

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

Original Application No. 273 of 2020

Wednesday, this the 15th day of September, 2021

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

Rakesh Kumar Singh (No. 1588820L Ex Nk/Clk) son of Late Shri Gulab Chand Singh, resident of village Gopalpur Jaldi, Post Office-Banjaripur, District-Ghazipur (Uttar Pradesh).

.... Applicant

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

Versus

1. Union of India through Secretary, Ministry of Defence, South Block, New Delhi.
2. Officer-in-Charge Records, Bombay Engineers Group, PIN-908795, C/O 56 APO.
3. Commanding Officer, Depot Battalion, Bombay Engineers Group and Centre, PIN-908795, C/O 56 APO.

... Respondents

Ld. Counsel for the: **Dr. Shailendra Sharma Atal**, Advocate
Respondents. Govt Standing Counsel

ORDER (Oral)

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:-

(a) Issue/pass an order or direction to the Respondents to cancel the Relationship Certificates dated 27.01.2018 and issue fresh Relationship Certificates to the applicant mentioning correct names and dates of birth of his children, Rohit Singh and Abhinash Singh as per their educational documents, within an specified time.

(b) Issue/pass any other order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.

(c) Allowing this Application with cost.

2. Brief facts of the case are that applicant who is an Army pensioner had submitted an application dated 21.12.2017 for issue of relationship certificates in respect of his sons Rohit Kumar (Date of Birth-12.11.1999) and Avinash Kumar Singh (Date of Birth-22.10.2001). Accordingly, relationship certificate Nos 00024/2018/NE and 00025/2018/NE both dated 27.01.2018 were issued to him vide letter No 1588820L/SR/DOCU/NE dated 27.01.2018. Applicant had submitted an application for change of name and date of birth in respect of his children but it was rejected vide letter dated 02.01.2018 (Annexure R-6). This O.A. has been filed for

change of name and date of birth in respect of his children as per their educational certificates.

3. Submission of learned counsel for the applicant is that names and dates of birth in respect of both his sons have been incorrectly mentioned in his service documents whereas their correct names and dates of birth are those mentioned in their academic certificates. His further submission is that the correct names and dates of birth in respect of his both the sons are as per academic certificates issued by Central Board of Secondary Education.

4. On the other hand learned counsel for the respondents pleaded that as per service record (based on declaration provided by applicant) details of his family members are as under:-

<u>Ser No</u>	<u>Name</u>	<u>Relationship</u>	<u>Date of Birth</u>
(1)	x x		
(2)	Rohit Kumar Singh	Son	12.11.1999
(3)	Avinash Kumar Singh	Son	21.10.2001
(4)	x x		
(5)	x x		

5. Learned counsel for the respondents further submitted that the aforesaid names and dates of birth of applicant's children are exactly as per declaration given by applicant on 10.12.2002 and 15.12.2002 and occurrence to this effect was notified by 475 Engineer Brigade Camp vide Part II Order No 0046/2002

dated 17.12.2002. Learned counsel for the respondents concluded by mentioning that applicant's wife had undergone tubectomy operation on 22.10.2001 at Rajasthan Health Welfare Service, Ajmer i.e. on the same day of the birth of Master Avinash Kumar Singh and received a special family allowance w.e.f. 01.11.2001 onwards. His submission is that in these circumstances second son's date of birth cannot be 22.08.2003 which seems to be a blatant lie. The learned counsel pleaded for dismissal of O.A.

6. We have heard learned counsel for both the sides and perused the material placed on record.

7. It is not disputed that applicant had submitted a declaration dated 10.12.2002 and 15.12.2002 about his children's date of birth. It is also not disputed that occurrence to this effect was notified vide Part II Order dated 17.12.2002. Applicant's wife Smt Bandana Singh gave birth to her second son Avinash Kumar Singh on 21.10.2001 and undergone tubectomy operation on 22.10.2001 at Rajasthan Health Welfare Service, Ajmer and applicant was granted special increment w.e.f. 22.10.2001 as per rules on the subject, which he received regularly from the date of sterilization.

8. Applicant had submitted an application dated 21.12.2017 for issue of relationship certificates for his both the children and these were issued vide Records Bombay Engineer Group, Kirkee

Pune vide letter dated 27.01.2018 (Annexure R-3) as per records maintained by Record Office. Later applicant submitted an application for issue of revised relationship certificate mentioning therein names and dates of birth as per academic certificates of the children but it was denied vide letter dated 02.01.2018.

9. In this regard, we would like to refer policy letter dated 27.01.2014 with regard to correction of name and change of date of birth in respect of children which is reproduced as under:-

"6. Where a date of birth should undergo correction in service document consequent to typographical/clerical error, the case will be referred to Record Office. Upon receipt of such case, the matter will be checked with supporting documents already provided by individual at initial stage of declaring the occurrence, declaration given by individual and Part II Order published originally. In case, it is found and proved from the documents that the error has taken place solely due to typographical/clerical reasons necessary approval of OIC Records will be obtained for correcting the error through Part II Orders to be published by Record Office. However, cases where service documents have already been destroyed, will not be entertained."

10. From the aforesaid, it is clear that if there is a typographical error while publishing Part II Order, it can be corrected by approval of Officer-in-Charge, Records but in the instant case names and dates of birth published through Part II Order dated 17.12.2002 are same as per declaration made by

applicant dated 10.12.2002 and 15.12.2002, hence there seems to be no typographical error which cannot be corrected at this stage.

11. In addition to above, a perusal of records indicates that applicant's wife underwent tubectomy operation on 21.10.2001 i.e. the date on which her younger son Avinash Kumar Singh was born. In this regard averment made by applicant that his younger son was born on 22.08.2003, as mentioned in certificate issued by Central Board of Secondary Education, is not understandable in terms of definition of 'tubectomy' in Medical Literature which states that it is a permanent method of contraception in women. It is a surgical process that blocks the fallopian tubes, thereby preventing the egg released by the ovary from reaching the uterus. In view of the above, applicant's contention that date of birth in respect of his younger son Avinash Singh is 22.08.2003 seems to be not justified.

12. We have also observed that it has become a trend that parents are getting recorded lesser age of their children in school certificates than the actual age to get undue advantage of age. When the children grow up, they try to get it corrected either by submitting applications or by approaching before the court. In this regard, we are of the opinion that correct date of

birth is that which is declared by parents and notified by Part II Orders.

13. In view of the above, we decline to interfere in the matter of correction in dates of birth in respect of his children. However, we direct Army authorities to make correction of names in respect of applicant's sons as under:-

For Rohit Kumar Singh

Read Rohit Singh

For Avinash Kumar Singh

Read Abhinash Singh

14. We also direct Central Board of Secondary Education to correct following names and dates of birth in respect of children of Rakesh Kumar Singh as per Army records as under:-

<u>Ser No</u>	<u>Name</u>	<u>Relationship</u>	<u>Date of Birth</u>
(1)	Rohit Singh	Son	12.11.1999
(2)	Abhinash Singh	Son	21.10.2001

15. In view of the above, O.A. is **partly allowed**.

16. No order as to costs.

17. Pending applications, if any, are disposed off.

18. Let a copy of this order be forwarded to the Director Central Board of Secondary Education, 2 Community Centre, Preet Vihar, Delhi-110301 for making necessary correction with regard to change of date of birth in respect of aforementioned children.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

Dated : 15 September, 2021
rathore

(Justice Umesh Chandra Srivastava)
Member (J)