

**ARMED FORCES TRIBUNAL,
REGIONAL BENCH, GUWAHATI**

OA-26/2024

Ex Hav Paokholal

..... Applicant

By legal practitioners for Applicant
AR Tahbildar

-Versus-

UOI & Ors

..... Respondents

By legal practitioner for Respondents
P Sharma, CGSC

CORAM:

**HON`BLE MR. JUSTICE UMESH CHANDRA SHARMA, MEMBER (J)
HON`BLE LT GEN C.P. MOHANTY, MEMBER (A)**

ORDER

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

- (i) *To quash and set aside the impugned letter dated 09 Nov 2022 issued vide No. 4570/4359338A/MACP/NE-4 by Records the Assam Regiment arbitrarily rejecting applicant's claim for MACP of Nb Sub rank on completion of 24 years of continuous service w.e.f. 29.12.011.*

- (ii) To grant benefit of 3^d MACP with consequential monetary benefits including fixation of pension on the basis thereof with arrear and interest thereon and direct the concerned authority to issue corrigendum PPO*
- (iii) And/or pass such further order/orders as deem fit and proper.*

2. The case of the applicant in brief is that he was enrolled in the Army as Sepoy on 29.12.1987 and he was discharged from service w.e.f. 01.01.2012 after 24 years, 03 days of service. During the tenure of service, he was given promotion to the rank of Hav. However, the applicant was neither granted the next promotion to the Nb Sub nor the benefit of MACP in lieu of promotion to which the applicant is entitled to. Under the MACP scheme, an employee of the Armed Forces gets at least three career up-gradation during his entire service period on completion of 8, 16 and 24 years of service in lieu of promotions as per MoD letter No. 14(1)/99-D(AG) dated 25.07.2018. The applicant submitted an application to Records the Assam Regiment on 06.10.2022 to grant MACP in the rank of Nb Sub and release all benefits. However, Records, the Assam Regiment vide the impugned letter informed that the applicant is not eligible for

MACP-III (Nb Sub Grade) due to discipline criteria as per policy on the subject. Hence he approached this Tribunal by filing the instant OA.

Submissions on behalf of the applicant

3. Mr. AR Tahbildar, learned counsel for the applicant has submitted that under the Modified Assured Career Progression (MACP) Scheme, Army personnel who do not receive promotion because of lack of vacancies or administrative reasons can receive financial upgradation instead thereof. Financial upgradation is generally available after 8 years in the same grade, with maximum of three financial upgradations during the entire service/re-employment period. Mr Tahbildar further submitted that the applicant had already received two promotions (to Naik and Havaldar) but was not promoted to Naib Subedar. Therefore, the applicant claims that he should be granted the financial benefit/pay of the Naib Subedar rank under MACP. The Ministry of Defence, vide letter dated 30th May, 2011 also of accepted the 6th Central Pay Commission recommendations to extend MACP benefits to Personnel Below Officer Rank (PBOR). The scheme provides three financial upgradations after 8, 16, and 24 years of continuous service. It is submitted that the Records the

Assam Regiment has arbitrarily denied MACPs to the applicant in violation of the Regulations, Rules and the general principles and hence the applicant is not only entitled to the higher grade pay in the rank of Nb Sub under 3rd MACP but also eligible for all consequential monetary benefits.

Submissions on behalf of the respondents-

4. *Per contra*, Mr. Pranjal Sharma, learned Central Govt. Standing counsel appearing for the respondents has submitted that the applicant was enrolled in Assam Regiment on 29 Dec 1987 and superannuated on 31 Dec 2011 after rendering 24 years and 2 days of service. He had 100 days of non qualifying service. Further he was unwilling for extension of two years service and submitted his unwillingness certificate dated 26 Jul 2010. However, after a gap of 11 years, applicant had requested for grant of pension of MACP of Nb Sub Grade vide his application dated 06 Oct 2022. Records, the Assam Regiment intimated him that he is not eligible for MACP III (Nb Sub Grade) since he neither completed 24 years qualifying service nor put in more than eight years of qualifying service in the rank of Hav.

5. It is further submitted on behalf of the respondents that the applicant had also approached the Records, the Assam Regiment vide

his application dated 31 March, 2023 to review his case and requested to grant of service pension of MACP Nb Sub grade with effect from 29th Dec, 2011 in accordance with the Govt. of India, Ministry of Defence letter dated 25 July, 2018 as well as para 18 of Pension Regulation for the Army, Part-I (2008). In reply, Records, the Assam Regiment vide letter dated 13 May, 2023 intimated him that he is not eligible for MACP-III (Nb Sub Grade) due to lack of service criteria as he had served for only 23 years 8 months and 23 days instead of 24 years. As per policy in force, criteria for grant of MACP-III (Nb Sub Grade) Non Commission Officer (NCO) should have completed 24 years of service or served 8 years in the rank of Hav.

6. It is submitted by the learned counsel for the respondents that the authorities have not violated any of the fundamental rights of the applicant. Hence, it is submitted that the OA may be dismissed being devoid of merit.

CONSIDERATION

7. We have heard Mr AR Tahbildar, learned counsel appearing for the applicant and Mr. Pranjal Sharma, learned Central Govt. Standing counsel for the respondents, perused the record and considered the rival submissions.

8. A perusal of the record shows that the applicant was discharged from service on 31.12.2011 on superannuation after rendering qualifying service of 23 years 8 months and 23 days instead of 24 years. As per policy in force, criteria for grant of MACP-III (Nb Sub Grade) Non Commission Officer (NCO) should have completed 24 years of service or served 8 years in the rank of Hav and as such he is not eligible for MACP-III(Nb Sub Grade) due to lack of service criteria. The applicant had absented himself without leave for 100 days and as such there was a shortfall of 100 days for completion of 24 years continuous regular service. As per serial no. 25 of Appendix 'A' to Administrative Instructions issued by the Integrated Headquarter of MoD (Army) vide letter no. B3313/ACP/AG/PS-2(c) dated 13.06.2011 ' Absence without leave merits punishment which may debar MACP' and thus, the claim of the applicant for grant of MACP III has rightly been rejected by the respondents. Reliance has been placed on **OA 2679 of 2021, Ex. Hav/Clk G D Asa Ram Jat Vs. Union of India and others**, decided on 23.12.2025 by Larger Bench of the Principal Bench, New Delhi wherein it has been held that there can be no condonation of shortfall of the period of service in a particular rank of a PBOR for the grant of the MACPS on completion of 8,16, and 24 years in terms of the MACPS made applicable to the Indian Army vide letter no. 14 (1)99-D(AG)

dated 30.05.011 issued by the Government of India, Ministry of Defence read with the Administrative Instructions dated 13.06.2011No. B/33513/ACP/AG/PS 2 (C).

9. Learned counsel for the applicant has not been able to distinguish the case of **Ex Hav/Clk G D Asa Ram Jat** (supra) from the present case.

10. It is also admitted case of the parties that there was a shortfall of 100 days for completion of 24 years continuous regular service and the applicant has already been granted service pension for rendering 23 years, 08 months and 23 days of total qualifying service vide PPO No. S/036756/2011 (Army) dated 22.09.2011 by the PCDA(P), Allahabad. A perusal of record shows that as per serial no. 25 of Appendix 'A' to Administrative Instructions issued by the Integrated Headquarter of MoD (Army) vide letter no. B3313/ACP/AG/PS-2(c) dated 13.06.2011 ' Absence without leave merits punishment which may debar MACP'

11 In view of the above, we hardly find any ground to interfere with the order dated 09.11.202¹ passed by the Senior Record Officer, Records the Assam Regiment and the claim of the applicant for grant of MACP III has rightly been rejected by the respondents.

12. The OA lacks merit and is dismissed accordingly.
13. There shall be no order as costs.

Pronounced in the open Court on this 10th day of September, 2026.


(UMESH CHANDRA SHARMA)
MEMBER(J)


(LT GEN C.P. MOHANTY)
MEMBER(A)

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