

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

Civil Suit No. 206/1 of 2019  
Date of Institution: 08/11/2019  
Date of Decision: 12/02/2020

35

**Jehanzeb Khan s/o Nawab Khan**

Resident of section Mamo zai sub section Mir Kalam Khel, PO Ghiljo, Tehsil Upper &  
District Orakzai..... (Plaintiff)

VERSUS

1. **Chairman, BISE, Kohat.**
2. **Chairman, NADRA, Islamabad.**
3. **Registrar, General NADRA Islamabad.**
4. **District Registration NADRA District Orakzai.**

(Defendants)

**SUIT FOR DECLARATION & PERMANENT INJUNCTION**

**JUDGEMENT:**

Plaintiff, **Jehanzeb Khan s/o Nawab Khan**, has brought the instant suit for declaration-cum-permanent injunction against the defendants, referred hereinabove, seeking declaration therein that his correct date of birth is **01.01.1994**, while it has been wrongly mentioned as **25.01.1997** in his CNIC and his Matric DMC by the defendants, which is incorrect and liable to be corrected. Hence, the present suit.

Defendants were summoned, out of which defendant No. 2,3 and 4 appeared through attorney namely Syed Farhat Abbas and submitted written statement which is placed on file, while defendant No.1 proceeded Ex-Parte.

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

**Issues:**

36

1. Whether plaintiff has got cause of action.
  2. Whether suit of plaintiff is within time.
  3. Whether the correct date of birth of the plaintiff is **01.01.1994** while it has been wrongly entered in his CNIC and Matric DMC as **25.01.1997**.
  4. Plaintiff is entitled to the decree as prayed for.
  5. Relief.
6. Parties were directed to produce evidence of their own choice, which they did. Plaintiff produced three (03) witnesses.
7. PW-1, Jehanzeb Khan, is plaintiff himself, who recorded his statement. He stated that his correct date of birth is **01.01.1994**, while it has been wrongly mentioned in his CNIC and Matric DMC as **25.01.1997** by the defendants. He produced and exhibited the copy of his CNIC as Ex.PW-1/1, medical certificate as Ex.PW-1/2, copy of service book as Ex.PW-1/3, copy of Matric DMC as Ex.PW-1/4, copy of service card as Ex.PW-1/5 and his medical report issued from Khyber Medical College as Ex.PW-1/6. He requested for grant of decree as prayed for. He was cross examined by the attorney of the defendants.
8. PW-2, Khoshal Khan, is cousin of the plaintiff. He stated that the correct date of birth of the plaintiff is **01.01.1994**. While it has been wrongly mentioned as 25.01.1997 by the defendants. He exhibited copy of his CNIC as Ex. PW-2/1. He is cross examined by the defendants through attorney.
9. PW-3, Jamal, is relative of the plaintiff. He stated that the correct date of birth of the plaintiff is **01.01.1994**. He supported the

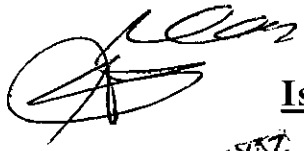
  
MUHAMMAD AYAZ  
Senior Civil Judge,  
Orakzai at Hangu

contention of the plaintiff. He exhibited copy of his CNIC as Ex. PW-3/1. He is cross examined by the defendants through attorney.

10. In rebuttal defendants produced an examined sole witness namely Syed Farhat Abbas, representative, as DW-1 and recorded his statement as DW-1. He produced the registration form of the plaintiff and exhibited the same as Ex. DW-1/1, form-B as Ex. DW-1/2, DMC of the plaintiff as Ex. DW-1/3 and birth family tree of the plaintiff as Ex. DW-1/4. He is cross examined by the plaintiff.

11. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.

My issues wise findings are as under:



**Issue No. 02:**

MUHAMMAD AYAZ  
Senior Civil Judge  
Orakzai at Hangu

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.

**Issue No.03:**

Perusal of record and evidence present on file reveals that the plaintiff claims his correct date of birth as **01.01.1994**, and he relied upon his Medical certificate issued by Agency surgeon Orakzai and

another Medical certificate which is issued by Khyber Medical College. which are exhibited as Ex.PW-1/2 and Ex.PW-1/6 respectively. Moreover, he also relied upon his service record, which is exhibited as Ex.PW-1/3. It is settled law that when there is a clash between the date of birth of an employee in the service record and CNIC, the date mentioned in the service book shall prevail. In present case the date of birth in service record is **01.01.1994**, which is correct while date of birth mentioned in the CNIC of the plaintiff is 25.01.1997, which is incorrect. Reliance is placed on case law reported as Syed Iqbal Haider vs Federation of Pakistan, **1998 SCMR Page. 1494**, wherein it has been held by the honorable Supreme Court of Pakistan that service record has got precedence over the other record (including CNIC) of the plaintiff. Nothing is produced by the defendants to rebut the said document. 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, it is the fundamental right of the plaintiff to correct his date of birth in the CNIC, which cannot be denied to him. Moreover, it is even in the interest of NADRA to have correct database of the citizens of Pakistan including the present plaintiff. If the date of birth of the plaintiff is not corrected, it would serve no purpose. In addition to, there is no legal bar on such correction and if the date of birth is corrected it would not affect the right of any third person. Even

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39

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. The claim of plaintiff regarding his correct date of birth as **01.01.1994** is proved through evidence as per the requirement of law of evidence.

Hence, the issue in hand is decided in affirmative.

**Issue No.1&04:**

Both issues are taken together. 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 issues are decided in positive.

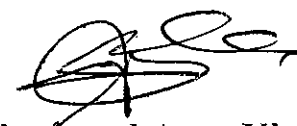
**Relief:**

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct their record and issue CNIC and DMC to the plaintiff with correct date of birth as **01.01.1994**. Parties are left to bear their own costs.

File be consigned to the record room after its completion.

**Announced**

12/02/2020



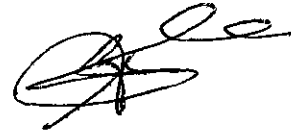
**(Muhammad Ayaz Khan)**

Senior Civil Judge,  
Orakzai at Baber Mela

**CERTIFICATE**

40

Certified that this judgment of mine consists **06** (six) pages, each has been checked, corrected where necessary and signed by me.



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