

A

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

**OA 949/2019 with MA 1605/2019**

**Ex Hav Chandra Shekhar & Ors**

**..... Applicant**

**VERSUS**

**Union of India and Ors.**

**..... Respondents**

**For Applicant** : Mr. Anil Srivastava, Advocate with  
Mr. Aditya Saxena, Advocate  
**For Respondents** : Mr. Y P Singh, Advocate

**CORAM**

**HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)**

**HON'BLE LT GEN C. P. MOHANTY, MEMBER (A)**

**ORDER**

The 32 applicants vide OA 949/2019, were vide order dated 13.03.2020 allowed to join together to institute the present OA in relation to prayer 8 (a) of the OA which reads to the effect:-

***"8(a) The Applicants be granted the MACP w.e.f. 01.01.2006 in accordance with SAI 1/S/2008 within a period of 3 months from the date of issue of the order, as applicable in their case."***

As regards, prayers 8 (b) and 8 (c) which read to the effect:-

***"8(b) That the Applicants be awarded cost of the litigation @ Rs 50,000/-***

***8(c) To pass any such other and further order or orders as this Hon'ble Tribunal may deem fit and proper in the interest of justice***



and in the facts and circumstances of the case.”,-

it was ordered vide order dated 13.03.2020 that after the issue of prayer clause 8(a) is decided, the individual calculation and individual right of the applicants would have to be agitated separately in accordance with law.

### **FACTS ON RECORD**

2. During the course of the proceedings on 08.07.2026 it was submitted on behalf of the applicants that applicant Nos. 8, 12 and 18, i.e. **Nk Hemanta Kumar Rout, Hav Jitendra Roy Bahadur, and Hav 'Y' V. Ganapathy** have been paid the MACP benefits in as much as they have retired after 01.01.2006.

3. A detailed chart of the names of the applicants, their dates of enrolment, dates of retirement, total service rendered by them was submitted by the applicants on 06.05.2026, which as scanned reads as under:-



# AFT-15 APPLICANT LIST

| APPL NO | Service No. | RANK    | NAME                    | DOE        | DOR        | Total Service                | Address                                                                                                          | Contact no |
|---------|-------------|---------|-------------------------|------------|------------|------------------------------|------------------------------------------------------------------------------------------------------------------|------------|
| 1       | 6927753X    | HAV     | CHANDER SHEKHAR         | 3/24/1987  | 11/30/2003 | 16 years, 8 months, 6 days   | H.NO. 122, KUSUMYATTA, GOVINDPUR MATTHURA 201001                                                                 | 905893277  |
| 2       | 14530728F   | HAV     | JOSEPH C A              | 8/24/1978  | 8/31/2002  | 24 years, 0 months, 7 days   | 4-4-138, KOWKOR, PO-BOLANIM, SECUNDERABAD-500010                                                                 | 944188485  |
| 3       | 2569705     | NK      | TEGALA MANIK PRABHU     | 8/22/1971  | 9/1/1986   | 15 years, 0 months, 10 days  | 1-1-66/1020, URBAN COLONY, BHOINGIR                                                                              | 8121494921 |
| 4       | 15105787-L  | NK      | SHAIK HUSSAIN BASHA     | 10/25/1985 | 6/30/2003  | 17 years, 8 months, 5 days   | VILL-VADLANUDI (NEAR DARGA) MDL-CHEBROLI DIST-GUNTUR PIN-522213                                                  | 917766756  |
| 5       | 143953081   | NK      | AYYUB KHAN              | 7/9/1986   | 7/31/2003  | 17 years, 0 months, 22 days  | H.NO. 3-43, VILL-ISLAMPUR, PO-KAITHEPALY, MDL-REPALLE                                                            | 9390891463 |
| 6       | 06913773A   | HAV     | PRATAP CHANDRA BISWAL   | 12/13/1978 | 12/31/2002 | 24 years, 0 months, 18 days  | NEAR +2 SC WISDOM COLLEGE, AT-BHOISAHIL, PO DIST-BALASORE 756001                                                 | 9437522945 |
| 7       | 14508946A   | HMT     | DHIRENDRA NATH BEHERA   | 10/23/1971 | 10/31/1995 | 24 years, 0 months, 8 days   | CHHAPULIA CHHAKA, BHOISAHIL, PO/ DIST-BALASORE, 756001                                                           | 9861376528 |
| 8       | 6929210K    | NK      | HEMANTA KUMAR ROUT      | 3/24/1988  | 4/30/2008  | 20 years, 1 months, 6 days   | VILL-DHUNDOPUR, PO-BARAPARA, PS-PATTAMUNDEVI, DIST-KENDRAPARA, 754245                                            | 9658135599 |
| 9       | 14578903H   | NK      | UDAYA KUMAR DAS         | 2/15/1985  | 2/28/2001  | 16 years, 0 months, 13 days  | AT-UDAYA NAGAR, ANGARGAUDIA-DIST,POST-BALASOR, ODISHA 756001                                                     | 9438322882 |
| 10      | 14338108W   | HAV     | RAJENDER KUMAR          | 2/11/1979  | 3/1/2003   | 24 years, 0 months, 18 days  | VILL-SAHANWIN PO-TAL, TEH-DIST-HAMIRPUR, HIMACHAL PRADESH                                                        | 9418357431 |
| 11      | 13937330    | SEP     | A V SUBBA REDDY         | 12/18/1973 | 2/4/1989   | 15 years, 1 months, 17 days  | PILOT NO.143, MARUTHI NAGAR, NEAR VENKATESWARA SWAMY TEMPLE, AYYAPPA COLONY, DAMMAIGUDA, SECUNDERABAD 500083     | 9848004469 |
| 12      | 14539141K   | HAV     | JITENDRA ROY BANADUR    | 9/22/1980  | 9/30/2006  | 26 years, 0 months, 8 days   | (VILL & PO) - BARARHI, VIA- RACHUNATHAPUR, TEH & DIST-BUXAR BIHAR 802134                                         | 9661569018 |
| 13      | 1337203     | SEP     | UTUKURI VEERABHADRA RAO | 4/27/1963  | 4/30/1981  | 18 years, 0 months, 3 days   | B-303, GOLDEN APTS, RACHAVANIPALEM, NEAR CNR CENTRAL, VISAKHAPATNAM, ANDHRA PRADESH                              | 9247844805 |
| 14      | 2873946A    | HAV     | SABIR ALI               | 1/25/1979  | 1/31/2003  | 24 years, 0 months, 6 days   | VILL-PITHUSAR, POST MALISAR, THE-MALISAR, DIST-JHUNJHUNU TAL 831028                                              | 9461708019 |
| 15      | 14223235Y   | HAV 'Y' | C P NETHAJEE            | 7/11/1974  | 8/1/1998   | 24 years, 0 months, 21 days  | D.NO.89/66, MARAVAR STREET, WEST BANK, MANAMADURAI 630606, SIVAGANGA DIST TAMILNADU                              | 9786134883 |
| 16      | 8021157L    | NK      | MUTHAIAH                | 2/10/1971  | 3/1/1993   | 22 years, 0 months, 19 days  | H.NO.42/31, KANNAR STREET, WEST BANK, MANAMADURAI SIVAGANGA DIST TAMILNADU 630606                                | 9003361239 |
| 17      | 1337199     | SEP     | ELIPAV VARA PRASADA RAO | 4/27/1963  | 1/30/1979  | 15 years, 9 months, 3 days   | MASTHAN HANVAN COLONY, NEAR KANDADRGA TEMPLE, ELUR RURAL, VENKARAPURAM, ANDHRA PRADESH WEST GODAVARI DIST 534001 | 8309403355 |
| 18      | 6925654W    | HAV 'Y' | V GANAPATHY             | 7/14/1986  | 9/30/2006  | 20 years, 2 months, 16 days  | NO-5, VENKATESHWARA NAGAR, MUTHAPUDUPET, AT STATION, AVADI, CHENNAI TAMILNADU 600055                             | 8072081110 |
| 19      | 13851843X   | NK      | NARASIMHA MURTHY ROWLO  | 6/10/1973  | 4/21/1994  | 20 years, 10 months, 11 days | VILL-JAMADARUPUTTU, POST-GORELAPADU, DIST-SRIKAKULAM ANDHRA PRADESH 532290                                       | 9444862882 |
| 20      | 2577659     | NK      | TIPPANA VEERA SWAMY     | 7/29/1978  | 7/31/1995  | 17 years, 0 months, 2 days   | TIPPANA VEERA SWAMY (VILL & PO)-RELEGAM, DIST-SRIKAKULAM ANDHRA PRADESH 532290                                   | 7095474083 |
| 21      | 06890388    | HAV     | DHUNI CHAND TALWALLA    | 11/25/1963 | 12/1/1987  | 24 years, 0 months, 6 days   | (VILL & PO)-BARA GRAM, TEH-BARSAR, DIST-HAMIRPUR, HIMACHAL PRADESH 176049                                        | 8019889675 |
| 22      | 7077308P    | HAV 'D' | BALBIR SINGH            | 11/9/1963  | 11/30/1987 | 24 years, 0 months, 21 days  | VILL-JAMUL, PO-BARAGAN, TEH-BARSAR, DIST-HAMIRPUR, HIMACHAL PRADESH 176049                                       | 9805473362 |
| 23      | 13969470M   | NK      | SINGADURAI N            | 8/13/1986  | 9/1/2003   | 17 years, 0 months, 19 days  | D.NO.3/167-B-1, NAGLINGAM NAGAR, MARIYAMMA KOIL STREET, MANAMADURAI 630606, SIVAGANGA DIST TAMILNADU             | 8300000913 |
| 24      | 13969469X   | NK      | JEGATHESWARAN N         | 8/13/1986  | 9/1/2003   | 17 years, 0 months, 19 days  | D.NO.15, EAST JAIL QUARTERS, MADURAI SOUTH ARSABADI, MADURAI DIST, TAMILNADU 625016                              | 9942083520 |
| 25      | 14343835X   | NK      | SATTANARAYANA CHANDAKA  | 1/3/1980   | 4/1/1998   | 18 years, 2 months, 29 days  | H.NO.6-105, GANESH NAGAR, KRISHNARAVAPURAM VILL, VEPAGUNTA PO, VISAKHAPATNAM, ANDHRA PRADESH 530047              | 9885257654 |

## AFT-15 APPLICANT LIST

| APPL NO | Service No. | RANK | NAME                                                         | DOE       | DOR       | Total Service               | Address                                                                                    | Contact no |
|---------|-------------|------|--------------------------------------------------------------|-----------|-----------|-----------------------------|--------------------------------------------------------------------------------------------|------------|
| 26      |             |      | SMT GEETHA W/O LATE 2591316M NK                              |           |           |                             | 153, 25TH WARD, JANMANAGALA ROAD, MANUMATHA NAGAR, RAMA NAGAR, KARNATAKA-562159            | 9902243485 |
| 27      |             |      | SMT PRITPAL KAUR W/O LATE 1139583 GNR                        |           |           |                             | VILL-FATEHPUR, PO-SAMANA, DIST-PATIALA                                                     | 9896256787 |
| 28      |             |      | BAKSHISH SINGH                                               |           |           |                             | #332/1, RAKHASHAK COLONY, 2ND CROSS PIPE LINE ROAD, VIJAY NAGAR, BEGUNIM, KARNATAKA 591108 | 8197257121 |
| 29      |             |      | SMT RUPA RAJABHAU DEVAN W/O LATE 2796764M LNK RAJABHAU DEVAN | 5/10/1999 |           |                             | VPO BARAGRAM, TEH-BARSAR, DIST-HIMIRPUR, HIMACHAL PRADESH 176049                           | 8894454156 |
| 30      |             |      | SMT KASHMIRA DEVI W/O LATE 6880319 HAV                       |           |           |                             | D.NO.11/66, JEEVA NAGAR, RAUWAY COLONY, MANAMADURAI-VPO, SIVAGANGA DIST, TAMILNADU 630606  | 9965780736 |
| 31      |             |      | SMT PADMAVATHI W/O LATE 1148911 HAV 'T'                      | 5/19/1957 | 6/1/1981  | 24 years, 0 months, 13 days | VPO BARAGRAM, TEH-BARSAR DIST-HAMIRPUR, HIMACHAL PRADESH 176049                            | 8894447098 |
| 32      |             |      | SMT BIJASA DEVI W/O LATE 13720615 RFN PREM SINGH             | 2/14/1962 | 2/28/1977 | 15 years, 0 months, 14 days | VPO BARAGRAM, TEH-BARSAR DIST-HAMIRPUR, HIMACHAL PRADESH 176049                            | 9817633016 |

In as much as the prayers made by applicant Nos. 8, 12 and 18 are stated to have been redressed, the OA qua the said three applicants is disposed of and calls for no further action.

### **CONTENTIONS RAISED**

4. Qua the claim of the applicant Nos. 1 to 7, 9 to 11, 13 to 17, and 19 to 32 who have all retired prior to the date 01.01.2006 seeking the benefit of the Modified Assured Career Progression Scheme in accordance with SAI 1/S/2008 which was made applicable to the personnel of the Armed Forces in terms of the verdict of the Hon'ble Supreme Court dated 08.12.2017 in Civil Appeal Dy. No. 3744/2016 in the case of **UOI & Ors vs Balbir Singh Turn & Anr** in terms of the Government of India Resolution dated 30.08.2008 with effect from 01.01.2006 whereby grant of three ACP upgradations vide clause 9 was to be given after 8, 16 and 24 years of service to PBORs, submitting that the denial of the grant of the MACP benefits to them only on the premise of the said cut off date of implementation of the grant of the MACP benefits (as they had all retired prior to 01.01.2006) was wholly unfair and arbitrary and deprived them of the grant of the MACP benefits irrationally and unconstitutionally, the same was responded to on behalf of the respondents to the effect that

in as much as the said applicant Nos. 1 to 7, 9 to 11, 13 to 17, and 19 to 32 had all retired prior to 01.01.2006, the benefits of the grant of the MACP scheme which was made effective with effect from 01.01.2006 in terms of the verdict of the Hon'ble Supreme Court dated 08.12.2017 in **UOI & Ors vs Balbir Singh Turn & Anr** (supra) was wholly correct and was not unjust.

5. A catena of verdicts has been relied upon on behalf of the applicant Nos. 1 to 7, 9 to 11, 13 to 17, and 19 to 32 viz:-

- **All Manipur Pensioners Association by its Secretary vs The State of Manipur and Others** dated 11.07.2019 (AIR 2019 SC 3338);
- **UOI & Anr vs SPS Vains** dated 09.09.2008 (2008) 9 SCC 125;
- **Indian Bank & Anr vs N Venkatramani** dated 30.08.2007 (AIR 2007 SC 3159);
- **KJS Buttar vs UOI & Ors** dated 31.03.2001 (2011) 11 SCC 429;
- **DS Nakara vs UOI & Ors** dated 17.12.1982 (1983) 1 SCC 305;
- **R. L. Marwaha vs UOI & Ors** dated 12.08.1987 (1987) SCC (4) 31;
- **Ex Hony Nb Sub Kishori Lal vs UOI & Ors** of the AFT (PB) New Delhi dated 03.01.2017 in OA 1511/2016;

to contend to the effect that there cannot be a distinction created between those who retired prior to 01.01.2006 and those who retired after 01.01.2006 for the grant of the MACP scheme for



such classification has no nexus with the object of the grant of the MACP benefits.

### ANALYSIS

6. In relation to the submissions raised on behalf of the applicant Nos. 1 to 7, 9 to 11, 13 to 17, and 19 to 32, it is essential to observe that vide para 11 of the verdict of the Hon'ble Supreme Court dated 08.12.2017 in **UOI & Ors vs Balbir Singh Turn & Anr** (supra) it was observed to the effect:-

*"11. We are only concerned with the interpretation of the Resolution of the Government which clearly states that the recommendations of 6th CPC as modified and accepted by the Central Government in so far as they relate to pay structure, pay scales, grade pay etc. will apply from 01.01.2006. **There may be some gainers and some losers but the intention of the Government was clear that this Scheme which is part of the pay structure would apply from 01.01.2006.** We may also point out that the Resolution dated 30.08.2008 whereby the recommendation of the Pay Commission has been accepted with modifications and recommendations with regard to pay structure, pay scales, grade pay etc. have been made applicable from 01.01.2006. This is a decision of the Cabinet. This decision could not have been modified by issuing executive instruction. The letter dated 30.05.2011 flies in the face of the Cabinet decision reflected in the Resolution dated 30.08.2008. Thus, administrative instruction dated 30.05.2011 is totally ultra vires the Resolution of the Government."*

(emphasis supplied)

the grant of

Thus even vide the verdict of the Hon'ble Supreme Court in **UOI & Ors vs Balbir Singh Turn & Anr** (supra) the cut of date of **01.01.2006** was upheld for implementation of the MACP Scheme, with it being observed that there would be some gainers and some losers consequentially. The said verdict of the Hon'ble Supreme Court was a verdict of two Hon'ble Judges of the Hon'ble Supreme Court.

7. Vide judgment dated 05.03.2020 of a Bench of 3 Hon'ble Judges of the Hon'ble Supreme Court in **UOI & Ors vs M.V. Mohanan Nair** (2020) 5 SCC 421, dated 05.03.2020, it was observed vide para 56 thereof to the effect:-

**"56. The ACP Scheme which is now superseded by MACP Scheme is a matter of government policy. Interference with the recommendations of the expert body like Pay Commission and its recommendations for MACP scheme, would have serious impact on the public exchequer. The recommendations of the Pay Commission for MACP Scheme has been accepted by the Government and implemented. There is nothing to show that the Scheme is arbitrary or unjust warranting interference. Without considering the advantages in the MACP Scheme, the High Courts erred in interfering with the Government's policy in accepting the recommendations of the Sixth Central Pay Commission by simply placing reliance upon Raj Pal case. The impugned orders 1,2,3,4,5,6 cannot be sustained and are liable to be set aside."**

**1. Union of India v. M.V. Mohanan Nair, 2013 SCC OnLine Ker 11713.**

2. *Union of India v. Reeta Devi*, CWP No. 24278 of 2013, order dated 7-11-2013 (P&H).

3. *Union of India v. Rajini Kanta Deka*, 2014 SCC OnLine Megh 269.

4. *Union of India v. M. Swarnalatha*, 2016 SCC OnLine Hyd 746.

5. *Nagendra Pati Tripathy v. Union of India*, 2016 SCC OnLine Pat 4799.

6. *Union of India v. G.V.S.S. Anand*, 2016 SCC OnLine Hyd 745)

8. Thereafter, vide judgment dated 22.08.2022 in Civil Appeal arising out of SLP (Civil) 16442/2021 in ***UOI & Ors vs Ex HC/GD Virender Singh (2022)*** SCC OnLine SC 1058 and 166 other connected petitions, the Hon'ble Supreme Court has categorically observed to the effect the MACP scheme is applicable with effect from **01.09.2008** and as per the MACP scheme, the entitlement is to financial upgradation equivalent to immediate next grade pay in the hierarchy of the pay bands as stated in Section 1, Part A of the First Schedule of the Central Civil Services (Revised Pay) Rules, 2008.

9. Significantly, the Hon'ble Supreme Court vide the verdict in ***UOI & Ors vs Ex HC/GD Virender Singh*** (supra) has categorically observed to the effect that the appeals filed by the Union of India were partly allowed and impugned judgments to the extent that they held that the MACP scheme applies with



278 of  
effect from 01.01.2006 and that under the MACP scheme the employees were entitled to financial upgradation equivalent to the next promotional post **were set aside.**

10. Para 14 of the said verdict of the Hon'ble Supreme Court in **UOI & Ors vs Ex HC/GD Virender Singh** (supra) reads to the effect:-

*"14. 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 1.9.2008 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 prepromotional 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."*

11. Furthermore, the observations of the Hon'ble Supreme Court in **UOI & Ors vs Ex HC/GD Virender Singh** (supra) vide paras 11 and 12 lay down to the effect:-



“11. As rightly held in *R.K. Sharma (supra)*, the aforesaid reasoning given in the case of *Balbir Singh Turn (supra)*, in our opinion, has not been accepted by the three Judge Bench decision in the case of *M.V. Mohanan Nair (supra)*, which in clear terms holds grant of financial upgradation under the MACP Scheme is not a matter of pay structure, but an incentive scheme brought into force to relieve stagnation which operates on its own terms. We may add that the pay scales are fixed and revised by the rules which are enacted in exercise of powers conferred by the proviso to Article 309 and clause (5) of Article 148 of the Constitution of India. Therefore, vide Notification dated 29th August 2008, the Central Civil Services (Revised Pay) Rules, 2008 were enacted vide G.S.R. No. 622(E). Rule 1(2) states that the Rules, as enacted, shall be deemed to have come into force on 1st January 2006. The aforesaid Rules neither postulate nor have any provision for grant of financial upgradation under the MACP Scheme. It is to be further noted, and it is an accepted position of both parties, that the MACP Scheme, as implemented, postulates grant of financial upgradation after 10, 20 and 30 years of regular service and not after 8, 16 or 24 years of regular service, as was originally envisaged in terms of Government Resolution dated 30th August 2008, or for that matter, 10 or 20 years of service, as was recommended by the Sixth Central Pay Commission. In our opinion, the Resolution of the Central Government dated 30th August 2008 cannot be read as conferring any right on the government employees. The resolution was not notified and enforced to confer a legal right. The Office Memorandum dated 19.05.2009 promulgates and operationalises the MACP Scheme with effect from 01.09.2008. The Office Memorandum states that financial upgradations as per the provisions of the earlier ACP Scheme would be granted till



30.08.2008. Further, past cases would not be re-opened and the difference in pay scales on account of grant of financial upgradation under the old ACP Scheme and the MACP Scheme shall not be construed as an anomaly.

12. Learned counsel for the government employees, inspite of being correct that M.V. Mohanan Nair (supra) does not refer to Balbir Singh Turn (supra) and does not overrule it specifically, misses the point that the entire ratio and reasoning given in M.V. Mohanan Nair (supra), as rightly observed in R.K. Sharma (supra), cannot be reconciled with the ratio in Balbir Singh Turn (supra). M.V. Mohanan Nair (supra) has examined the MACP Scheme in depth and detail to settle the controversy, inter alia holding that supersession of the ACP Scheme by the MACP Scheme is a matter of government policy, and that "after accepting the recommendation of the Sixth Central Pay Commission, the ACP Scheme was withdrawn and the same was superseded by the MACP Scheme with effect from 1.9.2008." The ACP Scheme and MACP Schemes were held to be in the nature of incentive schemes to relieve stagnation and not as a part of pay structure, which had revised the pay and the dearness allowance with effect from 1.1.2006. In these circumstances, we do not think a case for reference to a larger Bench of three Judges to reconsider the ratio in the decision of R.K. Sharma (supra) is made out. Therefore, we reject the contention of the learned counsel for the respondents/government employees for reference of the matter."

12. The verdict of the Hon'ble Supreme Court in *UOI & Ors vs Ex HC/GD Virender Singh* (supra) has been reiterated by the Hon'ble Supreme Court in Civil Appeal arising out of SLP (Civil)



14. the Hon'ble  
8015/2022 in **UOI & Ors vs N. M. Raut & Ors** wherein in para 8 thereof, the observations of the Hon'ble Supreme Court in **UOI & Ors vs Ex HC/GD Virender Singh** (supra) were referred to which observations read to the effect:-

*"8. Ex.HC/GD Virender Singh (supra), observes that the MACPS would be applicable with effect from 01.09.2008. Upon considering the reasoning in M.V. Mohanan Nair (supra), it was held that the earlier decision of this Court in "Union of India and others v. Balbir Singh Turn and another", was effectively overruled. It is relevant to refer to this settled position, as the arguments in the present cases primarily arise from the fact that the CCS RP Rules were enforced with effect from 01.01.2006 and granted certain benefits to the respondents in the form of revision or higher pay scales after completion of two or four years of service, as the case may be."*

13. Significantly, thus in terms of the said verdicts of the Hon'ble Supreme Court in **UOI & Ors vs Ex HC/GD Virender Singh** (supra) and **UOI & Ors vs N. M. Raut & Ors** (supra), it is indicated clearly that the MACP scheme has to take effect with effect from 01.09.2008 and not even 01.01.2006 as contended on behalf of the applicant Nos. 1 to 7, 9 to 11, 13 to 17, and 19 to 32.



in in para 8  
UOI &  
ch

14. We consider it essential to refer to para 37 of the verdict of the Hon'ble Supreme Court in **Suchet Singh Yadav and Others vs Union of India and Others** (supra) which reads to the effect:-

"37. There cannot be any dispute to propositions laid down in above mentioned cases of this Court where this Court has laid down that the State cannot arbitrarily pick and choose from amongst similarly situated persons, a cut off date for extension of benefits especially pensionary benefits, there has to be a classification founded on some rational principle when similarly situated class is differentiated for grant of any benefit. As noted above, present is not a case where there is any discrimination in pensionary benefits of pre 01.01.1996 and post 01.01.1996 retirees. The applicants, base their claims on the order of the Government of India dated 21.11.1997 and we have already held that those who were not in service on 01.01.1996 could not claim any benefit of the order dated 21.11.1997. Thus, present is not a case of any kind of discrimination and differentiation in pensionary benefits of pre and post 01.01.1996 retirees. We have already noticed above that order dated 21.11.1997 was issued in reference to pay and allowances of Armed Forces Officers, which pre-supposes that these officers were in the establishment on 01.01.1996. We thus are of the view that applicants were clearly not entitled for grant of benefit of higher pay scale under the order dated 21.11.1997. The orders of the Armed Forces Tribunal extending the said benefit to those applicants who had already retired before 01.01.1996 are set aside whereas the orders of the Armed Forces Tribunal which have taken the view that Armed Forces Officers, who have retired before 01.01.1996 are not entitled for pensionary benefits are upheld."



cut o  
gran

15. Vide verdict of the Hon'ble Supreme Court in Writ Petition (Civil) 942/2019 in the case of **Sushil Kumar Jain (Retired) & Ors vs Union of India** dated 20.02.2020 in circumstances *pari materia* to the facts of the instant case where the aspect as to whether the grant of the benefits of a communication dated 21.12.2004 of the GoI (MoD) in relation to pensionary and other benefits which communication was to take effect from 16.12.2004 **as to whether the said communication of grant of pensionary benefits would be applicable to those who were not in service on the date 16.12.2004**, the Hon'ble Supreme Court whilst referring to the verdict of the Hon'ble Supreme Court dated 21.02.2018 itself in **Suchet Singh Yadav and Others vs Union of India and Others** (2019) 11 SCC 520 **upheld the cutoff date stipulated by the Government of India** which stipulated that the order would take effect from 16.12.2004 and **consequently those not in service prior to the said date were not granted the benefits in terms of the communication dated 21.12.2004 which was to take effect from 16.12.2004**. The verdict of the Hon'ble Supreme Court in **Suchet Singh Yadav and Others vs Union of India and Others** (supra) categorically lays down that even the benefits of a higher pay scale prior to a

petition  
cut off date when personnel were not in service ought not to be granted by the Courts.

16. Consequently, in the instant case as the grant of the benefits of the MACP scheme does not relate to any discrimination and differentiation of pensionary benefits between pre and post 01.01.2006 retirees nor between pre and post 01.09.2008 retirees, and rather the MACP scheme relates only to an incentive scheme brought into force to relieve stagnation, the contentions raised by the applicant Nos. 1 to 7, 9 to 11, 13 to 17, and 19 to 32, that they have been discriminated against by a cut off date for grant of the MACP scheme benefits,- cannot be accepted.

17. Taking into account the verdict of the Hon'ble Supreme Court in **UOI & Ors vs Ex HC/GD Virender Singh** (supra) which categorically lays down that the grant of the MACP scheme is not part of pay structure which affects pay and pension of the Armed Force employee and is only a financial upgradation on the basis of an incentive scheme to relieve stagnation, the said scheme has essentially to operate on its own terms and thus those not in service prior to the date of implementation of the MACP scheme which in terms of the verdict of the Hon'ble Supreme Court in



*UOI & Ors vs Balbir Singh Turn & Anr* (supra) was 01.01.2006 and which in terms of the verdicts of the Hon'ble Supreme Court in *UOI & Ors vs Ex HC/GD Virender Singh* (supra) and *UOI & Ors vs N. M. Raut & Ors* (supra), is 01.09.2008, the applicant Nos. 1 to 7, 9 to 11, 13 to 17, and 19 to 32 who were not in service on the date 01.01.2006 nor on 01.09.2008,- cannot be granted any benefits thereof.

### CONCLUSION

18. The OA 949/2019 qua applicant Nos. 1 to 7, 9 to 11, 13 to 17, and 19 to 32:-

1. 6927753X HAV CHANDRA SHEKHAR
2. 14530728F HAV JOSEPH C A
3. 2569705 NK TEGALA MANIK PRABHU
4. 15105787-L NK SHAIK HUSSAIN BASHA
5. 143953081 NK AYYUB KHAN
6. 06913773A HAV PRATAP CHANDRA BISWAL
7. 14508946A HMT DHIRENDRA NATH BEHERA
9. 14578903H NK UDAYA KUMAR DAS
10. 14338108W HAV RAJENDER KUMAR
11. 13937330 SEP AV SUBBA REDDY
13. 1337203 SEP UTUKURI VEERABHADRA RAO
14. 2873346A HAV SABIR ALI
15. 14223235Y HAV 'Y' C P NETHAJEE



16. 8021157L NK MUTHALAH
17. 1337199 SEP ELIPAY VARA PRASADA RAO
19. 13851843X NK NARASIMHA MURTHY ROWLO
20. 2577659 NK TIPPANA VEERA SWAMY
21. 06890388 HAV DHUNI CHAND TAIWALIA
22. 7077308P HAV 'D' BALBIR SINGH
23. 13969470M NK SINGADURAI N
24. 13969469X NK JEGIATHEESWARAN N
25. 14343835X NK SATYANARAYANA CHANDAKA
26. SMT GEETHA W/O LATE 2591316M NK CHANNAGOWDA
27. SMT PRITPAL KAUR W/O LATE 1139583 GNR BAKHSHISH SINGH
28. SMT RUPA RAJABHAU DEVAN W/O LATE 2796764M LNK RAJABHAU DEVAN
29. SMT KASHMIRA DEVI W/O LATE 6880319 HAV JASWANT SINGH
30. SMT PADMAVATHI W/O LATE 1148911 HAV 'Y' T NALLAMUTHU
31. SMT BIASA DEVI W/O LATE 13720615 RFN PREM SINGH
32. SMT PRABHI DEVI W/O LATE 2435981 SEP BAKHSHI RAM

is thus dismissed.

Pronounced in the open Court on 8 July, 2026.

[LT GEN C. P. MOHANTY]  
MEMBER (A)

[JUSTICE ANU MALHOTRA]  
MEMBER (J)



OA 949/2019 with MA 1605/2019  
EX HAV CHANDRA SHEKHAR & ORS vs UNION OF INDIA AND ORS.

TRUE COPY

FREE COPY U/R 23  
OF AFT (PROCEDURE)  
RULES 2008 17 of 17  
4/8/26

FOR REGISTRAR

IN THE ARMED FORCES TRIBUNAL (PB), AT NEW DELHI  
ORIGINAL APPLICATION NO.: - 949 of 2019

IN THE MATTER OF: -

HAV CHANDRA SHEKHAR S/O SHRI BHAGWAN SINGH & Ors.

Applicants

VERSUS

Union of India & Ors.

Respondent/s

MEMO OF PARTIES

1. 6927753X HAV CHANDRA SHEKHAR S/O SHRI BHAGWAN SINGH  
R/O- 383, 7A/4, East Azad Nagar, Gali No. 6, Delhi-51  
APPLICANT NO.1
2. 14530728F HAV JOSEPH C A S/O LATE C C AUGUSTHY R/O-  
4-4-138, KOWKOOR, PO-BOLARIM, SECUNDERABAD-500010  
APPLICANT NO.2
3. 2569705 NK TEGALA MANIK PRABHU S/O T MALLAIAH R/O- 1-  
1-66/1020, URBAN COLONY, BHOINGIR TELANGANA 508116  
APPLICANT NO.3
4. 15105787-L NK SHAIK HUSSAIN BASHA S/O S HASSAIN R/O-  
VILL-VADLAMUDI [NEAR DARGA] MDL-CHEBROLE DIST-GUNTUR  
PIN-522213  
APPLICANT NO.4
5. 143953081 NK AYYUB KHAN S/O LATE ADAM KHAN R/O-  
H.NO.3-43, VILL-ISLAMPUR, PO KAITHEPALLY, MDL-REPALLE  
GUNTUR ANDHRA PRADESH 522264  
APPLICANT NO.5
6. 06913773A HAV PRATAP CHANDRA BISWAL S/O SRI PURNA  
CHANDRA BISWAL R/O- NEAR +2 SC WISDOM COLLEGE, AT-  
BHOISAH, PO DIST.-BALASORE.756001  
APPLICANT NO.6
7. 14508946A HMT DHIRENDRA NATH BEHERA S/O LATE H K  
BEHERA R/O- CHHAPULIA CHHAKA, BHOISAH, PO/ DIST-  
BALASORE. 756001  
APPLICANT NO.7
8. 6929210K NK HEMANTA KUMAR ROUT S/O LATE RANGADHARA  
ROUT R/O- VILL-DIHODOPUR, PO-BARAPARA, PS-  
PATTAMUNDEVI, DIST-KENDRAPARA. 754245  
APPLICANT NO.8
9. 14578903H NK UDAYA KUMAR DAS S/O GAJENDRA PRASAD DAS  
R/O- AT-UDAYA NAGAR, ANGARGADIA-DIST, POST-BALASOR,  
ODISHA 756001  
APPLICANT NO.9
10. 14338108W HAV RAJENDER KUMAR S/O LATE PURAN CHAND  
R/O- VILL-SAHANWIN PO-TAL, TEH+DIST-HAMIRPUR,  
HIMACHAL PRADESH  
APPLICANT NO.10

D

11. 13937330 SEP A V SUBBA REDDY S/O LATE A VENKATA REDDY  
R/O- PLOT NO.143, MARUTHI NAGAR, NEARR VENKATESWARA  
SWAMY TEMPLE, AYYAPPA COLONY, DAMMAIGUDA,  
SECUNDERABAD 500083

APPLICANT NO.11

12. 14539141K HAV JITENDRA ROY BAHADUR S/O LATE SABHAPATI  
ROY R/O- (VILL & PO) - BARARHI, VIA- RAGHUNATHAPUR,  
TEH & DIST-BUXAR BIHAR 802134

APPLICANT NO.12

13. 1337203 SEP UTUKURI VEERABHADRA RAO S/O LATE  
SARVESWARA RAO R/O- B-303, GOLDEN APPTS,  
RACHAVANIPALEM, NEAR CMR CENTRAL, VISAKHAPATANAM,  
ANDHRA PRADESH

APPLICANT NO.13

14. 2873346A HAV SABIR ALI S/O FAIZ MOHD R/O- VILL-  
PITHUSAR, POST MALSISAR, THE-MALSISAR, DIST-JHUNJHUNU  
TAJ 331028

APPLICANT NO.14

15. 14223235Y HAV 'Y' C P NETHAJEE S/O LATE SHRI V  
CHELLAIAH R/O- D.NO.89/68, MARAVAR STREET, WEST BANK,  
MANAMADURAI 630606, SIVAGANGA DIST TAMILNADU

APPLICANT NO.15

16. 8021157L NK MUTHAIAH S/O LATE KARUPPIAH R/O-  
H.NO.42/31, KANNAR STREET, WEST BANK, MANAMADURAI  
SIVAGANGA DIST TAMILNADU 630606

APPLICANT NO.16

17. 1337199 SEP ELIPAY VARA PRASADA RAO S/O PEDA SAMUEL  
ELIPAY R/O- MASTHAN HANYAN COLONY, NEAR KANDADRG  
TEMPLE, ELUR RURAL, VENKARAPURAM, ANDHRA PRADESH WEST  
GODAWARI DIST 534001

APPLICANT NO.17

18. 6925654W HAV "Y" V GANAPATHY S/O LATE K VELLAICHAMY  
R/O- NO-5, VENKATESHWARA NAGAR, MUTHAPUDUPET, AF  
STATION, AVADI, CHENNAI TAMILNADU 600055

APPLICANT NO.18

19. 13851843X NK NARASIMHA MURTHY ROWLO S/O LATE DAYANIDI  
ROWLO R/O- VILL-JAMADARUPUTTUGU, POST-GORRELAPADU,  
DIST-SRIKAKULAM ANDHRA PRADESH 532290

APPLICANT NO.19

20. 2577659 NK TIPPANA VEERA SWAMY S/O LATE GANTAMAYYA  
R/O- TIPPANA VEERA SWAMY (VILL & PO) --RBELGAM, DIST  
SRIKAKULAM ANDHRA PRADESH 532290

APPLICANT NO.20

21. 06890388 HAV DHUNI CHAND TAIWALIA S/O LATE SH SHINU  
RAM R/O- (VILL & PO)- BARA GRAM, TEH- BARSAR, DIST-  
HAMIRPUR, HIMACHAL PRADESH 176049

APPLICANT NO.21

22. 7077308P HAV 'D' BALBIR SINGH S/O LATE CHANDU RAM  
R/O- VILL-JAMLI, PO BARAGAON, TEH BARSAR, DIST  
HAMIRPUR, HIMACHAL PRADESH 176049

APPLICANT NO.22

C



E

23. 13969470M NK SINGADURAI N S/O LATE R. NATARAJAN R/O-  
D.NO.3/167-B-1, NAGALINGAM NAGAR, MARIYAMMA KOIL  
STREET, MANAMADURAI 630606, SIVAGANGAI DIST TAMILNADU

APPLICANT NO.23

24. 13969469X NK JEGIATHEESWARAN N S/O LATE T NALLAMUTHU  
R/O- D.NO.15, EAST JAIL QUARTERS, MADURAI SOUTH  
ARASARADI, MADURAI DIST, TAMILNADU 625016

APPLICANT NO.24

25. 14343835X NK SATYANARAYANA CHANDAKA S/O ADINARAYANA  
CHANDAKA R/O- H.NO.6-105, GANESH NAGAR,  
KRISHNARAYAPURAM VILL, VEPAGUNTA PO, VISAKHAPATANAM,  
ANDHRA PRADESH 530047

APPLICANT NO.25

26. SMT GEETHA W/O LATE 2591316M NK CHANNAGOWDA S/O 0  
R/O- 153, 25TH WARD, JANAMANGALA ROAD, MANJUMATHA  
NAGAR, RAMA NAGAR, A, KARNATAKA-562159

APPLICANT NO.26

27. SMT PRITPAL KAUR W/O LATE 1139583 GNR BAKHSHISH SINGH  
S/O 0 R/O- VILL-FATEHPUR, PO-SAMANA, DIST-PATIALA,  
PUNJAB 147001

APPLICANT NO.27

28. SMT RUPA RAJABHAU DEVAN W/O LATE 2796764M LNK  
RAJABHAU DEVAN S/O 0 R/O- #3321/1, RAKHASHAK COLONY,  
2ND CROSS PIPE LINE ROAD, VIJAY NAGAR, BEGAUM,  
KARNATAKA 591108

APPLICANT NO.28

29. SMT KASHMIRA DEVI W/O LATE 6880319 HAV JASWANT SINGH  
S/O 0 R/O- VPO BARAGRAM, TEH-BARSAR, DISTT-HIMIRPUR,  
HIMACHAL PRADESH 176049

APPLICANT NO.29

30. SMT PADMAVATHI W/O LATE 1148911 HAV'Y' T NALLAMUTHU  
R/O- D.NO.11/66, JEEVA NAGAR, RAILWAY COLONY,  
MANAMADURAI-VPO, SIVAGANGA DIST, TAMILNADU 630606

APPLICANT NO.30

31. SMT BIASA DEVI W/O LATE 13720615 RFN PREM SINGH R/O-  
VPO BARAGRAM, TEH-BARSAR DIST-HAMIRPUR, HIMACHAL  
PRADESH 176049

APPLICANT NO.31

32. SMT PRABHI DEVI W/O LATE 2435981 SEP BAKHSHI RAM R/O-  
VPO BARAGRAM, TEH-BARSAR DIST-HAMIRPUR, HIMACHAL  
PRADESH 176049

APPLICANT NO.32

2



VERSUS

1. UNION OF INDIA & ORS  
THROUGH THE SECRETARY  
MINISTRY OF DEFENCE  
SOUTH BLOCK, DHQ PO  
NEW DELHI- 110 011

2. THE CHIEF OF ARMY STAFF  
INTEGRATED HEADQUARTERS OF MOD (ARMY)  
SOUTH BLOCK, DHQ PO  
NEW DELHI- 110 011

3. THE PCDA (P)  
DRAUPDI GHAT, ALLAHABAD

.... RESPONDENTS

Filed by: -

Dated 20/05/19

New Delhi



Brig (Retd) Anil Srivastava & Associates  
Advocates for Applicant

A-802, Sujjan Vihar Sec. 43, Gurgaon (HR)

Hand Held- 9999158400, 9582062020

