

**IN THE COURT OF MUHAMMAD AYAZ KHAN,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA**

Civil Suit No. 63/1 of 2019
Date of Institution: 20/04/2019
Date of Decision: 19/09/2019

Lal Baz s/o Ali Baz
Resident of Village Torpi, PO Ghiljo, Tehsil upper Orakzai & District Orakzai.....
(Plaintiff)

VERSUS

1. **Chairman, NADRA, Islamabad.**
2. **Director, General NADRA KPK Peshawar.**
3. **Assistant Director, NADRA District Orakzai.**

(Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGEMENT:

1. Plaintiff, **Lal Baz**, has brought the instant suit for declaration-cum-permanent injunction against the defendants, referred hereinabove, seeking therein that his correct date of birth is **01/07/1937** while it has been wrongly mentioned as **1944** by the defendants, which is incorrect and against the facts, so, liable to be corrected. Hence, the instant suit.



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Orakzai at Hangu

2. Defendants were summoned, who appeared through attorney namely **Syed Farhat Abbas** and submitted written statement, which is placed on file.

Divergent pleadings of the parties were reduced into the following issues;

Issues:

1. Whether the plaintiff has got any cause of action?


2. Whether suit of the plaintiff is within time?
3. Whether the correct date of birth of the plaintiff is 01/01/1937, while the date 1944 as mentioned in CNIC of the plaintiff is incorrect.
4. Whether the plaintiff is entitled to the decree as prayed for?
5. Relief.

3. Parties were directed to produce evidence of their own choice, which they did. Plaintiff produced three (03) witnesses.

4. PW-1 is Lal Baz, who is plaintiff himself. He produced his service book/pension record of FC and exhibited the same as Ex. PW-1/1, his CNIC as Ex. PW-1/2 He stated that the correct date of birth of the plaintiff is 01/07/1937 while it has been wrongly mentioned as 1944 by the defendants. He is cross examined by the attorney of the defendants.

5. PW-2, is Noor Afzal, relative/witness of the plaintiff, who appeared and recorded his statement, wherein he supported the contention of the plaintiff and stated that the real date of birth of the plaintiff is 01/07/1937.

6. PW-2, is Shah Sawar, relative/witness of the plaintiff, who appeared and recorded his statement, wherein he supported the contention of the plaintiff and stated that the real date of birth of the plaintiff is 01/07/1937.



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7. In rebuttal defendants produced an examined sole witness namely Syed Farhat Abbas, representative, as DW-1 and recorded his statement as DW-1. He is cross examined by the plaintiff.
8. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.
9. My issues wise findings are as under:
10. **Issue No.03:**


Perusal of record reveals that correct date of birth of the plaintiff is 01/07/1937, which is evident from the evidence of the plaintiff in shape of service book and pension record. Further, if we presume 1944 the real date of birth of the plaintiff, then, at the time of joining service in 13/04/1956, the age of the plaintiff was 12 years, which is not possible by any standard of imagination. Even otherwise, this strong piece of evidence on part of the plaintiff has not been rebutted by the defendants, which amounts to admission on part of defendants. This factum is admitted by the attorney of the defendants at the time of arguments. Facts admitted need not to be proved as per article 113 of Qanun-e-Shahadat. Even otherwise, the same is not rebutted by any documents by the defendants, hence, the said documents are admissible in evidence, which is relied upon in present circumstances. Nothing is produced in rebuttal by the defendants.


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Seni. Judge.
Orakzai/Manjuri

As for as the issue of service is concerned, plaintiff is retired and no advantage to the plaintiff is available if the age is corrected as per the claim of the plaintiff. In circumstances, the claim of the plaintiff, as mentioned above, is proved through cogent and reliable evidence. Hence, the issue in hand is decided in affirmative.

Issue No. 02:

The instant suit is for declaration and the limitation for the instant suit is 06 years. As per the available record, suit of the plaintiff is within time. Onus of proof was upon the defendants to establish that suit is barred by time. However, nothing is produced by the defendants in this regard and the onus has not been discharged by the defendants. Resultantly, the issues in hand is decided in negative.



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Qazal at Haripur

Issue No. 04:

For what has been held in issue No. 3, this court is of the opinion that plaintiff has got cause of action and he is entitled to the decree as prayed for.

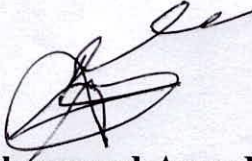
The issue is decided in affirmative.

Relief:

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct his date of birth as 01/07/1937 forthwith.

11. Parties are left to bear their own costs.
12. File be consigned to the record room after its completion.

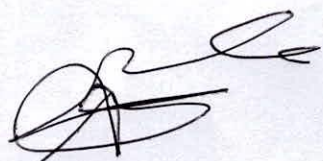
Announced
19/09/2019



(Muhammad Ayaz Khan)
Senior Civil Judge,
Orakzai at Baber Mela

CERTIFICATE

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



(MUHAMMAD AYAZ KHAN)
Senior Civil Judge,
Orakzai (at Baber Mela).