

Court No.2**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW****Original Application No. 55 of 2016****Monday, this the 07th day of November, 2016****Hon'ble Mr. Justice D.P. Singh, Member (J)
Hon'ble Air Marshal Anil Chopra, Member (A)**

1. Tulsi Ram Yadav, son of late Hausila Prasad, resident of Kanakpur Jhagrauli, Post Gundhaur, Tehsil Bikapur District Faizabad.
2. Rajendra Yadav, son of Tulsi Ram Yadav, resident of Kanakpur Jhagrauli, Post Gundhaur, Tehsil Bikapur District Faizabad.

.....Applicants

Ld. Counsel for: **Shri S.K. Mishra, Advocate**
the applicant

Versus

1. Union of India through Principal Secretary, Ministry of Defence, New Delhi-110011.
2. Zila Sainik Kalyan Evam Punarvas Karyalaya, Faizabad.
3. Senior Record Officer Record Office ASC (MT) Bangalore-560007

...Respondents

Ld. Counsel for the: **Dr. Shesh Narain Pandey,**
Advocate assisted by Col Kamal
Singh, OIC Legal Cell.

..... Respondents

ORDER (Oral)

1. Applicant is a retired member of Indian Armed Forces who approached this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007 for correction of date of birth of his son.

2. According to Ld. Counsel for the applicant date of birth of applicant's son Rajendra Yadav has been recorded as 03.03.1995 in the Army records though according to high school certificate issued by the Board of High School and Intermediate Education, Uttar Pradesh, the date of birth of Rajendra Yadav is 12.12.1996.

3. Ld. Counsel for the applicant has relied upon a decision of the Hon'ble Apex Court rendered in the case of ***Union of India vs. Harnam Singh*** reported in 1993, AIR 1367 : 1993 SCR (1) 862 whereby the Hon'ble Apex Court has ruled that the date of birth recorded in the high school certificate in the matriculation examination (High School Certificate in the present case) shall be final. Further attention has been invited to policy dated 27.01.2014 of the Army whereby a provision has been made for correction of date of birth on the basis of matriculation certificate. For convenience sake paras 2 & 3 of the policy (supra) is re-produced as under :-

“2. Now the subject matter has been examined de novo at this HQ and it has been decided that the request for amending/correcting date of birth will be examined and

considered in consultation with authorized documents issued by competent authority as under :-

(a) The competent authority for recording date of birth in the prescribed document is the concerned Registrar of Births and the school authority.

(b) Date of birth recorded in the birth certificate issued by Registrar of Births and matriculation certificate or equivalent issued by State Board of Education, CBSE and ICSE (as the case may be) will be taken as final and correct for all purposes.

(c) Request for correction of date of birth based on the Matriculation Certificate/Birth certificate issued by Registrar of Births will be accepted for further examination and if found genuine with the supporting documents as mentioned herein after, such request will be acted upon.

3. The following will be supporting documents for amending/correcting the date of birth:-

S. No.	Correction/a mendment to date of birth	Supporting documents
(a)	Children	<p>(i) Birth certificate issued by concerned Registrar of Births (in case child is yet to join school).</p> <p>(ii) For matriculate/school going children, matriculation certificate or equivalent issued by State Board of Education, CBSE and ICSE as the case may be (In case child is in lower class, then date of birth recorded in school records duly certified by Head of</p>

		<p><i>School). Such certificate will be got further verified by Record Office concerned. Certificate issued by KG/LKG & UKG will not be accepted.</i></p> <p><i>(iii) Declaration by applicant through an affidavit shown in before a Class I Magistrate/ Notary.</i></p> <p><i>(iv) Application from individual concerned.</i></p> <p><i>(v) Recommendation of CO for serving personnel and recommendation of Zila Sainik Welfare Officer in case of non effective personnel.”</i></p>
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4. So far as correction of date of birth of an employ is concerned, it may not be corrected in case a prayer is made on the verge of retirement. However since the applicant has made a prayer for correction of date of birth of his son in accordance with high school certificate whose career is yet to start at appropriate place, there appears to be no justification on the part of the respondents to deny the same. In case applicant fulfils the required conditions as provided in the policy, he seems to be entitled for correction of date of birth of his son.

5. Accordingly we **allow** the O. A. and set aside the impugned order dated 07.02.2015. Respondents are directed to take

appropriate action for correction of date of birth of applicant's son Rajendra Yadav in terms of high School certificate issued by the Board of High School and Intermediate Education, Uttar Pradesh and policy dated 27.01.2015 (supra).

6. O.A. is **allowed** accordingly.

No order as to costs.

(Air Marshal Anil Chopra)
Member (A)

anb

(Justice D. P. Singh)
Member (J)