

**RESERVED**  
**Court No. 2**

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**

**Original Application No 937 of 2023**

Monday, this the 15<sup>th</sup> day of April, 2024

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

**Hon'ble Lt Gen Anil Puri, Member (A)**

Service No. 13966369-F Ex Nk (ACP) Yamuna Ram  
S/o Shri Gudum Ram,  
R/o Vill & Post – Sonbarsa, Tehsil – Banahi,  
District – Bhojpur, Bihar – 802112

..... Applicant

Ld. Counsel for the Applicant: **Shri Ravi Kumar Yadav** and  
**Shri Saurabh Yadav**, Advocates

Versus

1. The Union of India, Rep by the Secretary, Govt. of India, Ministry of Defence, South Block, New Delhi-110011.
2. The Chief of the Army Staff, IHQ of MOD (Army), Post - DHQ, New Delhi-110011.
3. OIC Records, The AMC Records, PIN-900450, C/o 56 APO.
4. PCDA (P), Draupadi Ghat, Allahabad (UP) 211014.

..... Respondents

Ld. Counsel for the Respondents : **Shri Alok Kumar Mishra**,  
Central Govt. Standing Counsel

**ORDER**

1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs:-

“(a). To issue/pass an order or directions of the appropriate nature to the respondents to grant 3<sup>rd</sup> MACP (Naib Subedar) to

the applicant with effect from 31.12.2009 and revise the pension with effect from 01.01.2010 accordingly and grant all retiral benefits after computing applicant's last salary in the grade pay of Rs. 4200/- for the rank of Nb Sub (MACP).

(b) To issue/pass an order or directions of appropriate nature to the respondents to pay the arrears of revised pension from 01.01.2010 till date along with suitable interest as deem fit by this Hon'ble Tribunal.

(c) To pass such further order or orders/directions as this Hon'ble Tribunal may deem fit and proper in accordance with law.

2. The factual matrix on record is that the applicant was enrolled in the Army on 31.12.1985 and he was discharged from service 31.12.2009 in the rank of Naik on completion of terms of engagement under the provisions of Rule 13 (3) item III (1) of Army Rules, 1954 after rendering 24 years and 01 day service. The applicant was granted pension in the rank of Naik vide PPO No. S/044021/2009 (Army). The applicant submitted a representation dated 06.02.2023 for grant of benefit of 3<sup>rd</sup> MACP (Naib Subedar grade) on the ground that he had completed 24 years of regular service but so far he has not been granted benefit of 3<sup>rd</sup> MACP. Feeling aggrieved, the applicant has filed the present Original Application for grant of 3<sup>rd</sup> MACP of Naib Subedar grade.

3. Learned counsel for the applicant submitted that the applicant was enrolled in the Army on 31.12.1985 and he was discharged from service 31.12.2009 in the rank of Naik (ACP) after rendering 24 years

and 01 day service. The applicant became entitled for 3<sup>rd</sup> MACP of Naib Subedar grade for which he submitted a representation dated 06.02.2023 for grant of 3<sup>rd</sup> MACP (Naib Subedar grade) on the ground that he had completed 24 years of regular service but so far he has not been granted benefit of 3<sup>rd</sup> MACP.

4. Learned counsel for the applicant further submitted that Govt. had issued letter dated 30.05.2011 and 13.06.2011 whereby three financial upgradation were granted at the interval of 8, 16 & 24 years of service in case no regular promotion was available, Thus, the applicant became entitled to 3<sup>rd</sup> MACP for the rank of Naib Subedar after completion of 24 years of service but the respondents have not yet revised the pension and other retiral benefits in the rank of Naib Subedar in grade pay of Rs. 4200/-. He placed reliance on the judgment of this Tribunal in OA No. 603 of 2021, **Mahendra Kumar Singh vs. Union of India & Others**, decided on 19.01.2022 and pleaded that applicant be granted benefit of 3<sup>rd</sup> MACP of Naib Subedar rank from the date of discharge of service and his pension and other retiral benefits be revised w.e.f. 01.01.2010 accordingly. During the course of hearing, learned counsel for the applicant also submitted that since the respondents have admitted and case for grant of benefit of 3<sup>rd</sup> MACP is under process as mentioned in Para 8 of the counter affidavit, this case may be disposed off in light of para 8 of the counter affidavit.

5 Per contra, submission of learned counsel for the respondents is that applicant was enrolled in the Army on 31.12.1985 and he was discharged from service 31.12.2009 in the rank of Naik on completion of terms of engagement under the provisions of Rule 13 (3) item III (1) of Army Rules, 1954 after rendering 24 years and 01 day service. The applicant was granted pension in the rank of Naik vide PPO No. S/044021/2009 (Army). The applicant became eligible for grant of financial upgradation of MACP-III (Naib Subedar grade) w.e.f. 31.12.2009. Thereafter, casualty regarding MACP-III (Naib Subedar grade) in respect of the applicant has been published w.e.f. 31.12.2009 vide AMC Record Office Part II Order No. 1/1736/0030/2021.

6. Learned counsel for the respondents further submitted that AMC Records vide letter dated 05.09.2023 has processed LPC-cum-data sheet alongwith sheet roll and other connected documents to Pay Account Office (Others Rank) Army Medical Corps, Lucknow for their vetting. On receipt of the same from PAO (OR) AMC, his claim will be further submitted to PCDA (P) Allahabad for early issuance of corrigendum PPO and releasing of MACP benefits as applicable to him. The entire process will take few months as the multiple agencies are involved to release monetary benefits to the applicant.

7. We have heard learned counsel of both the parties and perused the material placed on record.

8. In the instant case, there is no dispute that applicant was enrolled in the Army on 31.12.1985 and was discharged from service 31.12.2009 in the rank of Naik on completion of his terms of engagement after rendering 24 years and 01 day service. The applicant is already in receipt of benefit of MACP II of grade pay of Rs. 2800. However, benefit of 3<sup>rd</sup> MACP of Naib Subedar in grade pay of Rs. 4200, as entitled to the applicant as per Govt. of India, Ministry of Defence letter dated 30.05.2011 has not been granted on completion of 24 years of service, i.e. from the date of discharge from service, w.e.f. 31.12.2009.

9. We find that the respondents in Para 8 of their counter affidavit have admitted that, *"AMC Records vide letter dated 05.09.2023 has processed LPC-cum-data sheet alongwith sheet roll and other connected documents to Pay Account Office (Others Rank) Army Medical Corps, Lucknow for their vetting. On receipt of the same from PAO (OR) AMC, his claim will be further submitted to PCDA (P) Allahabad for early issuance of corrigendum PPO and releasing of MACP benefits as applicable to him. The entire process will take few months as the multiple agencies are involved to release monetary benefits to the applicant"*. Hence, the applicant is held entitled to get benefit of 3<sup>rd</sup> financial upgradation, i.e. MACP-III of Naib Subedar grade as due to him, i.e. w.e.f. 31.12.2009.

10. As a result of foregoing discussion/observation, the Original Application is **allowed**. Since the action with regard to grant of benefit

of 3<sup>rd</sup> MACP (Naib Subedar grade) is already in process, the respondents are directed to grant benefit of 3<sup>rd</sup> MACP (Naib Subedar grade) from the due date with pensionary benefits of the rank of Naib Subedar and issue a Corrigendum PPO of MACP-III (Naib Subedar grade) from the next date of discharge from service, i.e. w.e.f. 01.01.2010 accordingly. Since the applicant has been discharged from service on 31.12.2009 and Govt. of India, Ministry of Defence letter granting the benefit of MACP was issued on 30.05.2011 and applicant approached to this Tribunal on 04.08.2023, therefore, due to law of limitations settled by the Hon'ble Supreme Court in the case of **Shiv Dass** (supra), the arrears of pensionary benefits of 3<sup>rd</sup> MACP (Naib Subedar grade) will be restricted to three years preceding the date of filing of the instant O.A. The date of filing of this O.A is 04.08.2023. The respondents are further directed to complete their process and implement this order within a period of four months from the date of receipt of certified copy of this order. Delay shall invite interest @ 8% per annum till actual payment.

11. No order as to costs.

12. Pending Miscellaneous Application(s), shall stand disposed off.

**(Lt Gen Anil Puri)**  
**Member (A)**

Dated: April, 2024  
SB

**(Justice Anil Kumar)**  
**Member (J)**