

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

Original Application No. 320 of 2020

Friday, this the 01st day of October, 2021

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

No. 14921660-X Ex Sep Anil Kumar Singh Gaur, S/O Ram Lakhan Singh Gaur, R/O Vill & Post-Piprahari, Tehsil & District-Banda.

.... Applicant

Ld. Counsel for the: **Shri JN Mishra**, Advocate.
Applicant

Versus

1. Union of India through Secretary Ministry of Defence (Army), South Block, New Delhi-110010.
2. Chief of the Army Staff, IHQ of MoD (Army), Army HQ, South Block, New Delhi.
3. Officer In Charge, Records, Mechanised Infantry Regiment, Abhilekh Karyalaya Records, the Mech Inf Regiment, PIN-900476, C/O 56 APO.
4. Zila Sainik Kalyan Evam Punarvas Karyalaya, Banda, U.P., Pin-210001.

... Respondents

Ld. Counsel for the: **Shri Rajiv Pandey**, Advocate
Respondents. **Shri KP Gupta**, Advocate

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) To issue/pass an order or direction to set aside/quash the order dated 19.04.2017 and 02.12.2016 passed by respondent No 3.

(b) To issue/pass an order or direction to the respondents to correct date of birth of applicant's elder son's SATYAM SINGH GAUR is 19.08.2004 (Nineteen August Two Thousands and Four) and to correct date of birth of his younger son's SHASHWAT SINGH GAUR is 04.12.2002 (Four December Two Thousand Two) according to their high School Certificate cum Marksheets in the light of judgment and order of Hon'ble Apex Court and policy letter dated 27.01.2014.

(c) To issue/pass any other order or direction as this Hon'ble Tribunal may deem just, fit and proper under the circumstances of the case in favour of the applicant.

(d) To allow this original application with costs.

2. Brief facts of the case are that applicant was enrolled in the Army on 25.08.1995 and was invalided out from service on 15.07.2003. He was married to Ms Rekha Singh to whom two sons viz. Shaswat Singh Gaur and Satyam Singh Gaur were born on 04.12.1998 and 19.08.2001, and occurrences to this

effect were notified vide Part II Order Nos 0/0275/0010/02 and 0/0275/011/02 respectively. Applicant had submitted an application to respondent No. 3 through respondent No. 4 vide letter dated 11.11.2016 for change of dates of birth in respect of his both the sons but it was returned vide letter dated 02.12.2016. Being aggrieved, applicant submitted representation dated 20.03.2017 along with affidavit, birth certificate, declaration certificate and photocopies of High School certificates etc. to Directorate, Mechanized Infantry Group, Sena Bhawan, RK Puram, New Delhi but there being no response, this O.A. has been filed for change of date of birth in respect of his sons in Army Records as mentioned in educational certificates.

3. Submission of learned counsel for the applicant is that date of birth in respect of both his sons have been incorrectly mentioned in his service documents whereas their correct date of birth are those mentioned in their academic certificates. His further submission is that respondents had entered incorrect date of birth in respect of his children inadvertently due to him being injured by an accidental fire of Light Machine Gun (LMG) while cleaning weapon. He pleaded for change of date of birth in respect of his both the children as mentioned in Board of High School and Intermediate Education certificate.

4. On the other hand learned counsel for the respondents pleaded that as per service record (based on declaration provided by applicant) dates of birth in respect of applicant's sons are as under:-

<u>Ser No</u>	<u>Name</u>	<u>Relationship</u>	<u>Date of Birth</u>
(1)	Shaswat Singh Gaur	Son	04.12.1998
(3)	Satyam Singh Gaur	Son	19.08.2001

5. Learned counsel for the respondents further submitted that the aforesaid dates of birth of applicant's children are exactly as per declaration submitted by applicant on 10.10.2002 and occurrences to this effect were notified by Part II Order No 0/0275/0010/02 and 0/0275/0011/02. Learned counsel for the respondents concluded by mentioning that applicant's vasectomy was done on 04.04.2002 at 187 Military Hospital and he has received a special allowance w.e.f. 01.05.2002 onwards. His submission is that in these circumstances dates of birth in respect of his sons cannot be 04.12.2002 and 19.08.2004. 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 while in service had submitted a declaration dated 10.10.2002 about his children's date of birth. It is also not disputed that occurrences to this effect were notified vide Part II Order Nos 0/0275/0010/02 and

0/0275/0011/02. Applicant underwent vasectomy operation on 04.04.2002 at 187 Military Hospital and also claimed family planning allowance w.e.f. 01.05.2002. A certificate dated 20.09.2002 endorsed by Graded Specialist Surgery clearly indicates that his sperms were checked on 20.09.2002 i.e. after 05 months of vasectomy operation and the vasectomy was successful.

8. In this regard, we would like to refer policy letter dated 27.01.2014 (this has also been quoted by applicant in O.A.) 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."

9. 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 dates of birth published through Part II Order Nos

0/0275/0010/02 and 0/0275/0011/02 are same as per declaration made by applicant dated 10.10.2002, hence there seems to be no typographical error which cannot be corrected at this stage.

10. In addition to above, a perusal of records indicates that applicant underwent vasectomy operation on 04.04.2002 and as per new declaration and affidavits his children were born on 04.12.2002 and 19.08.2004 which seems to be completely false on the basis of doctor's report dated 20.09.2002 that his vasectomy was successful. As per educational certificates issued by Board of High School and Intermediate Education, U.P. his children's dates of birth are 04.12.2002 and 19.08.2004 which are not understandable in terms of definition of 'vasectomy' in Medical Literature which states that it is a permanent method of preventing child birth. In view of the above, applicant's contention that date of birth in respect of his sons are 04.12.2002 and 19.09.2004, which are recorded in their educational certificates, are not justified. Additionally, applicant had made declaration of their children's date of birth on 10.10.2002 and the children being born after that are not justified.

11. 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.

12. In view of the above, we decline to interfere in the matter of correction in dates of birth in respect of his children on the ground of declaration made by applicant dated 10.10.2002.

13. We also direct Board of High School and Intermediate Education, U.P. to correct following dates of birth in respect of children of the applicant as per Army records as under:-

<u>Ser No</u>	<u>Name</u>	<u>Relationship</u>	<u>Date of Birth</u>
(i)	Shaswat Singh Gaur	son	04.12.1998
(ii)	Satyam Singh Gaur	son	19.08.2001

14. In view of the above, O.A. is **dismissed**.

15. No order as to costs.

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

17. Let a copy of this order be forwarded to the Board of High School and Intermediate Education, U.P. for making necessary correction with regard to change of date of birth in respect of aforementioned children.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated : 01.10.2021
rathore