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

5.

OA 3769/2025

Sgt Vikas Kumar (Retd) ..... Applicant
VERSUS
Union of India and Ors. ..... Respondents

For Applicant : Mr. Nawneet Krishna Mishra, Advocate
For Respondents : Mr. Arvind Patel, Advocate
Mr. Pankaj Sharma, Incharge, DAV, Legal Cell

CORAM

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

ORDER
27.11.2025

The applicant vide the present OA makes the following prayers:

"(a) To direct Respondents to grant Notional MACP-III to Applicant w.e.f. date of completion of 08 years in rank of Sergeant.
(b) To direct Respondents to consequential re-fixation of pay/pension.
(c) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case."

2. Notice of the OA is issued and accepted on behalf of the respondents. The impugned order is placed at Annexure A-1 which reads to the effect:-

"AS PER POLICY IN VAGUE, FINANCIAL UPGRADATION UNDER MACP SCHEME WILL BE

ADMISSIBLE WHENEVER A PERSON HAS SPENT 8 YEARS CONTINUOUSLY IN THE SAME GRADE PAY. BOARD DETAILS ARE PROSPECTIVE IN NATURE INDICATING ELIGIBILITY FOR GRANT OF MACP ON A PARTICULAR DATE PROVIDED INDIVIDUAL IS AVAILABLE TO SERVE ON THE VERY DAY IN IAF. IN YOUR INSTANT CASE, YOU WILL BE ELIGIBLE FOR GRANT OF MACP-III W.E.F. 01 OCT 25."

3. On behalf of the respondents, it is submitted that the impugned order is not disputed as being the impugned order. However, a prayer is made seeking verification of the date of retirement of the applicant. The PPO placed on record gives the date of retirement of the applicant as being 30.09.2025.

4. The issue involved in the present case is no more *res integra* in view of the orders of the Larger Bench of the AFT(RB), Chandigarh in ***Banarasi Dass vs. UOI & Ors.*** in OA 1641/2013 passed on 19.05.2015 whereby vide Paras-26 and 27 thereof, it has been held to the effect:-

"26. In the case at hand, a copy of the PPO with respect to the petitioner filed along with the petition would also show that he is getting pension with effect from 1st October, 2008, meaning thereby the petitioner stood retired on the previous date i.e. 30th September, 2008 on completion of 24 years of service. The fact that his name was struck from the roll on the next day is of no consequence.

27. Having regard what has been said above, we are of the view that a Havildar who retires just after completion of his tenure of 24 years on the last date of month is also entitled to MACP. The question posed in para 2 of the judgment is, thus, answered in

affirmative by holding that on completion of 24 years of service the 3rd ACP would be payable automatically."

5. Furthermore, it is essential to observe that Civil Appeal filed vide Diary No. 18345/2017 by the Union of India and other appellants against the said order in ***Ex Hav Banarasi Dass***(Supra) was dismissed as withdrawn vide order dated 17.09.2018 passed by the Hon'ble Supreme Court.

6. Furthermore, in the case of ***P. Ayyamperumal Vs. The Registrar, Central Administrative Tribunal and others*** [W.P. No. 15732 of 2017) decided by the Hon'ble High Court of Judicature at Madras vide its verdict dated 15.09.2017, the petitioner, on superannuation, retired on 30.06.2013 and he was denied the last increment. As per the 6th CPC, the date of annual increment was fixed by the Central Govt. as 1st July of the year for all the employees and, therefore, since the petitioner was no longer in service on 01.07.2013, he could not be granted the same. The petitioner approached the Central Administrative Tribunal but his matter was dismissed, which was challenged by the petitioner in the Madras High Court by way of a writ petition ie. W.P. No. 15732 of 2017. The Hon'ble Madras High Court allowed the writ petition and held that the employee had completed one full year of service, which entitles him to the benefit of increment which accrued to him during that period. Against this judgment of the Madras High Court, a Special Leave Petition (Dy.

No.22282/2018) was filed before the Hon'ble Supreme Court, however, the same was dismissed vide order dated 23.07.2018.

7. It is essential to observe that vide judgment dated 11.04.2023 in Civil Appeal No. 2471 of 2023 in the case of ***The Director (Admn. and HR) KPTCL & Ors. Vs. C.P. Mundinamani & Ors.***, the Hon'ble Supreme Court has upheld the view taken by the Hon'ble High Court of Madras in ***P. Ayyamperumal*** (supra), which view has thus attained finality. Paras 6.4, 6.5, 6.6, 6.7 and 7 of the said verdict of the Hon'ble Supreme Court in Civil Appeal No. 2471 of 2023 read as under:

> *"6.4 Now so far as the submission on behalf of the appellants that the annual increment is in the form of incentive and to encourage an employee to perform well and therefore, once he is not in service, there is no question of grant of annual increment is concerned, the aforesaid has no substance. In a given case, it may happen that the employee earns the increment three days before his date of superannuation therefore, even according to the Regulation 40(1) increment is accrued on the next day in that case also such an employee would not have one year service thereafter. It is to be noted that increment is earned on one year past service rendered in a time scale. Therefore, the aforesaid submission is not to be accepted.*
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> *6.5 Now, so far as the submission on behalf of the appellants that as the increment has accrued on the next day on which it is earned and therefore, even in a case where an employee has earned the increment one day prior to his retirement but he is not in service the day on which the increment is accrued is*

concerned, while considering the aforesaid issue, the object and purpose of grant of annual increment is required to be considered. A government servant is granted the annual increment on the basis of his good conduct while rendering one year service. Increments are given annually to officers with good conduct unless such increments are withheld as a measure of punishment or linked with efficiency. Therefore, the increment is earned for rendering service with good conduct in a year/specified period. Therefore, the moment a government servant has rendered service for a specified period with good conduct, in a time scale, he is entitled to the annual increment and it can be said that he has earned the annual increment for rendering the specified period of service with good conduct. Therefore, as such, he is entitled to the benefit of the annual increment on the eventuality of having served for a specified period (one year) with good conduct efficiently. Merely because, the government servant has retired on the very next day, how can he be denied the annual increment which he has earned and/or is entitled to for rendering the service with good conduct and efficiently in the preceding one year. In the case of Gopal Singh (supra) in paragraphs 20, 23 and 24, the Delhi High Court has observed and held as under:

> *(para 20)*
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> *"Payment of salary and increment to a central government servant is regulated by the provisions of F.R., CSR and Central Clull Services (Pension) Rules. Pay defined in F.R. 9(21) means the amount drawn monthly by a central government servant and includes the increment. A plain composite reading of applicable*

provisions leaves no ambiguity that annual increment is given to a government servant to enable him to discharge duties of the post and that pay and allowances are also attached to the post. Article 43 of the CSR defines progressive appointment to mean an appointment wherein the pay is progressive, subject to good behaviour of an officer. It connotes that pay rises, by periodical increments from a minimum to a maximum. The increment appointment is specified in Article 151 of the CSR to mean that increment accrues from the date following that on which it is earned. The scheme, taken cumulatively, clearly suggests that appointment of a central government servant is a progressive appointment and periodical increment in pay from a minimum to maximum is part of the pay structure. Article 151 of CSR increment accrues from the day following contemplates that which it is earned. This increment is not a matter of course but is dependent upon good conduct of the central government servant. It is, therefore, apparent that central government employee earns increment on the basis of his good conduct for specified period i.e. a year in case of annual increment.

Increment in pay is thus an integral part of progressive appointment and accrues from the day following which it is earned."

(para 23)

"Annual increment though is attached to the post & becomes payable on a day following which it is earned but the day on which increment accrues or becomes payable is not conclusive or determinative. In the statutory scheme governing progressive appointment increment becomes due for the services rendered over a year by the government servant subject to his good behaviour. The pay of a central government servant rises, by periodical increments, from a minimum to the maximum in the prescribed scale. The entitlement to receive increment therefore crystallises when the government servant completes requisite length of service with good conduct and becomes payable on the succeeding day."

(para 24)

"In isolation of the purpose it serves the fixation of day succeeding the date of entitlement has no intelligible differentia nor any object is to be achieved by it. The central government servant retiring on 30th June has already completed a year of service and the increment has been earned provided his conduct was good. It would thus be wholly arbitrary if the increment earned by the central government employee on the basis of his good conduct for a year is denied only on the ground that he was not in employment on the succeeding day when increment became payable."

"In the case of a government servant retiring on 30th of June the next day on which increment falls due/becomes payable looses significance and must give way to the right of the government servant to receive increment due to satisfactory services of a year so that the scheme is not construed in a manner that if offends the spirit of reasonableness enshrined in Article 14 of the Constitution of India. The scheme for payment of increment would have to be read as whole and one part of Article 151 of CSR cannot be read in isolation so as to frustrate the other part particularly when the other part creates right in the central government servant to receive increment. This would ensure that scheme of progressive appointment remains intact and the rights earned by a government servant remains protected and are not denied due to a fortuitous circumstance."

6.6 The Allahabad High Court in the case of Nand Vijay Singh (supra) while dealing with the same issue has observed and held in paragraph 24 as under: -

"24. Law is settled that where entitlement to receive a benefit crystallises in law its denial would be arbitrary unless it is for a valid reason. The only reason for denying benefit of increment, culled out from the scheme is that the central government servant is not holding the post on the day when the increment becomes payable. This cannot be a valid ground for denying increment since the day following the date

on which increment is earned only serves the purpose of ensuring completion of a year's service with good conduct and no other purpose can be culled out for it. The concept of day following which the increment is earned has otherwise no purpose to achieve. In isolation of the purpose it serves the fixation of day succeeding the date of entitlement has no intelligible differentia nor any object is to be achieved by it. The central government servant retiring on 30th June has already completed a year of service and the increment has been earned provided his conduct was good. It would thus be wholly arbitrary if the increment earned by the central government employee on the basis of his good conduct for a year is denied only on the ground that he was not in employment on the succeeding day when increment became payable. In the case of a government servant retiring on 30th of June the next day on which increment falls due/becomes payable looses significance and must give way to the right of the government servant to receive increment due to satisfactory services of a year so that the scheme is not construed in a manner that if offends the spirit of reasonableness enshrined in Article 14 of the Constitution of India. The scheme for payment of increment would have to be read as whole and one part of Article 151 of CSR cannot be read in isolation so as to frustrate the other part particularly when the other part creates

right in the central government servant to receive increment. This would ensure that scheme of progressive appointment remains intact and the rights earned by a government servant remains protected and are not denied due to a fortuitous circumstance."

6.7 Similar view has also been expressed by different High Courts, namely, the Gujarat High Court, the Madhya Pradesh High Court, the Orissa High Court and the Madras High Court. As observed hereinabove, to interpret Regulation 40(1) of the Regulations in the manner in which appellants have interpreted would lead to arbitrariness and understood and/or denying a government servant the benefit of annual increment which he has already earned while rendering specified period of service with good conduct and efficiently in the last preceding year. It would be punishing a person for no fault of him. As observed hereinabove, the increment can be withheld only by way of punishment or he has not performed the duty efficiently. Any interpretation which would lead arbitrariness and/or unreasonableness should be avoided. If the interpretation as suggested on behalf of the appellants and the view taken by the Full Bench of the Andhra Pradesh High Court is accepted, in that case it would tantamount to denying a government servant the annual increment which he has earned for the services he has rendered over a year subject to his good behaviour. The entitlement to receive increment therefore crystallises when the government servant completes requisite length of service with good conduct and becomes payable on the succeeding day. In the present case the word "accrue" should be understood liberally and would

mean payable on the succeeding day. Any contrary view would lead to arbitrariness unreasonableness and denying a government servant legitimate one annual increment though he is entitled to for rendering the services over a year with good behaviour and efficiently and therefore, such a narrow interpretation should be avoided. We are in complete agreement with the view taken by the Madras High Court in the case of P. Ayyamperumal (supra); the Delhi High Court in the case of Gopal Singh (supra); the Allahabad High Court in the case of Nand Vijay Singh (supra); the Madhya Pradesh High Court in the case of Yogendra Singh Bhadauria (supra); the Orissa High Court in the case of AFR Arun Kumar Biswal (supra); and the Gujarat High Court in the case of Takhatsinh Udesinh Songara (supra). We do not approve, the contrary view taken by the Full Bench of the Andhra Pradesh High Court in the case of Principal Accountant-General, Andhra Pradesh (supra) and the decisions of the Kerala High Court in the case of Union of India Vs. Pavithran (O.P.(CAT) No. 111/2020 decided on 22.11.2022) and the Himachal Pradesh High Court in the case of Hari Prakash Vs. State of Himachal Pradesh & Ors. (CWP No. 2503/2016 decided on 06.11.2020).

7. In view of the above and for the reasons stated above, the Division Bench of the High Court has rightly directed the appellants to grant one annual increment which the original writ petitioners earned on the last day of their service for rendering their services preceding one year from the date of retirement with good behaviour and efficiently. We are in complete agreement with the view taken by the Division Bench of the High Court. Under the circumstances, the present appeal deserves to be dismissed and is accordingly dismissed. However, in

the facts and circumstances of the case, there shall be no order as to costs."

8. The very same aspect has also been considered by this Tribunal in OA 1029/2017 in the matter of ***Ex Sgt K.C. Dutta vs. UOI & Ors.*** disposed of vide order dated 30.11.2023. Till date 30.11.2023, the said order dated 30.11.2023 in OA 1029/2017 has not been challenged by the Union of India and other respondents arrayed to the same nor has the said order been stayed or set aside by any superior forum, and has thus attained finality. In view of the settled law and in view of the verdict of the Hon'ble Supreme Court in Civil Appeal 1943/2022 in ***Lt Col Suprita Chandel vs. UOI & Ors.*** whereby vide Paras-14 and 15 thereof it has been observed to the effect:-

"14. It is a well settled principle of law that where a citizen is aggrieved by an action of the government department has approached the court and obtained a declaration of law in his/her favour, others similarly situated ought to be extended the benefit without the need for them to go to court. [See Amrit Lal Berry vs. Collector of Central Excise, New Delhi and Others, (1975) 4 SCC 714]

15. In K.I. Shephard and Others vs. Union of India and Others, (1987) 4 SCC 431, this Court while reinforcing the above principle held as under:-

"19. The writ petitions and the appeals must succeed. We set aside the impugned judgments of the Single Judge and Division Bench of the Kerala High Court and direct that each of the three transferee banks should take over the

excluded employees on the same terms and conditions of employment under the respective banking companies prior to amalgamation. The employees would be entitled to the benefit of continuity of service for all purposes including salary and perks throughout the period. We leave it open to the transferee banks to take such action as they consider proper against these employees in accordance with law. Some of the excluded employees have not come to court. There is no justification to penalise them for not having litigated. They too shall be entitled to the same benefits as the petitioners. ...."

(Emphasis Supplied)",

we do not consider it appropriate to delay the matter any further and thus the principle thus applicable for the grant of notional annual increment earned by an employee for rendering service with good conduct in a preceding year/specified period even though he retired the next day has thus to be equally applicable to the grant of the MACP benefit on completion of 8, 16, 24 years of service, if otherwise available.

9. It is thus directed to the effect that the applicant is entitled to the financial upgradation as per the MACP Scheme under the 6th CPC on the date of his discharge i.e. 30.09.2025 with the benefit of the grade pay of the rank of the next higher rank with all pensionary and consequential benefits as he had completed the

full 8 years of service in the rank of Sgt on the said date i.e. 30.09.2025.

10. In view of our observations hereinabove, the OA 3769/2025 is allowed. The respondents are directed to grant the benefit of the financial upgradation as per the MACP Scheme for the next higher rank of JWO to the applicant with effect from 01.10.2025 i.e. the next date of completion of 8 years of regular service in the rank of Sgt, with all consequential benefits within a period of three months from the date of receipt of the certified copy of this order, failing which, the respondents would be liable to pay interest @8% per annum to the applicant till the date of actual payment.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)

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