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

Civil Suit No.	16/1 of 2023
Date of Institution:	21/02/2023
Date of Decision:	26/05/2023

Hashmat Ali S/O Mat Khan
R/O Qoum Bar Muhammad Khel, Tappa Merazi Khel, Tehsil Lower District Orakzai.

.....**(Plaintiff)**

VERSUS

1. **Board of Intermediate and Secondary Education, Kohat.**
2. **Allama Iqbal Open University Islamabad.**

..... **(Defendants)**

SUIT FOR DECLARATION CUM PERPETUAL AND MANDATORY INJUNCTION

SUMMARY JUDGEMENT:
26.05.2023

1. Brief facts of the case in hand are that the plaintiff, **Hashmat Ali**, has brought the instant suit for declaration cum perpetual and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that his correct date of birth is **01.01.1989** according to his CNIC and Service Book, while it has been wrongly mentioned as 12.03.1992 by the defendants in their record with respect to the plaintiff. That the defendants were repeatedly asked to correct the date of birth of plaintiff but they refused, hence, the instant suit.

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2. Defendants were summoned, who appeared through their legal advisor namely Shaheen Muhammad advocate, who submitted written statement.

3. During the scheduling conference within the meaning of order IX-A of CPC, it was revealed that the matter involved in the instant case is very petty in nature, which can be decided through summary judgement as per relevant record. To this effect notice was given to the parties that why not the case in hand be decided on the basis of available record without recording lengthy evidence, as the primary aim and objective of Amended Management Rules in CPC is, "*to enable the court to-*

   a. *Deal with the cases justly and fairly;*
   b. *Encourage parties to alternate dispute resolution procedure if it considers appropriate;*
   c. *Save expense and time both of courts and litigants; and*
   d. *Enforce compliance with provisions of this Code.*"

4. Learned counsel for plaintiff and legal advisor for defendant No.01 heard and record gone through.

5. Record reveals that plaintiff through instant suit is seeking correction of his date of birth **01.01.1989**, while it has been wrongly mentioned as 12.03.1992 by the defendants in their record.

6. The plaintiff produced himself, appeared as a witness in his favour who recorded his statement as PW-01 and testified that his correct date of birth is **01.01.1989**. Plaintiff recorded in his statement that his correct date of birth according to his

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Service Book and CNIC is **01.01.1989**. While it has been wrongly mentioned in the record of defendants i.e. in his Matric, FA and BA testimonials (education documents). He further stated that his first CNIC was made in year 28.08.2007 after that he passed the Matric Exam. It is pertinent to mention here that according to his old CNIC his date of birth is **1989.** Copy of his old CNIC is Ex.PW-1/1, Copy of his New CNIC is Ex.PW-1/2 and school documents are Annexure-A.

7. The relevant school's recordkeeper was summoned and the one Paiman Ali, Government High School Sara Mela, District Orakzai appeared as CW-01, who produced Service Book which is Ex. CW-1/1 and his CNIC, which is Ex.PW-1/2. According to Ex. CW-1/1, the date of birth of the plaintiff is **01.01.1989.**

8. Legal Advisor of Kohat Board appeared as DW-01. He placed his reliance on the educational documents issued by the defendants.

9. Record reveals that plaintiff through instant suit is seeking correction of his date of birth to the effect that his correct date of birth is **01.01.1989,** while it has been wrongly mentioned as 12.03.1992 by the defendants in their record i.e. Matric and FA testimonials by Kohat Board and in B.A documents by Allama Iqbal Open University with respect to the plaintiff. The plaintiff was directed to produce Service

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Book which he accordingly produced through the relevant Record Keeper and CNIC which is already available on file. The entries in Service Book and CNIC of the plaintiff reveals that the date of birth of the plaintiff is **01.01.1989**. Furthermore, there is no counter document available with the defendants to rebut the documents produced by the plaintiff in support of his stance.

10. Hence, in these circumstances, the said documents are admissible and reliance is placed on old CNIC, New CNIC and Service Book of the plaintiff and are sufficient to decide the fate of the case and no further evidence is required to be produced by the parties. So, the available record clearly establishes the claim of the plaintiff.

11. Consequently, upon what has been discussed above and the jurisdiction vested in this court under order IX-A and XV-A of CPC, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct the date of birth of plaintiff as **01.01.1989** in their record.

12. Parties are left to bear their own costs.

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

Announced
26.05.2023

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CERTIFICATE

Certified that this judgment of mine consists of **04** (Four) pages, each has been checked, corrected where necessary and signed by me.

Sami Ullah
26.05.2023

Sami Ullah
Civil Judge/JM-I,
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