

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

9.

OA 2679/2025

Hav Rajesh Singh (Retd) Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Nawneet Krishna Mishra, Advocate
For Respondents: Mr. Swapnil Joshi, Advocate for
Mr. S S Chugh, Advocate
Maj Abhishek Kumar, OIC, Legal Cell

CORAM

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

ORDER
06.02.2026

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

"8(a) To issue/pass an order or direction to the Respondents to grant the third financial up-gradation of Nb Sub grade under Modified Assured Career Progression (MACP) Scheme with effect from dated 25 Sep 2024 with all consequential benefits.

(b) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case."

2. Notice thereof was issued to the respondents vide order dated 02.09.2025.

3. No counter affidavit has been filed by the respondents till date. However, in view of the impugned document No. SP/13765778/MACP/ Rev dated 28.06.2025 wherein vide para 2 thereof it is stated to the effect:-

"2. It is intimated that you were enrolled in to the Army on 26 Sep 2000 and discharged from service on 30 Sep 2024(AN) on completion of 23 yrs, 10 months and 21 days service. On scrutiny of service document it is found that you are not eligible for MACP Nb Sub as you have been absence without leave for the period wef 05 May 2010 to 16 Jun 2010 (total 43 days) and not completed 24 yrs continuous service due to 43 days non qualifying service."

in view of the order dated 23.12.2025 of the Larger Bench of the AFT (PB) New Delhi in OA 2679 of 2021 in ***Ex Hav/Clk GD Asa Ram Jat vs. UOI & Ors.***, in which the question referred to the Larger Bench was 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 answered vide paragraphs 59 to 63 thereof to the effect:-

"59. On a consideration of the aspects detailed in the analysis, we hold that the Regulation 18 of the Pension Regulations for the Army Part-I (2008) which relates to calculating the length of qualifying service

for grant of Pension or Gratuity in terms thereof has no relevance to the self contained definitive scheme of MACPS to the PBORs and thus we concur with the view laid down in the order dated 03.11.2017 in OA 238/2017 of the AFT Principal Bench New Delhi in L/Nk Satyavir Singh (supra) that there can be no condonation of shortfall of the period of service in a particular rank of a PBORs 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 30.05.2011 issued by the Government of India Ministry of Defence read with the Administrative Instructions dated 13.06.2011 no. B/33513/ACP/AG/PS2(c).

60. At the cost of necessary repetition, it is essential to state that none of the orders relied upon on behalf of the applicant nor any of the orders mentioned in paragraphs 8 and 9 of the Referral Order dated 27.09.2023 in OA 2679 of 2021 make any reference to the order dated order dated 03.11.2017 in OA 238/2017 of the AFT Principal Bench New Delhi in L/Nk Satyavir Singh (supra) as all the orders mentioned in para no 8, as also those relied by the applicant are all after the date 03.11.2017 when the order in L/Nk Satyavir Singh (supra) was pronounced by the AFT (PB) New Delhi and thus in terms of the order of the Larger Bench of this Tribunal in OA 57/2020 in Hav Rajkumar (Retd) vs UOI & Ors dated 14.03.2024 in terms of Para 23 thereof whereby the reference therein was answered, we observe that all subsequent Benches of the Armed Forces Tribunal which were all of equal strength as of the Bench which pronounced the order dated 03.11.2017 in OA 238/2017 of the AFT (Principal Bench) New Delhi in L/Nk Satyavir Singh (supra) which has adjudicated in relation to the same issue qua the aspect of condonation of shortfall for the grant of the benefit of the MACPS to

PBORs of the Indian Army were bound to follow the decision in L/Nk Satyavir Singh (supra) which was of a previous Bench of coordinate strength in relation to the ratio decidendi and principle laid down in the said adjudication to the extent of the adjudication in L/Nk Satyavir Singh (supra) that there can be no condonation of shortfall for the grant of the MACPS to the PBORs of the Indian Army in view of Regulation 18 of the Pension Regulations for the Army, Part -I (2008) which relates to Pension Regulations and gratuity. In terms of the Pension Regulations for the Army, Part -I (2008) the said Regulation 18 of the Pension Regulations for the Army Part I, (2008) does not relate to the aspect of financial upgradations at intervals of 8, 16, 24 years which MACPS is only to deal with the problem of genuine stagnation and lack of adequate promotional avenues. The reference is answered accordingly.

61. As has been observed by us elsewhere hereinabove, the aspect as to whether non qualifying service on being absent without leave or overstaying leave can be regularized is sub judice before the Hon'ble AFT (RB) Jabalpur in in OA 57/2020 in Hav Rajkumar (Retd) (supra) and the said issue is not for determination before us.

62. We thus make it expressly clear that we have not made any observations in relation to the issue and adjudication of the aspect of NQS which is pending before the Hon'ble AFT (RB) Jabalpur in OA 57/2020 with MA 55/2020 in Hav Rajkumar (Retd) vs UOI & Ors and is not pending for determination before us.

63. We also make it clear that we have not made any observations in relation to the merits or demerits of the prayers made in OA 2679/2021 in the case of Ex Hav/Clk GD Asa Ram Jat vs UOI & Ors, the records of which are directed to be placed before the concerned roster Bench for adjudication

and determination on its own merits, and on the basis of determination by this larger Bench on the issue referred and answered vide para 59 and 60 hereinabove.”,

we consider it appropriate to take up the OA for consideration.

4. The applicant was enrolled in the Indian Army on 26.09.2000 and was discharged from service on 30.09.2024 (AN) on completion of 23 years, 10 months and 21 days of service. He was absent without leave for the period with effect from 05.05.2010 to 16.06.2010 i.e. 43 days and had thus not completed 24 years of continuous service due to 43 days of non qualifying service as indicated vide the impugned document dated 28.06.2025 already adverted to hereinabove in para 3.

5. The applicant seeks the grant of the 3rd financial upgradation of 'Nb Sub' grade under the MACP scheme with effect from 25.09.2024 with all consequential benefits submitting to the effect that the shortfall of 43 days of qualifying service needs to be condoned in terms of the order dated 23.11.2017 in OA 108 of 2016 of the AFT (RB) Chennai in **Ex Hav M. Sankarraj vs UOI & Ors.**

6. It is essential to observe that vide order dated 23.12.2025 of the Larger Bench of the AFT(PB), New Delhi in OA 2679/2021 in **Ex**

Hav/Clk GD Asa Ram Jat vs. UOI & Ors., vide para 19, it has been observed to the effect:-

“19. It is essential also to observe that the order dated 23.11.2017 in Ex. Hav. M. Sankarraj (supra) of the Hon’ble AFT (RB) Chennai is wholly sub silentio in relation to the observations made in L/Nk Satyavir Singh (supra) vide the order dated 03.11.2017 in OA 238/2017 of the AFT (PB) New Delhi, which is prior in time, whereby it has been categorically observed in para 10 thereof as reproduced in para no.3 hereinabove that Regulation 18 of the Pension Regulations for the Army Part-I, (2008) relate to the condonation of service as well as computation of service relating to the basic requirements of eligibility of pension and are not linked to the MACPS which is an additional specific scheme which is not and cannot be made subject to the normal pension regulations and there was no justification found for condonation of delay under the Pension Regulations for the grant of MACPS.”

7. In terms of the observations of the Larger Bench vide order dated 23.12.2025 of the AFT(PB), New Delhi in OA 2679/2021 in **Ex Hav/Clk GD Asa Ram Jat vs. UOI & Ors.**, vide paras 59 to 61 already reproduced hereinabove in para 4, it is apparent that there can be no condonation of shortfall for the grant of MACPS to the PBORs of the Indian Army in view of Regulation 18 of the Pension Regulations for the Army 2008 Part 1 which relates to Pension Regulations and Gratuity.

8. It is essential to observe that vide order dated 19.11.2024 of the Larger Bench of AFT(RB), Chandigarh in OA 332/2024 in the case of *Hawa Singh vs. UOI & Ors.*, it has been observed to the effect:-

"11. Further, reference was made to advisory on grant of MACP in Integrated HQ of MoD (Army) policy dated 05.10.2021 in Para 2(e) which reads as under :-

Para 1. X x x x

"Para 2 (a) to (d) x x x x

2(e) Non qualifying service on account of AWL/OSL or RI period sentenced through court martial will also be deducted while calculating 8 years regular service for grant of MACP."

The above reference also makes it clear that non qualifying service on account of absence without leave is to be deducted while calculating the period for grant of MACP.",-

whereby it has been categorically observed to the effect that the non-qualifying service on account of absence without leave(AWL) is to be deducted whilst calculating the period for grant of MACP.

9. In as much as the non-qualifying service of the applicant of 43 days has not been regularized by the administrative authorities of the respondents, in view of the order dated 23.12.2025 of the Larger Bench of the AFT(PB), New Delhi in OA 2679/2021 in *Ex*

Hav/Clk GD Asa Ram Jat vs. UOI & Ors., the prayers made by the applicant seeking condonation of shortfall of a period of 43 days in the qualifying length of service for the grant of MACP,- cannot be granted.

10. The OA 2679/2025 is thus dismissed.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(RASIKA CHAUBE)
MEMBER (A)

AP
06.02.2026