

Court No. 1**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****ORIGINAL APPLICATION No. 176 of 2022**Monday, this the 01st day of August, 2022**“Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)”**

No. 13987259A, Ex. Hav. (MACP III Nb Sub Grade) Bhupinder Singh S/o Agya Singh, R/o C/o Dwarika Nath Singh, Vill & Post-Gahani, Tehsil-Mau, District- Mau, 221705 (U.P).

..... Applicant

Ld. Counsel for the : **Shri Om Prakash Kushwaha**, Advocate.
Applicant

Versus

1. Union of India, through the Secretary, Ministry of Defence (Army), New Delhi-110011.
2. The chief of Army Staff, IHQ of MoD (Army) Sena Bhawan, New Delhi.
3. Officer-in-Charge Records, Army Medical Corps, Lucknow Cantt (U.P).
4. Office of PAO (OR), Army Medical Corps, Lucknow, U.P.-226002.
5. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Allahabad, U.P-211014.

.....Respondents

Ld. Counsel for the : **Shri Shyam Singh**, Advocate
Respondents. Central Govt. Counsel

ORDER (Oral)

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

(i) To issue/pass an order or directions to the respondents to revised the pension of applicant as per MACP-III along with consequential benefits from next date of his discharge i.e. 01.11.2019 along with @12% interest on arrear.

(ii) To issue/pass an order or directions to the respondents to decide the representation dated 08.06.2021 send by the applicant.

(iii) To issue /pass any other order or direction as this Hon'ble Tribunal may deem just, fit and proper under the circumstances of the case in favour of the applicant.

(iv) To allow this original application with costs.

2. Brief facts giving rise to this application are that the applicant was enrolled in the Indian Army on 30.10.1993. He was promoted as ACP Nk on 01.11.2003 and MACP Hav on 30.10.2009. He retired as Hav (MACP-II) w.e.f. 31.10.2019 (AN) and became eligible for Nb Sub (MACP-III) on completion of 24 years service i.e. w.e.f. 01.11.2019. Part II order with respect to grant of MACP-III (Nb Sub grade) was published by Record Office on 01.11.2019 which when not granted, applicant submitted representation dated 08.06.2021 to respondent No 3 and this representation has still not been replied by the respondents, hence this O.A.

3. Learned counsel for the applicant submitted that Government had introduced Assured Career Progression (ACP) Scheme on recommendation of 5th CPC. The said Scheme was revised with three financial up-gradations i.e. after 8 years, 16 years and 24 years of service. The Govt again introduced Modified Assured Career Progression (MACP) Scheme for Personnel Below Officer Rank (PBOR) superseding the previous ACP Scheme. The scheme was made to take effect from 01.01.2006. The Government of India, Ministry of Defence (Department of Pay Services) vide their letter No. 1(20)/2017/D (Pay/Services) dated 26.02.2019 issued guidelines to all affected service personnel to give option for fixation of their pay as per 7th CPC. He further submitted that the applicant was granted ACP-I and MACP-II on his own turn but despite publishing Part-II order with regard to grant of MACP-III by Record Office dated 01.11.2019 applicant has not been granted benefits of MACP-III (Nb Sub grade). He submitted that even after submitting representation dated 08.06.2021, the respondents have given no heed for grant of MACP-III. He pleaded for grant of MACP-III (Nb Sub grade) to the applicant.

4. On the other hand, learned counsel for the respondents submitted that the applicant was enrolled on

30.10.1993 and he was promoted to the rank of Hav on 01.05.2015 and discharged from service w.e.f. 31.10.2019 (AN) on completion of terms of engagement under Rule 13 (3) III (i) of Army Rules, 1954 after rendering 26 years and 02 days service. Learned counsel for the respondents in para 8 of their counter affidavit has admitted that the applicant is entitled to MACP-III w.e.f. 01.11.2019 and for that requisite documents have already been forwarded to PCDA (P), Allahabad.

5. Heard Shri Om Prakash Kushwaha, learned counsel for the applicant and Shri Shyam Singh, learned counsel for the respondents and perused the record.

6. Applicant was enrolled on 30.10.1993 and was discharged from service w.e.f. 31.10.2019 (AN). During the course of his service he was granted ACP-I (Nk) w.e.f. 01.11.2003 and subsequently to ACP-II (Hav) w.e.f. 30.10.2009. The applicant became eligible for grant of financial upgradation under MACP-III (Nb Sub grade) w.e.f. 30.10.2019 on completion of 24 years continuous service from the date of enrolment which has also been admitted by the respondents in para 8 of their counter affidavit.

7. The applicant is stated to have forwarded a representation dated 08.06.2021 which seems to be pending. We find that AMC Record Office have forwarded LPC-cum-data sheet alongwith sheet roll and other connected documents to PAO (OR) AMC, Lucknow for vetting and the same will be forwarded to PCDA (P), Allahabad for releasing MACP-III benefits as applicable to the applicant.

8. In view of the above, applicant is held entitled to MACP-III w.e.f. 01.11.2019. In the result, the O.A. is **allowed**. The respondents are directed to revise applicant's pay as per MACP-III w.e.f. 01.11.2019 and grant retiral benefits including arrears accordingly within a period of four months from today. Default will invite interest @ 8% p.a.

9. There shall be no order as to costs.

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

(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)
Member (A) Member (J)

Dated : 01.08.2022

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