

(31)

IN THE COURT OF BAKHT ZADA,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 49/1 of 2023
Date of Institution: 07.12.2023
Date of Decision: 27.02.2024

**Muhammad Hassan s/o Haider Hassan, R/O Qoum Bar
Muhammad Khel, Tappa Khwaidad Khel, Tehsil Lower, District
Orakzai.**

(Plaintiff)

VERSUS

- 1. Chairman, BISE Kohat.**
- 2. Chairman NADRA, Islamabad.**
- 3. Director General NADRA, Peshawar, KPK.**
- 4. Assistant Director NADRA, Orakzai.**

(Defendants)

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

JUDGEMENT:

1. Plaintiff Muhammad Hassan s/o Haider Hassan has brought the instant suit against defendants, Chairman BISE Kohat and 03 others for declaration-cum-perpetual and mandatory injunction to the effect that his correct date of birth is 03.04.1990 as per his service record, but the same has been wrongly entered in his record with the defendants as 05.05.1995 which needs rectification. He alleged that the defendants were asked time and again for correction of his date of birth, but they refused to do so, hence the present suit;

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2. Defendants were summoned, who appeared before the court through their representative and legal advisor who submitted their written statements.

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

Issues:

1. *Whether the plaintiff has got cause of action?*
2. *Whether the correct date of birth of the plaintiff is 03.04.1990 and the defendants have wrongly entered the same as 05.05.1995 in his record?*
3. *Whether plaintiff is entitled to the decree as prayed for?*
4. *Relief?*

Parties were given opportunity to produce evidence in support of their respective claims. The plaintiff produced and recorded the statements of following PWs;

PW-01: Muhammad Hassan s/o Haider Hassan, the plaintiff himself, appeared as PW-01 who repeated the contents of his plaint. He exhibited the copies of his service book as Ex.PW-1/1 to Ex.PW-1/3, SSC Certificate of BISE Kohat as Ex.PW-1/4 and copy of his CNIC as Ex.PW-1/5.

PW-02: Mubashir Hassan s/o Haider Hassan, brother of the plaintiff, appeared as PW-02 who supported the stance of the plaintiff and requested for decree of suit as prayed for. Copy of their CNIC is

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Ex.PW-2/1.

PW-03: Muhammad Rasheed, Record Keeper, Education Department, appeared as PW-03 who supported the stance of the plaintiff and produced original service book of the plaintiff (original seen and returned while copies retained)

On the other hand, representative for NADRA (defendants no. 02 to 04), Irfan Hussain recorded his statement as DW-01, wherein he produced authority letter Ex.DW-1/1 and denied the claim of the plaintiff by repeating the contents of his written statement.

Mr. Shaheen Muhammad advocate, legal advisor for defendant No. 01 appeared as DW-02 and stated that he relies on the certificate no. 35491 bearing Roll No. 65293, issued by BISE Kohat in the year 2011 and do not want to produce further evidence.

After closing of evidence of the parties, arguments of the learned counsel/representatives for the parties were heard and available record perused.

My Issue wise findings are as under: -

Issue No. 02:

The plaintiff alleged that his correct date of birth according to his service record is 03.04.1990, but the same has been wrongly entered in his record with the defendants as 05.05.1995, which is wrong and needs rectification.

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27.2.24

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In order to prove the factum of his date of birth, he recorded his own statement as PW-01. He exhibited the copies of his service book as Ex.PW-1/1 to Ex.PW-1/3, SSC Certificate of BISE Kohat as Ex.PW-1/4 and copy of his CNIC as Ex.PW-1/5. The service record has been received from proper custody and is authentic document and has preference over the other documents. Furthermore, the contention of the plaintiff is very much clear from perusal of Ex.PW-1/1 i.e service book. The wrong entry of date of birth of the plaintiff will lead to complications in his service at the time of retirement. All the PWs and documents produced by the plaintiff are supporting his stance while on the other hand, defendants have nothing on record to rebut the claim of the plaintiff, therefore, it is proved on record that correct date of birth of the plaintiff is 03.04.1990 instead of 05.05.1995. Issue is decided in positive.

Issue No. 01 & 03:

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

As sequel to my findings on issue No. 02, the plaintiff has proved through cogent evidence that his correct date of birth is 03.04.1990 instead of 05.05.1995. Issues No. 01 & 04 are decided in positive.

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- BAKHT ZADA
Senior Civil Judge JM
Orakzai District Mela

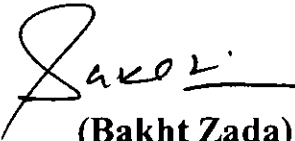
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RELIEF:

As sequel to my above issue wise findings, the plaintiff proved his case through cogent evidence, therefore suit of the plaintiff is hereby **decreed** as prayed for with no order as to cost.

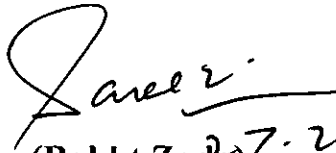
File be consigned to the Record Room after its completion and compilation.

Announced
27.02.2024


(Bakht Zada) 27.2.24
Senior Civil Judge,
Orakzai (at Baber Mela)

CERTIFICATE

Certified that this judgment of mine consists of five (05) pages, each has been checked, corrected where necessary and signed by me.


(Bakht Zada) 27.2.24
Senior Civil Judge,
Orakzai at (Baber Mela)