

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

OA 1347/2020

Ex Hav Babu Lal

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Mr. Ved Prakash, Advocate
For Respondents : Mr. Prabodh Kumar, Sr. CGSC

CORAM :

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER

OA 1347/2020

The applicant vide the present OA makes the following prayers:-

- “(a) Direct the respondents to treat the retirement date of the petitioner as 01.01.2006 and grant him MACP of the rank of Nb Sub.*
- (b) Direct respondents to pay the due arrears of pension with interest @12% p.a from the date of retirement with all the consequential benefits.*
- (c) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case along with cost of the application in favour of the applicant and against the respondents.”*

2. The applicant Ex Hav Babu Lal No. 4553157H was enrolled in the Indian Army on 11.12.1981 and discharged from service on 31.12.2005. The PPO in relation thereto has been annexed by the respondents vide Annexure R-1 which shows the date of commencement of pension being 01.01.2006 and thus apparently the averment made by the respondents that the applicant was discharged from service on 31.05.2005 appears to be a typographical error.
3. The applicant submits that his date of retirement being 31.12.2005, he be granted the benefit of MACP for the rank of Nb Sub, as MACP was applicable with effect from 01.01.2006.
4. The respondents vide their counter affidavit dated 01.04.2021, submit that the applicant was discharged from service on 31.05.2005 and placed on record Annexure R-1 as his PPO no. S/041777/2005(Army) dated 17.10.2005 which shows the date of commencement of pension as being 01.01.2006 as placed on record vide a corrigendum PPO no. S/CORR/118387/2005 dated 05.05.2006.
5. The respondents have submitted to the effect that during the period of service of the applicant, he was promoted to the rank of Hav on 30.01.2002 before the implementation of the ACP Scheme which was effective from 07.08.2003. The respondents further submit that the MACP Scheme was further modified with grant of three financial

upgradations at intervals of 08, 16 and 24 years of continuous regular service and that the executive order which was issued by the Govt. of India, Ministry of Defence letter no. 14(1)/99-D(AG) dated 30.05.2011 and IHQ of MoD letter no. B/33513/ACP/AG/PS-2(c) dated 13.06.2011 and was effective from 01.09.2008 and the applicant had already been discharged before the said date and he is not entitled to the benefit of the third MACP.

6. It is essential to observe that vide judgment dated 22.08.2022 of the Hon'ble Supreme Court in *UOI & Ors. Ex HC/GD Virender Singh* reported in 2022 Live Law (SC) 699 it has been categorically observed vide Para-12 thereof to the effect:-

“12. In view of the aforesaid discussion, the appeals filed by the Union of India are partly allowed and impugned judgments, to the extent they hold that the MACP Scheme applies with effect from 1.1.2006 and that under the MACP Scheme the employees are entitled to financial upgradation equivalent to the next promotional post, are set aside. MACP Scheme is applicable with effect from 01.09.2008 and as per the MACP Scheme, the entitlement is to financial upgradation equivalent to the immediate next grade pay in the hierarchy of the pay bands as stated in Section 1. Part A of the First Schedule to the Central Civil Services (Revised Pay) Rules, 2008. The third issue, which relates to the fulfilment of pre-promotional norms for grant of financial upgradation, is decided against the appellant-Union of India to the extent that this would not be insisted in the case of the Central Armed Forces personnel where, for administrative or other reasons, they could not be sent or undergo the pre-promotional course.”,-

(emphasis supplied)

making it apparent therefrom that the MACP Scheme is applicable only with effect from 01.09.2008.

7. In view thereof, it is apparent that the applicant who was discharged even before the date 01.09.2008 is not entitled to the benefit of the said MACP Scheme which in view of the verdict of the Hon'ble Supreme Court in *UOI & Ors. Ex HC/GD Virender Singh* takes effect only from 01.09.2008.

8. The OA 1347/2020 is dismissed.

Pronounced in the Open Court on the ²⁵..... day of March,
2025.

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~~[MS. RASIKA CHAUBE]~~
MEMBER (A)

[JUSTICE ANU MALHOTRA]
MEMBER (J)

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