

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

Suit No.....8/1 of 2024.

Date of Institution.....16.03.2024.

Date of decision.....25.03.2024.

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Syed Shabir Hussain S/O Syed Aleem Hussain R/O Qoum Bar Muhammad
Khel, Tappa Merazi Khel, PO Kurez, 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

25.03.2024

Plaintiff along with counsel present. Legal representative of
defendants present. Authority letter and written statement submitted.
Issues framed. List of witnesses submitted. Evidence of plaintiff
recorded as PW-01 to PW-03 and closed. Evidence of defendants
recorded as DW-01 and closed. Arguments also heard and record
perused.



**ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai**


Through this judgement, I am going to dispose of the instant suit
filed by plaintiff namely Syed Shabir Husain against defendants
Chairman NADRA, Islamabad and two others 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 and Pension Payment Order, true and correct date of birth of plaintiff is 11.10.1963, however, defendants have incorrectly entered the same as 01.01.1968 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

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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 11.10.1963 and it has wrongly been entered in his CNIC by defendants as 01.01.1968? 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 evidence.

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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 03 witnesses in support of his claim.

Plaintiff himself appeared and deposed as PW-01. He reiterated the averments of plaint. He produced service record in shape of pension book. Copy of the same is Ex.PW-1/1, copy of discharge book is Ex.PW-1/2 and copy of his CNIC is Ex. PW-1/3. He lastly requested for decree of suit against the defendants as prayed for.

Syed Janab Hussain/ relative of plaintiff, deposed as PW-02. Copy of his CNIC is Ex.PW-2/1. Javid Hussain, another relative of plaintiff deposed as PW-03. Copy of his CNIC is Ex. PW-3/1. Both the PWs supported the stance of plaintiff. Thereafter, evidence of plaintiff was closed. Nothing contradictory could be brought on record from PWs.

Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. His authority letter is Ex. DW-1/1. He stated that plaintiff has been issued CNIC as per information provided by him, therefore, he has got no cause of action. Thereafter, evidence of defendants was closed

My issue wise findings are as under: -

ISSUE NO.2:



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Plaintiff has been issued CNIC on 03.01.2023 with expiry date as 03.01.2033 while suit in hand was filed on 16.03.2024. As period of limitation under Article 120 of Limitation Act is six years, therefore, suit of plaintiff is held to be within time. Issue No. 2 decided in positive.

ISSUE NO.3:

Claim and contention of plaintiff is that as per service record and Pension Payment Order, his true and correct date of birth is 11.10.1963, however, defendants have incorrectly entered the same as 01.01.1968 which is wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. Plaintiff produced documentary evidence in support of his claim in shape of Pension Payment Order as Ex.PW-1/1 (10 sheets) and other service record Ex.PW-1/2 (09 sheets) as per which date of birth of plaintiff is recoded as 11.10.1963. On the other hand, not a single document was produced by DW-01 which could rebut the version of plaintiff. Furthermore, DW-01 stated in his cross examination that modification sought by plaintiff is possible as per NADRA SOPs as well. Furthermore, plaintiff is a retired government servant and the rectification/modification in date of birth from 01.01.1968 to 11.10.1963 will not affect rights of others.



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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 11.10.1963 which is correctly recorded in his Service Record. Issue decided accordingly.

ISSUE NO.1 & 4.

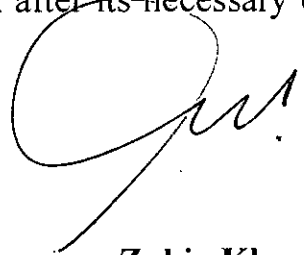
In the light of foregoing discussion, it is held that plaintiff has got cause of action and is entitled to the decree, as prayed for. Both these issues are decided accordingly.

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.

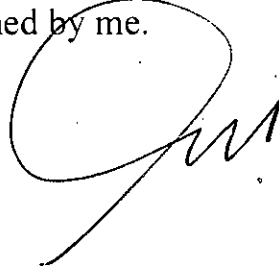
ANNOUNCED
25.03.2024



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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.



Zahir Khan
Civil Judge-I, Kalaya, Orakzai