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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-2097-2021 (O&M)
DECIDED ON: 09.12.2025**

BACHITAR SINGH**.....PETITIONER(S)****VERSUS****UNION OF INDIA AND ANR.****.....RESPONDENT(S)****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Vikas Prakash, Advocate for
Mr. G.S. Virk, Advocate for the petitioner(s)

Mr. Arihant Goyal, Sr. Panel Counsel for the respondent-UOI.

SANDEEP MOUDGIL, J (ORAL)

This writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing the non-speaking order dated 24.07.2018 (Annexure P-9) rejecting the case of the petitioner for amendment of the discharge book of the petitioner with respect to mentioning of incorrect name and date of birth of Son of petitioner.

Brief facts of the case are that the petitioner has joined the service in Indian Army on 10.11.1988 as a Soldier, Gen. Duty in infantry Indian Army and served the Army for 24 years. He retired from service on 30.11.2012. The petitioner is admittedly drawing pension but sought correction of name and date of birth of his son namely Sukhwinder Singh born on 09.01.1992 instead of Gurjinder Singh born on 15.12.1991 in the service discharge book. In this context,



the petitioner moved application to the District Defence, Services Welfare Officer, SAS Nagar, Mohali to make necessary correction who forwarded the copy of the same along with the documents to the Punjab Regiment, Indian Army and vide order dated 19.03.2016, directed the petitioner to forward a fresh duly sworn affidavit before 1st Class Magistrate stating the correct name and date of birth as well which fact is evident from Annexure P-2. As per instructions, the petitioner stated to have submitted sworn affidavit before the Sub-Registrar, Dera Bassi, SAS Nagar, Mohali, stating that his son's correct name is *Sukhwinder Singh* (wrongly recorded as *Gurjinder Singh*) and his correct date of birth is *09.01.1992* (wrongly mentioned as *15.12.1991*) in the Service Discharge Book, and seeks correction of the same but the respondent-authority declined to correct the particulars in the Service discharge book vide order dated 02.08.2015 (P-4) which has been assailed in the instant writ petition.

Learned counsel for the petitioner has contended that the son of the petitioner was born on 09.01.1992 at the Army Hospital, Ambala, with the name *Sukhwinder Singh*. This fact has been ignored by the respondent authorities while refusing to correct the petitioner's record. The petitioner also relies upon Annexures P-5 and P-6, i.e. the Birth Certificate issued by the Cantonment Board, Ambala Cantt., and the Matriculate Certificate dated 31.07.2009 issued by the Central Board of Secondary Education, wherein Sukhwinder Singh, son of the petitioner, is shown to have passed the All India Senior Secondary Examination. It is further submitted that the impugned order was never communicated to the petitioner, and being unaware of the rejection of his case, he made publication in the newspaper dated 10.05.2018 in The Tribune and one in the local language newspaper i.e. Punjabi Tribune but merely on hyper-technical grounds, the



respondents have refused to accede to the petitioner's genuine request, despite the supporting documentary evidence placed on record.

Learned counsel for the respondents submits that the present writ petition is liable to be dismissed on account of delay and laches, as the petitioner had submitted the declaration certificate on 06.06.1993, on the basis of which the details of his family members were incorporated, and the petitioner was discharged from Army service in November 2012. It is argued that the petitioner has now approached the authorities after almost 27 years from the date of the declaration certificate (i.e., 06.06.1993) and nearly 4 years after his discharge from service (i.e., November 2012), seeking correction of the record. For this reason, the competent authority declined the request in the year 2018.

Another preliminary objection raised before this Court pertains to the applicability of Section 3 (o) read with Section 34 of Armed Forces Tribunal Act, 2007 (for short 'the Act') as the matter pertains to the Service Condition of the petitioner and as such the present petition deserves to be transferred to Armed Forces Tribunal (AFT) as the petitioner has alternate remedy.

Learned Counsel for the respondent has further submitted that at the time of his discharge from service, the petitioner submitted the Certificate-cum-Declaration of Family Details dated 26.03.2012 along with other pension documents, wherein the names of his sons were recorded as *Gurjinder Singh* and *Narinder Singh*, and their dates of birth were mentioned as *15.12.1991* and *15.08.1993*, respectively. These documents were duly signed by the petitioner. It is his further submission that during his entire service tenure, the petitioner never disclosed to the Records Office or to his parent unit any error regarding the name or date of birth of his son. The particulars were recorded strictly on the basis of the



information furnished by the petitioner himself. He refers to declaration certificate dated 06.06.1993 which is attached herewith as Annexure R-1 and a copy of the certificate cum declaration of family details dated 26.03.2012 as Annexure R-2 in support of his submission. Therefore, prays for dismissal of the instant petition.

Heard learned counsel for the both the parties.

This Court is sanguine of the fact that the petitioner completed his service and was discharged from service in November 2012. The present dispute pertains to the correction of the name and date of birth of one of his sons, which the petitioner seeks to have rectified in the service records. The question that arises is whether such correction can now be permitted in law.

With respect to the issue of maintainability of the writ petition on the ground of delay and laches, it is observed that the petitioner, within four years of his discharge from service, sought the necessary corrections on the basis of authentic documents. He relied upon the Birth Certificate issued by the Cantonment Board, Ambala, and the mark sheet containing the date of birth issued by the Central Board of Secondary Education in the years 2007 and 2009, annexed as Annexures P-5 and P-6, respectively. These documents cannot be termed forged, fabricated, or manipulated, as the Birth Certificate was issued by the competent authority of the Army establishment itself, where the petitioner's son was born, and the record stands duly certified from the register year 1972 of Ambala Cantt.(Rural area) Tehsil and District Ambala, that certificate is dated 21.09.2003 i.e. prior to the date of discharge from service of the petitioner.

Similarly, the birth certificate and mark sheets reflecting the correct date of birth, issued in the years 2007 and 2009, are also prior to the petitioner's discharge from service.



In such circumstances, although the doctrine of delay and laches is intended to prevent prejudice to the employer-department and to safeguard accrued third-party rights, the present request for correction of the name of the applicant's son and his date of birth in the service records stands on a materially different footing, as it neither affects service tenure nor does it create any ripple-effect in the service structure of the department. Moreover, it must be borne in mind that the application of laches is an equitable rule, and that where a correction does not disturb settled rights or cause administrative inconvenience, the authority may permit rectification even at a later stage, particularly when the documents provided as proof are authentic in nature. The prohibition of correction of purely ancillary entries in the service book such as the *name or date of birth of a dependant* where the error is clerical and the supporting documents are conclusive, and the correction sought has no service-related consequence whatsoever is legally unsustainable. Thus, the objection regarding delay and laches becomes irrelevant, as no prejudice is caused to the respondent-authorities.

Furthermore, it is noted that the petitioner merely seeks correction of his service records to bring them in line with the genuine and undisputed documents already available on record, including the Birth Certificate and the Educational Certificates, wherein the name of the petitioner's son and his correct date of birth are duly reflected, as opposed to the name *Gurjinder Singh* and the date of birth *15.12.1991* wrongly recorded in the service documents. Hence, the contention raised by the respondents on this ground does not merit acceptance. As far as the issue of alternate remedy is concerned, Section 3(o) of Act is required to be examined, which is reproduced below:



“service matters”, in relation to the persons subject to the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950), mean all matters relating to the conditions of their service and shall include

(i) remuneration (including allowances), pension and other retirement benefits;

(ii) tenure, including commission, appointment, enrolment, probation, confirmation, seniority, training, promotion, reversion, premature retirement, superannuation, termination of service and penal deductions;

(iii) summary disposal and trials where the punishment of dismissal is awarded;

(iv) any other matter, whatsoever, but shall not include matters relating to—

(i) orders issued under section 18 of the Army Act, 1950 (46 of 1950), subsection (1) of section 15 of the Navy Act, 1957 (62 of 1957) and section 18 of the Air Force Act, 1950 (45 of 1950); and

(ii) transfers and postings including the change of place or unit on posting whether individually or as a part of unit, formation or ship in relation to the persons subject to the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950);

(iii) leave of any kind;

(iv) summary court martial except where the punishment is of dismissal or imprisonment for more than three months;

A perusal of the above provision would make it clear that Section 3(o) of the Armed Forces Tribunal Act, 2007 defines *service matters* broadly to include all issues relating to service conditions such as remuneration, pension, tenure, appointments, promotions, retirement, and all incidental matters except for the limited exclusions relating to sovereign orders, transfers/postings, leave, and certain summary court martial proceedings, whereas the instant case in hand only correction of service record pertaining to the birth of the petitioner’s son alone



after having discharge from service in November, 2012 and thereafter having continuously in the process for the last 11 years or so including 5 years of pendency of instant writ petition which is register on 01.01.2021 before the High Court and on 29.01.2021 notice of motion having been issued, it would be unjust and improper for this Court to decline the exercise of jurisdiction under Articles 226/227 of the Constitution of India, particularly in view of the facts and circumstances of the present case. The subject matter does not require adjudication by the Armed Forces Tribunal, as the dispute rests solely on documentary evidence that is already on record and remains undisputed.

Moreover, the bona fides of the petitioner are evident from the fact that, on one hand, he has consistently sought correction of his service record, and on the other, he caused public notices to be published in newspapers, as reflected in Annexures P-6 and P-7. He also submitted another request for amendment in the record dated 18.05.2018 (Annexure P-8). The petitioner has placed on record all relevant documents, including his Aadhaar Card, ration card, voter card, matric certificate, and birth certificate etc. Despite this, his claim has been rejected on hyper-technical grounds, having no nexus with the substance of the relief sought.

The respondent-department's contention that the entry was correctly made on the basis of the petitioner's own declaration is untenable. In matters concerning the name and date of birth of a dependant, a mere self-declaration by the employee cannot be treated as conclusive, irrefutable, or adequate documentary proof for making such entries in the service records. Official and primary documents such as birth certificates, school records, or government-issued identity documents are the proper evidentiary sources for recording these



particulars, and any entry made solely on the employee's declaration cannot override the authentic records now produced.

Owing to the above, this Court is of the view that no prejudice would be caused to the respondent authorities if necessary corrections regarding the name and date of birth of the petitioner's son are made in the Service Discharge Book (Annexure P-1). The Birth Certificate issued by the Cantonment Board, Ambala Cantt., in 2003, in Form No. 5 under Sections 12 and 17 of the Birth and Death Registration Rules, 1969, is a valid and statutory document.

When irrefutable proof is submitted and relied upon by the petitioner, the change in service record cannot be denied in a mechanical manner. Support may be drawn from the apex court in ***"Secretary and Commissioner, Home Department vs. R. Kirubakaran 1993(4) SCT 803"*** wherein a reference was made to their judgment in ***"Union of India v. Harnam Singh 1993(2) SCC 162"*** it was observed that:

"5. In the case of "Union of India v. Harnam Singh, 1993(2) SCC 162 : 1993(3) S.C.T. 120", it was said :-

"A Government servant who has declared his age at the initial stage of the employment is, of course, not precluded from making a request later on for correcting his age. It is open to a civil servant to claim correction of his date of birth, if he is in possession of irrefutable proof relating to his date of birth as different from the one earlier recorded."

The applicant has to produce the evidence in support of such claim, which may amount to irrefutable proof relating to his date of birth. Whenever any such question arises, the onus is on the applicant, to prove about the wrong recording of his date of birth, in his service book."

Denial of correction on the basis of such a certificate is, therefore, arbitrary and unsustainable. Apart from objections on delay and latches, no other justifiable ground has been raised by the respondents.



Accordingly, respondent No. 2 is directed to carry out the necessary corrections in the petitioner’s Service Discharge Book with respect to the correct name and date of birth of his son within a period of one month from the date of receipt of a certified copy of this order.

The writ petition is allowed in the above terms.

Ordered accordingly.

09.12.2025
anuradha

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned :Yes/No
Whether reportable :Yes/No