

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

OA 696/2025

Ex Gnr Man Mohan Singh **Applicant**
VERSUS
Union of India and Ors. **Respondents**

For Applicant : Mr. Indra Sen Singh, Advocate
For Respondents : Mr. Shyam Narayan, Advocate
Maj Abhishek Kumar, OIC, Legal Cell

CORAM

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

O R D E R

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

“8.(a) Call for complete original record leading to the impugned order dated 30.09.2024, read with letter dated 11.01.2025, and after perusal there of set-aside the order dated 30.09.2024 whereby the Applicant's application for grant of benefit of MACP scheme has been rejected;

(b) Direct the respondents to grant the benefit of MACP scheme to the Applicant and accordingly grant him the pay & allowances of the rank of Havildar of three years and thereafter the pension of the rank of Havildar in accordance with the said MACP scheme, together with interest @ 10% per annum on the arrears thereof;

(c) Direct the respondents to pay to the applicant the cost of the litigation and for causing grave mental agony and stress to the applicant due to their unreasonable refusal to reinstate the Applicant into the service despite his acquittal; and

(d) Issue such other order(s)/direction(s) as may be deemed appropriate in the facts and circumstance of the case.”

FACTS ON RECORD

2. The applicant No. 14416214K Ex Gunner Manmohan Singh son of Shri Kartar Singh was enrolled in Regiment of Artillery on 28 Aug 1995. While in service with 28 Rashtriya Rifles Battalion, he was arrested by Civil Police, Pataudi, Gurgaon (Haryana) on 13 Mar 2001 and under Sec 498A read with Section 304B of IPC in connection with death of his wife Smt Anita Devi. On 18 Apr 2003, the Sessions Judge, Gurgaon (Haryana), after finding him guilty, awarded him punishment of Rigorous Imprisonment for a period of three years and to pay Rs. 10,000/- as a fine under IPC Section 498A and to Life Imprisonment under Section 304B of the IPC 1860. The applicant was dismissed from service with effect from 18 Apr 2003 under the provisions of Army Act 1950 Sec 20 read in conjunction with AR 17 & Para 423 of Regulations for the Army 1987.

3. The applicant filed Civil Appeal No CRA D No 444/DB 2003 before the Hon'ble High Court, Punjab & Haryana at Chandigarh against the judgment dated 17 Apr 2003 and sentence dated 18 Apr 2003 passed by the Sessions Judge, Gurgaon (Haryana). The

Hon'ble High Court of Punjab & Haryana, Chandigarh vide order dated 03 Aug 2016 directed to the effect:-

"Accordingly, the appeal is allowed and the Judgment of conviction and order of sentence dated 17.04.2003/18.04.2003 passed by the trial Court against the appellant Manmohan under Sections 498-A and 304-B I.P.C. stand set aside. The appellant is acquitted from the charges framed against him. The bail/surety bonds executed by the applicant shall stand discharged".

4. The applicant thereafter filed OA No 137/2018 before the AFT (PB), New Delhi challenging the Order of termination from service. Vide paras 23 to 26 of the order dated 28 Mar 2019 in OA 137/2018 of the AFT (PB), New Delhi, it was directed as under:-

"23. Having considered the facts and circumstances of the case on hand, in the light of the aforesaid decisions, we are of the view that the acquittal recorded in favour of the applicant has to be construed as 'honourable acquittal'.

24. It is no longer in dispute that the applicant was dismissed from service purely due to being charged in a criminal case under Sections 498-A and 304-B of the Penal Code and being convicted and sentenced by the Sessions Court. However, he was acquitted in appeal by the Hon'ble High Court, as it was found that there was no material evidence to substantiate the offences under Sections 498-A and 304-B of the Penal Code. Therefore, he is liable to be granted the benefits of the acquittal as per the policy in vogue.

25. However, we are of the opinion that the applicant cannot be reinstated into service

physically due to his having completed the terms of engagement of service as per his rank on 31.08.2012.

26. Resultantly, the O.A is disposed of, with the following directions:

(i) The respondents are directed to reinstate the applicant into service notionally from the date his services were terminated viz. 18.04.2003 to the date of his scheduled discharge viz. 31.08.2012, except the period spent by the applicant in civil jail viz. from 18.04.2003 to 02.10.2006, subject to a maximum period of three years as stated in Para 52(C)(i) of the Regulations for Pay and Allowances – JCOs, OR & NCsE, 1979;

(ii) The respondents shall ensure that payment of salaries for the aforesaid period are made to the applicant on his furnishing a certificate to the effect that he was not engaged in any other employment, business, profession or vocation during the period from dismissal from service up to the date of his discharge. If the applicant has earned any amount during the said period as pay and allowances, the same shall be deducted from the amount payable, if any, to the applicant;

(iii) The respondents are directed to calculate and pay pension to the applicant as per his entitlement with effect from the purported date of his discharge viz. 01.09.2012; and

(iv) The respondents are directed to calculate and pay the arrears, if any, within four months from the date of receipt of a copy of this order, failing which the respondents have to pay interest @ 8% per annum on the arrears due.”

5. Pursuant thereto vide letter No. C/00982/AFT/AG/DV-5(B)/513 dated 17.12.2021, the respondents vide paras 6, 7 and 8 stated to the effect:-

“6. IN PURSUANCE WHEREOF, the order of dismissal from service stands set aside. The Applicant shall be notionally re-instated into service with effect from 18 April 2003 (ie. the date of his dismissal from the service). Thereafter, he shall be notionally discharged from the service from 31 August 2012 i.e the date he completes minimum service required to earn pension in the rank of Gunner. The Applicant shall be entitled to the back wages upto a period of three years preceding the date of notional discharge. The Applicant shall be entitled to service pension and allied benefits from 01 September 2012. Applicant shall be entitled to interest @ 8% per annum from 29 July 2019, four months after the order dated 28 March 2019 on the arrears of pay and allowances and pension, as applicable to his case.

7. Audit Authorities will finalise the amount to be paid to the Applicant as admissible and intimate the details thereof to IHQ of MoD (Army)/Arty-10 for processing a separate sanction and getting the charged expenditure noted by MoD/Fin (Budget) before release of payment to the Petitioner.

8. This letter is issued with the concurrence of PIFA (Q&M) vide their U.O. Number 30599/PIFA(Q&M)/AG/CJ/3248/1110 dated 16 December 2021.”,

and as a consequence thereof the order of dismissal which took effect from 18.04.2003 was set aside and the applicant was notionally reinstated into service from **18.04.2003** and was to be

thus notionally discharged from the service from **31.08.2012** i.e. the date he completed the minimum service required to earn pension in the rank of Gunner. He was also to be paid the back wages up to a period of three years preceding the date of notional discharge and was stated thereby to be entitled to service pension and allied benefits from 01.09.2012. He was also to be entitled to interest at the rate of 8% per annum from 29 July 2019, four months after the order dated 28.03.2019 of the AFT (PB) New Delhi in OA 137/2018 on the arrears of pay and allowances and pension as applicable to his case, inasmuch as review application (RA 58 of 2019) filed by the Union of India against the order dated 28.03.2019 of the AFT (PB) New Delhi in OA 137 of 2018 was dismissed vide order dated 27.10.2021.

6. The PPO No. 153202200167 dated 20.05.2022 was thus issued by the respondents and pension of the rank of Gunner with effect from 01.09.2012 was credited to the account of the applicant on 27.06.2022. The applicant's back wages up to a period of three years preceding the date of his notional discharge from service i.e. 31.08.2012 were also credited to his account on 16.08.2024.

CONTENTIONS RAISED

7. The grievance of the applicant raised through the present OA is that in as much as he received the pay and allowances and the pension pertaining to the rank of Gunner and not of the rank of Havildar which he should have as per the MACP scheme vide letter dated 20.08.2024 he had sought the payment of pay and pension pertaining to the rank of Havildar from the respondents which was declined vide the communication No. 14416214K/RTI/68/RTI Cell dated 11.01.2025 to which was annexed the administrative order dated 30.09.2024 No. 1677/Court Case/309/Pen-1 (MACP) (R) stating that the applicant was not eligible for the grant of the MACP Havildar whilst stating that three financial upgradation under MACPS is applicable only for the 8, 16 and 24 years of continuous regular service and the applicant had been arrested on 13.03.2001 and dismissed from service and was thus not eligible for the grant of MACP Havildar.

8. Vide the said letter dated 30.09.2024 it was stated by the respondents to the effect:-

“GRANT OF MACP UPGRADATION

1. Ref your petition No Personal/05/2024 dated 20 Aug 2024.

2 It is intimated that you were enrolled in the Army on 28 Aug 1995. While serving with 28 RR Bn, you were arrested by Civil Police Pataudi, Gurgaon (HR) on 13 Mar 2001 under Sec 498A read with Sec 304B of IPC in connection with death of your wife Smt Anila Devi. On 18 Apr 2003 the session Judge, Gurgaon (HR) after finding you guilty awarded punishment of Rigorous Imprisonment for a period of three yrs and to pay Rs 10,000/- as fine under IPC Sec 498A and life Imprisonment under IPC sec 304B. Accordingly, you were dismissed from service wef 18 Apr 2003 under the provns of the Army Act Sec 20 read in conjunction with AR 17 and Para 423 of Reg for the Army 1987.

3 Later, an appeal was filed by you before Hon'ble High Court of Punjab and Haryana at Chandigarh against the judgment dated 17 Apr 2003 and sentence dated 18 Apr 2003 passed by Session Judge, Gurgaon (HR). The Hon'ble High Court of Punjab & Haryana at Chandigarh vide order dated 03 Aug 2016 acquitted you from the charges framed against you

4 Thereafter, you filed Original Application (OA) before the Hon'ble AFT New Delhi challenging the order of termination of your service. Accordingly, the Hon'ble AFT (PB), New Delhi vide order dt 28 Mar 2019 disposed off the OA and directed the respondents to reinstate the applicant into service notionally from the date of his service were terminated viz 18 Apr 2003 to the date of his scheduled discharge viz 31 Aug 2012, except the period spent by the applicant in civil jail viz from 18 Apr 2003 to 02 Oct 2006, subject to a maximum period of three years as stated in Para 52(C)(i) of

***the Regulations for Pay and Allowances
JCOS, OR & NCSE, 1979.***

5 Accordingly, you have been reinstated into service notionally wef 18 Apr 2003 and notionally discharged from service wef 31 Aug 2012 and pensionary benefits have been granted to you, except pay and allowances for imprisonment period (three years spent in Civil Jail)

6. As per Para 4 of IHQ of MoD (Army) letter No B/33513/ACP/AG/AG/PS-2(C) dated 13 Jun 2011, three financial upgradation under MACPS is applicable only for the 8, 16, 24 years of continuous regular service. In your case, you have been arrested on 13 Mar 2001 and dismissed from service accordingly. Therefore, you are not eligible for grant of MACP Hav as asked vide your petition under reference. On notional reinstatement to service in compliance with the Hon'ble AFT (PB), New Delhi Order, you have already been granted service pension vide PPO No 153202200167 (2100) dated 20 May 2022.

7. For your information please.”

9. The applicant has contended that as per the MACPS (Modified Assured Career Progression Scheme) for PBORS of the Army dated 30.05.2011, the OR is entitled for three financial upgradations of their pay and allowances to the next higher rank at the intervals of 8, 16 and 24 years of continuous regular service and the applicant having completed 17 years and 04 days of regular service as stated in the PPO No. 153202200167 dated 20.05.2022 issued by the PCDA, the applicant is entitled

to the two said financial upgradations at the interval of 8 and 16 years of service and that the applicant is also entitled to the pay and pension of the rank of Naik with effect from 01.09.2003 and of the rank of Havildar with effect from 01.09.2011.

10. The applicant has further submitted to the effect that the very factum that the respondents have acknowledged and accepted that the applicant retired from service after putting in 17 years and 04 days of service as indicated by the PPO No. 153202200167, the restriction with regard to payment of arrears of pay and allowances as directed in terms of the order dated 28.03.2019 in OA 137 of 2018 with regard to payment of arrears of pay and allowances is only in view of the stipulation laid down under para 52(C) (i) of the Regulations for the Pay and Allowances of JCOs, ORs, and Non-Combatants (Enrolled) of the Army, 1979.

11. It is stated by the applicant that the said directions dated 28.03.2019 already reproduced hereinabove in para 4 cannot be interpreted to mean that there was a break in the applicant's service of 17 years or that the applicant's service of 17 years was not continuous and that if the order dated 28.03.2019 is interpreted in the said manner, the same would lead to absurdity and travesty of justice.

12. The applicant thus submits that his reinstatement in service following his acquittal by the Hon'ble High Court of Punjab and Haryana and his notional discharge / retirement on completion of 17 years and 4 days of service in terms of engagement of Sepoy carried out in accordance therewith can only mean that the applicant's entire service of 17 years has been regularized without any break for all purposes except that the arrears of pay and allowances would be restricted by a period of three years and for the period he was in Civil jail.

13. The respondents through their counter affidavit have submitted vide paragraphs 10 and 11 thereof to the effect:-

“10. Accordingly, the period spent by the applicant in Civil Jail is 03 years, 05 months and 16 days for which backwages will not be applicable to the applicant as per the directions of the Hon'ble Tribunal.

11. In the instant case, applicant was due for 1st MACPS (Naik grade) with effect from 28 Aug 2003 (i.e. after completion of 08 years of continuous regular service but unfortunately the applicant was arrested by Civil Police on 13 Mar 2001 and awarded punishment of 03 years Rigorous Imprisonment on 18 Apr 2003. Accordingly, the applicant had spent for the period from 18 Apr 2003 to 02 Oct 2006 (i.e. 03 years, 05 months and 16 days) in Civil Jail and due to these events, the applicant has not completed 08 or 16 years regular continuous service for grant of 1st MACPS (Naik grade) and 2nd MACPS (Havildar grade). The period which the applicant spent in Civil jail is counted as absent from duty and the same

been treated as Non Qualifying Service (NQS). Hence, the applicant is not eligible for grant of 1st MACPS (Naik grade) and 2nd MACPS (Havildar grade).”

ANALYSIS

14. That the applicant spent 3 years, 5 months and 16 days in Civil Jail from 18.04.2003 till 02.10.2006 is unrefuted as per the record. It cannot be, however overlooked that this period of imprisonment of the applicant in Civil Jail was in relation to a conviction vide order dated 18.04.2003 of the learned Sessions Judge Gurgaon in a case under Section 498A read with Section 304B of the IPC 1860, which conviction was set aside by the Hon’ble High Court of Punjab and Haryana at Chandigarh in Criminal Appeal No CRA D No 444/DB2003 vide judgment dated 17.04.2003.

15. Vide order dated 28.03.2019 of the AFT (PB) New Delhi in OA 137 of 2018 filed by the applicant herein *inter alia*, seeking reinstatement and consequential benefits and back wages and continuity in service, vide paragraph 23, already reproduced hereinabove in para 4, it had been observed to the effect:-

“23. Having considered the facts and circumstances of the case on hand, in the light of the aforesaid decisions, we are of the view that the acquittal recorded in

favour of the applicant has to be construed as 'honourable acquittal',

and thus the acquittal recorded in favour of the applicant had been construed as an honourable acquittal.

16. Apparently thus, though vide para 26 (i) of the order dated 28.03.2019 of the AFT (PB) New Delhi in OA 137 of 2018, it was directed to the effect:-

“26(i) The respondents are directed to reinstate the applicant into service notionally from the date his services were terminated viz. 18.04.2003 to the date of his scheduled discharge viz. 31.08.2012, except the period spent by the applicant in civil jail viz. from 18.04.2003 to 02.10.2006, subject to a maximum period of three years as stated in Para 52(C)(i) of the Regulations for Pay and Allowances – JCOs, OR & NCsE, 1979;”

the direction therein, qua the notional reinstatement of the applicant into service, which services were terminated with effect from 18.04.2003 with termination to his date of his scheduled discharge, i.e. 31.08.2012 were that the applicant was directed to be reinstated except the period spent by the applicant in Civil Jail from 18.04.2003 to 02.10.2006, subject to a maximum period of three years as stated in Para 52(C)(i) of the Regulations for Pay and Allowances – JCOs, OR & NCsE, 1979,- **the same can only relate to the aspect of the payment of back wages**

and cannot relate to the benefits that accrue under the MACPS.

17. Para 51 and para 52 of the Defence Service Regulations for the Pay and Allowances of JCOs, ORs, and Non-Combatants (Enrolled) of the Army, 1979, provide as under:-

“FORFEITURE OF PAY AND ALLOWANCES

51. A person, subject to the Army Act, 1950, will forfeit his pay and allowances (including expatriation allowance) for every day (as defined in Section 92 of that Act) of

(a) desertion;

(b) absence without leave;

(c) absence as a prisoner of war;

(d) the period between recovery from the enemy and dismissal from the service in the case of a recovered prisoner of war in respect of whom a Court of Enquiry convened under Rules 178 and 179 of the Army Rules, 1954, has recommended and convening officer has decided that the provision of this sub-clause shall be applied;

(e) Imprisonment awarded by a criminal court, or imprisonment or field punishment awarded by a court-martial, or an officer exercising authority under Section 80 of the Army Act, 1950;

NOTE:-In case the sentence of imprisonment or punishment is suspended, the individual will be entitled to draw full pay and allowances from the date of such suspension.

(f) confinement on a charge for an offence of which he is afterwards convicted by a criminal court or court-martial, or on a charge of absence without leave for which he is afterwards awarded imprisonment or field punishment by an officer exercising authority under Section 80 of the Army Act, 1950;

NOTE:-J.C.Os and N.C.Os under "close arrest", but not in confinement, will incur no forfeiture of pay and allowances. For persons below N.C.O. rank "close arrest" is the same thing as "confinement" and they will forfeit pay and allowances for every day of "close arrest".

(g) the period between dismissal, removal, discharge, release or retirement carried out in the prescribed manner by the competent authority and reinstatement on its being cancelled by the competent authority; and

(h) sickness in hospital certified by the medical officer attending on him to have been caused by an offence under the Army Act, 1950, committed by him.

52. (a) The forfeiture of pay and allowances under clauses (b) and (c) of Rule 51 may be remitted in the circumstances and by the authorities specified in Rule 195 of the Army Rules, 1954.

(b) The forfeiture of pay and allowances under clause (g) of Rule 51 consequent on conviction by a criminal court may be remitted by the authority competent to cancel his dismissal/removal/discharge when he is reinstated in service upon his acquittal or appeal or revision in the following manner:-

(A) If in the opinion of the authority ordering reinstatement, the person reinstated has been honourably acquitted/fully exonerated he may make a specific order for

(i) remitting the forfeiture of pay and allowances in respect of the period from the date of dismissal removal/discharge to the date of acquittal and from the date of acquittal to the date fixed for joining duty, and

(i) treating the period as duty which will also count for the purpose of classification, increments and G.S. Pay.

(B) In other cases

(i) The pay and allowances for the period from the date of dismissal/removal/ discharge to the date of acquittal may be remitted by the authority ordering the reinstatement to an extent considered equitable but not less than 50% of pay and allowances admissible at the time of the individual's dismissal/removal/discharge. The period will not be treated as duty unless the reinstating authority directs that it shall be so treated for any specific purpose.

(ii) The forfeiture of pay and allowances for the period from the date of acquittal to the date fixed for joining duty may be remitted in full and the period will be treated as duty.

(C) The orders passed under sub-clauses (A) and (B) above shall be subject to the following conditions:-

(i) In no case remission will be allowed for a period exceeding three years preceding the date fixed for joining duty.

(ii) No payment shall be made unless the soldier furnishes a certificate that he was not engaged in any other employment, business, profession or vocation during the period between dismissal and the date fixed for joining duty. If any amount has been earned by him during such period, the pay and allowances remitted by the competent authority shall be reduced to that extent.

(iii) If a person during the period of dismissal reaches the age of superannuation by service/age/tenure limit the remission of pay and allowances should be restricted to the date of superannuation.

(iv) No pay and allowances should be admissible to an individual for any period of imprisonment undergone during the period between the date of discharge/removal/ dismissal and reinstatement without the specific sanction of the Government of India.”

18. In terms of Rule 52 (b) of the said regulations reproduced hereinabove in para no.17, it is the forfeiture of pay and allowances under clause (g) of Rule 51 consequent on a reversal of a conviction by a Criminal Court and consequent acquittal by way of an hon'ble acquittal / full exoneration that in terms of

para 52 (C) (i), though the remission may be made in terms of para 52 (b), in terms of para 52 (C) (i) remission is not to be allowed for a period exceeding three years preceding the date fixed for joining duty.

19. Thus, it is apparently only in relation to the aspect of not permitting the payment of pay in relation to the payment of salary and allowances that the directions in para 26 (i) of the order dated 28.03.2019 in OA No 137/2018 have to be construed. The payment in terms of MACP is a stagnation allowance and does not relate to salary and allowance prohibited to be paid in terms of Para 52 (C) of the Defence Service Regulations for the Pay and Allowances of JCOs, ORs, and Non-Combatants (Enrolled) of the Army, 1979.

20. That the PPO placed on record clearly indicates that the applicant was in service for a period of 17 years makes it apparent in terms of the MACPS as indicated vide averment made in the counter affidavit of the respondents in para 11 and 12 reproduced hereinabove that the applicant was due for the first MACPS (Nb Sub Grade) with effect from 28.08.2003, and, it is because of his civil imprisonment that he had not completed the period of 8 years or 16 years

regular continuous service for grant of the 1st MACPS Naik grade and 2nd MACPS Havildar grade.

21. The respondents have sought to aver that the period which the applicant spent in Civil Jail is counted as absent from duty and the same has been treated as non qualifying service.

22. It is essential to observe that the applicant's incarceration in Civil Jail has been held to be incorrect in view of his acquittal by the Hon'ble High Court of Punjab and Haryana as so admitted by the respondents vide para 3 of their counter affidavit. Thus, the period of incarceration of the applicant in Civil Jail from 18.04.2003 to 02.10.2006 cannot be held to be a period of non qualifying service and has to be held as being part of a period of continuous regular service.

23. We are fortified in our view that though the applicant would not be entitled to back wages to the period as directed vide paragraph 26 (i) of the order dated 28.03.2019 in OA 137/2019 reproduced in paras 4 and 16 hereinabove, that the said period has to be counted as a period of service without any break which is also so reflected through the PPO No. 153202200167 that the applicant had served for a period of 17 years and 4 days, in view of the verdict of the Hon'ble Supreme

Court in ***UOI and Ors vs Jaipal Singh*** (2004) 1 SCC 121 dated 03.11.2003 vide paragraphs 4 and 5 thereof clearly lays down to the effect:-

4. On a careful consideration of the matter and the materials on record, including the judgment and orders brought to our notice, we are of the view that it is well accepted that an order rejecting a special leave petition at the threshold without detailed reasons therefore does not constitute any declaration of law by this Court or constitute a binding precedent. Per contra, the decision relied upon for the appellant is one on merits and for reasons specifically recorded therefore and operates as a binding precedent as well. On going through the same, we are in respectful agreement with the view taken in Ranchhodji. If prosecution, which ultimately resulted in acquittal of the person concerned was at the behest of or by department itself, perhaps different considerations may arise. On the other hand, if as a citizen the employee or a public servant got involved in a criminal case and it after initial conviction by the trial court, he gets acquittal on appeal subsequently, the department cannot in any manner be found fault with for having kept him out of service, since the law obliges, a person convicted of an offence to be so kept out and not to be retained in service. Consequently, the reasons given in the decision relied upon, for the appellants are not only convincing but are in consonance with reasonableness as well. Though exception taken to that part of the order directing re-instatement cannot be sustained and the respondent has to be re-instated, in service, for the reason that the earlier discharge was on account of those criminal proceedings and conviction only, the appellants are well within their rights to deny back wages to the respondent for the period he was not in service. The appellants cannot be made

liable to pay for the period for which they could not avail of the services of the respondent. The High Court, in our view, committed a grave error, in allowing back wages also, without adverting to all such relevant aspects and considerations. Consequently, the order of the High Court in so far as it directed payment of back wages are liable to be and is hereby set aside.

5. The respondent will be entitled to back wages from the date of acquittal and except for the purpose of denying the respondent actual payment of back wages, that period also will be counted as period of service, without any break. The reinstatement, if not already done, in terms of the order of the High Court will be done within thirty days from today.”

that though the payment of back wages may be declined, the period which the employee had been deprived of service due to an accusation and was subsequently acquitted in relation thereto,- that period of service is also to be counted as a period of service **without any break.**

24. Significantly, vide order dated 06.02.2026 of the AFT (PB) New Delhi in OA 1399 of 2018 in the case of **Swapnil Kumar Pandey S/O Late Sunil Kumar Pandey vs UOI & Ors** in similar circumstances where the applicant thereof had been dismissed due to registration of an FIR, on subsequent acquittal in the said case, with that applicant having expired before

rejoining service, it has been directed by this Tribunal vide paragraphs 29 and 30 thereof to the effect:-

“29. In as much as vide proceedings dated 19.09.2025, the aspect of the applicability of MACPS was also considered, the respondents on 23.01.2026 produced the records to the effect that the Ex-Cpl (Late) Sunil Kumar Pandey had passed the SGT Part 1 examination held in February 1994 for promotion to the rank of SGT and had also passed the examination for promotion to SGT as effective on 05.02.2001.

30. The respondents are thus also directed to grant the benefit of the MACPS to the Ex-Cpl (Late) Sunil Kumar Pandey, if found eligible, for the same as per rules in the rank of SGT.”

CONCLUSION

25. In view of the above analysis, in the circumstances of the instant case, the OA 696/2025 is **allowed** and the applicant is held entitled to the grant of the first MACPS and the second MACPS on completion of 8 years in the grade of Naik and 16 years in the grade of Havildar, with directions to the respondents to grant the benefit of the MACPS to the applicant for the first MACP and second MACP in the rank of Naik and Havildar respectively and to make the payment of arrears of pay and allowances post MACP in the rank of Naik and Havildar to the applicant w.e.f. 31.08.2009 till the date of the scheduled superannuation i.e. 31.08.2012 which are directed to be paid to

the applicant within a period of three months from the date of this order, failing which interest at the rate of 8% per annum shall accrue till the date of payment.

26. The consequential pensionary benefits to the applicant are also thus directed to be paid to the applicant in the rank of Havildar with effect from the date of his scheduled discharge, i.e. 31.08.2012, and the corrigendum PPO be issued by the respondents and the above directions be complied with by the respondents within a period of three months from the date of this order, failing which interest at the rate of 8% per annum shall accrue till the date of payment.

27. No order as to costs.

Pronounced in the open Court on the 20th day of February, 2026.

[RASIKA CHAUBE]
MEMBER (A)

[JUSTICE ANU MALHOTRA]
MEMBER (J)

AP