staff, Air Head Quarter, Subroto Park, New Delhi, PIN-110 010.
3. Director of Air Veterans, Air Head Quarter, Subroto Park, New Delhi, PIN-110010.
4. Joint CDA, Directorate of Air Veterans, Subroto Park New Delhi, PIN-110 010.
5. Principal Controller of Defence Accounts (P), Draupadi Ghat, Allahabad, PIN-211014.

.....Respondents

Ld. Counsel for the : **Shri Ashish Kumar Singh**, Advocate
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:-

(i) To pass an order or direction commanding the respondents to grant the Pensionary benefits of Modified Assure Progression (MACP) with effect from the 01.01.2006, with all consequential benefits.

(ii) To pass an order or direction commanding the respondents to pay the arrears of MACP from the due date to actual realization of the aforesaid amount with interest of 12% per annum.

(iii) Pass any order which this Hon'ble Tribunal deem fit and proper under the facts and circumstances of the case in favour of the petitioner, in the interest of justice.

(iv) Allow the Original Application with cost.

2. The factual matrix on record is that the applicant was enrolled in the Indian Air Force (IAF) on 12.02.1985 and was discharged from service on 09.04.2007 (AN) having rendered 11 years in the same rank. The applicant has passed promotion cadre for the next higher rank but since the vacancy was not available he was not promoted to the next higher rank of JWO. As per records maintained by Air Force authorities, the applicant was promoted to the rank of Surgeant on 01.08.1996 and was due MACP-III with effect from 01.08.2006. In regard to grant of MACP-III applicant has relied upon Govt of India, MoD letter dated 06.12.2018 clarifying grant of MACP-III w.e.f. 01.01.2006. Applicant submitted representation dated 23.03.2022 followed by a reminder dated 04.08.2022 but owing to non receipt of any response this O.A. has been filed for grant of MACP-III.

3. Learned counsel for the applicant submitted that a detailed representation dated 23.03.2022 was submitted to the respondents for

grant of MACP-III followed by a reminder dated 24.08.2022 but till date no remedial measures have been taken by the respondents even after sending several reminders on this issue. He further submitted that his juniors are getting more pension than the applicant which is resulting in huge loss to him.

4. On the other hand, learned counsel for the respondents submitted that the Air veteran was enrolled in the IAF on 12.02.1985 and he was discharged from service on own request on 09.04.2007 having completed more than 22 years service. It was further submitted that applicant has already been granted benefits of MACP and amount has been disbursed by issuing corrigendum PPO on 30.07.2021. He pleaded for dismissal of O.A. on the ground that the relief sought has already been granted.

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

6. The applicant was enrolled in the IAF on 12.02.1985 and he was discharged from service w.e.f. 09.04.2007 under own request. Applicant's case is that he has served in the Sgt rank for eleven years but despite the fact that MACP-III was applicable to him w.e.f. 01.01.2006 he was not granted the same by the respondents. In regard to this the respondents while filing counter affidavit in para 7 have submitted that case with reference to MACP has already been processed and amount of Rs 47,224/- (Rs 29,471/- and Rs 17,753/-) has been paid on account of leave encashment and IRLA balance vide cheque No 037509 and 037508 dated 17.11.2021 and corrigendum PPO to this effect has already been issued on 30.07.2021 which the applicant has not denied.

7. In view of the above, we find that since MACP has already been granted to the applicant by issuing corrigendum PPO dated 30.07.2021 and amount remitted by issuing two separate cheques for leave encashment and IRLA balance, nothing remains to be granted to the applicant.

8. The O.A. is disposed off accordingly.

9. There shall be no order as to costs.

10. Pending application(s), if any, are disposed off.

(Maj Gen Sanjay Singh)
Member (A)

Dated : 21.04.2023

rathore

(Justice Anil Kumar)
Member (J)