

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

Order
12/11/2019

Plaintiff present. Attorney of the defendant present. Vide my detailed separate judgement of today, consists of 06 (six) pages, suit of the plaintiff is hereby decreed as prayed for. No order as to cost.

Case file be consigned to record room.

Announced
12/11/2019



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

DECREE SHEET**In the court of Muhammad Ayaz Khan, Senior Civil Judge/JM, Orakzai at Baber Mela**

Civil Suit No. 162/1 of 2019
 Date of Institution: 05/09/2019
 Date of Decision: 12/11/2019

Zeeshan Ali s/o Qalb Ali**(Plaintiff)****Vs**

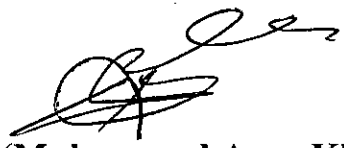
**Registrar, General NADRA, Islamabad.
 Deputy, Registrar General NADRA KPK Peshawar.
 Assistant Registrar General, NADRA District Orakzai.**

(Defendants)**SUIT FOR DECLARATION AND PERMANENT INJUNCTION****Judgement**

Plaintiff Zeeshan Ali has submitted the instant suit for Declaration and permanent injunction against the defendants, stated that his correct date of birth is **10.03.1997** while it has been wrongly entered as **10.02.2003** by the defendants, which is incorrect and against the facts, so, liable to be corrected. Hence, this creates irreparable loss for the plaintiff, the defendant is directed to correct the necessary.

Order**12/11/2019**

Vide my detailed separate judgement of today consist of **06** pages, suit of the plaintiff is hereby decreed as prayed for and defendants are directed to correct the date of birth of the plaintiff as **10.03.1997** forthwith. No order as to costs.


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

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

Civil Suit No. 162/1 of 2019
 Date of Institution: 05/09/2019
 Date of Decision: 12/11/2019

Zeeshan Ali s/o Qalb Ali

Resident of Village Tagha Mela, PO Kalaya, Lower & 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:


Plaintiff, **Zeeshan Ali**, 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 **10.03.1997** while it has been wrongly mentioned as **10.02.2003** by the defendants, which is incorrect and against the facts, so, liable to be corrected. Hence, the instant suit.

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

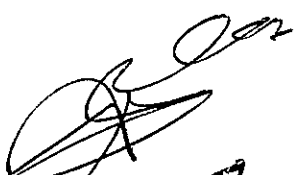
Divergent pleadings of the parties were reduced into the following issues;

Issues:

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


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2. Whether suit of the plaintiff is within time?
 3. Whether the correct date of birth of the plaintiff is **10.03.1997**, while the date 10.02.2003 as mentioned in CNIC of the plaintiff is incorrect.
 4. Whether the plaintiff is entitled to the decree as prayed for?
 5. Relief.
-
2. Parties were directed to produce evidence of their own choice, which they did. Plaintiff produced four (04) witnesses.
 3. PW-1, Zeeshan Ali, is the plaintiff himself, who recorded his statement, wherein he stated that his correct date of birth is **10.03.1997** while it has been wrongly mentioned in his CNIC as 10.02.2003. He stated that he is doing job as a chowkidar in Government Primary School Tagha Mela Lower Orakzai and his date of birth according to his service book is **10.03.1997**, which is correct. He produced and exhibited the copy of his CNIC as Ex.PW-1/1. He requested for decree of the suit as prayed for. He was cross examined by the attorney of the defendants.
 4. PW-2, Qalb Ali, is the father of the plaintiff, who appeared and recorded his statement. He stated that the real date of birth of the plaintiff is **10.03.1997**. He produced and exhibited copy of his CNIC as Ex.PW-2/1. He was cross examined by the defendants.
 5. PW-3, Sakhawat, is the cousin of the plaintiff, who appeared and recorded his statement. He stated that the correct date of birth of the plaintiff according to his service book is **10.03.1997**. He



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supported the claim of the plaintiff. He was cross examined by the defendants.

6. PW-4, Jannat Khan, is SST Focal Person Education Department, who appeared and recorded his statement. He produced and exhibited copy of service book of the plaintiff as Ex. PW-4/1, medical certificate as Ex.PW-4/2 and appointment order as Ex.PW-4/3. He stated that the plaintiff was recruited as Chowkidar on 20.08.2015 and the correct date of birth of the plaintiff according to the exhibited documents is **10.03.1997**. He was cross examined by the defendants.

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.

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. 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 issue in hand is decided in negative.


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11. Issue No.03:


Perusal of record and evidence present on file reveals that correct date of birth of the plaintiff is **10.03.1997**, which is evident from the service book, which is already exhibited as Ex. PW-4/1. In present case, as per Ex. PW-4/2 and Ex. PW-4/3 the correct date of the birth of the plaintiff is **10.03.1997**. 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 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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Taking wisdom from the case law reported in PLD 2003
Supreme Court page 849, "wherein it has been mentioned by

the honorable Supreme Court of Pakistan that the best evidence to prove this fact (age or date of birth) was of those persons who would have an ordinary course of life having personal knowledge. Statement of mother is at high pedestal as compared to other as she has given birth to him."

In present case, father of the plaintiff appeared, who has got personal knowledge regarding the date of birth of the plaintiff. Further, father is in good position to tell the real date of birth of the plaintiff. Hence, the aforesaid judgement is applicable in the present circumstances.


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For above, it can be safely presumed that the correct date of the birth of the plaintiff is **10.03.1997** while it has been wrongly entered by the defendants in their record as 10.02.2003.

Hence, the issue in hand is decided in affirmative.

Issue No. 01 & 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.

These issues are decided in affirmative.

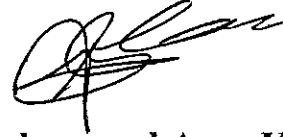
Relief:

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct his date of birth as **10.03.1997** forthwith.

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

Announced

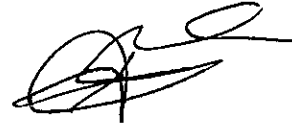
12/11/2019



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

CERTIFICATE

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).