

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

Civil Suit No. 138/1 of 2022  
Date of Original Institution: 11.10.2022  
Date of Decision: 21.12.2022

.....  
**Safdar Khan son of Meer Hassan Shah**, resident of Qaum Sheikhan, Tapa Umerzai, Tehsil Central, District Orakzai.

.....(Plaintiff)

**VERSUS**

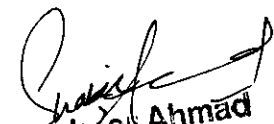
1. **Chairman, NADRA, Islamabad.**
2. **Director, General NADRA KPK Peshawar.**
3. **Assistant Director, NADRA District Orakzai.**

.....(Defendants)

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

**JUDGMENT**

1. Brief facts of the case in hand are that the plaintiff **Safdar 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 **04.02.1989**, according to his Service Record while it has been wrongly entered as 11.12.1982 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;
2. Defendants were summoned they appeared through their representative and filed written statement

  
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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 is **04.02.1989** as per his Service Record while it has been wrongly entered as 11.12.1982 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:**

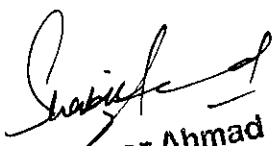
The defendants in their written statements raised their objection that suit of the plaintiffs is time barred but I am the opinion that as per Article 120 of the Limitation Act, 1908 there is a period of 06 years for the institution of such like suits but the aforesaid Limitation Act, 1908 is extended 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 **11.10.2022**. Thus, the same is well within time. The issue is decided in positive.

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**Issue No. 03:**

The plaintiff alleged in his plaint that the correct date of birth of the plaintiff is **04.02.1989**, according to his Sheet Roll (Service Record) whereas, defendants have wrongly entered the same as 11.12.1982, which is wrong, ineffective upon the rights of the plaintiff and liable to be corrected.

Plaintiff produced witnesses in whom Mr. Safdar Khan Son of Meer Hassan Shah, the plaintiff himself, appeared as PW-01. He stated that his correct date of birth is **04.02.1989**, according to Sheet Roll, while defendants have wrongly entered as 11.12.1982. He produced copies of his CNIC and Sheet Roll which are Ex. PW-1/1 & Ex. PW-1/2 respectively. Further stated that he was recruited in Frontier Constabulary. He also produced Covering Letter to NADRA Office, Kalaya which is Ex. PW-1/3. He lastly requested for decree of the suit as prayed for. During cross examination he stated that he is serving in FC. He stated that he made his 1<sup>st</sup> CNIC in 2004. Further stated that he was recruited in 2008. Mr. Usman Ghani son of Meer Hassan Shah, the brother of plaintiff, appeared as PW-02. He produce his CNIC which is Ex. PW-2/1. He stated that correct date of birth of plaintiff is **04.02.1989**. He further stated that plaintiff is recruited in the FC and plaintiff is

  
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younger than him. During cross examination he stated that they are four brothers and Anwar Shah is his elder brother. Further stated that plaintiff is younger than him.

In order to counter the claim of the plaintiff, defendants produced only one witness, the representative of the defendants who appeared as DW-1. He produced RTS Form and CNIC processing detail form of the plaintiff which are Ex. DW-1/1 & Ex. DW-1/2 respectively, according to which date of birth of the plaintiff is 11.12.1982. He lastly requested for dismissal of decree. During cross examination, he admitted that no record of MNIC is available of plaintiff and no one verified the same.

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 in which correct date of birth of the plaintiff is mentioned as 04.02.1989. The aforesaid document is public document 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.

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**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 plaintiff is hereby decreed as prayed for. Defendants are directed to correct the date of birth of the plaintiff as **04.02.1989** 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**  
**21.12.2022**

  
**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