

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, GUWAHATI
(SI. No. 23)

O.A. No. 21 of 2021

Ex. Nk. Thang Khan Hang Applicant
By Legal Practitioner for the Applicant : Shri A.R. Tahbildar, Advocate

Versus

Union of India & Others Respondents
By Legal Practitioner for Respondents : Shri B. Kumar, Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>06.04.2023</u> <u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u> <u>Hon'ble Air Marshal Balakrishnan Suresh, Member (A)</u></p> <p style="text-align: center;">Heard Shri A.R. Tahbildar, Ld. Counsel for the applicant and Shri B. Kumar, Ld. Counsel for the respondents.</p> <p>It is submitted by the Ld. Counsel for the applicant that that applicant was enrolled in the Army Ordnance Corps of Indian Army on 23.12.1978 and was discharged from service on 31.12.1995 after rendering 17 years and 09 days of service. He was re-enrolled in the Defence Security Corps (DSC) on 17.07.1998 and discharged from DSC service on 31.05.2015 after rendering 16 years, 11 months and 14 days of service on compassionate ground at his own request under Rule 13(3) Item III (i) of the Army Rules, 1954. Applicant had preferred a claim for the grant of Financial Upgradation (MACP), but the same was denied vide DSC Records letter dated June, 2021, a copy whereof has been filed as Annexure 'G' with the Original Application.</p> <p>Ld. Counsel for the applicant submits that since the applicant has completed more than eighteen years of service, he is entitled for the grant financial upgradation to the rank of Havildar.</p> <p>On the other hand, Ld. Counsel for the respondents submits that the benefit of MACP was initially not extended to DSC personnel, as per policy laid down vide IHQ of MoD (Army) letter No. B/33513/AG/PS-2(c) dated 12.03.2013</p>

as the service of DSC was considered as a second employment, but now the Government has accepted the financial upgradation under MACP to DSC personnel also with effect from 01.01.2016 vide Government of India, Gazette Notification No. 02 dated 05.09.2016. However, the administrative instruction/guidelines for implementation of the same is under preparation at Service HQs. Once the instructions/guidelines received from competent authority, the applicant's case will be processed for revised pensionary benefits under MACP, subject to meeting the other eligibility criteria.

Upon hearing submissions of Ld. Counsel of both sides we find that the respondents have conceded that Government has accepted the financial upgradation under MACP to DSC personnel also with effect from 01.01.2016 vide Government of India, Gazette Notification No. 02 dated 05.09.2016, however, administrative instruction/guidelines have not been issued so far. It is surprising that after the issuance of Government of India, Gazette Notification dated 05.09.2016, administrative instructions/guidelines of the respondents have not been issued even after a lapse of more than six years.

In view of the above, subject to verification of documents, Original Application is allowed and respondents are directed to consider the case of the applicant for the grant of Financial Upgradation to the applicant in the rank of Havildar with effect from 01.01.2016 in view of Government of India, Gazette Notification No. 02 dated 05.09.2016, within a period of eight weeks from today.

Misc. Application(s), pending if any, shall be treated to have been disposed of.

(Air Marshal Balakrishnan Suresh)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

AKD/MC/-