

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

(Sl. No. 4)

O.A. No. 23 of 2021 with M.A. No. 14 of 2021

**Ex. Nk. Thngnei Pau**

By Legal Practitioner for the Applicant : Shri A.R. Tahbildar, Advocate

Applicant

**Versus**

**Union of India & Others**

By Legal Practitioner for Respondents : Shri B. Kumar, Advocate

Respondents

**Notes of  
the  
Registry**

**Orders of the Tribunal**

**06.04.2023**

**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**

**Hon'ble Air Marshal Balakrishnan Suresh, Member (A)**

Heard Shri A.R. Tahbildar, Ld. Counsel for the applicant and Shri B. Kumar, Ld. Counsel for the respondents.

**M.A. No. 14 of 2021**

This application has been filed for condoning the delay of 01 month and 22 days in filing the Original Application for grant of benefit of financial upgradation under MACP in the rank of Havildar to DSC personnel.

It is submitted by the Ld. Counsel for the applicant that delay in filing the Original Application is not intentional, but for the reasons stated in the affidavit filed in support of delay condonation application.

The Ld. Counsel for the respondents has vehemently opposed the prayer.

Upon hearing submissions of Ld. Counsel of both sides we find that cause shown is sufficient. Accordingly, delay is condoned. Delay condonation application stands disposed of.

**O.A. No. 23 of 2021**

Heard Shri A.R. Tahbildar, Ld. Counsel for the applicant and Shri B. Kumar, Ld. Counsel for the respondents.

It is submitted by the Ld. Counsel for the applicant that that applicant was enrolled in the Assam Regiment of Indian Army on 16.12.1980 and was discharged from service on 31.12.1997 after rendering 17 years and 16 days of service. He was re-enrolled in the Defence Security Corps (DSC) on 29.10.1998 and discharged from

DSC service on 31.12.2016 after rendering 18 years, 02 months and 03 days of service 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 23 March, 2021, a copy whereof has been filed as Annexure 'H' with the Original Application.

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.

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 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 yeárs.

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)