

IN THE COURT OF IJAZ MAHSOOD, SENIOR CIVIL JUDGE,
ORAKZAI AT BABER MELA

Suit No.....24/1 (neem) of 2024
Date of Original Institution.....03.05.2024
Date of Remand Back14.01.2025
Date of Decision.....30.04.2025

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Akmal Hayat s/o Hashmat Khan, R/O Qoum Feroz Khel,
Tappa Qasim Khel, Tehsil Lower, District Orakzai.
.....(*Plaintiff*)

Versus

1. Chairman BISE, Kohat.
2. Controller of Examination BISE, Kohat
..... (*Defendants*)

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SUIT FOR DECLARATION & PERMANENT INJUNCTION

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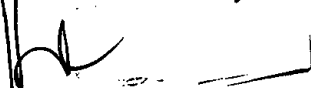
JUDGMENT
30.04.2025

This judgment decides instant case filed by Akmal Hayat for correction of his date of birth as maintained by the defendants.

Pleadings:

Facts as recounted in the plaint reads that correct date of birth of the plaintiff is 05.11.1989 according to CNIC and service record while the defendants have erroneously recorded the same as 03.01.1992; hence, the suit.

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In rebuttal, the legal advisor for the defendants has raised the regular objections to the legal validity of the claim, the standing of the plaintiff, and factual version of the matter.

The case is remanded back to the undersigned by the Worthy District & Sessions Judge, Orakzai vide judgment, Dated: 04.12.2024 with directions to frame issues and to provide opportunity to both the parties to adduce evidence.

The controversy as related in the pleadings was distilled into the following issues:

Issues:

1. *Whether suit is valid in its legal frame, and the court is competent to hear it?*
2. *Whether correct date of birth of the plaintiff is 05.11.1989 while the same has been erroneously recorded as 03.01.1992 by the defendants?*
3. *Relief.*

Thereafter, both sides were invited to produce their evidence to establish the positions they had taken in their pleadings.

Witnesses/Exhibits:

Mr. Saqib Mubeen s/o Hashmat Khan, special attorney for the plaintiff appeared as PW-01, Mr. Raees Khan s/o Ilyas Khan, uncle of the plaintiff as PW-02 and Mr. Shaheen

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Muhammad advocate, legal advisor for the defendants as DW-01.

They have exhibited the following documents;

- i. Special power of attorney as Ex.PW-1/1.
- ii. Copy of CNIC of the plaintiff as Ex.PW-1/2.
- iii. Copy DMC of the plaintiff as Ex.PW-1/3.
- iv. Copy of CNIC of PW-01 as Ex.PW-1/4.
- v. Copy of CNIC of PW-02 as Ex.PW-2/1.

Reasons/Reasoning:

Issue wise reasoning of the court following ruling on each issue, and finally on the suit is as follows:

Issue No 01:

This issue questions the legal validity of the frame of the suit, and the competence of the forum to hear it. Plaintiff has sought correction of his date of birth, which clearly is a civil matter, and thus amenable to the jurisdiction of this court under section 09 of the civil procedure code. Other objections such as limitation etc, were not rigorously pressed, and upon examination of the corpus of the case by the court, were found inapplicable. Therefore, the issue is decided for the plaintiff.

Issue No 02:

This issue houses the heart of the suit: correct date of birth of the plaintiff. It is claimed that correct date of birth of the

plaintiff is 05.11.1989 according to CNIC and service record

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while the defendants have erroneously recorded the same as 03.01.1992.

Mr. Saqib Mubeen, special attorney for the plaintiff took stand as PW-01 and narrated the same story as in the plaint and exhibited all the relevant documents.

Mr. Raees Khan, uncle of the plaintiff took stand as PW-02 who also supported the stance of the plaintiff.

Defense's only witness concedes that he relies upon the Secondary School Certificate bearing serial no. 125341, Roll No.94658 issued by the defendants in the year 2008 wherein, date of birth of the plaintiff is correctly recorded according to school record.

A contradiction exists in the date of birth of plaintiff as recorded in his school record on one hand, and his service record and CNIC on the other. The plaintiff prefers the date of birth recorded in his CNIC and his service record, and prays for reconciliation of his school record with these documents.

Apparently, the grievance of the plaintiff is asking for a resolution of the contradiction, rather than adjudication of facts. Clearly, the school record was created earlier in time, so it holds precedence on records initiated later in time.

However, the problem is real for the plaintiff. His service record, if meddled with, would affect his terms of service,

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something for which this court is not mandated. Perhaps, considering this limitation, the plaintiff has preferred to bring his school record in line with his service record and CNIC. It is noteworthy, unlike the common practice of decreasing age through judicial decrees, the plaintiff is seeking an increase. The employer of the plaintiff has also confirmed the fact of employment and the date of birth recorded in the service record.


In view of the above and in the spirit of resolution of a problem, the court is inclined to decree the suit so as to remove the discrepancy present in the academic and service records of the plaintiff. The issue is decided for the plaintiff.

RELIEF:

Crux of my issue wise discussion is that suit of the plaintiff is hereby decreed in his favor against the defendants as prayed for. The date of birth of plaintiff is judicially settled and declared as **05.11.1989**. Defendants shall bring their record in line with this judgment. Costs shall follow the event. This decree shall not affect the rights of other persons interested, if any.

File be consigned to record room after its necessary completion and compilation.


ANNOUNCED
30.04.2025


(Ijaz Mahsood)
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Orakzai (at Baber Mela)

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CERTIFICATE

It is certified that this judgment consists of 06 pages. Each page has been dictated, read, corrected and signed by me.


(Ijaz Mahsood)
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Orakzai (at Baber Mela)