

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

**O.A. No. 07 of 2020**

Friday, this the 01<sup>st</sup> day of October, 2021

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

No. 4480188-X Ex Hav (Clk) Mahendra Kumar, S/O Shri Ramesh Chand, R/O Ward No 10, Mohalla-Tola, P.O.-Shamsabad, Agra-283125 (Uttar Pradesh).

..... Applicant

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

Versus

1. Union of India, through Secretary, Ministry of Defence (Army), South Block, New Delhi.
2. Chief of Army Staff, Integrated Headquarters, Ministry of Defence, South Block-III, New Delhi-110011.
3. OIC Records, The SIKHLI, Pin-900927, C/O 56 APO.
4. PCDA (Pension), Draupadi Ghat, Allahabad (UP)-211014.

..... Respondents

Ld. Counsel for the : **Shri Rajiv Pandey**, Advocate  
Respondents Central Govt Counsel.

**ORDER (Oral)**

1. The instant Original Application under Section 14 of the Armed Forces Tribunal Act, 2007 has been filed by the applicant with the following prayers :-

*“(i) To quash or set aside the Respondents letters dated 23.08.2019 (Annexure A-1 of O.A).*

*“(ii) To issue order or direction to the respondents to grant service pension for the rank of Naib Subedar (MACP) to the applicant with effect from 01.01.2017 (date of discharge-31.12.2016) with all consequential benefits..*

*“(iii) Any other relief as considered proper by the Hon’ble Tribunal be awarded in favour of the applicant.*

*“(iv) Allow the instant OA with cost.*

2. Brief facts of the case are that applicant was enrolled in the Army on 08.01.2001. He was promoted to the rank of Nk and Hav w.e.f. 01.04.2005 and 01.08.2011 respectively and was discharged from service w.e.f. 31.12.2016 (AN) under own request. Earlier while the applicant was posted with 19 RR (SIKHLI), a Court of Inquiry (C of I) was conducted on account of forged publication of Part II Order in which applicant was found guilty and was awarded ‘Severe Reprimand’ on 02.07.2008. Applicant had filed M.A. No. 1885 of 2014 in this Tribunal for quashing of aforesaid punishment but his application was dismissed vide order dated 09.12.2015 due to not pressed. On 13.08.2019 a representation was submitted by applicant for grant of MACP-III but it was rejected vide order dated 23.08.2019. Applicant has filed this O.A. for grant of MACP-III.

3. Learned counsel for the applicant submitted that since applicant was posted in a field unit, he could not attend Nk cadre in time, therefore he could not get promotion to the rank of Nk and Hav alongwith his batch-mates. His further submission is that due to award of punishment ‘Severe

Reprimand' in the year 2008 he could get his promotion to the rank of Hav in the year 2011 whereas he would have been promoted to the said Hav rank in the year 2008. He pleaded for grant of MACP-III on the ground that he was promoted to the rank of Hav three years late due to award of punishment.

4. On the other hand respondents have submitted that while undergoing basic military training applicant was discharged from service w.e.f. 30.11.2001 being undesirable soldier as he could not pass proficiency and aptitude tests. After discharge applicant had filed Civil Writ Petition No. 8876 of 2002 in the Hon'ble High Court of Judicature at Allahabad which was allowed vide order dated 09.10.2003 and he was re-instated in service with all consequential benefits. His further contention is that while posted with 19 RR (SIKHLI), applicant willfully misplaced the office copies of his leave certificate for the year 2007 in order to destroy the evidence for publication of leave Part II Orders. Accordingly, a C of I was held which found him guilty and he was awarded 'Severe Reprimand'. His further submission is that on account of this punishment, he was promoted to the rank of Hav in the year 2011 and has served only 05 years in the rank of Hav and since applicant has not met the criteria for grant of MACP-III, he was not granted the same. He pleaded for dismissal of O.A.

5. We have heard learned counsel for both the sides and perused the material placed on record.

6. The Govt of India, Ministry of Defence has considered the recommendation of the 6<sup>th</sup> Central Pay Commission (6<sup>th</sup> CPC) for introduction of Modified Assured Career Progression Scheme (MACP). The same has been accepted with further modification to grant three financial upgradation under the Modified Assured Career Progression at

intervals of 8, 16 and 24 years of continuous regular service. Financial upgradation under this scheme is admissible whenever a person has spent 08 years continuously in the same grade pay. In this case the applicant was promoted to the rank of Nk and Hav with effect from 01.04.2005 and 01.08.2011 respectively and he was discharged from service w.e.f. 31.12.2016 at his own request after rendering 15 years, 11 months and 24 days of service.

7. For grant of MACP-III, the following is the criteria:-

*“Eligibility for grant of Modified Assured Career Progression Scheme - Should complete 24 years of service without any non qualifying service or 08 years service in Hav rank.”*

8. From the aforesaid, the fact is that since the applicant has neither completed 24 years of qualifying service nor has rendered 08 years service in the rank of Hav, therefore he is not entitled for grant of MACP-III.

9. With the aforesaid observations, we are of the view that this application is devoid of merit and deserves to be dismissed. It is accordingly, **dismissed**.

12. No order as to costs.

13. Pending miscellaneous applications, if any, are disposed off.

(Vice Admiral Abhay Raghunath Karve)  
Member (A)

(Justice Umesh Chandra Srivastava)  
Member (J)

Dated: 01.10.2021  
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