

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH**  
**AT JAMMU**

WP(C) No. 2581/2024

1. Union of India through its Secretary to Government of India, Ministry of Defence, South Block, New Delhi-110011. ....Petitioner(s)
2. Director General of Artillery (Artillery-10), General Staff Branch, Integrated HQ of Ministry of Defence (Army), DHQ PO, New Delhi-110 001.
3. Principal Controller of Defence Accounts (Pensions), Draupadi Ghat, Allahabad, Uttar Pradesh- 211014.
4. OIC Records, JAK Files, PIN-908774, C/o 56 APO

Through: Mr. Vishal Sharma, Sr. Advocate (DSGI) with Mr. Eishaan Dadhichi, CGSC.

vs

1. No. 13767630Y Ex naik Kamal Kumar, S/o Shri Madan Lal, R/o Village: Karyal Brahmana, Post Office: Kheri, Tehsil: Bishnah, District: Jammu-181132. .... Respondent(s)

Through: Mr. P.L. Sharma, Advocate.

**CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE**  
**HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

**ORDER(ORAL)**  
**29.09.2025**

**(Sanjeev Kumar-J)**

1. Impugned in this petition filed by the Union of India and three others is an order and judgment dated 29.05.2023 passed by the Hon'ble Armed Forces Tribunal, Srinagar Bench at Jammu [*hereinafter referred to as "the Tribunal"*] in OA No. 110/2023 titled "*Ex Naik Karnal Kumar versus Union of India and others*", whereby the Tribunal has, on the motion hearing date, allowed the OA of the respondent and directed the petitioners herein to give the benefit of Modified Assured Career Progression Scheme to

the respondent with effect from 01.02.2019 with all consequential benefits in the Havildar grade. The respondents has also been held entitled to interest @ 8% per annum on the arrears.

2. Impugned judgment is assailed by the petitioners, primarily, on the ground that the same was passed by the Tribunal without affording them an opportunity of being heard.
3. Learned counsel appearing for the petitioners would submit that the OA was disposed of at the motion hearing stage without affording any opportunity to the petitioners to put up their stand before the AFT.
4. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the impugned judgment, which determines the rights of the parties, has been passed in clear breach of principles of natural justice.
5. It is true that on the date, the OA was taken up for consideration, the notice was issued to the petitioners, which was waived by one-Sh. Rajat Gupta, Senior Panel Counsel, but the OA was disposed of on the same date. The petitioners were not permitted to file their written statement and place their stand before the Tribunal. The Tribunal considered the matter on the basis of material placed before it by the respondent and came to the conclusion that the respondent was entitled to MACP of Havildar w.e.f. 01.02.2019.
6. The stand of the petitioners, which is now projected before us is that the respondent having refused the regular promotion to the rank of Havildar

could not be entitled to the benefit of second MACP and this aspect, though noticed, has not been considered by the AFT.

7. Be that as it may, since the impugned judgment has been passed by the Tribunal without affording an adequate opportunity to the petitioners to file the written statement and place their stand before the Tribunal, as such, the same is in breach of principles of natural justice. The impugned judgment, therefore, cannot sustain in the eye of law.
8. For the foregoing reasons, we find merit in this petition and the same is, accordingly, allowed. The impugned judgment passed by the Tribunal is set aside and the matter is remitted to the Tribunal for fresh consideration after affording adequate opportunity to the petitioners herein to file the written statement.
9. With a view to cut short the delay, we direct the petitioners herein to file the written statement within a period of four weeks from today. The Tribunal shall take up the matter for consideration on **11.11.2025**.
10. ***Disposed of*** alongwith connected applications, if any.

**(Sanjay Parihar)**  
Judge

**(Sanjeev Kumar)**  
Judge

**Jammu**  
29.09.2025  
Rahul

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| Whether the order is speaking?   | Yes/No |
| Whether the order is reportable? | Yes/No |