

24

IN THE COURT OF SAMI ULLAH,
CIVIL JUDGE-I, ORAKZAI AT BABER MELA

Civil Suit No. 65/1 of 2023
Date of Institution: 09/12/2023
Date of Decision: 16/01/2024

Mumtaz Khan S/O Multan

R/O Qoam Mamozai, Tappa Meer Kalam Khel, Ghiljo, Tehsil Upper, District Orakzai.

.....(Plaintiff)

VERSUS

1. Chairman Nadra, District Orakzai.
2. Director General Nadra, District Orakzai.
3. Assistant Director Nadra, District Orakzai.

..... (Defendants)

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

SUMMARY JUDGEMENT:

16.01.2023

1. Brief facts of the case in hand are that the plaintiff, **Mumtaz Khan** has brought the instant suit for declaration cum perpetual and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that his correct date of birth is **01.02.1994** according to school certificate, while it has been wrongly mentioned as 01.01.1985 by the defendants in their record with respect to the plaintiff which is liable to correction. That the defendants were repeatedly asked to correct the date of birth of plaintiff but they refused, hence, the instant suit.

L. Ullah
16-01-2024
Sami Ullah
Civil Judge/JM-I
Orakzai at (Baber Mela)

2. Defendants were summoned, who appeared through their representative namely Mr. Irfan Hussain, who submitted written statement.

3. During the scheduling conference within the meaning of order IX-A of CPC, it was revealed that the matter involved in the instant case is very petty in nature, which can be decided through summary judgement as per relevant record. To this effect notice were given to the parties that why not the case in hand be decided on the basis of available record without recording lengthy evidence, as the primary aim and objective of Amended Management Rules in CPC is, "*to enable the court to-*

- a. *Deal with the cases justly and fairly;*
- b. *Encourage parties to alternate dispute resolution procedure if it considers appropriate;*
- c. *Save expense and time both of courts and litigants; and*
- d. *Enforce compliance with provisions of this Code."*

4. Arguments of both the parties on summary notice were heard.

After keeping in consideration available record on file and arguments of the learned counsel of plaintiff and representative of defendants, the court proceeded with summary proceedings in the instant case.

5. The plaintiff produced two witnesses and himself appeared as a witness in his favour who recorded the statements and testified that the correct date of birth of the plaintiff is **01.02.1994.**

Lauq
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01-01-2024
Sam Ullah
Civ Judge/JM-1
Orakzai at (Babar Mela)

6. PW-01 namely Muhammad Janan said in his statement that he is a Principal of Public High School Ghiljo, District Orakzai. He produced Original Admission and Withdrawal Register of the plaintiff. According to this document the correct date of birth of plaintiff is **01.02.1994**. Copy of Admission and Withdrawal Register and Copy of his CNIC are Ex.PW-1/1 and 1/2. PW-01 admitted in his cross examination that ADO did not attest the Admission and Withdrawal Register because they are directly subordinate to Kohat Board that why their register were not checked by ADO. Moreover, ADO only checked government School register.

7. Plaintiff himself recorded his statement as PW-02 and stated that his correct date of birth is **01.02.1994** according to School Certificate and admission and withdrawal register, while it has been wrongly mentioned as 01.01.1985 by defendants in the CNIC of plaintiff. Copies of his CNIC and school certificate are Ex.PW-2/1 and Ex.PW-2/2. The said PW admitted in his cross examination that he is not a government servant and he is not a student anymore, as he has stopped his education in 9th standard.

8. PW-03 namely Muhammad Riaz who is brother of the plaintiff recorded his statement in favour of claim and contention of the plaintiff. The said PW stated that plaintiff is two year elder than him and date of birth of the said PW according to his

Lana
Ullah
16-01-2024
Sami Ullah
Civil Judge/JM-I
Orakzai at (Babar Meia)

CNIC is 1996. Nothing incrementing was recording in his cross examination. His CNIC is Ex.PW-3/1.

9. Representative of NADRA appeared as DW-01. He produced family tree, which is Ex. DW-1/1. According to this document the correct date of birth of plaintiff is 01.01.1985. He placed his reliance on the said document.

10. Learned counsel for plaintiff and representative for defendants heard and record gone through.

11. Record reveals that plaintiff through instant suit is seeking correction of his date of birth to the effect that his correct date of birth is **01.02.1994**, while it has been wrongly mentioned as 01.01.1985 by the defendants in their record with respect to the plaintiff. Furthermore, there is no counter document available with the defendants to rebut the document produced by the plaintiff in support of his stance. Hence, in these circumstances, the exhibited document is admissible and reliance is placed on it alongwith recorded evidence of witnesses and is sufficient to decide the fate of the case and no further evidence is required to be produced by the parties. So, the available record clearly establishes the claim of the plaintiff.


12. Consequently, upon what has been discussed above and the jurisdiction vested in this court under order IX-A and XV-A of CPC, suit of the plaintiff succeeds and is hereby decreed as

L. Ullah
16-01-2024
Sami Ullah
Civil Judge/JM-I
Orakzai at (Babar Mela)

prayed for. Defendants are directed to correct the date of birth of plaintiff as **01.02.1994** instead of 01.01.1985 in their record.


13. Parties are left to bear their own costs.
14. File be consigned to the record room after its necessary completion and compilation.

Announced
16.01.2024


Sami Ullah
Civil Judge/JM-I,
Orakzai (at Baber Mela)

CERTIFICATE

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


Sami Ullah
Civil Judge/JM-I,
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