

THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT, SWAT.

Service Appeal No. 7712/2021

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER(E)

Rahim Shah S/O Asil Zada resident of Charbagh, Tehsil Charbagh, District Swat (Constable Police Lines at Kabal), Tehsil Kabal, District Swat.
.....(Appellant)

Versus

1. Assistant Director NADRA at Rahim Abad, Swat.
2. Director NADRA, at Rahim Abad, District Swat.
3. Chairman NADRA at NADRA Headquarter, Sector G-5/2 State Bank Building, Islamabad.
4. Deputy Registrar, NADRA at Peshawar.
5. District Police Officer, Swat at Gul Kada, Saidu Sharif, Swat.
6. Regional Police Officer, Malakand Division Saidu Sharif, Swat.
7. Inspector General of Police, Khyber Pakhtunkhwa at Peshawar.
8. District Accounts Officer, Swat.

.....(Respondents)

S. Ishtiaq Alam Mazhar,
Advocate

... For appellant

Mr. Muhammad Jan,
Deputy District Attorney

... For respondents

Date of Institution	01.11.2021
Date of Hearing	07.05.2024
Date of Decision	07.05.2024

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 for the correction of date of birth of the appellant in computerized national identity card as well as in service record. It has been prayed that on acceptance of the instant service appeal, the incorrect date of birth of the appellant mentioned as 01.01.1966 in the CNIC and in service record might be



corrected as 20.03.1970 and the same be inserted in the CNIC and entire service record of the appellant, alongwith any other just and appropriate remedy not specifically prayed for.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Special Force Constable who was later on regularized by the competent authority. He came to know that in his CNIC his date of birth was wrongly/inadvertently mentioned as 01.01.1966 due to which the wrong date of birth was entered in the entire service record while his correct date of birth was 20.03.1970 as per his school leaving certificate. He filed a civil suit for the correction of his date of birth mentioned in the CNIC as 1966 before the civil court which was dismissed by the said court. The appellant filed an application to respondent No. 5 and then to respondent No. 6 but in vain; hence the instant service appeal.

3. Respondents were put on notice. Respondents No. 1 to 4 submitted written reply through their Law Officer while respondents No. 5, 6 and 7 submitted their joint parawise comments on the appeal. Respondent No. 8 was placed ex-parte vide order sheet dated 08.02.2023. We heard the learned counsel for the appellant as well as learned District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant, after presenting the case in detail, argued that inaction of the respondents was illegal. The application of the appellant was genuine and based on admitted and proved facts and was within time but the respondents illegally and unlawfully ignored the applications by not deciding the same in accordance with law and rules. He argued that actual



date of birth of the appellant was 20.03.1970 which was clear from the school record which was not considered by the competent court of law. Respondents entered wrong date of birth of the appellant as 01.01.1966 in the CNIC & service record of the appellant which was illegal and against the real facts and circumstances. He further argued that the appellant served the Police Department for 11 years and because of wrong entry of date of birth, he would suffer irreparable loss in future without any fault on his part. He requested that the appeal might be accepted as prayed for.

5. Learned District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that the appellant was enlisted as Constable in the year 2009. According to his CNIC No. 15602-7269206-3, his date of birth was 01.01.1966 which was issued to him on 22.05.2006 and was valid up to 30.04.2016. On the basis of the same CNIC, he was enlisted in Police Department and his date of birth was correctly recorded in his service book as per the CNIC provided by him at the time of enlistment. He argued that the date of birth once entered in service book could only be rectified or modified within two years of enlistment but the appellant failed to do so and the same could not be rectified at any belated stage. He requested that the appeal might be dismissed.

06. The instant appeal has been preferred before this Tribunal for correction of date of birth of the appellant in his CNIC and service record. Arguments and record presented before us transpire that the appellant was appointed in the respondent department as Constable on contract basis, initially for a period of two years, in 2009. His contract was extended and later on, he was regularized



on 09.12.2019. At the time of his appointment, he was in possession of CNIC on which his date of birth was mentioned as 01.01.1966. That CNIC was issued to him on 22.05.2006 and was valid up to 30.04.2016. After expiry of that card, a fresh card was issued to him on 07.10.2017, which was valid upto 07.10.2027. On the second CNIC, his date of birth was the same as in the previous one, i.e 01.01.1966. One fails to understand that if the date of birth was recorded wrong in the CNIC, why did the appellant not get it corrected in 2006, when the first CNIC was issued to him? Even while applying for the fresh CNIC, after expiry of the old one, he did not bother to get the date of birth corrected. Service appeal shows that he filed a civil suit, for correction of his date of birth, before the Civil Judge VII Swat, but the same was returned on his own request that he wanted to pursue the matter before the competent forum. Perusal of the judgment dated 28.07.2021 of Hon'ble Civil Judge VII, Swat shows that one part of the prayer of the appellant was to the extent of correction of date of birth in his CNIC, which was purely in the domain of the civil court but on his own request, the court returned his suit to him to pursue before the Service Tribunal, being the competent forum, as he was a civil servant. That act on the part of the appellant was wrong as this Tribunal does not have the authority to alter the date of birth in the CNIC. The appellant is, therefore, debarred from his own conduct. As far as the date of birth in the service record is concerned, it depends on the date of birth as mentioned in the CNIC.


7. While coming to the change in the date of birth in the service record, the directions of the provincial government are extremely clear that any request by a government servant to change his date of birth would be entertained, after




special inquiry, only if he applies for it within two years from the date of his entry into government service. In case of the appellant, he entered into government service in 2009 and therefore he was bound to get his date of birth corrected within two years, which he failed to do. Now, his request cannot be entertained at such a belated stage.

8. In view of the above discussion, the appeal in hand is dismissed being groundless. Cost shall follow the event. Consign.

9. *Pronounced in open court in Camp Court, Swat and given under our hands and seal of the Tribunal this 07th day of May, 2024.*


(FAREEHA PAUL)
Member (I)
Camp Court, Swat.


(RASHIDA BANO)
Member(J)
Camp Court, Swat.


FazleSubhan P.S


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07th May, 2024 01. S. Ishtiaq Alam Mazhar, Advocate for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 05 pages, the appeal in hand is dismissed being groundless. Cost shall follow the event. Consign.

03. *Pronounced in open court at camp court, Swat and given under our hands and seal of the Tribunal on this 07th day of May, 2024.*


(FAREEHA PAUL)
Member(E)
Camp Court, Swat


(RASHIDA BANO)
Member(J)
Camp Court, Swat

Fazal Subhan PS