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IN THE COURT OF BAKHT ZADA,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No: 46/1 of 2023
Date of Institution: 15.11.2023
Date of Decision: 30.01.2024

Muhammad Hussain s/o Abdul Janan, R/O Qoum Mamozai, Tappa Abdur Raheem Khel, Askari Khel, Tehsil Upper, District Orakzai.

(Plaintiff)

VERSUS

- 1. Chairman NADRA, Islamabad.**
- 2. Assistant Director NADRA, Orakzai.**

(Defendants)

SUIT FOR DECLARATION-CUM-PERPETUAL AND MANDATORY INJUNCTION

JUDGEMENT:

1. Plaintiff Muhammad Hussain s/o Abdul Janan has brought the instant suit against defendant chairman NADRA and 01 other for declaration-cum-perpetual and mandatory injunction to the effect that his correct date of birth is 1968 according to his service book (medical certificate annexed), but the same has been wrongly entered in his record with the defendants as 1964, which needs rectification. He alleged that the defendants were asked time and again for correction of date of birth of the plaintiff, but they refused to do so, hence, the present suit;

Signed
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2. Defendants were summoned, who appeared before the court through their representative namely Mr. Irfan Hussain who submitted 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 suit of the plaintiff is within time?*
3. *Whether the correct date of birth of the plaintiff is 1968 and the defendants have wrongly entered the same as 1964 in his record with them?*
4. *Whether plaintiff is entitled to the decree as prayed for?*
5. *Relief?*

Parties were given opportunity to produce evidence in support of their respective claims. The plaintiff produced and recorded the statements of following PWs;

PW-01: Muhammad Hussain s/o Abdul Janan, the plaintiff himself, appeared as PW-01 who repeated the contents of his plaint. He exhibited the copy of his service book (consists of 09 pages) as Ex.PW-1/1, and copy of his service card as Ex.PW-1/2.

PW-02: Naimat Ullah s/o Gul Jamal, uncle of the plaintiff, appeared as PW-02 who supported the stance of the plaintiff and requested for decree of suit as prayed for. Copy of his CNIC is Ex.PW-


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PW-03: Fazal Karim s/o Din Shah, cousin of the plaintiff, appeared as PW-03 who also supported the stance of the plaintiff and requested for decree of suit as prayed for. Copy of his CNIC is Ex.PW-3/1.

Record Keeper of District Police Officer, Orakzai was summoned to appear before the court as CW. The one Mr. Atif Ullah s/o Aslam Khan, record keeper of District Police Officer, Orakzai appeared and his statement was recorded as CW-01. He produced the original service book and medical certificate of the plaintiff, according to which date of birth of the plaintiff is 1968 (original seen and returned while copies retained). Copy of medical certificate of the plaintiff is Ex.CW-1/1 and copy of CNIC of the Atif Ullah is Ex.CW-1/2.

After closing of evidence of the parties, arguments of the learned counsel/representatives for the parties were heard and available record perused.

My Issue wise findings are as under: -

Issue No. 02:

The plaintiff was issued CNIC with alleged wrong date of birth i.e 1964 while CW-01 Atif Ullah, Record Keeper of Police Department produced his service book already exhibited as Ex.PW-1/1 and medical certificate which is Ex.CW-1/1 and clearly shows the date of birth of the plaintiff as 1968. The date

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of birth mentioned in the medical certificate at the time of joining service has got preference over the NADRA record because the plaintiff has joined service in the year 1996 and wrong entry in his CNIC will affect his service record which is a continues cause of action, therefore, suit of the plaintiff is within time. Issue is decided in positive.

Issue No. 03:

The plaintiff alleged that his correct date of birth according to service record 1968, but the same has been wrongly entered in his record with the defendants as 1964, which is wrong and needs rectification.

In order to prove the factum of his date of birth, he recorded his own statement as PW-01. He exhibited the copy of his service book as Ex.PW-1/1 and copy of his service card as Ex.PW-1/2. Record Keeper of District Police Officer, Orakzai appeared before the court as CW-01 and produced original service book already exhibited as Ex.PW-1/1 and medical certificate of the plaintiff as Ex.CW-1/1, according to which the date of birth of the plaintiff is 1968 instead of 1964.

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The service book and medical certificate are authentic documents and have been prepared prior to the present CNIC of the plaintiff, in the year 1996 and have got preference over the

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NADRA record. Furthermore, the wrong date of birth of the plaintiff in his CNIC will affect his service adversely, therefore, the same is liable to be corrected:

All the PWs and documents produced by the plaintiff are supporting his stance while on the other hand, defendants have nothing on record to rebut the claim of the plaintiff, therefore, it is proved on record that correct date of birth of the plaintiff is 1968 instead of 1964. Issue is decided in positive.

Issue No. 01 & 04:

Both these issues are interlinked, hence, taken together for discussion.

As sequel to my findings on issue No. 03, the plaintiff has proved through cogent evidence that his correct date of birth is 1968 instead of 1964. Issues No. 01 & 04 are decided in positive.

RELIEF:

As sequel to my above issue wise findings, the plaintiff proved his case through cogent evidence, therefore suit of the plaintiff is hereby **decreed** as prayed for with no order as to cost.

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

Announced
30.01.2024

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(Bakht Zada)
Senior Civil Judge,
Orakzai (at Baber Mela)

CERTIFICATE

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

Bakht Zada
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(Bakht Zada)
Senior Civil Judge,
Orakzai at (Baber Mela)