

**IN THE COURT OF ZAHIR KHAN
CIVIL JUDGE-I, KALAYA, ORAKZAI**

Suit No.....190/1 Neem.

Date of Original Institution..... 09.11.2021.

Date of Restoration.....12.09.2022.

Date of decision.....03.10.2022.

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Syed Lal Hussain S/O Syed Ibrahim, R/O Qaum Bar Muhammad Khel,
Tappa Baba Nawasi, Village Darwezi, Tehsil Lower, District Orakzai.

..... (Plaintiff)

Versus

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

..... (Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION.

JUDGEMENT

03.10.2022

Plaintiff along with counsel present. Representative of defendants also present. Arguments already heard and record perused.

Through this judgement, I am going to dispose of the instant suit filed by plaintiff namely Syed Lal Hussain against defendants Chairman NADRA, Islamabad and two others for declaration and permanent injunction.

Brief facts in the backdrop are that plaintiff namely Syed Lal Hussain has filed the instant suit against the defendants Chairman

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Nadra, Islamabad and two others for declaration and permanent injunction to the effect that as per service record and medical certificate, correct date of birth of plaintiff is 01.1.1968, however, defendants have incorrectly entered date of birth of plaintiff as 01.01.1959 which is wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. That defendants were asked time and again to rectify date of birth of plaintiff but in vain hence, the present suit.

After institution of the suit, defendants were summoned, who marked their attendance through representative and contested the suit by filing authority letter and written statement.

From divergent pleadings of the parties, the following issues were framed for adjudication of real controversy between the parties.

ISSUES

1. Whether plaintiff has got cause of action? OPP
2. Whether suit is within time? OPP
3. Whether correct date of birth of plaintiff is 01.01.1968, while it has been wrongly entered as 01.01.1959? OPP
4. Whether plaintiff is entitled to the decree as prayed for? OPP
5. Relief?


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Upon submission of list of witnesses, both the parties on being provided with an opportunity to adduce their desired evidence, the parties produced their respective evidence.

After the completion of evidence, arguments of the learned counsel for the parties were heard and record of the case file was gone through with their valuable assistance.


During course of recording evidence, Plaintiff produced one witness in support of his claim.

Plaintiff himself appeared and deposed as PW-01. He reiterated the averments of plaint. Photocopies of his CNIC, Service Card, Service Record and Medical are Ex. PW-1/1 to Ex. PW-1/4. Original service record was produced. It was seen and returned. He lastly requested for decree of suit against the defendants as prayed for.

Thereafter, evidence of plaintiff was closed. Nothing contradictory could be brought on record from PW.

Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He produced FRC, CNIC processing form and RJS Data which are Ex. DW-1/1 to Ex. DW-1/3. He stated that plaintiff has been issued CNIC as per information provided by plaintiff and he has got no cause of action and lastly requested for dismissal of suit. Thereafter, evidence of defendants was closed

My issue wise findings are as under: -


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ISSUE NO.2:

CNIC of plaintiff was renewed on **16.08.2019** with life time expiry while suit in hand was filed on **09.11.2021**. In plethora of judgements of the superior courts, it is held that every wrong entry will accrue fresh cause of action, therefore, suit of plaintiff is held to be within time. Issued decided in positive.

ISSUE NO.3:

Claim and contention of plaintiff is that as per Service Record, his true and correct date of birth is 01.01.1968, however, defendants have incorrectly entered date of birth of plaintiff as 01.01.1959 which is wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. He produced documentary evidence in support of his claim in shape Ex. PW-1/2 to Ex. PW-1/4 as per which date of birth of plaintiff is recoded as 01.01.1959. Medical certificate is Ex. PW-1/4 as per which, age of plaintiff is 39 years when he was appointed on 16.05.2007 which also support plea of plaintiff.

Keeping in view the above discussion and documentary as well as oral evidence available on file, it is held that correct date of birth of plaintiff is 01.01.1968 which is correctly recorded in his Service Record. Issue decided accordingly.


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ISSUES NO.1 & 4.

In the light of foregoing discussion, it is held that plaintiff has got cause of action and he is entitled to the decree, as prayed for. Both these issues are decided accordingly.

RELIEF.

Crux of my issue wise discussion is that suit of plaintiff is hereby decreed in his favor against the defendants as prayed for. No order as to costs. This decree shall not affect the rights of any other person interested, if any and service record of plaintiff.

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

ANNOUNCED
03.10.2022



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CERTIFICATE

It is certified that this judgment consists of 05 pages. Each page has been dictated, read, corrected and signed by me.



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