

**IN THE COURT OF ZAHIR KHAN,  
Civil Judge-I, Kalaya, Orakzai.**

Suit No.....9/1 Neem of 2022.

Date of Original Institution.....29.01.2022.

Date of Restoration.....03.10.2022.

Date of decision.....17.10.2022.

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Mohib Ali S/O Khair Ali R/O Qoum Bar Muhammad Khel, Tappa Alat  
Khel, Tehsil Lower, District Orakzai.

..... (Plaintiff)

**Versus**

- 1. Assistant Director, NADRA, District Orakzai
- 2. Assistant Director, NADRA, Islamabad

..... (Defendants)

**SUIT FOR DECLARATION & PERMANENT INJUNCTION.**

**JUDGEMENT**

**17.10.2022**

Through this judgement, I am going to dispose of the instant suit filed by plaintiff namely Mohib Ali against the defendants Assistant Director NADRA, District Orakzai and one other for declaration and permanent injunction.

Brief facts in the backdrop are that plaintiff has filed the instant suit against the defendants for declaration and permanent injunction to the effect that as per service record, true and correct date of birth of plaintiff is 1965, however, defendants have incorrectly entered date of birth of plaintiff as 01.01.1962 which is wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. That defendants

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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. In the written statement, the defendants have raised several legal and factual objections.

From divergent pleadings of the parties, the followings issues were framed for adjudication of real controversy between the parties by learned predecessor of the court.


**ISSUES**

1. Whether plaintiff has got cause of action? OPP
2. Whether suit of plaintiff is within time? OPP
3. What is the correct date of birth of plaintiff? OPP
4. Whether plaintiff is entitled to the decree as prayed for? OPP
5. Relief?

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.

During course of recording evidence, plaintiff produced two witnesses in support of his claim while defendants produced one witness in their defense.

Asif Abbas, Teacher Government Primary School, Khair Ali Kalay appeared and deposed as PW-01. He produced service record of plaintiff,

  
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as per which date of birth of plaintiff is recorded as 1965. Extract of Service Book consisting of 07 pages is Ex. PW-1/1. Copy of his CNIC is Ex. PW-1/2.

Plaintiff himself appeared and deposed as PW-02. He reiterated the averments of plaint. Copy of his CNIC is Ex. PW-2/1. He lastly requested for decree of suit against the defendants as prayed for. Thereafter, evidence of plaintiff was closed.

Record Keeper/representative of NADRA appeared and deposed as DW-01. He produced family tree of plaintiff as DW-1/1. He stated that date of birth of daughter of plaintiff namely Mst. Jameela is 1976 and date of birth of another daughter of plaintiff namely Mst. Makhmeena is 02.02.1979. Modification in date of birth of plaintiff will create unnatural age difference of 11 and 14 years between plaintiff and his daughters named above. He stated that plaintiff has been issued CNIC as per information provided by plaintiff and lastly requested for dismissal of suit of plaintiff.

After 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.

My issue wise findings are as under: -

**ISSUE NO.2:**

CNIC of plaintiff was renewed on **12.03.2015** with date of expiry as 12.03.2025 while suit in hand was filed on **29.01.2022**. Every wrong entry will accrue fresh cause of action. Period of limitation for filing

  
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declaratory suit under Article 120 of Limitation Act, is six years therefore, suit of plaintiff is held to be within time. Issue decided in affirmative.

**ISSUE NO.03.**

Claim of plaintiff is that his true and correct date of birth is **1965**, however, defendants have incorrectly entered date of birth of plaintiff as **01.01.1962** which is wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. Burdon of proof was on plaintiff to establish that his true and correct date of birth is 1965 instead of 01.01.1962. Plaintiff has placed reliance on service record exhibited as Ex-PW-1/1. Medical certificate which is part and parcel of service record was not produced during course of trial. Medical certificate would show age of employee at the time of his appointment.

Furthermore, as per Ex. DW-1/1, date of birth of daughter of plaintiff namely Mst. Jameela is recorded as 1976 and date of birth of another daughter of plaintiff namely Mst. Makhmeena is recorded as 02.02.1979. Modification in date of birth of plaintiff will create unnatural age difference of 11 and 14 years between plaintiff and his daughters named above. Both the daughters of plaintiff have not been arrayed as party to the suit. Plaintiff in his cross examination stated that his daughter

namely Mst. Jameela is a Master Degree Holder and she is serving as government school teacher. Representative of defendants assisted the

court that if date of birth of plaintiff is modified from 01.01.1962 to 01.01.1965, then it will result into unnatural age difference of 11 and 14 years between plaintiff and his daughters and that CNIC of daughters of

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plaintiff will be blocked. Daughters of plaintiff named above are not party to the suit which is also fatal to the case of plaintiff.

Therefore, issue No. 3 is decided in negative and against the plaintiff.

**ISSUES NO.1 & 4.**

In the light of foregoing discussion, it is held that plaintiff failed to prove his claim, therefore, he has got no cause of action and is not entitled to the decree, as prayed for. Both these issues are decided in negative and against the plaintiff.

**RELIEF.**

Crux of my issue wise discussion is that as plaintiff failed to prove his claim, therefore, suit of the plaintiff is hereby dismissed. No order as to cost.

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

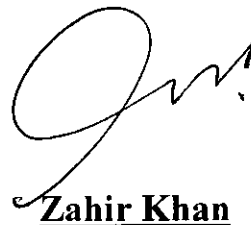
**ANNOUNCED**  
**17.10.2022.**



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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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