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

Civil Suit No. 353/1 of 2020
Date of Institution: 13/11/2020
Date of Decision: 21/06/2021

Samad Shah s/o Saidan Shah

Qoam Mala Mela, Tapa Cha Khela, Dre Sote, Tehsil Upper Orakzai & 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 & MANDATORY INJUNCTION

JUDGEMENT:

21.06.2021

Brief facts of case in hand are that the plaintiff, **Samad Shah s/o Saidan Shah**, has brought the instant suit for declaration and mandatory injunction against the defendants, referred hereinabove, seeking declaration, therein, that his correct date of birth is **1973**, which has been correctly recorded in his service record, while defendants have wrongly mentioned the same as **1964** in their record, which is incorrect and liable to be corrected. That defendants were repeatedly asked to correct their record 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.

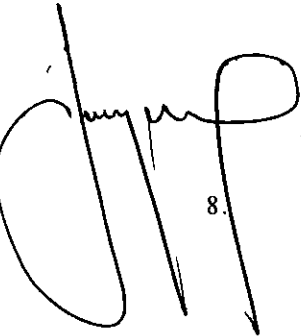

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Senior Civil Judge
Orakzai at Baber Mela

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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 plaintiff is estopped to file instant suit?
4. Whether the correct date of birth of the plaintiff is **1973** while defendants have wrongly mentioned the same as **1964** in their record?
5. Whether plaintiff is entitled to the decree as prayed for?
6. Relief.
7. Parties were provided opportunity to produce evidence in support of their respective contention, which they did. Plaintiff produced his witnesses as PW-1 and PW-2.
8. In rebuttal defendants produced their sole witness namely Syed Farhat Abbas, representative, as DW-1. He produced the CNIC processing detail form, marriage family tree and birth family tree and exhibited the same as Ex. DW-1/1 to Ex. DW-1/3.
9. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.
10. My issues wise findings are as under:


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Syed Farhat Abbas
Judge
Mela

Issue No.04:

Plaintiff contended in his plaint that his correct date of birth is **1973** but inadvertently the same was recorded as **1964** in NADRA record. Hence, the record is liable to be corrected.

Plaintiff in support of his claim produced Muhammad Rafiq, Record Keeper District Education Office Orakzai as PW-1. He produced the service book of the plaintiff as Ex.PW-1/1. The perusal of which depicts that plaintiff was appointed as chowkidar in Education Department Orakzai on 02.10.1998. The service record Ex.PW-1/1 of plaintiff further reflects that his date of birth has been recorded as 1973. Hayat Khan is the attorney of plaintiff who appeared as PW-2 and stated in his examination in chief that correct date of birth of the plaintiff is 1973 in his service record but the same was wrongly recorded as "1964" in NADRA record. He produced his power of attorney as Ex.PW-2/1, He also produced CNIC of plaintiff and his own CNIC as Ex.PW-2/2 and Ex.PW-2/3. He also stated that a letter has also been issued from the District Education Office Orakzai to the defendants regarding the correction of date of birth of the plaintiff but they refused. PW-1 and PW-2 were subjected to cross examination but nothing substantial was brought on record, which could have shattered their testimony. In rebuttal defendants produced their attorney as DW-1, who stated in his examination in chief that CNIC was issued to the plaintiff on the basis of manual ID card and the date of birth of plaintiff was recorded as 1964 in his CNIC on the basis of his manual ID card. He produced the CNIC processing form of plaintiff as Ex.DW-1/1, family tree by

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marriage and birth as Ex.DW-1/2 and Ex.DW-1/3. The perusal of CNIC processing form Ex.DW-1/1 of plaintiff reflects that neither the same was filled by the plaintiff nor signed or thumb impressed by the plaintiff rather the entire data has been entered by the NADRA official. DW-01 stated in his cross examination in chief that the said form was processed on the basis of manual ID card of plaintiff and the date of birth of plaintiff was recorded on the basis of his manual ID card. However, defendants failed to produce any record regarding the manual ID card of plaintiff and to prove that date of birth of plaintiff was recorded as 1964 in his manual ID card. Contrary to this, plaintiff has produced his service record, wherein, his date of birth is 1973. The same is an official record and presumption of truth is attached to it unless rebutted by strong evidence but defendants failed to produce anything in rebuttal. So, the oral and documentary evidence of plaintiff establishes that the correct date of birth of the plaintiff is 1973. The incorporation of date of birth of the plaintiff as 1964 in the record of NADRA appears to be a mistake. Hence, the issue No. 4 is decided in positive.

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 21.6.2021
 JUDGE
 District Court
 Faisalabad

Issue No. 02:

Learned counsel for plaintiff argued that plaintiff is an illiterate and chowkidar in education department and came to know about wrong entry of date of birth in his CNIC, when his

department communicated about difference of birth recorded in his service book and CNIC in year 2020. He further contended that fact is clear from letters issued by District Education Officer to Manager NADRA, district Orakzai for the correction of date of birth of the plaintiff recorded in his CNIC. The same letters are also available on file, which shows that one letter was issued on 24.01.2019 and other on 24.01.2020. These letters established that plaintiff for the first time came to know about wrong entry of his date of birth in his CNIC in year 2019, while he filed instant suit in year 2020, hence suit is within time. Issue is decided in positive.

Issue No. 03:

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Defendants raised the objection in their written statement that plaintiff is estopped to file instant suit, however, defendants failed to bring any substantial material in this regard. Hence, issue is decided in negative.

Issue No. 01 & 05:

These issues are taken together. For what has been held in issue No. 4, this court is of the opinion that plaintiff has got cause of action and he is entitled to the decree as prayed for.

The issues are decided in positive.

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 in their record. Parties are left to bear their own costs.

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

Announced
21/06/2021


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

CERTIFICATE

Certified that this judgment of mine including this page consists of 06 (six) pages, 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