

**IN THE COURT OF ZAHIR KHAN
CIVIL JUDGE-I, KALAYA, ORAKZAI**

Suit No.....6/1 of 2023.

Date of Institution.....28.02.2023.

Date of decision.....08.03.2023.

=====

1. Muhammad Akbar s/o Meen Akbar r/o Qoam Mishti, Tappa Haider Khel,
Village Soranai, Tehsil Central, District Orakzai.

.....(Plaintiff)

Versus

1. Chairman NADRA, Islamabad.
2. Assistant Director NADRA, District Orakzai.

.....(Defendants)

=====

SUIT FOR DECLARATION & PERMANENT INJUNCTION.


=====

JUDGEMENT

08.03.2023

Through this judgement I am going to dispose of the instant suit filed by plaintiff against defendants for declaration and permanent injunction.

Brief facts of the case are that plaintiff namely Muhammad Akbar has brought the instant suit for declaration cum-permanent injunction against Chairman NADRA Islamabad etc to effect that as per Service Record, true and correct date of birth of plaintiff is 18.04.1954, however; it is wrongly entered in his CNIC issued by the defendants as 1947 which entry is wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. That defendants were asked time and again to rectify date of birth of plaintiff accordingly but in vain, hence the present suit.


ZAHIR KHAN
Civil Judge JM
Kalaya Orakzai

08-3-2023

After institution of the suit, defendants were summoned, who marked their attendance through representative and contested the suit by filing written statement. In the written statement the defendants have raised several legal and factual objections.

From divergent pleadings of the parties, the following issues were framed for adjudication of real controversy between the parties.


ISSUES

1. Whether plaintiffs have got cause of action? OPP
2. Whether suit of plaintiff is within time? OPP
3. Whether correct date of birth of plaintiff is **18.04.1954** instead of 1947? OPP
4. Whether plaintiff is entitled to the decree as prayed for? OPP
5. Relief?

Upon submission of list of witnesses, both the parties on being provided with an opportunity to adduce their desired evidence, the parties produced their evidence.

After the completion of evidence, arguments of the learned counsels for the parties were heard and record of the case file was gone through with their valuable assistance.

During course of recording evidence, plaintiff himself appeared and deposed as PW-01 and reiterated the averments of plaint. He produced Original Pension Book/ Pension Payment Order. Copy of his CNIC and Original Pension Book /Pension Payment Order (06 pages) are Ex. PW-1/2 and Ex. PW-1/1. He lastly requested for decree of suit in his favour. Thereafter, evidence of plaintiff was closed.


ZAHIR KHAN
Civil Judge JM
Kalaya Orakzai

08-03-2023

Nothing contradictory could be brought on record from PW.

Irfan Hussain (Representative of NADRA) appeared as DW-01. He stated that plaintiff has been issued CNIC, as per information provided by him. He produced Family Tree and CNIC processing detail form of plaintiff exhibited as Ex. DW-1/1 and as Ex. DW-1/2 respectively and he lastly requested for dismissal of suit of plaintiff.


My issue wise findings are as under: -

ISSUES NO.2

CNIC of plaintiff was renewed on 14.06.2017 while suit in hand was filed on 28.02.2023. In plethora of judgements of the apex superior courts, it is held that every wrong entry will accrue fresh cause of action. As period of limitation under Article 120 of Limitation Act is six years, therefore, suit of plaintiff is held to be within time. Issue decided in positive

ISSUE NO.3:

Claim of plaintiff is that his true and correct date of birth is **18.04.1954** but defendants have incorrectly recorded the same as **1947** in their record, which entry is wrong, illegal, ineffective upon the rights of plaintiff and liable to be rectified. He produced documentary evidence in support of his claim in shape of Original Pension Book/ Pension Payment Order (06 pages) as Ex.PW-1/1 as per which date of birth of plaintiff is recoded as **18.04.1954**. Per Ex.PW-1/2, plaintiff retired on 17.04.1988. Plaintiff is a retired person and the modification/rectification in light of service record will not affect rights of others. If date of birth of plaintiff is not modified/rectified in


ZAHIR KHAN
Civil Judge-III
Kalaya Orakza

08-3-2023

light of service record, he will face inconvenience. On the other hand, not a single document was produced by DW-01 which could rebut the version of plaintiff. Furthermore, DW-01, explained that date of birth of plaintiff can be modified/rectified on the strength of service record per NADRA SOPs.

Keeping in view the above discussion and documentary as well as oral evidence available on file, it is held that correct date of birth of plaintiff is **18.04.1954** which is correctly recorded in his Original Pension Book/ Pension Payment Order. Date of birth of plaintiff to be modified from **1947** to **18.04.1954**. Issue decided accordingly.

ISSUES NO.1 & 4.

In the light of foregoing discussion, it is held that plaintiff has got cause of action and is entitled to the decree, as explained above. Both these issues are decided accordingly.

RELIEF.

Crux of my issue wise discussion is that suit of plaintiff is hereby decreed in his favor against the defendants as explained above. No order as to costs. This decree shall not affect rights of any other person interested, if any and service record of plaintiff.

File be consigned to record room after its necessary completion and compilation.

ANNOUNCED
08.03.2023



Zahir Khan
Civil Judge-I, Kalaya, Orakzai

CERTIFICATE

It is certified that this judgment consists of 05 pages. Each page has been dictated, read, corrected and signed by me.



Zahir Khan

Civil Judge-I, Kalaya, Orakzai