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

Civil Suit No. 296/1 of 2020
Date of Institution: 08/06/2020
Date of Decision: 08/03/2021

Islam Badshah s/o Mukhtar Gul

R/o Qoam Ali Khel, Tapa Emal Khan Khel Ghiljo Tehsil Upper & 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:

08.03.2021

Brief facts of case in hand are that the plaintiff, **Islam Badshah s/o Mukhtar Gul**, 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 as per service record is **1970** while defendants have wrongly mentioned the same in their record as **1961**, which is incorrect and liable to be corrected. That plaintiff repeatedly asked defendants for correction of his date of birth but they refused, hence, instant suit.

Defendants were summoned, who appeared through attorney namely Syed Farhat Abbas and submitted written

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statement, wherein, they contested the suit of plaintiff on various grounds.

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

Issues:

1. Whether plaintiff has got cause of action?
2. Whether the suit of plaintiff is bad in its present form?
3. Whether the correct date of birth of the plaintiff is "1970" while defendants have wrongly mentioned the same as 1961 in their record?
4. Whether plaintiff is entitled to the decree as prayed for?
5. Relief.
6. 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-3.
7. In rebuttal defendants produced their sole witness namely Syed Farhat Abbas, representative, as DW-1. He produced the CNIC processing form, marriage family tree, MNIC processing form Ex. DW-1/3 and Form A of the plaintiff as Ex.DW-1/1 to Ex.DW-1/4.
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. 03:

Plaintiff contended in his plaint that his correct date of birth as per service record is 1970, but inadvertently defendant

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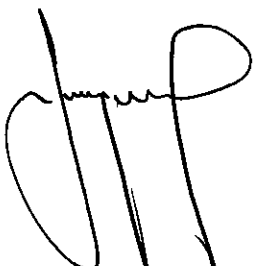
entered his date of birth as 1961 in the CNIC of plaintiff, hence, the record is liable to be corrected.

Plaintiff in support of his contention appeared as PW-1 and repeated the contents of plaint in his examination in chief. During the cross examination admitted that manual ID card was issued to the plaintiff and on the basis of which CNIC was issued to the plaintiff.

PW-2 stated in his examination in chief that he is the elder brother of plaintiff and the correct date of birth of plaintiff as per service record and medical certificate is 1970 but defendant have wrongly recorded the date of birth of plaintiff in his CNIC.

During the cross examination stated that he does not know that when plaintiff was appointed in Khassadar. He also stated that he does not remember that when the marriage of plaintiff took place. PW-03 is the statement of Muhammad Shoaib, record Muharrir of District Police Orakzai. He produced the appointment letter, Medical certificate and service book of the plaintiff as Ex.PW-3/1 to Ex.PW-3/3 and stated that as per the service record the date of birth of plaintiff is 1970. During the cross examination he stated that neither manual ID Card nor CNIC of the plaintiff is available in his service record.


On other hand, representative of NADRA appeared as DW-1, and produced the CNIC detail form of plaintiff as Ex.DW-1/1, family tree of plaintiff as Ex.DW-1/2 and manual


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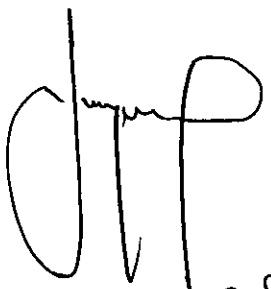
processing form of plaintiff as Ex.DW-1/3 and Form "A" is Ex.Dw-1/4.

From the analysis of available record, it is evident that the entire claim of plaintiff regarding his date of birth is based on his service record as it is the contention of plaintiff that his correct date of birth as per service recorded is 1970 but defendant have wrongly recorded his date of birth in his CNIC as 1961. PW-03 has produced the service record of plaintiff as Ex.PW-1/1 to Ex.PW-1/3. Ex.PW-1/1 is the medical certificate of plaintiff and according to which date of birth of plaintiff is 1970 but the perusal of the same depicts that it does not bear the official seal of medical superintendent. Similarly, the certificate itself clearly reflects that no medical test regarding the determination of age of plaintiff was conducted rather the age of plaintiff has been recorded on the basis of oral assertion of plaintiff. Being such a position the medical certificate Ex.PW-1/2 cannot be relied as an authentic document regarding the determination of age and date of birth of plaintiff. Ex.PW-3/2 is the appointment letter of the plaintiff, which shows that plaintiff was appointed as Khassadar is a year 1996, however, nothing has been mentioned in the said order regarding the date of birth of plaintiff. Ex.PW-3/3 is the service book of the plaintiff, consisting of 06 pages and according to which the date of birth of plaintiff on page No.1 has been recorded as 1970 but


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even the same page does not bear the official seal of the Political Agent (The Appointing Authority). Even the signature of Political Agent on appointment letter Ex.PW-3/2 and his signature on the first page of Ex.PW-3/3 do not match with each other. Moreover, the column of National ID Card of plaintiff on the first page of Ex.PW-3/3 is blank. It is evident from the appointment order Ex.PW-3/2 that plaintiff was appointed as Khassadar in a year 1996. The first page of service book Ex.PW-3/3 is of worth perusal as in serial No.3, it has been mentioned that the same column is for domicile and CNIC of official. The mentioning of CNIC in the first page of service book Ex.PW-3/3 is astonishing as the NADRA was established in a year 2000 while issuance of CNICs started thereafter and prior to that manual ID Cards were used to be issued to the citizens of Pakistan. The mentioning of word CNIC on the first page of Ex.PW-3/3 in a year 1996 put question on the genuineness and authenticity of first page of Ex.PW-3/3, wherein, date of birth of plaintiff has been mentioned as 1970. Being such a position Ex.PW-3/3 cannot be considered and relied upon as an authentic document regarding the age of plaintiff. Even the mentioning of date of birth plaintiff in his service record as 1970 is strongly rebutted by the Ex.DW-1/3, which is the processing form of the plaintiff submitted for issuance of manual ID Card. Plaintiff appearing as PW-1 has


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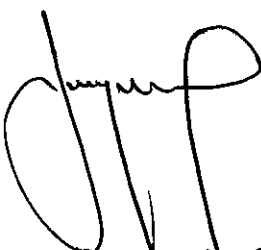
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categorically admitted that prior to issuance of CNIC, manual ID card was issued to him and thereafter CNIC was issued to him on the basis of manual ID card. Ex.DW-1/3 reflects that plaintiff applied for issuance of manual ID card on 12-10-1981. If the date of birth of plaintiff was 1970 then how he applied for issuance of manual ID card in a year 1981 at the age of 11 years? Even the physical appearance of plaintiff as reflected from the photo of plaintiff on Ex.DW-1/3 manifest, that at the time of applying for issuance of manual ID card in a year 1981, he was not of a tender age rather he was sufficient grown up and a major person.

So, the available record does not establish the claim of plaintiff rather it negates his contention regarding his date of birth as alleged by the plaintiff in his plaint, hence, the instant issue is decided in negative.

Issue No. 02:

Though defendants raised the objection in preliminary objections of written statement that suit of plaintiff is bad in its present form, however, nothing material was brought on record which could show any defect in the present form of suit of plaintiff. Similarly, during course of arguments no defect was pointed out by the defendants rather the available record suggests that form of suit is correct. Hence the issue decided in negative.


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Issue No.01 & 03:

For what has been held in issue No. 3 this court is of the opinion that plaintiff has got neither cause of action nor he is entitled to the decree as prayed for.


Thus, both the issues are decided in negative.

Relief:

As sequel to above discussion, it is held that plaintiff has failed to prove his stance through cogent and confidence inspiring evidence. Hence, suit is dismissed. No order as to cost.

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

Announced
08/03/2021


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

CERTIFICATE

Certified that this judgment of mine consists of 07 (seven) pages (including this page), each page has been checked, corrected where necessary and signed by me.


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