

28

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

Civil Suit No. 136/1 of 2022  
Date of Original Institution: 10.10.2022  
Date of Decision: 10.11.2022

**Mastaj Ali son of Muhammad Faqir**, resident of Qaum Mani Khel, Tapa Mirwas Khel, Jeemarai, 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 -CUM- PERPETUAL AND MANDATORY INJUNCTION**

**JUDGMENT**

1. Brief facts of the case in hand are that the plaintiff **Mastaj Ali son of Muhammad Faqir** 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 **21.09.1964**, according to his Pension Book while it has been wrongly entered as 1975 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*  
 Shabeer Ahmad  
 Civil Judge/JM-II  
 Orakzai (Kalaya)

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 plaintiff is estopped to sue?
3. Whether the suit of the plaintiff is within time?
4. Whether the correct date of birth of the plaintiff as per his Pension Book is **21.09.1964** while it has been wrongly entered as 1975 in his CNIC by defendants?
5. Whether the plaintiff is entitled to the decree as prayed for?
6. Relief?

Issue wise findings of this court are as under: -

**Issue No. 02:**

The defendants in their written statement raised the objection that the plaintiff is estopped to sue but later on failed to prove the same, hence, the issue is decided in negative.

**Issue No. 03:**

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

*Shabeer Ahmad*  
 Shabeer Ahmad  
 Civil Judge/Jr-II  
 Orakzai at (Kalaya)

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 10.10.2022. Thus, the same is well within time. The issue is decided in positive.

**Issue No. 04:**

The plaintiff alleged in his plaint that the correct date of birth of the plaintiff is 21.09.1964, according to his Pension Book whereas, defendants have wrongly entered the same as 1975, which is wrong, ineffective upon the rights of the plaintiff and liable to correction.

*Shabzeer Ahmad*  
 Shabzeer Ahmad  
 Civil Judge (S) II  
 Orakzai (Kalaya)

The plaintiff produced witnesses in whom Mr. Mastaj Ali son of Muhammad Faqir, the plaintiff himself, appeared as PW-01, who produced his CNIC which is Ex. PW-1/1 and copy of Service (Pension) Book which is Ex. PW-1/2. Further narrated the same story as in the plaint. The witness has been cross examined whereby he stated that he has no knowledge of his first CNIC. That he is retired from FC. That he lost his previous CNIC. Mr. Meerza Hassan son of Rahmat Hussain, cousin of the plaintiff, appeared as PW-02, who produced his CNIC which is Ex. PW-2/1

and further fully supported the stance of the plaintiff as in the plaint.

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 RTS Form, Family Tree and CNIC processing detail form of the plaintiff which are exhibited as Ex. DW-1/1 to Ex. DW-1/3 respectively. He lastly prayed for dismissal of the suit. But during cross examination, he stated that if the date of birth of plaintiff is corrected it will not effect the family tree of the plaintiff.

Arguments heard and record perused.

Perusal of record reveals that the plaintiff mainly rely on his Service Record in which correct date of birth of the plaintiff is mentioned as **21.09.1964**. Furthermore, the family tree which is produced by defendants shows that there is an unnatural gap of 10 years between the plaintiff and his son namely Sohrab Ali. Thus, the plaintiff established his claim through cogent and reliable evidence, therefore, the issue is decided in positive.

**Issue No. 01 &02:**

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

*Shabeer Ahmad*  
Shabeer Ahmad  
Civil 6/11/2024  
Orakzai (Kalaya)

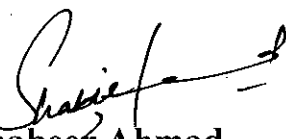
As sequel to my findings on issue No. 4, the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Thus, both these issues are decided in positive.

**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 **21.09.1964** in their record and in the CNIC of the plaintiff. This decree shall not effect to rights of other person or service record if any.

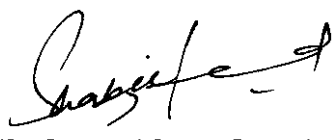
File be consigned to the District Record Room, Orakzai after its proper completion and compilation.

**Announced**  
**10.11.2022**

  
**Shabeer Ahmad**  
Civil Judge-II,  
Tehsil Court, 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 Court, Kalaya, Orakzai