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IN THE COURT OF BAKHT ZADA,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 36/1 of 2023
Date of Institution: 13.09.2023
Date of Decision: 27.09.2023

**Muhammad Ayub S/O Mir Rehman, R/O Qoum Ali Khel,
Tappa Imal Khan Khel, Tehsil Upper, District Orakzai**
(Plaintiff)

VERSUS

- 1. Chairman NADRA, Islamabad.**
- 2. Director General NADRA, KPK at Hayat Abad Peshawar.**
- 3. Assistant Director NADRA, Orakzai.**

(Defendants)

**SUIT FOR DECLARATION-CUM-PERPETUAL AND
MANDATORY INJUNCTION**

JUDGEMENT:

1. Plaintiff Muhammad Ayub s/o Mir Rehman has brought the instant suit against defendants Chairman NADRA, Islamabad and 02 others for declaration-cum-perpetual and mandatory injunction to the effect that his correct date of birth according to his school primary certificate is 01.01.1995, but the same has been wrongly entered in his record with the defendants as 01.01.1986. He alleged that the defendants were asked time and again for correction of date of birth of the plaintiff but they refused to do so, hence, the present suit;

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2. Defendants were summoned, who appeared before the court through their representative and contested the suit by filing their written statement.

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

Issues:

1. *Whether the plaintiff has got cause of action?*
2. *Whether the suit of the plaintiff is within time?*
3. *Whether the correct date of birth of the plaintiff is 01.01.1995 and the defendants have wrongly entered the same as 01.01.1986 in their record?*
4. *Whether plaintiff is entitled to the decree as prayed for?*
5. *Relief?*

Parties were given opportunity to produce evidence in support of their respective claims. The plaintiff produced and recorded the statements of following PWs;

PW-01: Saif Ullah Khan s/o Rehman Shah appeared as PW-01 and stated that he is watchman in the Government Primary School Nawai Kalay. He verified the certificate of the plaintiff and stated that the plaintiff was admitted in their school from the year 2001 to 2007. His service card is Ex.PW-1/1 while his CNIC is ExPW-1/2.

PW-02, is the statement of the Bahadur Khan s/o Mir Rehman. He is the elder brother of the plaintiff. He also affirmed that date of birth of the plaintiff is 01.01.1995. His CNIC is Ex.PW-2/1.

PW-03, plaintiff Muhammad Ayub s/o Mir Rehman repeated the contents of his plaint and exhibited his school certificate as Ex.PW-3/1. He CNIC is Ex.PW-3/2. He stated in his cross-examination that due to army operation in the area, he applied for getting CNIC before attaining the required age.

On the other hand, representative for NADRA, Irfan Hussain recorded his statement as DW-01, wherein he has alleged that the date of birth of the plaintiff according to their record is 01.01.1986. He exhibited the family tree of the plaintiff as Ex.DW-1/1.

After closing of evidence of the parties, arguments of the learned counsel for the parties were heard and available record perused.

My Issue wise findings are as under: -

Issue No. 02:

The plaintiff has alleged in his plaint that one week before the institution of the instant suit, the defendants refused from making the required correction in his date of birth. The defendants have not categorically denied this fact in their written statement, therefore, admitted facts needs not to be proved. Issue No. 02 is decided in positive.

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Issue No. 03:

The plaintiff alleged that his correct date of birth according to his school primary certificate is 01.01.1995, but the same has been wrongly entered in his record with the defendants as 01.01.1986. During the course of evidence, statement of Saif Ullah Khan, employee of the Government Girls Primary School, Chappar Ali Khel recorded as PW-01 who affirmed that plaintiff was student of their school from the year 2001 to 2007. He also affirmed the certificate Ex.PW-3/1. Bahadur Khan s/o Mir Rehman, who is elder brother of the plaintiff, recorded his statement and affirmed that the correct date of birth of the plaintiff is 01.01.1995. Plaintiff Muhammad Ayub as PW-03 also stated that his correct date of birth is 01.01.1195 according to his school certificate Ex.PW-3/1. He prayed for decree for correct of date of birth as prayed for in the plaint.

The evidence produced by the plaintiff particularly the statement of PW-02, who is elder brother of the plaintiff is of much importance and no doubt he can be safely considered the natural witness of his birth, coupled with the date of birth mentioned in his school certificate mentioned in Ex.PW-3/1 cannot be rebutted through ordinary evidence. The defendants

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have only brought on record the Family Tree of the plaintiff which is the impugned record and cannot be considered more authentic than the school record as well as from the oral statement of the elder brother of the plaintiff. The evidence produced by the plaintiff has remained un rebutted. The plaintiff is neither government employee nor such correction will damage the right of any third person. Issue is decided in positive.

Issue No. 01 & 04:

Both these issues are interlinked, hence, taken together for discussion.

As sequel to my findings on issue No. 03, the plaintiff has proved through cogent evidence that his correct date of birth is 01.01.1995 instead of 01.01.1986. Issue No. 01 & 04 are decided in positive.

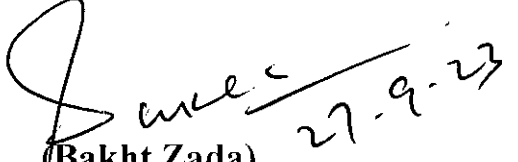
RELIEF:

As sequel to my above issue-wise findings, the plaintiff proved his case through cogent evidence, therefore suit of the plaintiff is hereby decreed as prayed for with no order as to cost.

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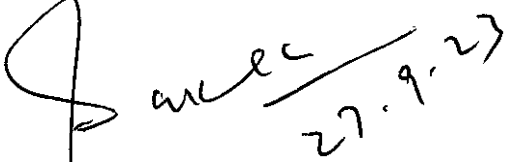
File be consigned to the Record Room after its completion and compilation.

Announced
27.09.2023


(Bakht Zada)
Senior Civil Judge,
Orakzai (at Baber Mela)

CERTIFICATE

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


(Bakht Zada)
Senior Civil Judge,
Orakzai at (Baber Mela)