(21)

IN THE COURT OF SHABEER AHMAD,
CIVIL JUDGE-II, TEHSIL COURTS, KALAYA, ORAKZAI

Civil Suit No.	154/1 of 2022
Date of Original Institution:	12.11.2022
Date of Decision:	30.11.2022

Saif Ullah Khan son of Kameen Khan, resident of Qaum Issa Khel, Tapa Meero Khel, Tehsil Central, District Orakzai.

.....(Plaintiff)

VERSUS

1. **Chairman, NADRA, Islamabad.**
2. **Director, General NADRA KPK Peshawar.**
3. **Assistant Director, NADRA District Orakzai.**

.....(Defendants)

SUIT FOR DECLARATION -CUM- PERPETUAL AND MANDATORY INJUNCTION

JUDGMENT

1. Brief facts of the case in hand are that the plaintiff **Saif Ullah Khan son of Kameen Khan** has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that correct date of birth of plaintiff is **01.01.1963**, according to his Service Record and Medical Certificate while it has been wrongly entered as 01.01.1962 in his CNIC by the defendants, which is wrong, ineffective upon the rights of the plaintiff and liable to correction. That the defendants were asked time and again to do the aforesaid correction but they refused, hence, the present suit;

Shabeer Ahmad
Civil Judge-II
Orakzai at (Kalaya)
30/11/2022

2. Defendants were summoned, they appeared through their representative and filed written statement whereby they objected the suit on factual and legal grounds.

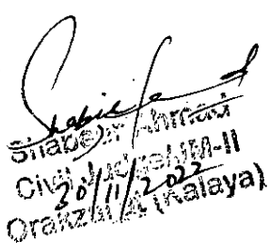
3. Divergent pleadings of the parties were reduced into the following issues;

Issues:

1. Whether the plaintiff has got a cause of action?
2. Whether the suit of the plaintiff is within time?
3. Whether the correct date of birth of the plaintiff as per Service Record is **01.01.1963** while it has been wrongly entered as 01.01.1962 in his CNIC by defendants?
4. Whether the plaintiff is entitled to the decree as prayed for?
5. Relief?

Issue wise findings of this court are as under: -

Issue No. 02:



The defendants in their written statements raised their objection that suit of the plaintiff 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 **12.11.2022**. Thus, the same is well within time. The issue is decided in positive.

Issue No. 03:

The plaintiff alleged in his plaint that the correct date of birth of the plaintiff is **01.01.1963**, according to his Service Record and Medical Certificate while, defendants have wrongly entered the same as 01.01.1962, which is wrong, ineffective upon the rights of the plaintiff and liable to be corrected.

The plaintiff produced witnesses in whom Mr. Abdullah son of Saif Ullah Khan, the School Teacher of Govt: Primary School Issa Khel, appeared as PW-01, who produced copies of Service Book and Medical Certificate which are Ex. PW-1/1 & Ex. PW-1/2 respectively (original seen and returned), wherein date of birth of plaintiff is mentioned as **01.01.1963**. His CNIC is Ex. PW-1/3. During cross examination he stated that plaintiff was recruited on 18.11.2001 and is serving as Chowkidar in GPS Issa Khel, Orakzai. Mr. Saif Ullah Khan son of Kameen Khan, plaintiff himself appeared as PW-02, who produced his CNIC which is Ex. PW-2/1. Further narrated the same story as in the plaint. During cross examination nothing tangible has been extracted out of him.

Shabeer Ahmad
Civil Judge-II
Orakzai at (Kalaya)

In order to counter the claim of the plaintiff, the defendants produced only one witness, the representative of the defendants who appeared as DW-1, who produced Family Tree and Processing Form which are Ex. DW-1/1 & Ex. DW-1/2 respectively. He stated that the plaintiff has once before changed his date of birth from 1963 to 1962. He lastly requested for dismissal of the suit. During cross examination, he admitted that plaintiff is illiterate. Further stated that if date of birth of the plaintiff is changed, it will have no effect on family tree of the plaintiff.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the plaintiff mainly rely on his Service Record and Medical Certificate, in which correct date of birth of plaintiff is mentioned as **01.01.1963**. The aforesaid documents are public documents and presumption of truth is attached to it unless rebutted. Thus, the plaintiff established his claim through cogent and reliable evidence, therefore, the 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. 3, the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Thus, both these issues are decided in positive.

RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiffs is hereby decreed as prayed for. Defendants are directed to correct the date of birth of the plaintiff as **01.01.1963** in their record and in the CNIC of the plaintiff. This decree shall not effect the rights of other person or service record if any.

File be consigned to the District Record Room, Orakzai after its proper completion and compilation.

Announced
30.11.2022

Shabeer Ahmad
Civil Judge-II,
Tehsil Courts, Kalaya, Orakzai

CERTIFICATE

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

Shabeer Ahmad
Civil Judge-II,
Tehsil Courts, Kalaya, Orakzai