

161

**IN THE COURT OF REHMAT ULLAH WAZIR,  
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA**

Civil Suit No. : 92/1 of 2022  
Date of Institution : 15.09.2022  
Date of Decision : 28.04.2023

1. **Aftab Ahmad s/o Jan Muhammad R/O Qoum Feroz Khel,  
Tappa Qasim Khel, Tehsil Lower, District Orakzai**  
*(Plaintiff)*

**VERSUS**

1. **Chairman, BISE, Kohat through Controller Examination.**  
2. **Chairman NADRA, Islamabad, Pakistan.**  
3. **Director General NADRA, KPK, Peshawar.**  
4. **Assistant Director, NADRA, District Orakzai.**

*(Defendants)*

**SUIT FOR DECLARATION-CUM-PERPETUAL AND  
MANDATORY INJUNCTION**

**JUDGEMENT:**

Plaintiff Aftab Ahmad has brought the instant suit for declaration-cum-perpetual and mandatory injunction against defendants chairman BISE Kohat, Chairman NADRA, Islamabad, Pakistan, Director General NADRA, Peshawar, KPK and Assistant Director NADRA, District Orakzai seeking therein that his correct date of birth is 02.02.1992; whereas, defendants No. 02 to 04 and defendant No. 01 have wrongly entered the same as 01.01.1994 and 01.07.1998 in their record respectively. That the father of the plaintiff died on 17.10.1991 (mentioned in service record of the deceased father of the plaintiff) and according to which the date of birth of the

**REHMAT ULLAH WAZIR**  
Senior Civil Judge/JM,  
Orakzai at Baber Mela

62

plaintiff entered by defendants is unnatural and impossible, which is wrong, ineffective upon the rights of the plaintiff and is liable to correction. That the defendants were asked time and again for correction of date of birth of the plaintiff but they refused to do so, hence the present suit;

Defendants were summoned, in whom the defendant No. 01 appeared before the court through its legal advisor namely Shaheen Muhammad advocate and defendants No. 02 to 04 appeared through their representative namely Mr. Irfan Hussain and contested the suit by filing their written statements.

Divergent pleadings of the parties were reduced into

the following issues;

- REHMAT ULLAH WAZIR  
Senior Civil Judge  
Orakzai District  
Baberwal
1. *Whether the plaintiff has got cause of action?*
  2. *Whether the plaintiff is estopped to sue?*
  3. *Whether the correct date of birth of the plaintiff is "02.02.1992" while it has been wrongly entered as 01.01.1994 in the record of the defendant No. 02 to 04 and 01.07.1998 in the record of the defendant No. 01?*
  4. *Whether plaintiff is entitled to the decree as prayed for?*
  5. *Relief?*

Parties were given an opportunity to produce evidence which they did accordingly.

Issue wise findings of this court are as under: -

63

Issue No. 02:

The defendants in their written statement raised the objection that the plaintiff is estopped to sue but later on failed to prove the same, hence, the issue is decided in negative.

Issue No. 03:

The plaintiff alleged in his plaint that that his correct date of birth is 02.02.1992; whereas, defendants No. 02 to 04 and defendant No. 01 have wrongly entered the same as 01.01.1994 and 01.07.1998 in their record respectively. That the father of the plaintiff died on 17.10.1991 (mentioned in service record of the deceased father of the plaintiff) and according to which the date of birth of the plaintiff entered by defendants is unnatural and impossible, which is wrong, ineffective upon the rights of the plaintiff and is liable to correction. That the defendants were asked time and again for correction of date of birth of the plaintiff but they refused to do so, hence the present suit;

Plaintiff in support of his contention, produced witnesses in whom Aftab Ahmad, the plaintiff himself, appeared as PW-01 and narrated the same story as in the plaint and exhibited the death certificate of his deceased father and his own CNIC as Ex.PW-1/1 and Ex.PW-1/2 respectively. According to these the date of death of the father of the plaintiff is 17.10.1991. Further, Muhammad Rasheed, record

REHMAT MULLAH WAZIR  
Senior Civil Judge  
Orakzai at Baber Mela

64

keeper of education department, appeared as PW-02, who also supported the stance of the plaintiff and exhibited a page of the Service Book of the deceased Jan Muhammad as Ex.PW-2/1. According to which the date of death of the father of the plaintiff is 17.10.1991. Both these witnesses have been cross-examined but nothing tangible has been extracted out of them during cross-examination.

In order to counter the claim of the plaintiff, the defendants no. 02 to 04 produced only one witness as Mr. Irfan Hussain, the representative of the defendants no. 02 to 04, appeared as DW-01, who produced the Family Tree and Processing Form of the plaintiff which are Ex.DW-1/1 and Ex.DW-1/2 respectively and who fully denied the claim of the plaintiff as in the written statement. But during cross examination, he admitted that the record of the father of the plaintiff is not available in NADRA. He further admitted that the date of death of the father of the plaintiff is not entered in their record.

The legal advisor of the defendant no. 01 appeared as DW-02, who stated that he relies on written statement and DMC Roll No. 101878, Serial No. KB-128487 of 2021 and would not produce any further evidence.

Arguments heard and record perused.

After hearing of arguments and perusal of record, I

REHMAT ILLAH WAZIR  
Senior Civil Judge, JM,  
Orakzai at Baber Meta

(65)

am of the opinion that the plaintiff mainly relies on death certificate of his father which is an official document and relevant to the present matter in issue. Also earlier in time and bears the presumption of truth unless rebutted. Thus, the plaintiff established his claim through cogent and reliable evidence; therefore, the issue is decided in positive.

**Issue No. 01 & 04:**

Both these issues are interlinked, hence, taken together for discussion.

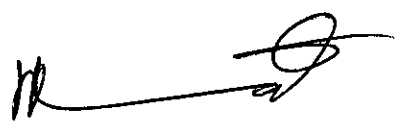
As sequel to my findings on issue No. 3, the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Both these issues are decided in positive.

**RELIEF:**

As sequel to my above issue wise findings, the suit of the plaintiff is hereby **decreed as prayed for with costs.**

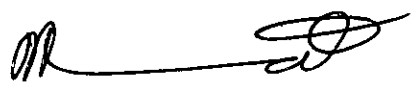
File be consigned to the Record Room after its completion and compilation.

**Announced**  
28.04.2023

  
(Rehmat Ullah Wazir)  
Senior Civil Judge,  
Orakzai (at Baber Mela)

**CERTIFICATE**

Certified that this judgment of mine consists of five (05) pages, each has been checked, corrected where necessary and signed by me.

  
(Rehmat Ullah Wazir)  
Senior Civil Judge,  
Orakzai (at Baber Mela)