

RESERVED
(Court No 2)

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Original Application No. 269 of 2024

Friday, this the 24th day of January, 2025

Hon'ble Mr. Justice Anil Kumar, Member (J)

Hon'ble Maj Gen Sanjay Singh, Member (A)

No. 791431-N JWO Somdatt Awasthi (Retd), son of late Shri Durga Prasad Awasthi, Resident of 2/159, Virat Khand, Gomti Nagar, Lucknow (UP)-226010.

.... Applicant

Ld. Counsel for the: **Shri Shailendra Kumar Singh**, Advocate.
Applicant

Versus

1. Union of India, through Secretary, MoD (IAF), South Block, New Delhi-110066.
2. Chief of the Air Staff, Air Hqrs, Vayu Bhawan, New Delhi-110011.
3. Dte of Air Veterans, Air HQrs, Subroto Park, New Delhi-110010.
4. PCDA (P) (Air Force), Draupadi Ghat, Prayagraj (UP)-212114.

... Respondents

Ld. Counsel for the : **Shri Bipin Kumar Singh**, Advocate
Respondents. Central Govt Counsel

ORDER

1. The instant Original Application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007, whereby the following reliefs have been sought:-

(a) To issue a suitable direction to the respondents for correction of applicant daughter's name as SAUMYA AWASTHI with date of birth 03 Sep 2003 in PPO dated 09 Jan 2024 and all service records issued to him.

(b) Any other relief/order as considered fit and proper by the Hon'ble Tribunal be awarded in favour of the applicant.

2. Brief facts of the case are that the applicant was enrolled in the Indian Air Force (IAF) on 19.06.1998. During the course of his service in the year 2012, while posted with 793 SU, AF (Nasik), applicant came to know that her daughter's date of birth in his service records was wrongly endorsed as 03.04.2004 in place of 03.09.2003. On his request for correction in date of birth, letter dated 09.07.2012 was written by his unit to Municipal Corporation, Lucknow for verification. In response, Municipal Corporation, Lucknow issued certificate dated 21.07.2012 (Annexure A-2 of O.A.) confirming date of birth in respect of applicant's daughter to be 03.09.2003.

3. In the year 2017, applicant while posted with 725 SU, AF (Jammu), during preparation of discharge papers, came to know that despite the fact that verification of date of birth in respect of his daughter was received from Municipal Corporation, Lucknow, the same has not been updated/corrected in his service records. He submitted application dated 11.08.2017 supported with relevant papers (Annexure A-3 of O.A.) raising his grievance but in response he was issued

warning letter dated 16.08.2017 (Annexure A-4 of O.A.) on the alleged delay in processing of his case.

4. Statement of case duly recommended by Commanding Officer, 725 SU, AF (Jammu) was forwarded to HQ Western Air Command IAF on 25.08.2017 (Annexure A-5 of O.A.) which was subsequently forwarded to Air Force Record Office vide letter dated 30.08.2017 (Annexure A-6 of O.A.). On 30.06.2018, the applicant was discharged from service but error in date of birth in respect of his daughter was not corrected in PPO No. 349201814026 and Corrigendum PPO No. 601201804908 (Annexure A-1 of O.A.), hence this O.A. has been filed for correction of name and date of birth in respect of his daughter.

5. Submission of learned counsel for the applicant is that his daughter's name was corrected in few service records at the time of discharge but it was not corrected in PPO and Corrigendum PPO. In support of his contention, learned counsel for the applicant submitted that the Hon'ble Apex Court in catena of judgments has held that name and date of birth of child endorsed in CBSE Matriculation Certificate is treated to be final. He pleaded for correction of name and date of birth in respect of applicant's daughter based on certificates issued by Municipal Corporation Lucknow and Central Board of Secondary Education, New Delhi.

6. On the other hand, submission of the respondents is that according to service documents name and date of birth in respect of applicant's daughter is 'Saumya DOB-03.04.2004' and that is the reason of mentioning these details in service documents issued to the applicant. It was further submitted that prior to discharge from service,

during processing of his pension papers, applicant did not raise this issue which being raised after 19 years from the date of publication of occurrence cannot be rectified at this stage.

7. Respondents' further submission is that as per certificate submitted by the applicant her daughter was born at Lalganj whereas as per new certificate of the year 2012 produced by the applicant her place of birth has been mentioned as Lucknow which being contradictory is not acceptable at this belated stage. In support of his contention, learned counsel for the respondents has relied upon order dated 05.10.2021 passed by this Tribunal in O.A. No. 135 of 2020, **Suneel Kumar son of late NC(E) Mewa Lal (800482) vs UOI & Ors** and order dated 05.02.2020 passed by the Hon'ble Apex Court in **M/S Bharat Coking Coal Ltd & Ors vs Shyam Kishore Singh**, Civil Appeal No. 1009 of 2020. He pleaded that in view of the aforesaid pronouncements, this O.A. deserves to be dismissed.

8. Heard learned counsel for the parties and perused the record.

9. The controversy involved in this case is regarding correction of name and date of birth in respect of the applicant's daughter. The applicant was enrolled in IAF on 19.06.1998. During the course of his service, his daughter was born and her personal occurrence was published. In the year 2012, during scrutiny of personal documents, the applicant came to know that name and date of birth in respect of his daughter has been wrongly mentioned in his service documents. Accordingly, he submitted application to his superior authority and based on his application, letter dated 09.07.2012 (Annexure A-2) was sent to 'Nagar Swasthy Adhikari, Lucknow' who vide letter dated

21.07.2012 issued certificate in which it is mentioned that applicant's daughter's name is Saumya Awasthi and her date of birth is recorded as 03.09.2003.

10. In the year 2017, prior to discharge from service the applicant came to know that despite receipt of verification, name and date of birth in respect of his daughter has not been corrected. He submitted application dated 11.08.2017 for correction of name and date of birth of his daughter. This application duly recommended by his Commanding Officer was submitted to Air Force Record Office through HQ Western Air Command vide letter dated 30.08.2017 for promulgation, but no action seems to have been taken in this regard, instead the record shows that he was issued warning letter dated 16.08.2017 (Annexure A-4) for bringing correction related issue belatedly to the notice of higher authorities.

11. The applicant has submitted the following documents to the effect that his daughter's correct name and date of birth is 'Saumya Awasthi with date of birth-03.09.2003' :-

- (i) Jan Swasthy Adhikari, Lucknow letter dated 21.07.2012 (Annexure A-2) which is reproduced as under:-

“आपके पत्र संख्या 793SU/508/1/Org दिनांक 09 जुलाई 12 के साथ संलग्न जन्म-प्रमाण पत्र जिसका पंजीकरण संख्या- NNLKO-B-2012-097262, दि. 3 Jan 2012 है, जो नगर निगम के अभिलेखों में दर्ज सूचना के आधार पर जारी किया गया है, सत्यापित किया जाता है।”

- (ii) Certificate dated 27.06.2017 from Principal, Kendriya Vidyalaya No 1, Gandhi Nagar, Jammu (J&K) showing his daughter's name and date of birth to be 'Saumya Awasthi DOB-03.09.2003.

(iii) Copy of Aadhar Card No 4640 7062 5523 showing his daughter's name and date of birth to be 'Saumya Awasthi DOB-03.09.2003.

(iv) Extract of page 17 of Discharge Book issued by the Air Force authorities showing his daughter's name and date of birth to be 'Saumya Awasthi with date of birth-03.09.2003.

(v) Copy of ECHS Card No LU 0000 0302 2924 (Annexure A-7) showing his daughter's name and date of birth to be 'Saumya Awasthi DOB-03.09.2003.

(vi) Certified true copy of High School Certificate dated 06.05.2019 (Annexure A-8) showing his daughter's name and date of birth to be 'Saumya Awasthi DOB-03.09.2003.

12. Respondents' contention, as mentioned in Para 6 of counter affidavit that the applicant had never approached the authorities for correction of name and date of birth in respect of his daughter, seems to be on unfounded ground as the applicant had submitted application in this regard in the year 2012 and based on his application letter dated 09.07.2012 was written by his unit to Nagar Swasthy Adhikari, Lucknow who vide letter dated 21.07.2012 (Annexure A-2) had verified name and address in respect of his daughter.

13. We have gone through the judgments relied upon by the respondents and we find that the case laws cited are not helpful to them as facts and circumstances of the present case are entirely different.

14. While filing rejoinder affidavit, applicant has relied upon order dated 30.04.2001 passed by the Hon'ble Apex Court in the case of

Dhruvendra Singh & Ors vs State of Rajasthan. On careful perusal of the aforesaid judgment it is crystal clear that the best evidence for determination of age is the birth certificate or the school certificate. In the present case the applicant has produced certificate issued by Central Board of Secondary Education, New Delhi (Annexure A-8) in which his daughter's name has been endorsed as Saumya Awasthi with DOB 03.09.2003 which ought to be deemed final as per the aforesaid Hon'ble Apex Court order (supra). For convenience sake, paras 14 and 15 of the Hon'ble Apex Court order dated 30.04.2001 are reproduced as under:-

"14. In Bhoop Ram vs State of UP, the Hon'ble Supreme Court has held that on the point of proof of age, school certificate is the best evidence and so far as the medical certificate is concerned, the same is based on estimate and possibility of error cannot be ruled out.

15. Thus, it can easily be said that best evidence for determination of age is the birth certificate or the school certificate and in case it is available, that would be considered the best evidence and so far as the medical evidence is concerned, since it has margin of error, it would be taken into consideration only when primary evidence which is found in the birth certificate or school certificate is not available."

15. In the present case, the applicant has produced extract of page 7 of his discharge book (Annexure-7) issued by Air Force authority showing correct name and date of birth in respect of his daughter. This shows that the respondents have made correction in name and date of birth in respect of applicant's daughter in some record, however, may be due to oversight, in other record like PPO, correction was not incorporated.

16. Apropos above, we are of the view that name and date of birth in respect of applicant's daughter as mentioned in High School Certificate (copy placed at Annexure A-8) being final should be mentioned in all service documents. The O.A. is, accordingly allowed.

17. The respondents are directed to incorporate necessary changes in name and date of birth in respect of applicant's daughter, as per certificate placed at annexure A-8, in all service related documents within a period of three months from the date of receipt of a certified copy of this order and issue corrected PPO accordingly.

18. No order as to costs.

19. Pending application(s), if any, shall stand disposed off.

(Maj Gen Sanjay Singh)
Member (A)

Dated : 24.01.2025
rathore

(Justice Anil Kumar)
Member (J)

Court No 2

Form No. 4

{See rule 11(1)}
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW

O.A. No. 269 of 2024

JWO Somdatt Awasthi (Retd)Applicant

By Legal Practitioner for the Applicant

Versus

Union of India & OrsRespondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<div><div><div><div>24.01.2025</div><div>Hon’ble Mr. Justice Anil Kumar, Member (J)</div><div>Hon’ble Maj Gen Sanjay Singh, Member (A)</div></div><div><div>1. Judgment pronounced.</div><div>2. O. A. No. 269 of 2024 is allowed.</div><div>3. For orders, see our judgment and order passed on separate sheets.</div></div><div><div>(Maj Gen Sanjay Singh)</div><div>Member (A)</div><div>rathore</div></div><div><div>(Justice Anil Kumar)</div><div>Member (J)</div></div></div></div>