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

Civil Suit No. 317/1 of 2020
Date of Institution: 10/07/2020
Date of Decision: 18/02/2021

Sial Khan s/o Hazrat Khan

Section Mishti, Sub Section Darvi Khel Chapar, Tehsil Lower & District Orakzai..... (Plaintiff)

VERSUS

1. **Chairman, NADRA, Islamabad.**
2. **Director, General NADRA Hayatabad KP.**
3. **Assistant Director, Registration NADRA District Orakzai.**

(Defendants)

SUIT FOR DECLARATION, PERMANENT & MANDATORY INJUNCTION

JUDGEMENT:

18.02.2021

Brief facts of case in hand are that the plaintiff, **Sial Khan s/o Hazrat Khan**, has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration, therein, that his correct date of birth is **1966**, which has been correctly recorded in his service record but it has been wrongly mentioned as **1952**, in his CNIC. That he repeatedly asked defendants to correct his date of birth by issuing CNIC but they refused. Hence, the present suit.

Defendants were summoned, who appeared through attorney namely Syed Farhat Abbas and submitted written statement, wherein, they contested the suit of plaintiff on various grounds.

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

Issues:

1. Whether plaintiff has got cause of action?
2. Whether suit of the plaintiff is within time?
3. Whether the correct date of birth of the plaintiff is 1966 while defendants have wrongly mentioned the same as 1952 in their record?
4. Whether plaintiff is entitled to the decree as prayed for?
5. Relief.

Parties were provided opportunity to produce evidence in support of their respective contention, which they did. Plaintiff produced his witnesses as PW-1 to PW-4.

7. In rebuttal defendants produced their sole witness namely Syed Farhat Abbas, representative, as DW-1. He produced the record form of plaintiff and exhibited the same as Ex. DW-1/1 to Ex. DW-1/3.
8. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.
9. My issues wise findings are as under:

Issue No. 02:

From the available record, it is evident that though CNIC was issued to the plaintiff on 20.07.2012 while plaintiff has challenged the entry regarding his date of birth in his CNIC in year 2020, by filing instant suit. Yet record shows that plaintiff

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is illiterate and he came to know about such wrong entry just before the filing of suit in hand and as per plaint he requested defendants to correct his date of birth in his CNIC, which they refused. Hence, the cause of action accrued to the plaintiff when defendants refused to correct his date of birth. So, keeping in view, these facts and circumstances, the suit of plaintiff is within time, hence, issue is decided in positive.

Issue No.03:

Plaintiff contended in his plaint that his correct date of birth is **1966**, which has been correctly recorded in his service record, but inadvertently the same has been recorded as **1952** in NADRA record. Hence, the record is liable to be corrected.

Plaintiff in support of his contention appeared as PW-1 and he repeated the contents of plaint in his examination in chief. He also produced his service card as Ex.PW-1/1 and medical certificate as Ex.PW-1/3 while PW-2, Sawat Khan, who is maternal uncle of plaintiff stated in his examination in chief that correct date of birth of the plaintiff is **1966**. PW-3, Edat Khan, who is Cousin of the plaintiff, also supported the contention of the plaintiff. PW-4, Muhammad Shoaib, record keeper of Police, Orakzai, produced the appointment letter of plaintiff as Ex.PW-4/1, copy of MNIC of the plaintiff as Annexure-A, service book as Ex.PW-4/2.

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PW-1 to PW-3 were subjected to cross examination but nothing substantial was brought on record which could have shattered their testimony rather they remained consistent regarding the facts uttered by them in their examination in chief. Their testimony is also corroborated by the Service record of plaintiff produced as Ex.PW-1/1, Ex.PW-4/2 and Medical certificate as Ex.PW-1/3; wherein, the date of birth of the plaintiff has been recorded as **1966**. Moreover, Annexure-A is manual ID card of plaintiff and the perusal of which reflects that date of birth of plaintiff in the same card has been also mentioned as **1966**.


From the oral and documentary evidence it is proved that correct date of birth of plaintiff is **1966** and incorporation of his date of birth as **1952** in the record of NADRA appears to be a mistake.

Hence, instant issue is decided in positive.

Issue No. 01 & 04:

These 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 also entitled to the decree as prayed for.

The issues are decided in positive.


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Relief:

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for and defendants are directed to correct the date of birth of the plaintiff. Parties are left to bear their own costs.

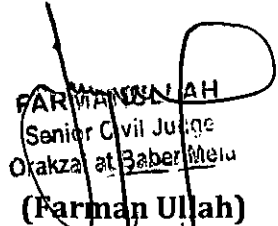
10. File be consigned to the record room after its completion and compilation.

Announced
18/02/2021


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(Farman Ullah)
Senior Civil Judge,
Orakzai (at Baber Mela).

CERTIFICATE

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


FARMANULLAH
Senior Civil Judge
Orakzai at Baber Mela
(Farman Ullah)
Senior Civil Judge,
Orakzai (at Baber Mela).