

COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

34.

OA 5295/2024 with MA 1006/2025 & 5536/2024

Ex Hav Rabet Singh Applicant
VERSUS Respondents
Union of India and Ors.

For Applicant : Mr. Sukhbir Singh, Advocate
For Respondents : Mr. Atulesh Saran Mathur, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
19.05.2025

MA 1006/2025

This is an application filed on behalf of the respondents for condonation of delay of 33 days in filing the counter affidavit. In view of the reasons explained in MA and in the interest of justice, the MA 1006/2025 is allowed and the delay in filing the counter affidavit is condoned.

OA 5295/2024

Counter affidavit of the respondents is on the record. No rejoinder is sought to be filed by the applicant.

2. The prayers made by the applicant vide the present OA read to the effect:-

*"(a) quash and set aside impugned letter No 14906746/NER/LN/Legal dated 31.10.2024. And
(b) Direct the respondents to grant 3rd MACP of the rank of Nb Sub to the applicant on completion of 24 years of service after condoning shortfall of 13 days in qualifying service. And/or
(b) Direct respondents to pay the due arrears of pay and pension and retiral benefits along with the arrears and @12% interest thereupon.*

(d) Any other relief(s) which this Hon'ble may deem appropriate, just and proper in the interest of justice and in the facts and circumstances of the case may also be granted to the applicant;"

3. Counsel for the applicant places reliance on proceedings dated 25.07.2023 in OA 2099/2021 in *Ex Hav Vijay Kumar(Retd) vs. UOI & Ors.*, *inter alia* with specific reliance on observations in Para-10 of the said order which reads to the effect:-

"10. In view of the aforesaid analysis, we are of the considered opinion that because of 14 days of Non Qualifying Service, the Applicant has not completed 24 years Qualifying Service for grant of MACP Benefit, and keeping in view the fact that the Applicant has rendered approximately 24 years of service, hence, cannot be deprived of a legitimate pecuniary benefit of 3rd MACP on account of a deficiency of 14 days of Non Qualifying Service which without doubt merits condonation."

4. It is essential to observe that vide order dated 27.09.2023, the issue to the effect:-

"Whether the condonation of shortfall can be allowed for the purpose of grant of MACP in view of the Regulation 18 of the Pension Regulations for the Army, 2008 (Part-1)?",

has been referred to the Larger Bench which is pending in OA 2679/2021 with OA 2453/2024. In view thereof, the Registry is directed to renotified after disposal of the said issue referred to hereinabove by the Larger Bench.


(JUSTICE ANU MALHOTRA)
MEMBER (J)


(REAR ADMIRAL DHIREN VIG)
MEMBER (A)