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IN THE COURT OF REHMIAT ULLAH WAZIR,
CIVIL JUDGE-I ORAKZAI AT BABER MELA

Civil Suit No. 35/1 of 2020
Date of Institution after restoration 19/03/2020
Date of Decision: 22/12/2020

1. Khan Haider S/O Ali Asghar R/O Sheikhan, Ghiljo, Ismael Zai, District Orakzai.

(Plaintiff)

VERSUS

1. **Chairman NADRA, Islamabad, Pakistan.**
2. **Director General NADRA, KPK, Peshawar.**
3. **Assistant Director, NADRA, District Orakzai.**


Through
Assistant Director NADRA, Orakzia.....

(Defendants)

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

JUDGEMENT:

1. Plaintiff Khan Haider S/O Ali Asghar has brought the instant suit for declaration-cum-permanent injunction against defendants, namely Chairman NADRA, Islamabad, Pakistan, Director General NADRA, Peshawar, KPK, through Assistant Director, District Orakzai seeking therein that correct date of birth of the plaintiff is 1964 according to his Service Record and Medical Fitness Certificate whereas, defendants have wrongly entered the same as 1977 in the CNIC No. 21604-6367877-9 instead of 1964 which is wrong and ineffective upon the rights of the plaintiff and is liable to correction.


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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;

2. Defendants were summoned, who appeared before the court through their representative and contested the suit by filing their written statement wherein some evasive denials have been made.
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 suit of the plaintiff is within time?*
3. *Whether the correct date of birth of the plaintiff is 1964 while is has been wrongly entered in his CNIC as 1977?*
4. *Whether the plaintiff is entitled to the decree as prayed for?*
5. *Relief?*

Parties were given an opportunity to produce evidence which they did accordingly. The plaintiff produced witnesses, in whom the plaintiff himself appeared as PW-01, who produced his CNIC which is Ex.PW-1/1 and that according to this, his date of birth is 1977, which is issued in 2016. That the correct date of birth of the plaintiff is 1964 according to his Service Record and Medical Fitness

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Certificate. That the plaintiff was appointed as chowkidar in the year 1989 in the age of 25 years which is mentioned in his medical certificate. Further produced the CNIC of his brother which is Ex.PW-1/2. Further Mr. Rehman Ghani, the maternal uncle of the plaintiff appeared as PW-02 and narrated the same story as in the plaint. Further Mr. Ijaz-Ul-Haq, teacher of the GPS Nakata Sheikhan appeared as PW-03, who produced attendance register of the attendance of the plaintiff as chowkidar in the same school form the year 2005. To 2019, copy of which is Ex.PW-3/1. Further, Mr. Iqbal Hussain, focal person litigation, DEO office Orakzai appeared as PW-04, who produced the appointment order of the plaintiff which is Ex.PW-4/1, medical certificate and computerized data which are Ex.PW-4/2 and Ex.PW-4/3 respectively. Further, stated that the plaintiff has been recruited as chowkidar in the Education Department on 20.07.1989 in the GPS Nakata Sheikhan and his personal number is 450933. During cross examination he admitted that plaintiff is the permanent employee of the Education Department and that according to service record, he was of the age of 25 years at the time of appointment/recruitment.

The defendants produced only one witness as the record keeper of NADRA, Orakzai appeared as DW-01, who


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produced the CNIC processing form of the plaintiff, which is Ex.DW-1/1, the family tree of the plaintiff which is Ex.DW-1/2, the MNIC of the plaintiff which is Ex.DW-1/3 and that according to all these documents, the date of birth of the plaintiff is mentioned as 1977, but admitted in his cross examination that the plaintiff is an illiterate person and that the MNIC of the plaintiff is not in original and attested one.

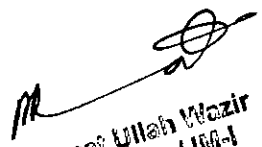
Issue wise findings of this court are as under: -

Issue No. 02:

The defendants in their written statements raised their objection that suit of the plaintiff is time barred but I am the opinion that as per Article 120 of the Limitation Act, 1908 there is a period of 06 years for the institution of a declaratory suit. As per the record, the impugned CNIC has been issued to the plaintiff on 18.11.2016 while the instant suit has been filed on 19.03.2020, thus, the same is well within time. The issue is decided in positive.


Issue No. 03:

The plaintiff alleged in his plaint that correct date of his birth is 1964 according to his Service Record and Medical Fitness Certificate whereas, defendants have wrongly entered the same as 1977 in the CNIC No. 21604-6367877-9 instead of 1964 which is wrong and ineffective


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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;

In support of this contention, the plaintiff himself appeared as PW-01. He also produced 01 oral witness as PW-02, who fully supported the stance of the plaintiff. The teacher of the concerned school where the plaintiff is serving as chowkidar, has also been produced as PW-03, who produced the attendance register of the plaintiff from the year 2005 To 2019 as Ex.PW-3/1. The focal person of litigation of the DEO office, Orakzai appeared as PW-04, who produced the appointment order and medical certificate of the plaintiff as Ex.PW-4/1 and Ex.PW-4/2 respectively, wherein it is mentioned that the age of the plaintiff was 25 years at the time of his recruitment on 20.07.1989. The defendants have produced only one witness, who produced the CNIC processing form of the plaintiff, the family tree of the plaintiff and MNIC of the plaintiff which are Ex.DW-1/1 To Ex.DW-1/3 but has admitted that the plaintiff is an illiterate person and his MNIC is not in original and attested one.


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In the light of the aforesaid findings, I am of the opinion that firstly, the claim of the plaintiff is supported by

his service record, wherein he has been appointed on 20.07.1989 as chowkidar in GPS, Nakata Sheikhan with mention of his age as 25 years as per the record. Secondly, once it is established that he has been appointed as chowkidar on 20.07.1989, then how it is possible for a kid of 11/12 years to be appointed as chowkidar in a government department. It is an admitted fact on the part of the defendants that the plaintiff is an illiterate person, thus, there is every possibility of an inadvertent mistake on the part of the plaintiff to have produced erroneous particulars at the time of issuance of his MNIC. Further, the plaintiff is increasing his age and not decreasing his age through the instant suit, thus, there is no apprehension to the violation of rights of any third person in the case of the success of the plaintiff. Also, the plaintiff belongs to a very poor and war-torn zone, where the public organizations are duty bound to facilitate the citizens and resolve their petty issues at their doorsteps. Thus, in the light of the aforesaid findings, the issue is decided in positive.

Issue No. 01 & 04:

Both these issues are interlinked, hence, taken together for discussion. As sequel to my findings on issue No. 3, the plaintiff has got a cause of action and

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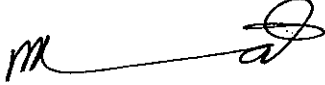
therefore entitled to the decree as prayed for. Both these issues are decided in positive.

RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for with costs.

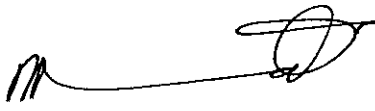
File be consigned to the Record Room after its completion and compilation.

Announced
22/12/2020


(Rehmat Ullah Wazir)
Civil Judge-I,
Orakzai at Baber Mela.

CERTIFICATE

Certified that this judgment of mine consists of seven (07) pages, each has been checked, corrected where necessary and signed by me.


(Rehmat Ullah Wazir)
Civil Judge-I,
Orakzai at Baber Mela.

