

**Reserved**

**Court No. 1**

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**

**Original Application No. 157 of 2020**

**Wednesday this the 06<sup>th</sup> day of October, 2021**

**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**  
**Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**

Ex Nk Shyam Singh No-13683855W, S/o Shri Madan Singh,  
R/o Village – Dhudalia Manral, PO- Ganai, Tehsil- Ranikhet,  
District- Almora (Uttarakhand), PIN- 263656.

**.....Applicant**

Ld. Counsel for the : **Shri Lalit Kumar and**  
Applicant **Dr. Ashish Asthana, Advocate**

Versus

1. Union of India, through Secretary Ministry of Defence, South Block, New Delhi.
2. The Officer in Charge, Records, Brigade of Guards, Kamtee- 441003.
3. The Officer in Charge Records, Defence Security Corps, Mill Road, Cannanore – 670013.
4. PCDA (Pensions), Allahabad (U.P.), PIN- 211003.
5. AGM, SBI (CPPC), Chandni Chowk, Delhi- 110006.

**..... Respondents**

Ld. Counsel for the : **Shri Sunil Sharma,**  
Respondents **Central Govt Counsel**

**ORDER****“Per Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)”**

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 applicant has sought following reliefs:-

- (i) *To direct the respondents to unfreeze forthwith applicant’s Pension Account Nos. 20048462406 and 11795437352 maintained by him with Respondent No. 6, with a further direction to the respondents, particularly Respondents 5 and 6 to permit the applicant to withdraw the money from these accounts as per his wish and requirement.*
- (ii) *To direct the respondents to supply the copies of the following documents to the applicant:-*
  - (a) *A copy of the letter which had led respondents 5 and 6 to conclude that the applicant was fraudulently drawing the service pensions from the above pension accounts.*
  - (b) *A copy of the inquiry/investigation report on the basis of which such opinion was formed by the said respondents 5 and 6 against the applicant.*
  - (c) *A copy of the order by which the above pension accounts of the applicant had been frozen/put on hold.*
  - (d) *A copy of the relevant provisions of law under which the above action of freezing/ putting on hold the above pension accounts of the applicant had been taken by the respondents.*
  - (e) *A copy of the writ petition which has been allegedly filed in the High Court at Nainital against the applicant.*
- (iii) *To award the exemplary cost to the applicant as against the respondents, particularly respondents 5 and 6 if it is found by the Hon’ble Tribunal that the impugned action of freezing/ putting on*

*hold the above pension accounts of the applicant, had been taken by them without authority of law.*

*(iv) To award interest @ 18% p.a. on the amount which was illegally frozen/ put on hold by the respondents from the date of such action till the date of actual unfreezing of these accounts.*

*(v) To award the cost of this litigation, and*

*(vi) To pass any other order or orders which the Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.*

**Interim Relief** . *The Hon'ble Tribunal may be pleased to direct the respondents particularly respondents 5 and 6 to permit the applicant to withdraw his monthly pension from his aforesaid two pension accounts every months*

2. Rejoinder affidavit filed by the applicant is taken on record.
  
3. Brief facts of the case are that the applicant was enrolled in the Indian Army on 30.11.1982. After completion of training he was posted to 13 Guards Battalion. Applicant after serving for more than 18 years in the army retired from army service in the rank of Nk on 30.06.2001 and was granted service pension for his services rendered in the army vide PPP No S/023089/2001 and started getting pension from Pension Account No. 11795437352, SBI, Rampur Branch, Almora, Uttarakhand. The applicant was re-enrolled in the Defence Security Corps (DSC) on 15.03.2002 and discharged from DSC service on completion of terms of engagement on 01.07.2018 after rendering more than 16 years of service and was granted second service pension for life vide PPO No 194201802179. Applicant opened a second pension account No 20048462406

with the same said respondent No 6 and his second service pension was started. Pension of the applicant of army service was stopped since May 2017 by the respondents. The applicant wrote a letter to Respondent No 4 asking for the reason of stoppage of his first service pension. In November 2019, his second pension was also put on 'hold' by the respondents without giving any information about the reason for the same. On 04.01.2020, applicant was served a copy of the impugned order by Respondent No 6 which stated that applicant was fraudulently drawing pension in someone else's name. The said impugned order further stated that a writ petition in this matter had been filed in the High Court at Nainital and unless said writ petition was decided by the High Court, the applicant would not receive any pension. Applicant requested Respondent No 6 to supply a copy of the said letter as well as copy of said writ petition but the same was not given. Being aggrieved, applicant has filed instant Original Applicant.

4. Learned counsel for the applicant submitted that the applicant served in the army from 30.11.1982 to 30.06.2001 for about 18 years and was granted service pension for the same. The applicant again served in DSC from 15.03.2002 to 30.06.2018 for about 16 years and was granted second service pension for the same. The respondents stopped both the

pensions without any intimation to the applicant. At the time of enrolment in army two identification marks (a) A mole on left upper lip and (b) A mole on right side neck was noted down by the enrolling officer. At the time of his enrolment, the applicant had produced before the enrolling officer, the original copy of his Class- V School Leaving Certificate dated 15.07.1975 issued by the Headmaster of Primary School, Kwerali, District- Almora. In School Leaving Certificate Name of the student was shown - Shyam Singh, Date of Birth -11 July 1963, Name of father - Shri Madan Singh, Reason for leaving the school – On account of passing Class V examination and his character was shown Good. On completion of army service applicant was issued Certificate of 'Discharge and Recommendation for civil employment' with 'Exemplary Character'. After discharge from army service, applicant registered himself as Ex Serviceman with Zila Sainik Kalyan and Punarwas, Almora vide Registration No 213/GD/2001 dated 19.07.2001. The applicant opened Pension Account No 11795437352 with Respondent No 6. Applicant was sanctioned service pension vide PPO No S/023089/2001 from aforesaid pension account. Learned counsel for the applicant submitted that at the time of re-enrolment in DSC, antecedents of the applicant were again verified. While servicing with DSC, the applicant got his PAN Card and Adhar Card duly linked with his bank account. After

discharge from DSC service, the applicant was issued CSD Grocery Card and Liquor Card. The applicant opened a second pension account No 20048462406 with respondent No 6 for receiving his pension for DSC services. Applicant wrote letters to respondents to know the reason of stoppage of his army pension. In the meantime, second pension of the applicant was also put on 'hold' intimating that the applicant cannot withdraw any money from either of the two pension accounts till completion of investigation. On enquiry as to why the applicant had stopped getting his pensions, Respondent No 6 served a copy of the impugned order dated 04.01.2020 which stated that it had come to their knowledge that the applicant was fraudulently drawing the pensions from their bank in the name of Shyam Singh whereas he was actually Narayan Singh. The said impugned order further stated that a writ petition in this regard had been filed in High Court at Nainital which was pending for disposal. Respondent No 6 also informed that applicant himself had written a letter to the authorities that he was fraudulently drawing pensions from their bank in someone else's name. Learned counsel for the applicant submitted that someone out of personal jealousy had mischievously written such letter to harm the applicant. He submitted that respondent No 5 and 6 have not adhered to the following elementary rules of law while passing impugned order for stoppage of pension of the applicant:-

(a) Respondents, without verifying facts have stopped the pension of the applicant.

(b) Why a show cause notice was not issued before stoppage of pension which was the only source of survival of his and his family?

(c) Under which provision pension of the applicant had been stopped?

(d) Who had passed the order for stoppage of pension and why copy of the order had not been supplied to the applicant?

(e) Whether any inquiry had been made from army authorities and DSC to ascertain from official records that applicant is drawing pensions for the services rendered by him?

(f) Who had filed the alleged writ petition in the High Court at Nainital and why a copy of the same, which affected applicant's civil rights, had not been supplied to him?

5. Learned counsel for the applicant further submitted that in view of facts, all documents of the applicant may be compared to determine that it is the applicant who was legitimately drawing the service pensions for his services rendered to army and DSC and if required the identification marks recorded in applicant's enrolment form and discharge certificates with those present on

the applicant's body could be checked by physical inspection. Learned counsel for the applicant prayed that respondents be directed to unfreeze both Pension Account Nos 20048462406 and 1179437352 maintained by Respondents No 5 and 6 and to permit the applicant to withdraw the money from these accounts as per his wish and requirement.

6. Per contra, learned counsel for the respondents submitted that one Hav Shyam Singh, real brother of the applicant sent a letter to PCDA in 2017 stating therein that his real brother Narayan Singh is in receipt of dual pension on the basis of forged documents in which he claimed to be Shyam Singh. Further, the State Bank of India also received a letter purportedly from Shri Narayan Singh confessing that he used the documents of his brother Shyam Singh in getting enrolled in the army. Applicant should have impleaded his real brother Hav Shyam Singh as respondent as he is a necessary party. Ex Nk Shyam Singh No 13683855W was enrolled in the army on 30.11.1982 and discharged from service wef 01.07.2001 and was granted service pension for life through Bank Account No 11795437352 at State Bank of India, Rampur Branch, Almora. Thereafter he was enrolled in DSC on 15 March 2002 and did not opt to count his former service towards DSC service. He was discharged from DSC service wef 01.07.2018 and was granted second service pension through A/c No 20048462406. His

younger brother Hav Shyam Singh No 14904046 of Mech Inf has complained that his elder brother Shri Narayan Singh was enrolled in the army impersonating to be as No 13683855W Nk Shyam Singh, on the basis of a forged document whereas the real Shyam Singh was serving in Mech Inf Regt. Accordingly, they have requested to conduct a thorough investigation in the matter. The case was referred to DSC Records and Mech Inf Regt to investigate the fact as brought out by PCDA (P), Allahabad vide Records, Brigade of the Guards letter dated 31.07.2017. In the meantime Records Mech Inf Regt vide letter dated 28 August 2017 intimated that Hav Shyam Singh No 14904046 was enrolled in the Mech Inf on 15 March 1982 and discharged from service on 31.01.2000. Accordingly, he was drawing pension with effect from 01.02.2000 through Bank Account No 1180503040 maintained by the State Bank of India Main Branch Kashipur, District – Udham Singh Nagar. As per policy of the Bank, Hav Shyam Singh No 14904046 of Mech Inf Regt contacted his bank to link his PAN Number with his pension account. While processing this request, the bank authorities intimated that the PAN of Ex Hav Shyam Singh No 14904046 of Mech Inf Regt was already linked with another account number 11795437352 maintained in Rampur Branch, Almora. On further enquiry it was revealed that A/C no 11795437352 in State Bank of India, Rampur branch Almora

pertains to his elder brother Narayan Singh who was enrolled in the army Brigade of the Guards pretending to be Shyam Singh on the basis of forged documents. This fact was also reported to CPPC, State Bank of India, Chandni Chowk, New Delhi by State Bank of India, Kashipur Branch. Accordingly, both the pension accounts were closed by CPPC and further CPPC State Bank of India, New Delhi vide their letter dated 08.05.2017 also informed to PCDA (P), Allahabad that pension account of Hav Shyam Singh No 14904046 has been suspended with effect from May 2017 since he was drawing dual pension. As the pension of Hav Shyam Singh No 14904046 was stopped, he filed O.A. No 289 of 2018 before the Hon'ble Tribunal, Nainital for restoration of his pension.

7. State Bank of India, CPPC Delhi on the instruction of PCDA (P), Allahabad investigated the whole matter and found that in the name of Shyam Singh there are three pension accounts (1) 11795437352 (2) 11180503040 and 20048462406 and in all these accounts, service pension was being deposited regularly. Above all, these accounts are linked with same PAN Card No BCTPS7807K. In furtherance to it, State Bank of India, CPPC Delhi received a letter from one Shri Narayan Singh confessing that the documents of Shyam Singh were used for enrolment in army. Taking cognizance of the facts and in

compliance of letter of PCDA (P), Allahabad, the State Bank of India, CPPC, Delhi found the case as suspicious and stopped pension in said accounts from May 2017. Thus pension in Account No. i.e. (1) 11795437323 (2) 11180503040 was discontinued since May 2017 and Account No 20048462406 was put on 'hold'. The State Bank of India, CPPC Delhi had intimated these facts to the Office of PCDA (P) Allahabad vide letter No CPPC/MISC/2017-18 dated 08.05.2017.

8. State Bank of India, CPPC, Delhi received a notice from Armed Forces Tribunal, Regional Bench, Lucknow asking to appear and file reply in O.A. No 289 of 2018 filed by Hav Shyam Singh No-14904046M. State Bank of India filed its reply and cleared its stand before the Armed Forces Tribunal Nainital that being a case of suspicion, pension in the above accounts have been discontinued or put on hold. In O.A. No 289 of 2019, the applicant i.e. Hav Shyam Singh No. 14904046M, has specifically stated that the applicant during the course of his visit to his native place at village Dhidhaliya Manral, District- Almora was handed over a letter addressed to Branch Manager, SBI, Ramput Branch, District- Almora, by his elder brother Narayan Singh, wherein the said Narayan Singh had admitted to being recruited in the Indian Army with the help of forged certificate in the name of the applicant i.e. Hav Shyam Singh No.

14904046M. The applicant in his O.A. further stated that this letter was forwarded to the State Bank of India, Rampur Branch, Almora, Uttarakhand.

9. Learned counsel for the respondents submitted that the Hav Shyam Singh No. 14904046M in his petition has admitted that the OIC Records, Mechanised Infantry Regimental Centre, had supplied him a copy of impugned order dated 28.08.2017, wherein it was stated that he was alleged to have helped his elder brother Narayan Singh in getting enrolled in the Army fraudulently and that an FIR will be initiated against him and action on the matter will be taken upon receipt of investigation report from the office of Zila Sainik Board, Udham Singh Nagar. It was admitted in petition that an enquiry was conducted and it was revealed that his elder brother Narayan Singh got enrolled and served in the army in the name of Shyam Singh. In DSC also Narayan Singh served in the name of Shyam Singh. It is further admitted in the petition that the elder brother of the applicant Shyam Singh is known as Narayan Singh in the revenue records of the Govt and also in the Ration Card issued by District Supply Office, Almora. The applicant Hav Shyam Singh No. 14904046M had placed on record all relevant documents as alleged by him in his O.A. No 289 of 2018. The applicant Hav Shyam Singh No. 14904046M had further asserted himself as the real Shyam Singh and has emphasised

that he was the person who got recruited in the Mech Inf on 15.03,1982 on the basis of his High School certificate in the name of Shyam Singh. Applicant Hav Shyam Singh No. 14904046M in O.A. No 289 of 2018 has further challenged the action of suspension of his payment of pension in pursuance of order dated 28 August 2017.

10. Now this Nk Shyam Singh No. 13683855W (alias Narayan Singh) has filed the instant O.A. No 157 of 2020 before the AFT, Lucknow, claiming to be the real Shyam Singh and challenged stoppage of both his pensions by PCDA (P) Allahabad, State Bank of India, CPPC Delhi and State Bank of India.

11. Learned counsel for the respondents submitted that State Bank of India has taken step as per the guidelines of PCDA (P), Allahabad. Action taken by the State Bank of India, CPPC, Delhi is legal, hence prayer of the application against the State Bank of India i.e. Respondent No 5 and 6 may be dismissed. He further prayed that Hon'ble Tribunal has to decide as to who is the real Shyam Singh and which Shyam Singh is the one who had manipulated and misused the facts and documents of real Shyam Singh for his undue advantage and had cheated the Govt. The controversy involved in this case can only be decided by clubbing the facts of both the Original applications i.e. O.A. No 289 of 2019 and O.A. No. 157 of 2020 simultaneously. He

submitted that relief sought in the Original Application is totally false and incorrect, hence Original Application is liable to be dismissed.

12. We have heard learned counsel for the parties and perused the documents available on record.

13. In view of the arguments raised on behalf of both the parties, the point to be considered is whether the applicant Nk Shyam Singh, No 13683855W (alias Narayan Singh) has used forged documents to enrol in the army and DSC, if yes, whether he is entitled for the pension or not and what action should be initiated against him for committing fraud?

14. Section 43 of the Army Act deals with fraudulent enrolment. As Para (b) to Section 43 *'a person who commits offence in enrolment in any part of the Forces or any person when he knows or has reason to believe such person to be so circumstanced that by enrolling he commits an offence against this act, shall on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned'*. Further on perusal of record, it transpires that after receiving complaint from Hav Shyam Singh No 14904046M, Respondent No 5 and 6 contacted PCDA (P), Allahabad to investigate the matter and it was revealed that Nk Shyam Singh No 13683855W (alias Narayan Singh) has two pension accounts and in both the accounts pension was being deposited regularly and the accounts were linked with the same

PAN No. BCTPS7807K. Learned counsel for the applicant asked for a copy of letter supposedly received by respondents 5 and 6 based on which both pensions of Nk Shyam Singh No 13683855W were stopped. In this reference PCDA (P), Allahabad has replied that matter was investigated and Nk Shyam Singh No 13683855W confessed that his real name is Narayan Singh and he was found guilty, hence both his pensions were stopped. Genuineness of the letter was established after investigating the matter and only then were both pensions of Nk Shyam Singh stopped. On investigation, it was revealed that applicant was drawing both pensions on the basis of forged documents, hence show cause notice was not issued and pension was stopped. When anybody is drawing pension on fraud and it is proved, then his pension can be stopped. CPPC Delhi has passed the order of stoppage of pension, who is a competent authority to stop pension in case of fraud. Since the applicant has used fake documents for enrolling in army service and he has linked PAN Card of another person with his pension account and he has confessed in writing that his real name is Narayan Singh, hence he committed fraud and his pension was stopped.

15. The case of Nk Shyam Singh No 13683855W hinges on the genuineness of his School Leaving Certificate of Class- V because it was on the basis of this certificate, that he got

enrolled in the army as well as DSC, and he claims that this is his own certificate. **We have minutely perused the School Leaving Certificate Class- V of Nk Shyam Singh No 13683855W annexed as Annexure A2 to this Original Application wherein his Date of Birth is shown as 11.07.1963 in figures as well as in words. We have also perused High School Certificate and Mark Sheet of Hav Shyam Singh No 14904046M annexed as Annexure No 3 to Original Application No 289 of 2018 wherein Date of Birth of Hav Shyam Singh has also been shown as 11.07.1963 in figure as well as in words. It clearly indicates that Nk Shyam Singh has used Class –V, School Leaving Certificate of his younger brother Hav Shyam Singh No 14904046M otherwise date of birth in both the certificates would have been different. It is beyond doubt that Nk Shyam Singh No. 13683855W had fraudulently enrolled in the army and further in DSC based on the School Leaving Certificate (Class- V) of his younger brother. Since he has been discharged from army as well as DSC service and matter was not noticed by the department during his service time, a FIR is required to be lodged against him for committing fraud.**

16. Respondents have stopped both the pension accounts of the applicant after a thorough investigation revealed that applicant had used Class –V School Leaving Certificate of his younger brother for enrolment in Army and DSC. In the original application

applicant has cooked up a story, that due to some reason his name was written as Shyam Singh in his School records. If it is believed that his name was written as Shyam Singh in place of Narayan Singh, it is not possible that date of birth of both the Shyam Singh's will be the same i.e. 11.07.1963. This proves that Nk Shyam Singh No 13683855W has used School Leaving certificate of his younger brother Hav Shyam Singh No 14904046M for getting enrolment in the army.

17. Since Name, Date of birth, Father's Name and Residential Address of both Shyam Singh's was same, hence PAN Card No of both Shyam Singh's have the same PAN Numbers. It is the duty of the person who is holding PAN Card to submit correct details to concerned authority.

18. In O.A. No 289 of 2018, Hav Shyam Singh No 14904046M has annexed a letter written by his brother Nk Shyam Singh No 13683855W (Real Name Narayan Singh) which reads as under:-

सेवा में,  
श्रीमान शाखा प्रबंधक महोदय,  
भारतीय स्टेट बैंक, रामपुर, चौखुटिया, जनपद- अल्मोड़ा

महोदय,

सविनय निवेदन है की खाता नंबर 11795437352 भारतीय स्टेट बैंक रामपुर अल्मोड़ा में मेरा खाता है। मेरे को एक रिस्ते के मामा ने मेरे छोटे भाई के सर्टिफिकेट बना कर भर्ती करवा दिया। तब हमारी पारिवारिक स्थिति बहुत खराब थी। मैंने ये बात अभी तक किसी को नहीं बतायी है। मैं वर्तमान में रक्षा सुरक्षा वाहिनी में सेवारत हूँ। अभी मैंने वहा से डिस्चार्ज दे दिया है। मैं यही पर आत्मसर्पण कर रहा हूँ। इसलिये यह प्रार्थना पत्र दिया जा रहा है ताकी मेरे छोटे भाई को इससे कोई परशानी नहीं हो। उपरोक्त कार्यवाही के लिए मैं स्वयं ही जिम्मेदार हूँ।

हस्ताक्षर

प्रार्थी  
नारायण

जनपद

सिंह पुत्र श्री मदन सिंह,  
ग्राम धुढलिया मनराल, डाकघर- गनई  
- अल्मोड़ा

This letter in itself is proof that Nk Shyam Singh No 13683855W (Real Name Narayan Singh) has committed fraud in enrolment.

19. The Hon'ble Supreme Court in various cases has observed that a person having done a wrong cannot take advantage in his own wrong and plead bar of any law to frustrate the lawful trial by a competent court .

20. In catena of judgments, the Hon'ble Apex Court has observed that where the initial enrolment is fraudulent, then the relationship of master and servant from the very inception becomes illegal and, therefore, the applicant cannot claim any benefit of any procedural defects provided in the Army Act.

21. We find that applicant not only enrolled himself in army as well as in DSC by fraud, but he also tried to cheat the Tribunal by filing a fake case. For hiding his fault, he fabricated a concocted story that by mistake his nana took horoscope of his brother Shyam Singh at the time of admission in class -1, hence his name was recorded in school documents as Shyam Singh instead of Narayan Singh. Everybody knows that in lagna chakra and

horoscope, only date of birth, time of birth and place are indicated. Further if his name is indeed Shyam Singh then ought to have changed his name in revenue record as well as in ration card from Narayan Singh to Shyam Singh.

22. Except army and DSC where applicant (Narayan Singh) served for so many years he is no where known or called by the name Shyam Singh. He himself has admitted that his actual name is Narayan Singh and not Shyam Singh, Shyam Singh is his younger brother who is about 2 and ½ years younger to him. His ration card has been issued in the name of Narayan Singh and agricultural land (ancestral) also stands recorded in the same name i.e. Narayan Singh. Applicant has made up a false story in rejoinder affidavit that when he was admitted in school in Class – 1, based on horoscope having name of his younger brother (Shyam Singh), his name and date of birth in education record were wrongly entered and the same continued in his school records as School authorities refused to make corrections subsequently. The story set up in rejoinder affidavit is false on account of following reasons:-

- (i) There could be no reason for school authorities refusing to make corrections in name and date of birth of the applicant in school records, more so when applicant's

younger brother was also studying in the same school with same name and date of birth.

(ii) If school authorities had actually refused to make corrections in name and date of birth, (though it does not appear to be true) he could have applied to higher authorities and sought the correction.

(iii) He could have stated his true name and date of birth at the time he was enrolled in Indian Army and thereafter in DSC service.

(iv) He could have stated true facts when he officially sought corrections in his name while serving in DSC service. It is worth mentioning here that when applicant sought correction of his name while in DSC services the applicant spoke only half truth i.e. regarding his name only. He said nothing about his date of birth and also that wrong name in service records had been recorded due to wrong entry in name in his school/education records.

(v) The story set up in the rejoinder affidavit is false from this fact also, that it was never narrated in the past at the time when applicant was admitted in Indian Army and later in DSC and he has not stated this in even the Original Application filed after stoppage of his pension.

(vi) It is hard to believe that name and date of birth of younger brother Shyam Singh could have been wrongly entered in his educational records due to wrong horoscope of younger brother, as admission in a primary school in Class-I is normally not done on the basis of horoscope. It was earlier done on oral declaration of parents/ guardian and these days it is on the basis of birth certificate, but never on the basis of horoscopes.

(vii) Even if it is believed for the sake of argument, that in the case of applicant, his admission in Class-1 was done on the basis of his horoscope, then in that case also, the name of child being normally not mentioned in a horoscope, there could be no chance of getting name of his younger brother being entered as his name in records of school, more so when as per applicant's admission, his maternal grandfather had taken him to school for admission. Possibility of maternal grandfather requesting for name of younger grandchild Shyam Singh to be entered instead of elder grandchild Narayan Singh while seeking admission in the school seems to be far fetched.

(viii) If it is believed that the horoscope, on which basis admission was done, contained name also, then in that case also applicant being accompanied by his maternal grandparent there could be no possibility of getting the

name of younger brother recorded in school records in place of applicant's name.

23. The school leaving certificate filed by the applicant shows that he was admitted in school in the year 1970 in Class- 1 and left the school in 1976 after having passed class-5. In another original application O.A. No 289 of 2018 filed by the younger brother Shyam Singh applicant of that case has filed copy of his school certificate and it shows that applicant's younger brother passed his School in the year 1981. If applicant's younger brother Shyam Singh passed High School in 1981, this means he would have passed Class- V in 1976. It is not applicant's case that he and his younger brother both passed Class- V in the same year i.e. 1976. If both applicant and his younger brother did indeed pass Class – V in same year, it gives rise to only one possibility that School Leaving Certificate which applicant has filed is of his younger brother Shyam Singh, and not his. This supports the respondents' case that applicant got enrolment in Indian Army and thereafter in DSC service using School Leaving Certificate of his younger brother Shyam Singh and this was the reason that name and date of birth of his younger brother got recorded in his service records which was intentionally done by the applicant for the reasons best known to him. Applicant cannot claim innocence saying a wrong was perpetuated by someone else (his nana) by wrong mentioning name and date of birth of his younger brother

Shyam Singh at the time of his admission in school and therefore in his educational record. As a matter of fact, applicant being fully aware about the wrong he got enrolled in the Indian Army and then in DSC service by using School Leaving Certificate of his younger brother perhaps due to the reason that either he did not actually go to school or if he had, he must have failed. But, in any case, he has committed a grave fraud by getting enrolled in the Indian Army and then in DSC, which he did not deserve. The grave misconduct and fraud the applicant committed warrant not only stoppage of his pension for both services, (Army and DSC) he has rendered, but being a penal offence also it needs to be investigated by the police to meet the ends of justice.

24. We find from the admitted and pleaded facts that the action taken against the applicant by respondents for fraudulent act done by him in getting enrolment in the army falls within the preview of the above PCDA (P) provisions.

25. In view of the above discussions, We do not find any merit in the application to interfere with the impugned order passed by the respondents in stopping both the pensions. Consequently, the application being devoid of merit is liable to be dismissed.

26. In view of the aforesaid, the Original Application is **dismissed** with exemplary cost Rs. 50,000/- on the applicant to

be deposited with Registry of this Tribunal. Further Registrar of this Tribunal is directed to approach Superintendent of Police/ Senior Superintendent of Police, District – Almora, along with a copy of this judgment to lodge FIR against Naik Shyam Singh No 13683855W (Real Name Narayan Singh) son of Madan Singh, Resident of Village -Dhudalia Manral, Post - Ganai, Tehsil- Ranikhet, District- Almora (Uttarakhand), PIN- 263656 to take action under appropriate Sections of law for grave misconduct/ fraud committed by him and to take necessary action as per law.

27. Pending applications, if any, stand disposed off.

**(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)**  
Member (A) Member (J)

Dated: 06 October, 2021

Ukt/-