

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

Civil Suit No. 165/1 of 2022
Date of Original Institution: 19.06.2020
Date of Decision: 05.12.2022

Mst. Zakhela Jan W/O Habib Khan, resident of Qaum Bar Muhammad Khel, Tapa Khuidad Khel, PO Kadda, 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 has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that correct dates of birth of plaintiff is **01.01.1975**, according to her service record, while it has been wrongly entered as 1955 in her CNIC by the defendants, which is wrong, ineffective upon the rights of the plaintiff and liable to correction. The suit was decreed in favor of plaintiff vide judgement, order and decree dated 06.12.2021. Feeling aggrieved from the said judgment, decree and order defendants preferred an appeal before the Worthy

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Additional District & Sessions Judge, Orakzai. The Worthy Additional District & Sessions Judge remanded back the case with the directions to the trial court to club the suit of respondent with that of her daughter and son for its final determination ~~of~~ fresh, after receiving of record of the case file, the learned trial court sought report from office and per report of the office, no suit of son or daughter was instituted/pending, therefore, the record of instant suit was consigned to record room. Pursuant to the directions of the learned appellate court, son/daughter have instituted suit no. 65/1 of 2022 which is pending before the court.

2. That the defendants were asked time and again to do the aforesaid correction but they refused, hence, the present suit;

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

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

Issues:

Whether the plaintiff has got cause of action?

Whether the correct date of birth of the plaintiff is **01.01.1975** while it has been wrongly entered as 1955 in her CNIC?

Whether the plaintiff is entitled to the decree as prayed for?

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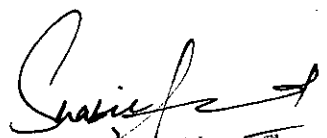
Relief?

Issue wise findings of this court are as under: -

Issue No. 02:

The plaintiff alleged in her plaint that her correct date of birth is **01.01.1975** according to her Service Record while it has been wrongly entered as 1955 in her CNIC, which is wrong and ineffective upon the rights of the plaintiff and is liable to correction. That the defendants were asked time and again for correction of date of birth of the plaintiff but they refused to do so, hence the present suit.

The plaintiff produced witnesses, in whom Mr. Jamshid Ali S/O Awan Ali, an elder brother of the plaintiff, appeared as PW-01, who produced his CNIC which is exhibited as Ex. PW-1/1 and further fully narrated the same story as in the plaint. Further, Mr. Sadeef Ali S/O Habib Khan, the son of the plaintiff appeared as PW-02, who produced his CNIC which is exhibited as Ex. PW-2/1 and further supported the stance of the plaintiff as in the plaint. Further Mr. Mehtab Habib, the Clerk Health Department, Orakzai, appeared as PW-03, who produced the copies of Service Book, Domicile, Dae Certificate and appointment order of the plaintiff which are Ex. PW-3/1 to Ex. PW-


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3/4 respectively and that according to these documents the date of birth of the plaintiff is 1975. All the witnesses are cross examined but nothing tangible have been extracted out of them during cross examination.

In order to counter the claim of the plaintiff, the defendants produced only one witness, as Mr. Syed Farhat Abbas, the representative of the defendants appeared as DW-1, who produced CNIC processing detail form of the plaintiff which is Ex-DW-1/1, the form A of the plaintiff which is Ex-DW-1/2 and Family tree of the plaintiff which is Ex-DW-1/3. But during cross examination, he admitted that he does not know the fact that the plaintiff is a literate.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the plaintiff mainly relies on her Service Records which are public documents and bear the presumption of truth unless rebutted. Also, the representative of the defendants has not objected over the aforesaid document when they were exhibited which legally results into admission on the part of the defendants. Thus, the plaintiff established her claim through cogent and reliable evidence, therefore, the issue is decided in positive.

Issue No. 01 & 03:

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

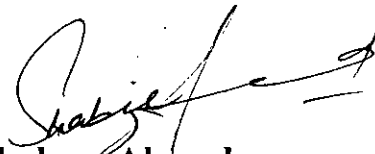
As sequel to my findings on issue No. 2, the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Thus, both these issues are decided in positive.

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 date of birth of plaintiff as **01.01.1975** in their record and in the CNIC of plaintiff. This decree shall not effect the rights of other person(s) or any service record if any.

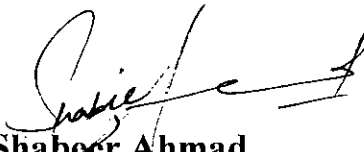
File be consigned to the Record Room after its completion and compilation.

Announced
05.12.2022


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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