

RESERVED
Court No. 2

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Original Application No 718 of 2023

Thursday, this the 19th day of December, 2024

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

Naik Shiv Kishor Gupta (Retd) (14927578Y)
Vill – Dharmakhera, PO – Maigalganj
Tehsil – Mohammdi,
Dist – Lakhimpur Kheri (UP) – 261505

..... **Applicant**

Ld. Counsel for the Applicant: **Shri Dhiraj Kumar, Shri Tatsat Shukla**
and **Shri Rahul Pal**, Advocates

Versus

1. Union of India, through Secretary, Ministry of Defence, Room No. 101A, South Block, DHQ PO, New Delhi, PIN-110011.
2. OIC Records, MECH Infantry Records, Ahmednagar, Maharashtra – 414001.
3. PAO (OR) MECH Infantry Records, Ahmednagar, Maharashtra – 414001.
4. PCDA (P), Draupadi Ghat, Prayagraj (UP) - 211014.

... **Respondents**

Ld. Counsel for the Respondents : **Shri Ashish Kumar 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:-

“(a) To direct the respondents to review the pay fixed of the applicant under the 6th CPC and after due verification re-fix his pay in a manner that is most beneficial to him.

- (b) To direct the respondents to re-fix the applicant pay on transition into 7th CPC as on 01 Jan 2016 in the most beneficial manner by changing the date of increment to 01 Jan every year while ensuring that the applicant is not drawing less pay than his juniors and issue fresh/corrigendum PPO to the applicant.
- (c) To direct the respondent to provide the benefit of MACP in most beneficial manner so that the applicant does not get less basic pay than his junior/entry mates.
- (d) To pass any other order or direction in favour of applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.”

2. The factual matrix on record is that the applicant was enrolled in the Army on 14.10.2000 and discharged from service on 30.09.2020 on fulfilling the conditions of enrolment/service. The applicant is in receipt of service pension in the rank of Naik (ACP-1) vide PPO No. 174202000569. The applicant's Part II Order No.0/0292/014/2020 dated 02.09.2020 was published for OPTFIX but benefit of MACP-II (Hav grade) was not granted to the applicant. In this regard, applicant raised his grievance and submitted an online complaint on CPGRAM portal on 24.04.2023 but due to non receipt of any reply from the respondents, the applicant has preferred the present Original Application for grant of benefit of MACP-II (Havildar grade) and to revise his basic pay/pension accordingly.

3. Learned counsel for the applicant submitted that applicant was enrolled in the Army on 14.10.2000 and discharged from service on 30.09.2020. The applicant has been drawing less basic pay by wrong fixation without granting annual increment as on 01 July of every year

and has also not been provided benefit of MACP-II. The applicant approached the respondents through CPGRAM grievance dated 19.05.2023 for change of option to opt date of next increment as on 01st Jan. of every year and prayed for grant of benefit of MACP accordingly. In this regard, applicant placed reliance on the judgment of the AFT (PB) New Delhi in the case of O.A. No. 1182 of 2018, **Sub ML Srivastava and Ors. Vs. Union of India & Others**, decided on 03.09.2021 and O.A. No. 2370 of 2022 **Sgt Pritam Singh and Ors. Vs. Union of India & Ors**, decided on 21.10.2022 and pleaded to re-fix his basic pay on migration to 7th CPC as on 01.01.2016 and also to grant of benefit of MACP-II (Havildar grade) and its revised pension accordingly.

4. Learned counsel for the respondents submitted that applicant was enrolled in the Army on 14.10.2000 and discharged from service on 30.09.2020 on fulfilling the conditions of enrolment/service. The applicant is in receipt of service pension in the rank of Naik (ACP-1) vide PPO No. 174202000569. The applicant's Part II Order No.0/0292/014/2020 dated 02.09.2020 was published for OPTFIX while in service. The applicant submitted an application through Zila Sainik Welfare Office, Lakhimpur Kheri for release of payment of outstanding claim as per Part II Order vide letter dated 15.04.2021. Accordingly, Mech Infantry Regiment (MIR) Records approached to PAO (OR) for adjustment of occurrence of OPTFIX as opted by the applicant from 19.04.2016 to 01.07.2016. PAO (OR) MIR examined the post discharge claim of the applicant and adjusted occurrence of OPTFIX alongwith other occurrence in the month of November 2020

vide letter dated 04.01.2022. The MIR Records processed the case of the applicant for OPTFIX/OPTCPC vide letter dated 15.10.2022 and case of the applicant for revision of basic pay and benefit of MACP-II is under process at PCDA (P) Prayagraj to revise basic pay of the applicant from 39,200/- to 40,400/- and grant pension accordingly.

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

6. In the instant case, respondents have conceded in para 5 of their counter affidavit that applicant is eligible for the benefit of MACP-II (Havildar grade) and his case is under process at PCDA (P) Prayagraj for revision of basic pay from 39,200/- to Rs. 40,400/- vide Mech Infantry Regiment, Ahmednagar Records letter dated 15.10.2022. Thus, it is clear from the above that applicant's case is under process/finalisation and he will be given the benefit of MACP-II (Havildar grade) and revised pension of the last basic pay, i.e. Rs. 40,400/- from the next date of discharge from service.

7. Since, the respondents have conceded grant of benefit of MACP-II (Havildar grade) to the applicant and revision of basic pay from 39,200/- to 40,400/- as per OPTFIX and issuance of Corrigendum PPO on the revised basic pay, this Original Application is disposed of finally with direction to the respondents to grant benefit of MACP-II (Havildar grade) and issue Corrigendum PPO on the revised/last basic pay drawn, i.e. Rs. 40,400/- and pay arrears of pay and allowances of Havildar grade and revised pension to the applicant from the next date of discharge from service accordingly. 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)