

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

ORIGINAL APPLICATION NO 237 of 2018

Monday, this the 12th day of July, 2021

**“Hon’ble Mr. Justice Umesh Chandra Srivastava (J)
Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)”**

No. 6484012W Ex Nk Avtarnath S/O Netram, New Basti, Bheemnagar,
District-Mainpuri, present resident-Village Midhawali Kalan, Thana
Kurawali, District-Mainpuri.

....Applicant

Ld. Counsel for the : **Shri Ravi Prakash Tripathi, Advocate.**
Applicant

Verses

1. Union of India and others through The Secretary Ministry of Defence, South Block, New Delhi-110011.
2. Chief of the Army Staff, Integrated HQ of MoD (Army), DHQ, PO- New Delhi-110011.
3. CRO, Record ASC, Bangalore, Pin-560007.

.....Respondents

Ld. Counsel for the : **Dr. Shailendra Sharma Atal,**
Respondents. Central Govt Counsel.

ORDER (Oral)

1. No. 6484012W Ex Nk/Musn Avtar Nath has filed this application under Section 14 of the Armed Forces Tribunal Act, 2007 for grant of benefits of Modified Assured Career Progression Scheme (MACP-II) and other connected pensionary benefits w.e.f. 01.04.2009.

2. Brief facts of the case are that the Applicant was enrolled in the Army on 01.08.1990 and discharged from service w.e.f. 01.04.2009 at his own request on compassionate grounds. Consequent upon discharge he was paid all benefits applicable to him vide PPO No. S/061771/2008 (Army) revised from time to time. He was enrolled in Defence Security Corps (DSC) on 14.09.2009. The total service put in by the applicant in the Army is more than 16 years at the time of discharge from service.

3. While arguing, learned counsel for the applicant submitted that the Government had introduced Assured Career Progression (ACP) Scheme on recommendation of V Central Pay Commission. The said Scheme was revised with three financial up-gradations i.e. after 8 years, after 16 years and after 24 years of service which was also made applicable to direct entry Havildars/JCOs. Subsequently, in May 2011, the Government introduced a Modified Assured Career Progression Scheme (In short, MACPS) for Personnel Below Officer Rank (PBOR) superseding the previous ACP Scheme. The Scheme was made to take effect from 01.09.2008. The crux of grievance of the applicant is that the applicant has not been granted benefits of the said scheme till date whereas his colleagues are drawing pension of MACPS-II. Learned counsel for the applicant further submitted that applicant had sent two representations for grant of the aforesaid MACPS-II but till date applicant has not been granted the benefit of MACPS-II. Hence this O.A. has been filed.

4. The contentions advanced by learned counsel for the respondents, per contra, is that subsequent to issue of MACPS, detailed administrative instructions for grant of MACPS were issued by the Army Headquarters in June 2011 vide letter dated 13.06.2011. While filing counter affidavit, respondents have conceded in para 10 that applicant is eligible for grant of MACPS-II. Learned counsel for the respondents has also submitted in para 9 of the counter affidavit that applicant's name for grant of MACPS-II has been finalized in screening board and Part-II Order to this effect has already been published on 16.09.2016. His further contention is that applicant's claim for grant of MACPS-II in the grade pay of Havildar w.e.f. 01.09.2008 shall be processed with PCDA (P) on receipt of Sheet Roll which is held with DSC Records, Cannanore for which special courier has been detailed to fetch the documents by hand.

5. We have heard learned counsel for the parties.

6. In view of the fact that respondents have conceded admissibility of MACPS-II to applicant, there seems to be no doubt that applicant is eligible for grant of MACPS-II.

7. In view of the above, the O.A is **allowed**. The respondents are directed to give due consideration to the claim of applicant for the benefit of second MACPS with effect from 01.09.2008 within three months from today. However, the arrears of revised pay/pension based on MACPS-II, shall be restricted to a period of three years prior to filing of the O.A. This O.A. was filed on 30.05.2017.

8. No order as to costs.

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

(Vice Admiral Abhay Raghunath Karve)
Member (A)

Dated: 12th July, 2021
rathore

(Justice Umesh Chandra Srivastava)
Member (J)