

(37)

IN THE COURT OF REHMAT ULLAH WAZIR,
CIVIL JUDGE-I ORAKZAI AT CAMP COURT, KALAYA

Civil Suit No. 26/1 of 2021
Date of Institution: 22/04/2021
Date of Decision: 13/12/2021

Ghameen Hassan S/O Ajmeen Hassan

R/O Caste: Bar Muhammad Khel, Tappa Khudaid Khel, village
Cheri, Tehsil Lower, District Orakzai.

(Plaintiff)

VERSUS

1. **Chairman NADRA, Islamabad, Pakistan.**
2. **Assistant Director, NADRA, District Orakzai.**
3. **Assistant Director, NADRA, Orakzai.**

(Defendants)

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

JUDGEMENT:

1. Plaintiff Ghameen Hassan has brought the instant suit for declaration-cum-permanent injunction against defendants Chairman NADRA, Islamabad, Pakistan, and Assistant Director, Orakzai, seeking therein that correct date of birth of the plaintiff is **02.05.1941**, according to his Service Record and pension record whereas, defendants have wrongly entered the date of birth of the plaintiff as 1953, which is wrong, ineffective upon the rights of the plaintiff and liable to correction as the plaintiff got himself recruited in the age of 18 years in the PAK Army on 02.05.1959. That the defendants were asked time and again to do the aforesaid correction but they refused, hence, the present suit;

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 plaintiff is estopped to sue?
3. Whether the suit of the plaintiff is within time?
4. Whether the correct date of birth of the plaintiff as per his service record is **02.05.1941**, while it has been wrongly entered as, 1953 in his CNIC by the defendants?
5. Whether the plaintiff is entitled to the decree as prayed for?
6. Relief?

Parties were given an opportunity to produce evidence in which the plaintiff produced his entire evidence while the representative of the defendants failed to produce his witnesses and thus he was given notice U/O 17 R 3 CPC and the case was adjourned for the next date but today he also failed to produce his evidence, therefore, the right of evidence of the defendants was struck off U/O 17 R 3 CPC and the judgment is announced forthwith.

Issue wise findings of this court are as under: -

Issue No. 02:

The defendants in their written statement raised the objection that the plaintiff is estopped to sue but later on failed to prove the same, hence, the issue is decided in negative.

Issue No. 03:

The defendants in their written statements raised their objection that suit of the plaintiffs is time barred but I am the opinion that as per Article 120 of the Limitation Act, 1908 there is a period of 06 years for the institution of such like suits but the aforesaid Limitation Act, 1908 is extended to the erstwhile FATA on 31/05/2018 through the 25th constitutional amendment and the same has become operational from the aforesaid date while the instant suit has been filed on 22.04.2021. Thus, the same is well within time. The issue is decided in positive.

Issue No. 04:

The plaintiff alleged in his plaint that the correct date of birth of the plaintiff is 02.05.1941, according to his service record and pension record whereas, defendants have wrongly entered the same as 1953, which is wrong, ineffective upon the rights of the plaintiff and liable to correction as the plaintiff got himself recruited in the age of 18 years in the PAK Army on 02.05.1959. That the defendants were asked time and again to do the aforesaid correction but they refused, hence, the present suit;

The plaintiff produced witnesses in whom Mr. Ghameen Hassan, the plaintiff himself, appeared as PW-01, who produced his Termination of Service Certificate, Pension Book which are exhibited as Ex.PW 1/1 and Ex. PW-1/2 respectively which bears the date of birth of the plaintiff as 02.05.1941 and

his recruitment on 02.05.1959. He further produced his CNIC which is Ex. PW-1/3. During cross examination he stated that his age above 80 years and that he got retirement on 23.08.1970 on medical grounds. Further Mr. Syed Akbar Hussain, the relative of the plaintiff, appeared as PW-02 and further fully narrated the same story as in the plaint. He has been cross examined but nothing tangible have been extracted out of him during cross examination.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the plaintiff established his case through oral and documentary evidence because the documents in the hands of the plaintiff are public documents and are more than 30 years old which bears the presumption of truth unless rebutted. Moreover, the defendants failed to counter the evidence of the plaintiff as their right of evidence has been struck off U/O 17 R 3 CPC. Further the plaintiff is a senior citizen and there is no likelihood of any damage to the rights of any third person if his age is corrected rather it will facilitate an 80 years plus tax payer of this country, who otherwise should have not been dragged in the hectic process of litigation. Thus, in the light of the aforesaid findings, the issue is decided in positive.

Issue No. 01 &05:

Both these issues are interlinked, hence, taken together for discussion. As sequel to my findings on issue No. 4, the

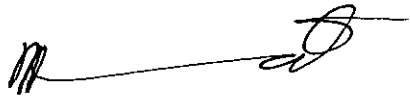
plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Both these issues are decided in positive.

RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for.

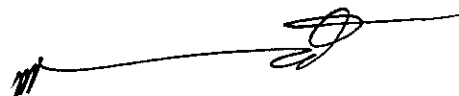
File be consigned to the Record Room after its completion and compilation.

Announced
13.12.2021


(Rehmat Ullah Wazir)
Civil Judge-I,
Camp Court, Kalaya, Orakzai

CERTIFICATE

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


(Rehmat Ullah Wazir)
Civil Judge-I,
Camp Court, Kalaya, Orakzai