

34

**CHAIRMAN BISE KOHAT ETC. VS AKMAL HAYAT**  
Civil Appeal No. 7/13 of 2024

**IN THE COURT OF SYED OBAIDULLAH SHAH,**  
**DISTRICT JUDGE, ORAKZAI (AT BABER MELA)**

CIVIL APPEAL NO. : 7/13 OF 2024  
DATE OF INSTITUTION : 01.10.2024  
DATED OF TRANSFER-IN : 27.11.2024  
DATE OF DECISION : 04.12.2024

1. CHAIRMAN, BISE, KOHAT
2. CONTROLLER OF EXAMINATION, BISE, KOHAT ETC.

.....(APPELLANTS)

-VERSUS-

AKMAL HAYAT S/O HASHMAT KHAN, R/O CASTE FERAZ  
KHEL, TAPA QASIM KHEL, DISTRICT ORAKZAI

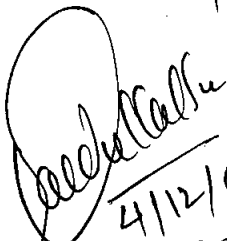
..... (RESPONDENT)

**Present:** Shaheen Muhammad Advocate, legal advisor of the  
appellants.  
: Sana Ullah Khan Advocate for respondent.

**JUDGEMENT**  
04.12.2024

Impugned herein is the judgment/decreed dated 26.07.2024 of the learned Senior Civil Judge, Orakzai passed in civil suit no. 24/1 vide which suit of the respondent/plaintiff has been decreed in his favour as prayed for.

- (2). In a suit for declaration-cum-perpetual and mandatory injunction before the trial court, respondent/plaintiff claimed that his correct date of birth, as per his CNIC and service record, is 05.11.1989 but the appellants/defendants have wrongly incorporated the same as 03.01.1992 in their record. The appellants/defendants were summoned who appeared before the learned trial court through their legal advisor who contested the suit by submission of written statement. But later

  
4/12/24  
Syed Obaidullah Shah  
District & Sessions Judge  
Orakzai at Baber Mela

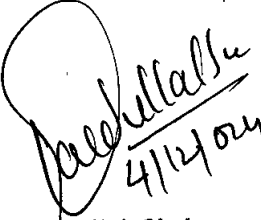
35

**CHAIRMAN BISE KOHAT ETC. VS AKMAL HAYAT**  
Civil Appeal No. 7/13 of 2024

on the appellants/defendants remained absent and ex-parte decree was passed in favour of the respondent/plaintiff after adducing evidence in support his contention. The appellants/defendants, feeling themselves aggrieved of the impugned judgement and decree, filed the instant appeal.

- (3). Arguments heard and record gone through.
- (4). Perusal of the case file shows that an ex-parte decree was passed in favour of the respondent/plaintiff, allowing the correction of his date of birth in the records of the appellants/defendants, changing it from 03.01.1992 to 05.11.1989. This decision was made after the defendants were declared ex-parte, meaning they failed to appear in court; as a result, the court proceeded with the case and the respondent/plaintiff had presented evidence and arguments supporting the claim for the correction of his date of birth. Consequently, the court, relying on the unchallenged evidence provided by the respondent/plaintiff, issued the decree to amend his date of birth in the appellants/defendants' official record.

However, as the appellants/defendants were placed and proceeded ex-parte and in view of the well settled principle of law that parties must have opportunity to adduce evidence in support of their contentions and no one should be condemned unheard; thus, without touching the merits of the case, the impugned order/judgment of the learned trial court

  
4/14/24  
Syed Obaidullah Shah  
District & Sessions Judge  
Orakzai at Baber Mela

**CHAIRMAN BISE KOHAT ETC. VS AKMAL HAYAT**  
Civil Appeal No. 7/13 of 2024

dated 26.07.2024 is set aside with cost of Rs. 1000/- imposed on the appellants/defendants. The case is remanded back to the learned trial court to decide it on merits after giving opportunity to the appellants/defendants to produce evidence. Needless to mention here that respondent/plaintiff must also be given opportunity to produce evidence in rebuttal, if any.

Judgment announced. Record be returned forthwith with copy of this judgment while file of this court be consigned to record room.

Dated: 04.12.2024

**(SYED OBAIDULLAH SHAH)**  
District Judge, Orakzai  
at Baber Mela

**CERTIFICATE**

Certified that this judgment consists of three (03) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 04.12.2024

**(SYED OBAIDULLAH SHAH)**  
District Judge, Orakzai  
at Baber Mela

