

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

15.

O.A. No. 429 of 2011
With M.A. No. 383 of 2011

Kumari Reenu & Anr.

.....Petitioners

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. J.S. Mann, Advocate.
For respondents: Mr. V.S. Tomar, Advocate.

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.
HON'BLE LT. GEN. S.S.DHILLON, MEMBER.

ORDER
23.02.2012

1. Petitioner by this petition has prayed that the order dated 19th December 2009 issued by Senior Record Officer, Artillery Records, Nasik Road Camp, Maharashtra may be quashed and the Respondents may be directed to change the date of birth of Kumari Reenu as 22nd October 1992 in place of 10th February 1994 and of Master Saurav as 27th November 1998 in place of 15th December 1996 in the service records of their deceased father Late Sepoy Chhotu Ram.

2. Petitioner is the wife of late Chhotu Ram who was a soldier cook and was discharged from service on 7th March 2000. On his application, in Part-II order the date of birth of his son was recorded as 15th December 1996 and that of his daughter as 10th February 1994. But now the wife of the deceased soldier moved an application before the Record for change of date of birth of her son and daughter which was rejected by the order dated 19th December 2009 and aggrieved by this the Petitioner has filed this petition before us.

3. A reply has been filed by the Respondents and the Respondents have contested the matter and submitted that the Petitioner's husband has expired on 21st October 2008 and that the date of birth of her son as 15th December 1996 and that of her daughter as 10th February 1994 have been recorded on application dated 10th February 2000. Therefore there is nothing for changing the date of birth at this distant point of time.

4. We have heard learned counsel for the parties and perused the record.

5. The very fact that the order dated 19th December 2009 passed by the Respondents appears to be passed in sheer ignorance of the Rules having a bearing on the subject. Learned counsel for the Petitioner has invited our attention to the Army HQ letter dated 22nd May 1973 which reads as under:

“Army Headquarters
Adjutant General's Branch
DHQ PO New Delhi
22 May 73

No. A/00660/27/1/Rtg 8(I of R)(a)

The Officers-in-Charge
All Record Office.

KINDRED ROLL-RECORDING OF ENTRIES IN

Reference Govt of India, Min of Def letter No.
91428/AG/332-S/D(AG-II) dated 2 May 62,
reproduced in AO 233/62.

It is clarified that entries already recorded in the kindred rolls relating to the date of birth of children of

serving personnel will not be changed merely to conform to the entries of age recorded in school register unless a satisfactory explanation and proof (eg entry in Municipal birth register) to be furnished by the individual in support of his request. He will be asked to submit a declaration in writing giving the correct date of birth (alongwith authenticated proof of date of birth) which will be witnessed by two persons and countersigned of his CO. The change in date of birth, if approved by the OC Unit, will be nnotified in Part II orders. The declarations completed by the soldier and duly signed by his Commanding Officer will be forwarded to the Record Offices along with the Part II orders. These declarations will be kept in the soldier dossier cover (IAFZ 3027).

However, in the event of difference between the date of birth shown in school certificates and that recorded in Sheet Roll, the former will be accepted as correct for the purpose of admissibility of children's education allowance and no amendment to the kindred roll portion of the Sheet Roll need to carried out on this account. This has the approval of Min of Def.

This HQ letter No. A/00665/Rtg 8(1of R)(a) dated 6/11 Jul 06 is hereby cancelled.

The RO already issued on the subject will be reviewed.”

As per this letter the date of births of the wards can be changed by providing a satisfactory proof like entry in the Municipal Birth Register or any other evidence and on that the CO is competent to pass the order amending the

date of birth in the Record. But it appears that the authorities were not mindful of this order and they passed the order dated 19th December 2009 that there is no rule exist in the Army for change of date of birth. Thus this order seems to have been passed in total ignorance of the order dated 22nd May 1973. Hence, there is no option but to set aside the order dated 19th December 2009 and we direct the Respondents to decide the application of the Petitioner in terms of the order dated 22nd May 1973. It will be open for the Petitioner to make an appropriate application in light of the order dated 22nd May 1973 and authorities shall decide the matter in accordance with this order or any other amendment which has been brought out in this order.

6. The petition is allowed with no order as to costs.

**A.K. MATHUR
(Chairperson)**

**S.S. DHILLON
(Member)**

**New Delhi
February 23, 2012
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