

RESERVED
Court No. 2

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Original Application No 542 of 2023

Friday, this the 13th day of December, 2024

Hon'ble Mr. Justice Anil Kumar, Member (J)
Hon'ble Maj Gen Sanjay Singh, Member (A)

Santosh Kumar (No. 13891835F Ex Hony Nb Sub)
S/o Sri Har Narayan Shukla
R/o House No. 109-A, 80 Feet Road, Teacher Society Rampuram,
Shyam Nagar, Kanpur, UP – 208013

..... **Applicant**

Ld. Counsel for the Applicant: **Shri Ashok Kumar**, Advocate

Versus

1. Union of India, through Secretary, Ministry of Defence, South Block, New Delhi-110011.
2. The Office Incharge Records, ASC (South), PIN-560007, C/o 56 APO.
3. The office Incharge Records DSC, PIN-901277, C/o 56 APO.
4. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Allahabad.

... **Respondents**

Ld. Counsel for the Respondents : **Shri Chet Narayan Singh**,
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:-

“(i) The Hon'ble Tribunal may graciously be pleased to direct the respondents to grant benefit of MACP (Modified Assured Career Progression I, II & III) along with arrear and interest to the applicant w.e.f. 01.01.2006 taking into

consideration 26 years + 9 years service in Regular Army & DSC) by applicant.

- (ii) This Hon'ble Court may further be pleased to pass such other and/or further order as deem fit, proper and necessary in the circumstances of this case.
- (iii) Award costs to the applicant.”

2. The factual matrix on record is that the applicant was enrolled in the Army on 29.12.1983 and discharged from service on 31.12.2009 after completion of 26 years of service and granted honorary rank of Naib Subedar. The applicant is in receipt of service pension vide PPO No. S/031129/2009 (Army). The applicant was re-enrolled in the DSC on 25.08.2011 and discharged from service on 31.05.2022 after completion of 09 years, 09 months and 06 days of service. The applicant has not been granted benefit of MACP-III (Naib Sub grade) due on completion of 24 years of service as per policy applicable w.e.f. 01.01.2006. Being aggrieved, the applicant has filed the present Original Application for grant of MACP-III (Naib Subedar grade).

3. Learned counsel for the applicant submitted that applicant was enrolled in the Army on 29.12.1983 and discharged from service on 31.12.2009 after completion of 26 years of service. The applicant is in receipt of service pension of the Army service vide PPO No. S/031129/2009 (Army). The applicant was re-enrolled in the DSC on 25.08.2011 and discharged from service on 31.05.2022 after completion of more than 09 years of service. The applicant has not been granted MACP-III (Naib Sub grade) due on completion of 24 years of Army service as per revised policy vide Govt. of India,

Ministry of Defence letter dated 25.06.2018. In this regard, applicant submitted an application dated 03.11.2021 to the respondents to grant benefit of MACP-III taking into consideration of his 26 years of Army service but no action was taken by the respondents. Thereafter, applicant submitted another representation in the year 2022 which has not been replied by the respondents. Though, as per PCDA (P) Prayagraj letter dated 15.03.2022, applicant came to know that his service documents have been asked by the ASC Records from DSC Records, Kannur to process claim of the applicant for grant of the benefit of MACP-III. However, benefit of MACP has not been extended to the applicant so far.

4. Learned counsel for the respondents submitted that applicant was enrolled in the Army on 29.12.1983 and discharged from service on 31.12.2009 (AN). The applicant was promoted to the rank of Naik on 10.02.1997 and Havildar on 01.10.2002 and granted honorary rank of Naib Subedar on 01.01.2010 on retirement. As per revised MACP policy three financial upgradation to be granted on completion 8, 16 & 24 years of service. In the instant case, applicant is eligible for MACP-III (Nb Sub grade) w.e.f. 29.12.2007. ASC Records (South), Bangalore had already published the Corps order No. 1/0864/0094/2023 and LPC-cum-Data Sheet alongwith Sheet Roll has been submitted to PAO (OR) ASC (South) for pre-audit and onward submission to PCDA (Pension), Prayagraj for notification of corrigendum PPO vide ASC Records letter dated 04.07.2023. Thus, he submitted that applicant's case is in process/finalisation and he will

be granted MACP-III (Nb Sub grade) benefits on notification of PPO by PCDA (P) Prayagraj.

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

6. In the instant case, respondents have conceded in para 11 & 12 of their counter affidavit that applicant is eligible for the benefit of MACP-III (Naib Subedar grade) and his case is under process. In this regard, ASC Records (South), Bangalore had already published the Corps order No. 1/0864/0094/2023 and LPC-cum-Data Sheet alongwith Sheet Roll has been submitted to PAO (OR) ASC (South) for pre-audit and onward submission to PCDA (Pension), Prayagraj for notification of corrigendum PPO vide ASC Records letter dated 04.07.2023. Thus, it shows that applicant's case is under process and he will be given the benefit of MACP-III (Naib Subedar grade) w.e.f. 29.12.2007 very soon.

7. Since, the respondents have conceded grant of benefit of MACP-III (Naib Subedar grade) to the applicant w.e.f. 29.12.2007, this Original Application is disposed of finally with direction to the respondents to grant benefit of MACP-III (Naib Subedar grade) w.e.f. 29.12.2007 and issue Corrigendum PPO and pay arrears of pay and allowances of Naib Subedar grade to the applicant accordingly. However, due to law of limitations settled by the Hon'ble Supreme Court in the case of **Shiv Dass v. Union of India** (2007) 9 SCC 274, the arrears of MACP-III (Naib Subedar grade) will be restricted to three years preceding the date of filing of the instant O.A. The date of filing of the Original Application is 09.05.2023. The Respondents are

further directed to comply with the order within a period of four months from the date of receipt of certified copy of the order. Default will invite interest @ 8% per annum till actual payment.

8. No order as to costs.

9. Misc. Application(s), pending if any, shall stand disposed of.

(Maj Gen Sanjay Singh)
Member (A)

Dated: December, 2024
SB

(Justice Anil Kumar)
Member (J)