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

Civil Suit No. 271/1 of 2020
Date of Institution: 25/02/2020
Date of Decision: 28/05/2021

Syed Murtaza Hussain s/o Malak Door Hussain

Section Bar Muhammad Khel, Tapa Baba Nawasi, Janu Dag, PO Kuriz, Tehsil Lower
& District Orakzai..... (Plaintiff)

VERSUS

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

(Defendants)

SUIT FOR DECLARATION, PERMANENT & MANDATORY INJUNCTION

JUDGEMENT:

Brief facts of case in hand are that the plaintiff **Syed Murtaza Hussain s/o Malak Door Hussain**, 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 **06.10.1977** while correct name is "**Syed Murtaza Hussain**" but defendants have wrongly mentioned his date of birth as **1986** and his name as "**Murtaza**" in their record, which are incorrect and liable to be corrected. That defendants were repeatedly asked to correct his date of birth and name but they refused. Hence, the present suit.

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Senior Civil Judge
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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.

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

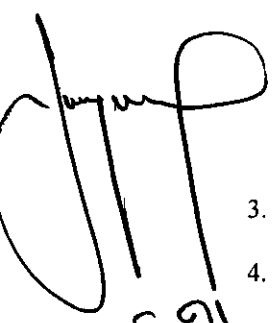
Issues:

1. Whether plaintiff has got cause of action?
2. Whether the correct date of birth of the plaintiff is **06.10.1977** and correct name is "**Syed Murtaza Hussain**" while his date of birth has been wrongly entered as 1986 and name as **Murtaza** in his CNIC by the defendants
3. Whether plaintiff is entitled to the decree as prayed for?
4. 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-3.

6. In rebuttal defendants produced their sole witness namely Syed Farhat Abbas, representative, as DW-1. He produced the CNIC processing form and family tree of plaintiff and exhibited the same as Ex. DW-1/1 and Ex. DW-1/2.
7. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.
8. My issues wise findings are as under:

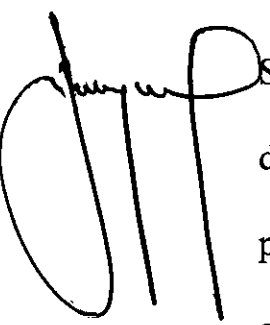
Issue No.02:


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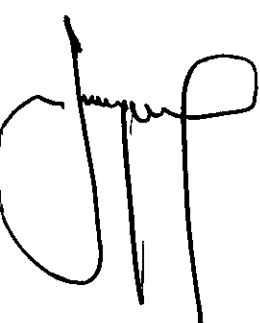
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Plaintiff contended in his plaint that, his correct date of birth is 06-10-1977 and his correct names is "Syed Murtaza Hussain" but inadvertently the same were recorded as 1986 and Muratza in record of defendants. Hence, the record is liable to be corrected.

Plaintiff in support of his contention has appeared as PW-1 and he repeated the contents of the plaint in his examination in chief. He also produced his CNIC as Ex.PW-1/1, while PW-2, is the statement of Syed Aman Shah, who stated in his examination in chief that plaintiff is his younger brother and the correct name of the plaintiff is Syed Murtaza Hussain while his correct date of birth is 06-10-1977. PW-3 is the statement of Muhammad Shoaib who stated in his examination in chief that the correct date of birth of plaintiff as per service record is 06-10-1977. He produced medical certificate, office order and service book and exhibited the same as Ex.PW-3/1, Ex.PW-3/2 and Ex.PW-3/2. 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 medical certificate and service book of plaintiff produced by PW-3 as Ex.PW-3/1 and Ex.PW-3/3, wherein, the name of plaintiff has been recorded as Syed Murtaza Hussain, while his date of birth as 06-10-1977.


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Hence, presumption of truth is attached to the same unless rebutted by any other oral or documentary evidence. In instant case no such oral or documentary evidence is available in rebuttal. Moreover, from service record of plaintiff Ex.PW-3/1 to Ex.PW-3/3, it is evident that plaintiff was appointed as Khasadar on 16-10-1995 while per CNIC of plaintiff the date of birth of plaintiff is 1986. If the time period is calculated from year 1986 to 1995, then it comes as 09 years. It does not appeal to common sense and produce that a person can be appointed on government job at the age of 09 years. Rather this fact alone strongly suggests that age of plaintiff has been wrongly recorded as 1986 in his CNIC. So, the oral and documentary evidence produced by the plaintiff establishes that the correct date of birth of the plaintiff is **06.10.1977**. The incorporation of date of birth of the plaintiff as **1986** in the record of NADRA appears to be a mistake. Hence, the issue No. 2 is decided in positive.



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Issue No. 01 & 03:

These issues are taken together. For what has been held in issue No. 2, 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.

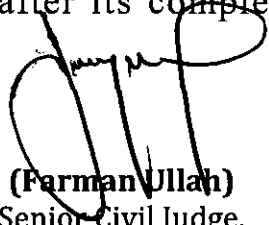
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Relief:

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct their record by incorporating the date of birth of the plaintiff as **06.10.1977** and name of the plaintiff as "**Syed Murtaza Hussain**" in their record. Parties are left to bear their own costs.

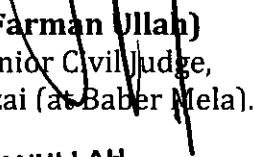
9. File be consigned to the record room after its completion and compilation.

Announced
28/05/2021


(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 **05** (five) pages, each 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