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

Civil Suit No. 65/1 of 2021
Date of Institution: 30/10/2021
Date of Decision: 14/03/2022

Abdul Qayyum S/o Meen Ajab Khan

R/o Qoam Ali khel, Tapa: Jasrat Khel, Kago Kamar, PO Ghiljo, Tehsil Upper &
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, PERMANENT & MANDATORY INJUNCTION

JUDGEMENT:

Brief facts of case in hand are that the plaintiff, **Abdul Qayyum S/o Meen Ajab Khan**, 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 **01.01.1984** while defendants have wrongly mentioned the same in their record as **01.01.1994**, which is incorrect and liable to be corrected. That Naeem Ullah is the elder son of plaintiff and his date of birth is 09-04-2005, so the difference between the age of plaintiff and his son is 11 years which is unnatural and contrary to the facts. That defendants were repeatedly asked to correct the date of birth of plaintiff but they refused. Hence, the present suit.

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Senior Civil Judge
Orakzai at Baber Mela

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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 "01.01.1984" while defendants have wrongly mentioned the same as 01.01.1994 in his CNIC?
3. Whether plaintiff himself changed his date of birth from 01.01.1984 to 01.01.1994 through decree of Assistant Political Agent? If so its effect?
4. Whether plaintiff is entitled to the decree as prayed for?
5. 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 record of plaintiff and exhibited the same as Ex. DW-1/1 to 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 & 03:

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Both the issues are interlinked and interconnected, hence to avoid the repetition of facts, both the issues are taken together for discussion.

Plaintiff contended in his plaint that his correct date of birth is **01.01.1984** but inadvertently the same was recorded as 01.01.1994 in NADRA record. That date of birth of elder son of plaintiff namely Naeem Ullah is 09.04.2005 while date of birth of plaintiff wrongly recorded in his CNIC is 01.01.1994, hence the difference between the age of plaintiff and his son is 11 years which is unnatural and contrary to the facts.

On other hand, it is the contention of defendants that plaintiff himself has changed his date of birth in his CNIC from year 1984 to 1994 on the basis of order of Political Agent.

Plaintiff in support of his contention produced Zindi Gul and Muhammad Hussain as PW-1 and PW-02. Both the witnesses stated in their examination in chief that plaintiff belongs to their family and whose correct date of birth is 01.01.1984. PW-03 is the statement of Principal of Abbas Public School, who produced the Admission and withdrawal register in respect of sons of plaintiff as Ex.PW-3/1 and stated that as per record the date of birth of Naeem Ullah son of plaintiff is 09.04.2005, Shams ul Hadi son of plaintiff is 02.01.2008 and Muhammad Shahid son of plaintiff is 11.09.2010.

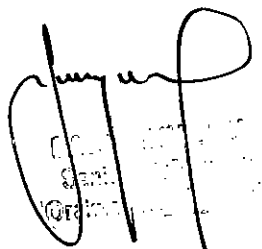
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On other hand representative of defendants appeared as DW-01. He produced the CNIC Processing Form of plaintiff as Ex.DW-1/1 while family tree of plaintiff as Ex.DW-1/2 and Ex.DW-1/3 and order of Additional District Magistrate as Annexure-A.

From the analysis of available record, it is an admitted position that CNIC for the first time was issued to the plaintiff in year 2004, wherein, date of birth of plaintiff was recorded as of year 1984. From Ex.DW-1/1, it is also evident that prior to issuance of CNIC to the plaintiff manual ID card was issued to the plaintiff and in which the date of birth of plaintiff was also of year 1984. PW-01 and PW-02 also categorically stated that the correct date of birth of plaintiff is 01.01.1984. Furthermore, Admission and Withdrawal register of sons of plaintiff produced by PW-03 as Ex.PW-3/1 reflects that the date of birth of elder son of plaintiff namely Naeem Ullah is 09.04.2005 while date of birth of plaintiff recorded in his CNIC is 01.01.1994, hence the difference between the age of plaintiff and his son is 11 years, which on the face of it shows unnatural gap between the age of father and son. This fact alone strongly suggests that the date of birth of plaintiff recorded in his CNIC as 01.01.1994 is contrary to the facts.


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From the record, it is also evident that though plaintiff himself has changed his date of birth from year 1984 to 1994

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but as discussed above, it is clear that such change is contrary to the facts and similarly unnatural, hence if the date of birth of plaintiff is not corrected from 01.01.1994 to 01.01.1984 then his sons would be the ultimate victim of such wrong entry in the CNIC of plaintiff and they would be deprived from their basic right of obtaining Form-B and CNIC. Hence for the ends of justice and to safe guard the basic rights of children of plaintiff, the correction in the date of birth of plaintiff is inevitable as such correction is based on facts while the earlier change in date of birth of plaintiff from 1984 to 1994 is against the fact and having no legal effect on the rights of children of plaintiff.

Hence issue No. 2 is decided in positive while issue No. 3 is decided accordingly in light of above discussion.

Issue No. 01 & 04:

These issues are taken together. For what has been held in issue No. 2 and 3 this court is of the opinion that plaintiff has got cause of action and he is entitled to the decree as prayed for. Both the issues are decided in positive.

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

FARRUKHULLAH
Senior Civil Judge
Orakzai & Bannu District

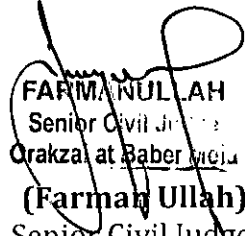
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01.01.1984 in their record. Parties are left to bear their own costs.

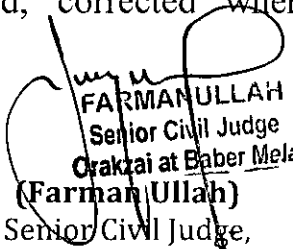
10. File be consigned to the record room after its completion and compilation.

Announced
14/03/2022


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

CERTIFICATE

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


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