


FORM OF ORDER SHEET

Court of _____

Appeal No. 907/2024


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/07/2024	<p>The appeal of Mr. Nacem Ullah resubmitted today by Mr. Afrasiab Khan Wazir Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 03.07.2024: Parcha Peshi given to the counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Naeem Ullah received today i.e on 13.06.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- According to sub-rule-4 of rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974 respondent no.1 & 4 are un-necessary/improper parties, in light of the rules ibid and on the written direction of the Worthy Chairman the above mentioned respondent number be deleted/struck out from the list of respondent.
- 2- Three copies/sets of the appeal along with annexures i.e. complete in all respect for Tribunal and one for each respondent may also be submitted with the appeal.

No. 180 /Inst;/2024/KPST,

Dt. 14/06 /2024.

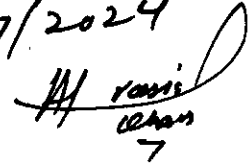

14/6/24
OFFICE ASISTANT
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Afrasiab Khan Wazir Adv.
High Court Peshawar.

R/sir,

- 1) Objections pertaining to R. 1, 2 are removed.
- 2) Set of copies are complete in all respect.

Hence objections removed - and
re-submitted today 1/7/2024


Afrasiab Khan
7

BEFORE THE KHYBER PAKHTUNKWA SERVICES TRIBUNAL PESHAWAR

Appeal No. 907/2024

NAEEM ULLAH

.....VERSUS.....

HOME DEPTT:

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APPELLANT

Through:

AFRASIAB KHAN WAZIR
ADVOCATE HIGH COURT

Office:
ROOM NO. B-16, GOVT COLLEGE
CHOWK, NIMRA PLAZA, PESHAWAR.
CELL: 0312-9888752

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Appeal No. 907 /2024

Mr.NaeemUllah, Assistant Director IT (BPS-17),
Home Department, Civil Secretariat, Peshawar.

.....APPELLANT.

VERSUS

- 1- The Secretary Home & Tribal Affairs department Khyber Pakhtunkhwa, Peshawar.
- 2- The Additional Chief Secretary, Home & Tribal Affairs department, Khyber Pakhtunkhwa, Peshawar.

.....RESPONDENTS.

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA
SERVIC TRIBUNAL ACT-1974, READ WITH ALL ENABLING
PROVISION OF LAW AND RULES, AGAINST THE IMPUGNED
APPELLATE ORDER DATED 29.05.2024 WHEREBY THE
DEPARTMETNAL APPEAL OF THE APPELLANT TO CORRECT THE
DATE OF BIRTH OF THE APPELLANT IN SERVICE RECORD i.e THE
CORRECT DATE OF BIRTH OF THE APPELLANT IS 01.09.1983
INSTEAD OF 01.09.1981, IS REJECTED ON NO JUSTIFIABLE
GROUNDS.**

1

RESPECTFULLY SHEWETH:

ON FACTS:

- 1- That the appellant is law abiding citizen and is performing his duties with zeal and zest since appointment in department and till dated no as such complaints has ever been made against him.
- 2- That initially appellant was employee in the project and later his service is regularized vide order dated 03.08.2018 in computerization of arms licenses and since regularization he is performing his duties against substantive post. **Copy of the regularization order dated 03.08.2018 is attached.....A.**
- 3- That the appellant is having issue in the date of birth in the service record etc and his correct date of birth as per municipal corporation certificate issued to him is 01.09.1983 instead of 01.09.1981 which is wrongly mentioned in the

municipal corporation certificate issued to him is 01.09.1983 instead of 01.09.1981 which is wrongly mentioned in the service record. **Copy of Municipal corporation certificate & CNIC & Matric Certificate are attached.....B, C.**

4- That the appellant feeling discontentment he filed suit for correction of date of birth before the Learned Civil Judge XVIII being unnatural difference between him and his brother age i.e of 6-7 months which decreed in favor of the appellant vide judgment dated 22.09.2018, later on appeal was dismissed by the Additional District Judge-X Peshawar mentioned in the said judgment. **Copy of the Suit No.98/1 dated 22.09.2018 & Judgment & decree 14.07.2021 are attached as annexureD & E.**

5- That the appellant feeling aggrieved from the above-mentioned judgment & decree, he filed revision petition No.987-P/2021 before the Honorable Peshawar High Court Peshawar which is allowed and leaving the appellant to go to proper forum for correction of date of birth being civil servant, the operative part of judgment is as under; ***in view of the above, the impugned judgment and decree of the learned lower fora, dismissing the suit of the petitioner, is set aside, leaving the petitioner at liberty to seek his relief before the Khyber Pakhtunkhwa service tribunal for rectification of his date of birth as the dispute relates to the terms and conditions of service, if so desired. Copy of the Revision petition No.987/2021 & Judgment dated 20.10.2023 is attached.....F.***

6- After that the appellant moved representation dated 22.02.2024 to the respondents for correction of his date of birth in the service record as per municipal corporation certificate issued to him which is still pending. **Copy of the departmental appeal dated 22.02.2024 is attached.....G.**

7- That the appellant further feeling aggrieved and having no other alternate and efficacious remedy but to file this instant service appeal on the following grounds inter alia.

ON GROUNDS

- 4
- A-** Because, the inaction of the respondents by not correcting the date of birth of the appellant whose correct date of birth is 01.09.1983 instead of 01.09.1983 in his service record is against law and norms of natural justice hence liable to be corrected.
 - B-** Because, the appellant has not been treated in accordance with law and violated article 4 & 25 of the constitution of Islamic republic of Pakistan 1973.
 - C-** Because, the action & inaction of the respondents is arbitrary and autocratic in nature hence against the norms of natural justice.
 - D-** Because, the correct date of birth of the appellant is 01.09.1983 as per municipal corporation certificate issued to him and Peshawar high court Peshawar have set aside the judgments and decree passed against the appellant in lower fora , even than the respondent are not correcting the dated of birth in his service record.
 - E-** Because, that appellant and his brother is having unnatural difference in their ages which needs to be corrected but the respondent are reluctant to do so.
 - F-** Because, the correct date of birth of the appellant is 01.09.1983 while the wrong date of birth i.e 01.09.1981 is mentioned in the service record which is liable to be corrected.
 - G-** Because, the appellant seeks permission to advance any other grounds at the time of regular hearing.

It is, therefore, most humbly prayed that on acceptance of this instant service appeal the inaction of the respondents may please be declared illegal unlawful and ineffective upon the rights of the appellant and the respondents may please be directed to incorporate his actual date of birth i.e 01.09.1983 in his service record as per municipal corporation birth certificate, instead of 01.09.1981. Any other relief which this Hon'ble Tribunal deems appropriate may also be awarded in favor of the appellant.

Furthermore, the appeal of the appellant may very graciously be accepted as prayed for.

APPELLANT

NAEEM ULLAH

THROUGH:

AFRASIAB KHAN WAZIR
ADVOCATE HIGH COURT

CERTIFICATE:

It is certified that no earlier appeal has been filed between parties before this Hon'ble Tribunal on the same issue.

Deponent

AFFIDAVIT:

I, Mr, Naeem Ullah, S/O Azeem Ullah R/O Mohallah Achar, Deh Bahadur, tehsil & District Peshawar, Do hereby solemnly affirm and declare that the content of this appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble tribunal.

Deponent



Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

Dated Peshawar, the August 3rd, 2018.

A-5

NOTIFICATION

F. No. SODEV/HD/General-Projects/2017-18/Vol.-III (203940); In compliance of the Provincial Government of Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018, the Provincial Government is pleased to notify Regularization of Services of the following (94) Nos of Employees working under the project "Computerization of Arms Licenses" w.e.f 07.03.2018, as provided under section 4 of the ibid Act.

S.N	Name	Designation / BPS
1.	Naeem Ullah	Assistant Director-IT (BPS-17)
2.	Wajid Khan	Assistant Programmer (BPS-16)
3.	Asim Subhan	Assistant Programmer (BPS-16)
4.	Janas Khan	Assistant Programmer (BPS-16)
5.	Imran Khan	Assistant Programmer (BPS-16)
6.	Muhammad Kashif	Assistant Programmer (BPS-16)
7.	Muhammad Rehan	Assistant Programmer (BPS-16)
8.	Sadiq Ullah	Assistant Programmer (BPS-16)
9.	Fawad Ahmad	Assistant Programmer (BPS-16)
10.	Syed Mohsin Ali Shah	Assistant Programmer (BPS-16)
11.	Huma Maqsood	Assistant Programmer (BPS-16)
12.	Salman Khan	Assistant Programmer (BPS-16)
13.	Abdullah	Assistant Programmer (BPS-16)
14.	Asmat Ullah	Assistant Programmer (BPS-16)
15.	Summer Hayat	Assistant Programmer (BPS-16)
16.	Mari Ullah Khan	Assistant Programmer (BPS-16)
17.	Arshad Iqbal	Assistant Programmer (BPS-16)
18.	Waqar Hassan	Assistant Programmer (BPS-16)
19.	Zaka Ullah	Assistant Programmer (BPS-16)
20.	Zeeshan Tahir	Assistant Programmer (BPS-16)
21.	Muhammad Faisal	Assistant Programmer (BPS-16)
22.	Muhammad Asif	Assistant Programmer (BPS-16)
23.	Muhammad Taimur Ayub Khattak	Assistant Programmer (BPS-16)
24.	Zahir Jamal	Assistant Programmer (BPS-16)
25.	Yasir Wahab	Assistant Programmer (BPS-16)
26.	Yasir Noor Muhammad	Assistant Programmer (BPS-16)
27.	Muhammad Usman Khan	Assistant Programmer (BPS-16)
28.	Afnan Bin Sultan	Computer Operator (BPS-16)
29.	Faridoon Khan	Computer Operator (BPS-16)
30.	Adil Nawaz	Computer Operator (BPS-16)
31.	Zubair Ullah	Computer Operator (BPS-16)
32.	Muhammad Saud Ali	Computer Operator (BPS-16)
33.	Muhammad Shahab	Computer Operator (BPS-16)
34.	Muhammad Shoalb Khan	Computer Operator (BPS-16)
35.	Salman Ali Shah	Computer Operator (BPS-16)
36.	Sheeba Raheem	Computer Operator (BPS-16)
37.	Sajid Amin	Computer Operator (BPS-16)
38.	Muhammad Nihal	Computer Operator (BPS-16)
39.	Ikram Ullah Khan	Computer Operator (BPS-16)
40.	Fahad Jan Khan	Computer Operator (BPS-16)
41.	Abdul Waheed	Computer Operator (BPS-16)
42.	Aziz Ur Rahman	Computer Operator (BPS-16)
43.	Bibi Shahina	Computer Operator (BPS-16)
44.	Adnan Ali Shah	Computer Operator (BPS-16)
45.	Sajjad Muhammad Khan	Computer Operator (BPS-16)
46.	Jamal Shah	Computer Operator (BPS-16)
47.	Muhammad Idrees	Computer Operator (BPS-16)
48.	Kaleem Ullah	Computer Operator (BPS-16)
49.	Asif Kaleem	Computer Operator (BPS-16)
50.	Zain Islam	Computer Operator (BPS-16)

ATTACHED



Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

51.	Waqas Ahmad	Computer Operator (BPS-16)
52.	Daud Khan	Computer Operator (BPS-16)
53.	Akhtaq Ahmad	Computer Operator (BPS-16)
54.	Abdul Faheem	Computer Operator (BPS-16)
55.	Asma Kanwal	Computer Operator (BPS-16)
56.	Mohammad Mubashir	Computer Operator (BPS-16)
57.	Jasim Afridi	Computer Operator (BPS-16)
58.	Shafiq Bahadur	Computer Operator (BPS-16)
59.	Muhammad Mustafa Ullah	Computer Operator (BPS-16)
60.	Arshad Ali	Computer Operator (BPS-16)
61.	Rahat Khan	Computer Operator (BPS-16)
62.	Abdul Wahab Khan	Computer Operator (BPS-16)
63.	Muhammad Gulfam	Computer Operator (BPS-16)
64.	Muhammad Ishaq Khan	Computer Operator (BPS-16)
65.	Nasih Ullah	Computer Operator (BPS-16)
66.	Kamran Hanif	Computer Operator (BPS-16)
67.	Muhammad Zakir Khan	Computer Operator (BPS-16)
68.	Kaleem Ullah	Computer Operator (BPS-16)
69.	Shahzeb	Computer Operator (BPS-16)
70.	Hameed Ullah	Computer Operator (BPS-16)
71.	Imran Shahzad	Computer Operator (BPS-16)
72.	Awais Khattak	Computer Operator (BPS-16)
73.	Irshad Khan	Computer Operator (BPS-16)
74.	Muhammad Yasin	Computer Operator (BPS-16)
75.	Muhammad Uzair Khan	Computer Operator (BPS-16)
76.	Adnan Zia	Computer Operator (BPS-16)
77.	Bakht Amal	Computer Operator (BPS-16)
78.	Towseef Ahmad	Computer Operator (BPS-16)
79.	Shamshad Khan	Computer Operator (BPS-16)
80.	Noor Muhammad	Computer Operator (BPS-16)
81.	Fahad Iqbal	Computer Operator (BPS-16)
82.	Fida Ahmad	Computer Operator (BPS-16)
83.	Nawab Zada	Computer Operator (BPS-16)
84.	Sher Azmat	Computer Operator (BPS-16)
85.	Tariq Aziz	Computer Operator (BPS-16)
86.	Muhammad Shoab	Computer Operator (BPS-16)
87.	Haroon Khan	Computer Operator (BPS-16)
88.	Faisal Khan	Computer Operator (BPS-16)
89.	Yasir Sharif	Computer Operator (BPS-16)
90.	Muhammad Daud Khan	Computer Operator (BPS-16)
91.	Amir Ul Mulk	Computer Operator (BPS-16)
92.	Farhad Ali	Computer Operator (BPS-16)
93.	Naseem Ullah	Driver (BPS-6)
94.	Murad Ullah	Naib Qasid (BPS-3)

-sd-

Secretary to Govt. of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

Endst: No. & date even

Copy forwarded for information to:-

1. Principal Secretary to Chief Minister Khyber Pakhtunkhwa, Peshawar.
2. Accountant General Khyber Pakhtunkhwa, Peshawar.
3. PS to Chief Secretary, Khyber Pakhtunkhwa.
4. PS to Secretary Establishment & Admin Department, Peshawar.
5. PS to Secretary Law Department, Peshawar.
6. PS to Secretary Finance Department, Peshawar.
7. PS to Secretary ST & IT Department, Peshawar.
8. Manager Govt. Printing Press Peshawar.
9. PS to Home Secretary, Khyber Pakhtunkhwa.
10. Section Officer (General), Home Department.
11. PA to Additional Secretary (Dev. & Fin), Home Department.

(HUMAIRA MEHMOOD)
SECTION OFFICER (DEV.)
PH: 091-9210238 Fax No. 091-9210201

B-7

پبلک ہیلتھ سروس ڈیپارٹمنٹ PUBLIHEALTH OFFICE

10	9	8	7	6	5	4	3	2	1
کیفیت	تاریخ ماہ رسال جب پیدائش درج رجسٹر ہوئی	نام اطلاع کنندہ	پیشہ غریب والد یا والدہ	نام تکلیف یا زائر غیرہ جائے سکونت والد یا والدہ	نام والد یا والدہ دادا	زات یعنی لڑکا لڑکی	نام اگر کوئی رکھا گیا ہو	تاریخ ماہ رسال جس میں پیدائش ہوئی	نمبر رجسٹر سایانہ
	12-30-84	عظیم اللہ	مسلمان	دیسیم بہادر علی محمد احمد رشتا سرد	عظیم اللہ ولہ عالم خان	لڑکا	نصیم اللہ	9-1-1983	2178 84

PESHAWAR COPY PREPARED
by

CERTIFIED TO BE TRUE
COPY

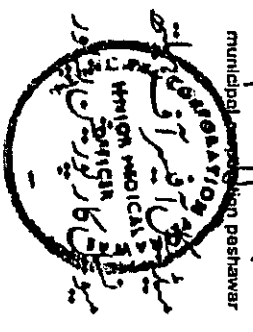
COUNTER SIGNED

[Signature]
 Born of health clerk
HAZEL H. CLERK
 Municipal Corporation Peshawar
 Peshawar
 پیدائش اسوات گلرک

[Signature]
HZALTB
 Municipal Corporation Peshawar
 اسٹنٹ پبلک ہیلتھ

میڈیکل کارپوریشن پشاور

میڈیکل کارپوریشن پشاور



ATTSTED

C-8



ATTSTED

S. No. PBR- 016314



Roll No. 123704

46
9

Renewed

BOARD OF INTERMEDIATE AND SECONDARY EDUCATION



Peshawar N.W.F.P. Pakistan
Secondary School Certificate Examination

SESSION 1997 (ANNUAL)
(SCIENCE GROUP)

THIS IS TO CERTIFY THAT Naeem Ullah
Son/Daughter of Azeem Ullah
and a student of Govt High School Landi Arbab Peshawar.
has passed the Secondary School Certificate Examination
of the Board of Intermediate and Secondary Education, Peshawar held in April 1997
as a *Regular candidate*. He/She obtained 579 Marks out of 850
and has been placed in Grade B Representing Very Good

The Candidate passed in the following subjects.

- | | | | |
|------------|---------------------|----------------|--------------|
| 1. English | 3. Islamiyat | 5. Mathematics | 7. Chemistry |
| 2. Urdu | 4. Pakistan Studies | 6. Physics | 8. Biology |

He/She has been awarded Grade C on the basis of internal assessment by the Institution concerned.

Date of birth according to admission form is First September,
one thousand nine hundred and Eighty One (01-9-1981)

Issued in lieu of Oc, No. 000890.

Assf. Secretary
28th July, 1997

This certificate is issued without alteration or erasure.

Secretary

ATTACHED

Government of Khyber Pakhtunkhwa
Accountant General Khyber Pakhtunkhwa, Peshawar
Monthly Salary Statement (March-2024)

A-9



Personal Information of Mr NAEEM ULLAH d/w/s of AZEEMULLAH

Personnel Number: 00744590 CNIC: 1730115625889 NTN:
Date of Birth: 01.09.1981 Entry into Govt. Service: 17.04.2015 Length of Service: 08 Years 11 Months 016 Days

Employment Category: Active Temporary

Designation: ASSISTANT DIRECTOR (IT) 80789205-GOVERNMENT OF KHYBER PAKH
DDO Code: PR5996-Computerization of Arms License RegAct)
Payroll Section: 006 GPF Section: 001 Cash Center:
GPF A/C No: GPF Interest applied GPF Balance: 429,341.00 (provisional)
Vendor Number: 30295764 - NAEEM ULLAH 7900030603 HBL 220267
Pay and Allowances: Pay scale: BPS For - 2022 Pay Scale Type: Civil BPS: 17 Pay Stage: 6

Wage type		Amount	Wage type		Amount
0001	Basic Pay	65,590.00	1210	Convey Allowance 2005	5,000.00
1897	Housing Subsidy Allowance	18,465.00	1974	Medical Allowance 2011	1,846.00
2317	IT Professional Allw 2021	30,370.00	2347	Adhoc Rel Al 15% 22(PS17)	5,935.00
2379	Adhoc Relief All 2023 30%	18,651.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3017	GPF Subscription	-6,350.00	3501	Benevolent Fund	-1,500.00
3609	Income Tax	-4,674.00	4004	R. Benefits & Death Comp:	-900.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
------	-------------	------------------	-----------	---------

Deductions - Income Tax

Payable: 53,950.38 Recovered till MAR-2024: 39,931.00 Exempted: 0.70- Recoverable: 14,020.08

Gross Pay (Rs.): 145,857.00 Deductions: (Rs.): -13,424.00 Net Pay: (Rs.): 132,433.00

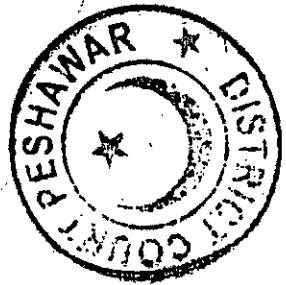
Payee Name: NAEEM ULLAH
Account Number: 02677900030603
Bank Details: HABIB BANK LIMITED, 220267 TEHKAL BALA, PESHAWAR. TEHKAL BALA, PESHAWAR., PESHAWAR

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: City: PESHAWAR Domicile: - Housing Status: No Official
Temp. Address: City: Email: nacemullah1981@gmail.com

ATTSTED

D-10



انڈیکس

بعدالت محترمه شہناز سول جج، XVIII پشاور۔

مستمبر 9/18 رجوعہ 11/4/18 اصل رجوعہ 11/9/18 فیصلہ 22/9/18

تعداد	نمبر انٹری	نام	بھروسہ	تفصیلات
8	1/8	انڈیکس، آڈٹسٹ بنا۔	تعمیرت۔	لبرہ ڈری۔
8	9/16	وگھی۔	جوابدہ۔	بیانات۔
2	17/18	وقالت نامہ	لنٹس	انٹریٹ۔

423				
18	1			

~~_____~~
4/15/18

Shahzad
سول جج، XVIII پشاور

کل 18 تفصیلات داخل دفتر شد
مہر عدالت



ATTESTED
09 OCT 2018
(Examiner)
Civil Court Peshawar

(11)

IN THE COURT OF SENIOR CIVIL JUDGE PESHAWAR

In re: Suit No. _____/2018

Subjudice

Naeem Ullah s/o Azeem Ullah
R/o Mohallah Achar, Deh Bahadur,
Tehsil and District Peshawar..... Plaintiff

Versus

1. Board of Intermediate and Secondary Education, Peshawar through its Chairman.
2. Secretary Board of Intermediate and Secondary Education, Peshawar.
3. Controller of Examination Board of Intermediate and Secondary Education, Peshawar.
4. NADRA through its Director General Blue Area Fazal-e-Haq Road Islamabad.
5. Regional Director NADRA, KPK, Phase-V, Hayatabad, Peshawar.....Defendants

SUIT FOR:

- a) Declaration to the effect that the plaintiff's actual and correct date of birth is 01.09.1983 which has incorrectly been recorded as 01.09.1981 in the record of defendants, the same is required to be corrected accordingly and the refusal of defendants to correct the same is illegal, without lawful authority, thus ineffective upon the plaintiff's rights.

AND

- b) Grant of Permanent mandatory injunction directing the defendants to correct the wrong and incorrect date of birth of the plaintiff as 01.09.1983 in their record and refrain from refusing the same.

ATTESTED
09 OCT 2018
(Examiner)
Court Peshawar

(12)

Value for purpose of jurisdiction and court fee for:

Relief "A" Rs.200/-

Relief "B" Rs.130/-

Court fee exempted

Cause of action has arisen to the plaintiff within the territorial jurisdiction of this Hon'ble Court for the last few days when the defendants refused to correct the plaintiff's date of birth.

12-3

Shahbaz
11/4/18

Respectfully Sheweth:

1. That plaintiff is permanent resident of village Achar, Deh Bahadur District Peshawar.
2. That plaintiff was born on 1st September, 1983 in the village Deh Bahadur District Peshawar and got his early education in Govt. High School Landi Arbab, Peshawar and passed his matriculation examination from the same school and secondary school certificate was issued to him by defendant No.2. (Copy of the same is annexed herewith to be read as a part of the plaint).
3. That the date of birth was wrongly mentioned as 01.09.1981 in the aforesaid certificate as well as in his CNIC. The plaintiff's father being an illiterate person it seems that wrong date of birth was recorded in the school record at the time of admission by the school staff, which the plaintiff could not notice due to oversight.
4. That recently when the plaintiff noticed the said mistake he contacted the defendants for correction of the same but they refused to correct the same and there being no other remedy available the plaintiff is constrained to file the instant suit.
5. That refusal of the defendants to correct the date of birth of the plaintiff is illegal and without lawful authority thus ineffective upon the plaintiff's rights.

10

ATTESTED
09 OCT 2018
(Examiner)
Civil Court Peshawar

(13)

6. That value for the purpose of jurisdiction, court fee and date of cause of action are given in the heading of plaint. This hon'ble court has got jurisdiction to entertain and try the suit.

It is therefore respectfully prayed that decree as prayed for in the heading of plaint may very graciously be passed in favour of plaintiff and against the defendants with cost.



Plaintiff

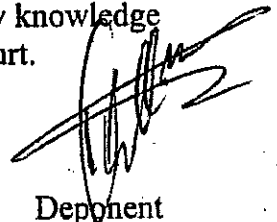
Through

Asghar Ali
Advocate High Court
Peshawar

11-3
Mehnaz
11/4/18
11

VERIFICATION

Verified on oath this 16th Day of ^{April} ~~March~~, 2018 at Peshawar that the contents of the suit are true and correct to the best of my knowledge and belief and nothing has been concealed from this hon'ble court.



Deponent

ATTESTED
09 OCT 2018
(Examiner)
Civil Court Peshawar

(14)

IN THE COURT OF CIVIL JUDGE, PESHAWAR

4/6/2018

Naeem Ullah

(Plaintiff)

VS

BISE & others

(Defendants)


Declaratory Suit

Written Statement/Cognovit on Behalf of Defendants# 4,5

Respectfully Sheweth:

1. That the above mention suit is pending in the honorable Court and fixed for hearing on 4/6/2018.
2. That the plaintiff instituted the present suit for correction of date of birth.
3. That the plaintiff is an educated person and according to NADRA policy the date of birth of an educated person will be recorded as per Secondary School Certificate of recognized education board, which has been entered accordingly.
4. That the plaintiff is required to provide his modified Secondary School certificate with correct particulars and date of birth for the correction of date of birth in his CNIC, which will not disturb his family composition.


It is therefore humbly prayed that by acceptance of this cognovit the suit of the plaintiff may please be decreed with above observation.


Defendants# 4,5

Date: 4/6/2018

Verification: It is verified that the contents of the cognovit are true and correct and nothing have been concealed from this honorable court.-

ATTESTED
09 OCT 2018
(Examiner)
Civil Court Peshawar


Defendants# 4,5

FORM "A"
FORM OF ORDER SHEET

15

COURT OF.....
CASE NO.....OF.....

SERIAL NO. OF ORDER OR PROCEEDINGS, DATE OF ORDER OR PROCEEDINGS	ORDER OR OTHER PROCEEDINGS WITH SIGNATURE OF JUDGE OR MAGISTRATE AND THAT OF PARTIES OR COUNSEL, WHERE NECESSARY
1	2

Order...03
11/04/2018

Case file received from the court of learned SCJ, Peshawar.

Counsel for the plaintiff present. He admits and verifies the contents of the plaint and the document(s) annexed thereto as true and correct. It be registered.

Defendant No.4 be summoned through registered cover while remaining defendants ordinarily alongwith copies of plaint for 23/4/18. Plaintiff is directed to submit postal envelope and Ad card within 3 days.

Shahnaz
(Miss. SHAHNAZ)
Civil Judge-XVIII,
Peshawar.

05-4
23/4/18

مدرسہ اولیٰ ہوئی کہ اس کی توثیق ہوگی۔ درجہ عدلیہ 4، 5 اور 6 کے خلاف تعلقہ
کے ساتھ ساتھ عدلیہ 4، 5 اور 6 کے خلاف تعلقہ
دفعہ طلب ہے۔ عدلیہ 4، 5 اور 6 کے خلاف تعلقہ
کی توثیق ہے کہ تعلقہ عدلیہ 4، 5 اور 6 کے خلاف تعلقہ
میں برائے جواب دفعہ عدلیہ 4، 5 اور 6 کے خلاف تعلقہ

3

ATTESTED
09 OCT 2018
(Examiner)
Civil Court Peshawar

Shahnaz
14/5/18

FORM "A"

FORM OF ORDER SHEET

COURT OF Miss. Shahnaaz C. J. VIII, Peshawar

CASE NO. 98/1 OF 2018

SERIAL NO. OF ORDER OR PROCEEDINGS, DATE OF ORDER OR PROCEEDINGS	ORDER OR OTHER PROCEEDINGS WITH SIGNATURE OF JUDGE OR MAGISTRATE AND THAT OF PARTIES OR COUNSEL, WHERE NECESSARY
1	2
<p><u>88-5</u> <u>14/5/18</u></p>	<p>5. 4. 2018 کو۔ جج نے فیصلہ دیا کہ پٹیشنر نے جو بیعت نامہ پیش کیا ہے اسے تسلیم کیا جائے گا۔</p> <p>4/6/18</p> <p>Shahnaaz</p>
<p><u>0-6</u> <u>4.6.2018</u></p>	<p>Parties through counsel present written statement in the shape of cognovit submitted on behalf of defd #4 and 5. P1ff is directed to submit his list of witnesses and set money for official witness if any. File to come up for P1ff's evidence on <u>9/7/2018</u></p> <p>Shahnaaz (MISS. SHAHNAAZ) Civil Judge-VIII Peshawar</p>
<p><u>0-7</u> <u>9/7/2018</u></p> <p>ATTESTED 09 OCT 2018 (Examiner) Civil Court Peshawar</p>	<p>Parties through counsel present. The case was fixed p1ff's evidence but counsel sought adjournment on the ground that witnesses are not present. File to come up for P1ff's evidence on <u>30/7/18</u></p> <p>Shahnaaz (MISS. SHAHNAAZ) Civil Judge-VIII Peshawar</p>

FORM "A"
FORM OF ORDER SHEET

17

Court of Miss Shahnaz CT-XVIII, Peshawar
Case No. 98/1 of 2018

SERIAL NO. OF ORDER OR PROCEEDINGS, DATE OF ORDER OR PROCEEDINGS	ORDER OR OTHER PROCEEDINGS WITH SIGNATURE OF JUDGE OR MAGISTRATE AND THAT OF PARTIES OR COUNSEL WHERE NECESSARY
1	2

08-8
30/7/18

پشاور میں مقیم ایک شخص نے ایک عورت کو نکاح کر لیا۔ عورت نے نکاح کے وقت اپنے اصل نام کی بجائے ایک اور نام استعمال کیا۔ یہ عورت اپنے اصل نام سے ایک اور شخص سے نکاح کر چکی ہے۔ عدالت نے اسے حکم دیا کہ وہ اپنے اصل نام سے نکاح کرے اور اسے اپنے اصل نام سے پہچانے۔
Shahnaz J. J. 22/9/18

Order...9
22/09/2018

Plaintiff alongwith counsel present. Statements of PW-1 & PW-2 recorded and closed. Arguments heard.

Vide my detailed ex-parte judgment of today, which is separately placed on file consisting of (02) pages, it is held that an ex-parte decree is hereby passed in favour of plaintiff against defendants as prayed for. Defendants are directed to correct the date of birth of plaintiff as 01/09/1983 in their record as per law and rules.

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

Announced
22/09/2018

ATTESTED
09 OCT 2018
(Examiner)
Civil Court Peshawar

Miss Shahnaz,
Civil Judge-XVIII,
Peshawar

18

IN THE COURT OF MISS SHAHNAZ,
CIVIL JUDGE-XVIII, PESHAWAR

Suit No.98/1 of 2018

Naeem Ullah S/o Azeem Ullah R/o Mohallah Achar, Deh Bahadur, Tehsil
& District Peshawar.....(Plaintiff)

VERSUS

BISE, Peshawar through Chairman & others.....(Defendants)

Date of institution..... 11/04/2018
Date of Decision.....22.09.2018

6/

SUIT FOR DECLARATION AND PERPETUAL INJUNCTION

JUDGEMENT:

22nd September 2018

Shahnaaz
MISS SHAHNAZ
CIVIL JUDGE XVIII
PESHAWAR

A suit brought by Naeem Ullah Son of Azeem Ullah (herein after called plaintiff) against BISE Peshawar through its Chairman & others (herein after called defendants) for declaration and perpetual injunction.

Brief facts of case are that correct date of birth of the plaintiff is 01/09/1983 which is wrongly incorporated in the record of the defendants as 01/09/1981. That plaintiff's father being an illiterate person mistakenly entered the wrong date of birth of the plaintiff in his school record at the time of admission. That defendants were asked time and again to correct his date of birth but in vain, hence, the suit is hand.

Defendants were duly summoned. Defendants No.4 & 5 appeared and submitted written statement in the shape of cognovit while no one appeared on behalf of defendants No.1 to 3, therefore, were placed and proceeded against ex-parte.

ATTESTED

09 OCT 2018

(Examiner)

Civil Court Peshawar

Plaintiff was directed to produce his evidence, which he availed up to his satisfaction and closed evidence. Arguments heard & record perused.

Plaintiff in order to prove his stance appeared in the witness box as Pw-1 and stated on oath that his correct date of birth is 01/09/1983 and date of birth of his brother namely Naseem Ullah is 26/03/0982. That his father

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being illiterate person entered his date of birth as 01/09/1981 at the time of admission in the school. That due to wrong entry of plaintiff's date of birth in the record of the defendants, there is 7 months unnatural difference between the age of plaintiff and his elder brother. He produced copy his CNIC, Matric Certificate, CNIC of his brother as Ex-Pw1/1 to Ex-Pw1/3.

Azeem Ullah, father of the plaintiff appeared and recorded his statement as Pw-2 and supported the stance of plaintiff. He produced his CNIC as Ex-Pw2/1.

Perusal of CNIC of plaintiff's brother namely Naseem Ullah which is Ex-Pw1/3 reveals that his date of birth is 26/06/1982 while as per SSC certificate plaintiff which is Ex-Pw1/2 his date of birth is mentioned as 01/09/1981. Comparing plaintiff and his brother date of birth, there is unnatural age difference about 7 months. Hence, an ex-parte decree is hereby passed in favour of the plaintiff against defendants as prayed for. Defendants are directed to correct the date of birth of the plaintiff as 01/09/1983 in their record as per law and rules.

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

Announced
22nd September 2018

Shahnaz
(Miss Shahnaz)
Civil Judge-XVIII,
Peshawar
Civil Judge-XVIII,
Peshawar

CERTIFICATE

Certified that this judgment consists of (02) pages. Each page has been read over, corrected and signed by me wherever necessary

CERTIFIED TO BE TRUE COPY
[Signature]
(Examiner)
Copying Agency
Peshawar

ATTESTED
09 OCT 2018
(Examiner)
Court Peshawar

Shahnaz
(Miss Shahnaz)
Civil Judge-XVIII,
Peshawar
(Miss Shahnaz)
Civil Judge-XVIII,
Peshawar

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In re: Suit No. _____/2018

Naeem Ullah s/o Azeem Ullah
R/o Mohallah Achar, Deh Bahadur,
Tehsil and District Peshawar..... Plaintiff

Signature
REG. SWAIBI
CIVIL COURT
PESHAWAR

Versus

1. Board of Intermediate and Secondary Education, Peshawar through its Chairman.
2. Secretary Board of Intermediate and Secondary Education, Peshawar.
3. Controller of Examination Board of Intermediate and Secondary Education, Peshawar.
4. NADRA through its Director General Blue Area Fazal-e-Haq Road Islamabad.
5. Regional Director NADRA, KPK, Phase-V, Hayatabad, Peshawar.....Defendants

90

SUIT FOR:

a) Declaration to the effect that the plaintiff's actual and correct date of birth is 01.09.1983, which has incorrectly been recorded as 01.09.1981 in the record of defendants, the same is required to be corrected accordingly and the refusal of defendants to correct the same is illegal, without lawful authority, thus ineffective upon the plaintiff's rights.

AND

b) Grant of Permanent mandatory injunction directing the defendants to correct the wrong and incorrect date of birth of the plaintiff as 01.09.1983 in their record and refrain from refusing the same.

ATTESTED
09 OCT 2018
(Examiner)
Civil Court Peshawar

Value for purpose of jurisdiction and court fee for:

Relief "A" Rs.200/-

Relief "B" Rs.130/-

Court fee exempted

21

مقدمہ بذات تاریخ _____ کو عدالت حضور میں پیش ہوا اور مورثہ _____ کو حکم ہوا

Vide my detailed ex-parte judgment of today, which is separately placed on file consisting of (03) pages, it is held that an ex-parte decree is hereby passed in favour of plaintiff against defendants as prayed for. Defendants are directed to correct the date of birth of plaintiff as 01/09/1983 in their record as per law and rules.

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

Announced:
22/09/2018

Shahnaz
(Miss. SHAHNAZ)
Civil Judge-XVIII,
Peshawar

میر عدالت

خرچہ نالاش

روپے	پیسے	مدعا علیہم	مدعی	روپے	پیسے
		25364	استامپ عرضی دعوی		
		3-10-18	استامپ مختیار نامہ		
		1-10-18	خرچہ خوراکہ گواہان		
		P. 2	فیس اہل کمیشن		
		Urgent/Fee	مفرق		
		1-10-18			
		09/10/18			
		9-10-18			

کل میزان

کوہہ ثبت دستخط میرے اور سپر عدالت کے جاری ہوا۔

حکم اخراج بتاریخ

CERTIFIED TO BE TRUE COPY

(Examiner)
Copying Agency Civil Court
Peshawar

Shahnaz
(Miss. SHAHNAZ)
Civil Judge-XVIII,
Peshawar

E-2258

IN THE COURT OF DISTRICT & SESSIONS JUDGE, PESHAWAR

Civil Appeal No. _____/2020

Institution Branch (Sessions),
New Judicial Complex,
Peshawar.

Naeem Ullah Son of Azeem Ullah,
R/o Mohallah Achar, Deh Bahadar
Tehsil and District Peshawar.....

Appellant

VERSUS

1. Board of Intermediate & Secondary Education,
Peshawar through its Chairman
2. Secretary Board of Intermediate & Secondary
Education, Peshawar
3. Controller of Examination, Board of Intermediate &
Secondary Education, Peshawar
4. NADRA through its Director General, Blue Area,
Fazal-e-Haq Road, Islamabad
5. Regional Director NADRA, Khyber Pakhtunkhwa,
Phase-V, Hayatabad, Peshawar.

ATTESTED

..... Respondents

25/01/2021
(Examiner)
District Court Peshawar

APPEAL U/S 96 OF THE CODE OF CIVIL
PROCEDURE, AGAINST THE IMPUGNED
JUDGMENT & DECREE DATED 21.01.2021

13

ATTESTED

51
23

PASSED BY THE LEARNED CIVIL JUDGE,
PESHAWAR, WHEREBY SUIT OF THE
APPELLANT IS DISMISSED.

Prayer

On acceptance of this Appeal, the
impugned Judgment & Decree dated
21.01.2021 passed by the learned Civil
Judge, Peshawar may kindly be set
aside and Decree as prayed in the
suit/plaint may be passed in favour of
the appellant

Respectfully Sheweth:-

FACTS:

Succinctly stated the facts giving rise to the
filing of the instant appeal are as under:

1. That the appellant/plaintiff filed a suit for
declaration & perpetual injunction before the
Hon'ble Civil /Trial Judge, Peshawar for
correction of his date of birth in the

ATTESTED

25/01/2021

(Examiner)
District Court Peshawar

14

Deputy Registrar
District Court Peshawar

ATTESTED

52
(24)

indulgence of this Hon'ble Court for setting aside the above said Decree through the instant appeal inter alia on the following grounds hereinafter mentioned.

N

GROUND S:

- A. That the impugned Judgment & Decree have passed by the learned Trial Court in completely disregard of law and facts of the case.
- B. That the impugned Judgment and Decree is a result of misreading and non-reading of the evidence available on the record. The Appellant through oral and documentary evidence completely established his case but

ATTESTED

25/08/2023
(Examiner)
District Court Peshawar

the learned Trial Court negated the facts and law available on the record and dismiss suit of the appellant in utter violation of law.

- C. That the findings of the learned Trial Court upon issue No.3 are absolutely erroneous and not tenable under the eyes of law. The main stance/plea of the respondents/defendants in their Written Statement is taken in Para No.11

(16)

[Signature]
Superintendent
Records & Court Administration

ATTESTED
[Signature]

57
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defendants/respondents record as 01.09.1983 instead of 01.09.1981.

2. That the respondents were summoned out of whom, respondents No.4 and 5 submitted cognovit by accepting the claim of the appellant while the respondents No.1 to 3 contested the suit by submitting the joint Written Statement.

3. That after the submission of the Written Statement, issues were framed and the case was fixed for evidence of parties, in response to which the appellant and respondents produced their respective evidence.

ATTESTED
25 AUG 2021
(Examiner)
District Court, Bishnupur

4. That after the closure of the evidence of the parties, arguments were heard & the learned Civil/Trial Judge vide judgment/decree dated 21.01.2021 dismiss the suit of the appellant/plaintiff. (Copy of judgment & decree sheet are attached)

5. That being aggrieved of the judgment & decree dated 21.01.2021, the appellant seeks

15

Secretary
Court, Bishnupur

ATTACHED

54
26

indulgence of this Hon'ble Court for setting aside the above said Decree through the instant appeal inter alia on the following grounds hereinafter mentioned.

N.

GROUND S:

- A. That the impugned Judgment & Decree have passed by the learned Trial Court in completely disregard of law and facts of the case.
- B. That the impugned Judgment and Decree is a result of misreading and non-reading of the evidence available on the record. The Appellant through oral and documentary evidence completely established his case but the learned Trial Court negated the facts and law available on the record and dismiss suit of the appellant in utter violation of law.
- C. That the findings of the learned Trial Court upon issue No.3 are absolutely erroneous and not tenable under the eyes of law. The main stance/plea of the respondents/defendants in their Written Statement is taken in Para No:11

ATTESTED
23 AUG 2021
(Examiner)
District Court, Reshawa

16

[Signature]
Superintendent
District Court, Reshawa

ATTESTED
[Signature]

55

27

of the preliminary objection regards the condition mentioned in BISE, Peshawar calendar, but neither the same calendar is produced before the Trial Court nor exhibited. Similarly the same is neither provide nor admissible under article 70 and 119 of Qanon-e-Shahadat order, 1984 but astonishingly the same is not taken into consideration by the learned Trial Court and passed the Decree in violation of mandatory provisions of law.

D. That the appellant/plaintiff categorically stated in the plaint as well as in his statement recorded as PW-1 regarding the filling of form

ATTSTED

25 AUG 2021

(Magistrate)
District Court Peshawar

by School Staff (respondents) which is expressly admitted by the DW-1 in his cross examination, but despite of the above the same stance/evidence is not taken into indulgence by the learned Trial Court & passed the decree in an erroneous manner, similarly under the law it was the duty of the respondents/defendants to prove signature of the appellant PW-1 and his father (PW-2) (being illiterate as pleaded in plaint) but the learned trial Judge placed wrong burden upon the appellant and therefore wrongly adjudicated issue No.3 against the appellant.

12

Magistrate
District Court Peshawar

ATTSTED

56

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E. That the appellant has proved un-natural gap between his and brother's age through cogent & reliable documentary evidence and the same is admitted by the respondents by not putting a single question regarding that in the cross examination of the appellant but despite of the above, the learned trial judge ignored this fact /evidence and passed the Decree and Judgment in utter violation of law.

F. That the learned Civil Judge gave erroneous finding upon the issue No.2 regarding the question of limitation. As unnatural gap is proved by plaintiff/appellant through cogent & reliable evidence, therefore cause of action arise/arose in favour of the appellant continuously, hence suit of the plaintiff is not barred by limitation and is within time.

ATTESTED
 25 AUG 2021
 (Examiner)
 District Court, Patna

G. That there was sufficient evidence led by the appellant to prove the issues raised in the suit and the respondents/defendants have failed to effectively rebut the appellant's evidence.

H. That the appeal is properly value for the purpose of court fee and jurisdiction.

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 Superintendent
 District Court, Patna

ATTESTED

57

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- I. That this Hon'ble Court has got ample jurisdiction to adjudicate upon the instant appeal.
- J. That the appellant craves to urge additional grounds at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of this Appeal, the impugned Judgment & Decree dated 21.01.2021 passed by the learned Civil Judge, Peshawar may kindly be set aside and Decree as prayed in the suit/plaint may be passed in favour of the appellant.

ATTESTED Any other relief to which the appellant is found fit in law justice and equity may also be granted.

25 AUG 2021

(Examiner)
District Court Peshawar

Appellant
Through

Aziz Ullah Khan Shinwari
Advocate-High Court

Substantive Magistrate

Dated 17.02.2021

VERIFICATION

It is verified on oath that the content of appeal are true and correct to the best of my knowledge, belief and behalf and nothing has been kept concealed from the knowledge of this Hon'ble Court.

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17 FEB 2021 ATTESTED
 Aziz Muhammad Saad-Ullah
 Oath Commissioner
 Advocate High Court Peshawar

DEPENDENT

ATTESTED

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IN THE COURT OF ABDUL MAJID
ADDITIONAL DISTRICT JUDGE-X, PESHAWAR

Civil Appeal : 08/13 of 2021

Naeem Ullah Vs BISE & 04 others

Order ---
14/07/2021

Counsel for appellant present. Arguments heard and record perused.

Vide my detailed judgment of today, consisting upon 07 pages, placed on file, the court holds;

"The appeal is dismissed and order, judgment and decree of the learned trial court dated 21/01/2021 is upheld. Parties are left to bear their own costs."

Original record be returned alongwith copy of this judgment, while instant case file be consigned to record room after its necessary completion and compilation.

Announced:
14/07/2021

Abdul Majid
15/7/21
ABDUL MAJID
Additional District Judge-X,
Peshawar.

ATTESTED
25 AUG 2021
(Examiner)
District Court Peshawar

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[Signature]
ATTSTED

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IN THE COURT OF ABDUL MAJID,
ADDITIONAL DISTRICT JUDGE-X, PESHAWAR

Civil Appeal No : 08/13 of 2021
Date of Institution : 17/02/2021
Date of Decision : 14/07/2021

1. Naeem Ullah S/o Azeem Ullah resident of Mohallah
Achar, Deh Bahadar, Peshawar.

— Appellant

.VERSUS.

1. Board of Intermediate & Secondary Education,
Peshawar through its Chairman and 04 others.

— Respondents

Judgment

14/07/2021

1. This appeal is directed against the order/judgment dated
21/01/2021 passed by learned Civil Judge-XVIII,
Peshawar wherein Suit # 98/1(Neem) filed of the
appellant was dismissed.

ATTESTED

25 AUG 2021

(Signature)
District Court Peshawar

2. The appellant prayed for setting aside the impugned
judgment, decree and order and seeks decree his favour
as prayed for.

(Signature)
14-7-21
Addl. District & Sessions Judge
Peshawar

3. Momentarily the plaintiff filed a suit for declaration and
permanent/mandatory injunction against the defendants
to the effect that correct date of birth of plaintiff is
01/09/1983, however, the defendants have entered the

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ATTESTED

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same in their record as 01/09/2081, which is wrong and ineffective upon his right and liable to be corrected. The defendants are bound to make correction of date of birth of the plaintiff.

4. The defendants were summoned. Initially defendants # 4 & 5/NADRA submitted written statement in shape of cognovits while defendants # 1 to 3 were proceeded ex-parte and the case was ex-parte decreed in favour of plaintiff vide order dated 22/09/2019. Thereafter, the defendants # 1 to 3 filed application for setting aside ex-parte decree, which was accepted and ex-parte decree dated 22/09/2019 was set aside vide order dated 13/02/2019. The defendants contested the suit by way of written statement. From pleading of the parties, the learned trial court framed the following issues:

ATTESTED

25 AUG 2021
(Examiner)
District Court Peshawar

Issues:

1. Whether the plaintiff has got a cause of action?
2. Whether the suit of plaintiff is within time?
3. Whether the correct date of birth of plaintiff is 01/09/1983 which has been incorrectly recorded in the record of defendants as 01/09/1981.
4. Whether the plaintiff is entitled to the decree as prayed for?
5. Relief.

Mink M. J. J.
Addl: District & Sessions Judge
Peshawar

6

ATTESTED

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5. The parties were left to produce their evidence in support of their respective stances, which they did. The learned trial court after hearing arguments of both the sides, dismissed the suit vide order dated 21/01/2021. Feeling dissatisfied, the appellant challenged and impugned the judgment, decree and order by way of this appeal.
6. I have heard both the sides and perused the relevant record.
7. Perusal of record would reveal that the appellant/plaintiff asserted that his correct date of birth is 01/09/1983 while the defendants have wrongly entered the same in their record as 01/09/1981. The learned trial Court dismissed

ATTESTED

25 AUG 2021

(Examiner)
District Court Peshawar

Munir
Addl. District & Sessions Judge
Peshawar

the suit of appellant/plaintiff on the ground that the matriculation of plaintiff will be reckoned in 13 years which is not normal and against the rules of the education board. The suit of plaintiff is also time barred as the plaintiff obtained his SSC in the year 1997 and applied for his CNIC in the year 2011, he filed this suit in the year 2018. So this court will mainly focus its discussion on the issues No.3 in which assessment/ appreciation of evidence by the trial court *was made.*

7

ATTESTED

51

34

8. Challenging the record maintained by the defendants/ respondents regarding his date of birth, the appellant/ plaintiff based his case on the documentary evidence, which is available as Ex.PW-1/1, Ex.PW-1/2 & Ex.PW-1/3. Perusal of Ex.PW-1/1 & Ex.PW-1/2, reveal date of birth of the appellant as 01/09/1981. Appellant/plaintiff alleged it to be wrongly entered by the defendants. The plaintiff/appellant stressed upon the Ex.PW-1/3, CNIC of his brother, wherein date of birth of his brother Naseemullah has been mentioned as 26/03/1982, so there difference between the birth of plaintiff and his brother is about 06 months and 25 days. The plaintiff alleged that actually he is younger to his brother but in the CNICs he has been shown bigger to his brother. The

ATTESTED

25 AUG 2021

(Examiner)
District Court Peshawar

entry of wrong date of birth of the plaintiff was made by his father alleged to be uneducated. During cross examination his father (PW-2) stated that correct date of birth of the plaintiff is 01/09/1983. No other reliable evidence produced by the plaintiff alongwith his father to support the contentions.

15.7.21
District & Sessions Judge
Peshawar

The only document on which appellant/plaintiff mainly stressed upon is Ex.PW-1/3, CNIC of his brother, that there is unnatural difference between the ages of two real brothers. Admittedly the date of birth of plaintiff in

3

ATTESTED

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CNIC was mentioned on the basis of SSC certificate. Defendants/NADRA have already submitted cognovits that if the education testimonials are corrected, the NADRA has no objection on correction.

10. The contesting defendants relied on statement of DW-1, who produced admission form of plaintiff as Ex.DW-1/1 which reveals the date of birth of plaintiff as 01/09/1981. The appellant/plaintiff alleged that the form was neither filled nor signed by him rather the same was filled by school officials as per routine. There is cutting in date of birth but same is to the extent of month i.e. 'September' only while the appellant alleges the years to change. Signature of plaintiff also available on the form. During cross examination, the plaintiff has not put a single question on DW regarding his signature or his father signature over the admission form. Even then, the date of birth of a student is written from record of the school, meaning thereby that the date of birth of the plaintiff was entered as 01/09/1981 from his primary school but the plaintiff has not arrayed the primary school as party or as witness. More so, the plaintiff did not produce his birth certificate from his union council to show his date of birth in year 1983. Thus the plaintiff failed to substantiate his

ATTESTED

25 APR 2011

(Examiner)
District Court Peshawar

Muhammad
11/7/11
Addl. District & Sessions Judge
Peshawar

9

ATTESTED

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(36)

stance that his date of birth in his SSC certificate is wrongly mentioned by the defendants.

11. More so, the date of birth of the plaintiff is presumed to be 01/09/1983, then he has obtained his SSC certificate at the age of less than 15 years which is against the rules/calendar of defendants/Board and the same is also not appealed to a prudent mind. The objection is specifically raised in written statement that an underage student i.e. less than age of 15 years cannot appear in matriculation examination.

12. Apart from above, the suit of the plaintiff is also badly time barred. The plaintiff obtained his SSC in the year 1997 and thereafter obtained his CNIC in the year 2011 but the plaintiff slept over for such period firstly from 1997 after receiving his SSC and then from 2011 after receiving his CNIC. The brother of plaintiff has also received his CNIC in the year 2009 but he also kept mum and no objection has been raised. The plaintiff alleged in the plaint that recently he noticed the said mistake but he has not explained that when and how he noticed the mistake. He has not annexed any documents to show that he has approached the defendants for correction of his date of birth. Hence on this score too the plaintiff is barred to sue.

ATTESTED

25/09/2021

(Examiner)
District Court Peshawar

Additional District & Sessions Judge
Peshawar

(10)

ATTESTED

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13. Nutshell of the above discussion is that the appellant badly failed to prove his stance before the learned trial court, therefore, the learned trial court has rightly dismissed the suit. The arguments and the crux of appeal is meritless. The appeal is dismissed and order, judgment and decree of the learned trial court dated 21/01/2021 is upheld. Parties are left to bear their own costs.

14. Original record be returned alongwith copy of this judgment, while instant case file be consigned to record room after its necessary completion and compilation.

Announced:
14/07/2021

Amir
15.7.21
Add: District & Sessions Judge
Peshawar
Abdul Majid,
Additional District Judge-X,
Peshawar

CERTIFICATE

Certified that this judgment consists of seven pages, each page has been read and signed by me after making necessary corrections.

Dated: 14/07/2021

Amir
15.7.21
Abdul Majid,
Additional District Judge-X,
Peshawar
Add: District & Sessions Judge
Peshawar

No.	32173
Dated of Ar	19/9/21
Name of	...
Address	...
Signature	<i>Amir</i>
Dated of Preparation	25/8/21
Dated of Delivery	25/8/21

11

CERTIFIED TO BE TRUE COPY
(Examiner)
Copying Agency District Court
Peshawar.

ATTESTED

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DECREE IN APPEAL (041R35)

IN THE COURT OF ABDUL MAJID,
ADDITIONAL DISTRICT JUDGE - X, PESHAWAR.

Civil Appeal : 08/13 of 2021
Naeem Ullah Vs BISE & 04 others

Appeal No. 08/13 from the decree of the learned Civil Judge-XVIII,
Peshawar in Suits No. 98/1 (Neem) of 2018.

MEMORANDUM OF APPEAL

1. Naeem Ullah S/o Azeem Ullah resident of Mohallah Achar,
Deh Bahadar, Peshawar.

--- Appellant

.VERSUS-

1. Board of Intermediate & Secondary Education, Peshawar
through its Chairman and 04 others.

--- Respondents

The appellant above named appeal(s) to the Court of Additional District
Judge-X, at Peshawar from the decree of learned Civil Judge, Peshawar, in
the above civil suit dated 21/01/2021 for the following reasons,
namely:-

Order of the learned Civil Judge is illegal, against the law, facts & material
available on file and is liable to be set aside.

This appeal coming on for hearing on the 14/07/2021 before the
Court of Mr. Abdul Majid, Additional District Judge-X, Peshawar in the
presence of Mr. Aziz Ullah & Asghar Ali Advocates for the appellant(s)
and Mr. Jan Muhammad Advocate for respondent(s) it is
ordered:-

Muhammad
14.7.21

ATTESTED

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25 AUG 2021
(Examiner)
District Court Peshawar

ATTESTED

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"The appeal is dismissed and order, judgment and decree of the learned trial court dated 21/01/2021 is upheld. Parties are left to bear their own costs."

Abdul Majid
(Abdul Majid)
Addl: District Judge-X,
Peshawar.

The Costs of this appeal, as detailed below, amounting to Rs. Nil are to be paid by Nil.

Given under my hand this 14th July, 2021

Costs of Appeal:

Appellant	Amount	Respondent	Amount
1. Stamp for memorandum of appeal	Nil	1. Stamp for power	Nil
2. Do. For Power	Nil	2. Do. For petition	Nil
3. Service of Process	Nil	3. Service of process	Nil
4. Pleader's fee on Rs.	Nil	4. Pleader's fee on Rs.	Nil
Total	Nil	Total	Nil

Note: Counsel fee is not allowed as the required certificate has not been furnished.

Abdul Majid
4.7.21
(Abdul Majid)
Addl: District Judge-X,
Peshawar.

32173
19/7/21

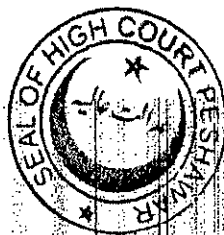
Number of Application
Name of Applicant
Word / Page
Number of Copies
Cited of Preparation

1-2
25/8/21
25/8/21

REGISTERED
25 AUG 2021
(Signature)
District Court Peshawar

ATTSTED

(3)



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F- (40)

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

C.R.No. _____/2021

Naeem Ullah s/o Azeem Ullah
R/o Mohallah Achar, Deh Bahadur,
Tehsil and District Peshawar..... Petitioner

Versus

1. Board of Intermediate and Secondary Education, Peshawar through its Chairman.
2. Secretary Board of Intermediate and Secondary Education, Peshawar.
3. Controller of Examination Board of Intermediate and Secondary Education, Peshawar
4. NADRA through its Director General, Blue Area, Fazal-e-Haq Road, Islamabad.
5. Regional Director NADRA, Phase-V, Hayatabad, Peshawar.

.....Respondents

CIVIL REVISION PETITION U/S 115 OF THE
CODE OF CIVIL PROCEDURE, 1908
AGAINST THE JUDGMENT AND DECREE
PASSED BY THE LEARNED ADDITIONAL
DISTRICT JUDGE-X, PESHAWAR DATED
14.07.2021 WHEREBY THE APPEAL OF
PETITIONER AGAINST THE JUDGMENT
AND DECREE OF LEARNED CIVIL JUDGE-
XVIII, PESHAWAR DATED 21.01.2021
WHEREBY SUIT OF THE PLAINTIFF/
PETITIONER WAS DISMISSED.

ATTESTED
EXAMINER
Peshawar High Court

Prayer:

By accepting this Revision Petition, the impugned judgment and decree dated 14.07.2021 passed by the learned ADJ-X, Peshawar as well as judgment and decree dated 21.01.2021 passed by learned Civil Judge-XVIII, Peshawar may very graciously be set aside and the suit of plaintiff/ petitioner may be decreed in favour of petitioner and against the respondents with costs throughout.

Respectfully Sheweth;

The petitioners humbly submit as under:-

- 1) That the petitioner/ plaintiff had filed a civil suit for declaration that petitioner's actual date of birth is 01.09.1983 which has incorrectly been recorded as 01.09.1991 in the record of defendants and that the same is required to be corrected accordingly and grant of permanent injunction, which suit was initially decreed ex parte on 22.09.2018 after recording of evidence but on the application of defendant/ respondents No.1 and 2 the same was recalled albeit illegally because they were served in accordance with law and intentionally failed to appear. (Copy of plaint and judgment/ decree dated 22.09.2018 and application dated 25.11.2021 are annexed herewith).
- 2) That thereafter written statement on behalf of defendants No.1 and 3 was filed. It may mentioned here that defendants/ respondents No.4 and 5 had filed cognovit and did not contest the case. (Copies of written statement by defendants No.1 to 3 and cognovit of defendants/ respondents No.2 and 3 are annexed herewith).
- 3) That after framing the issues, evidence of the parties was recorded.

ATTESTED
EXAMINER
Peshawar High Court

- (4)
- (43)
- 4) That the main defence of the contesting defendants/ respondents No.1 to 3 in his case was that if the date of birth of plaintiff given by him in the plaint is believed to be correct, then he would be less than 15 years of age as such not eligible to appear in matric examination as per rules, the plaintiff after the close of defendant evidence came to know that many students who were less than 15 years of age were allowed to appear in matric examination as such an application under Order XVIII Rule 17 read with section 151 CPC was filed, which was however dismissed by the learned trial court vide order dated 11.12.2019. (Copies of application, reply and order dated 11.12.2019 are annexed herewith).
 - 5) That after hearing both the parties, the learned trial court dismissed the suit of petitioner vide order/ judgment/ decree dated 21.01.2021. (Copy of the order/ judgment and decree dated 21.01.2021 are annexed herewith).
 - 6) That feeling aggrieved from the judgment and decree dated 21.01.2021, the petitioner filed an appeal before the learned District and Sessions Judge, Peshawar but the same was also dismissed vide impugned judgment/ decree dated 14.07.2021. (Copies of grounds of appeal and judgment/ decree dated 14.07.2021 are attached).
 - 7) That petitioner being highly aggrieved of the judgment/ decrees of both the learned courts below assails the same through the instant revision petition before this hon'ble Court, inter alia on following grounds:

GROUND:

- a. That the impugned judgments and decrees of both the courts below are against the law, facts and record of the case, hence untenable.
- b. That findings of both the courts below are result of misreading and non-reading of evidence hence untenable and liable to be reversed.

ATTESTED
EXAMINER
Peshawar High Court

(5)

(44)

- c. That both the courts below failed to exercise their jurisdiction in accordance with law and have committed illegality and irregularity in the exercise of their jurisdiction.
- d. That main defence of the respondents/ defendants No.1 to 3 was that in case the date of birth of plaintiff/ petitioner is believed to be correct then he was less than 15 years of age thus not eligible to appear in matriculation examination as per their rules. After close of evidence plaintiff came to know that several students who were under age as per the defendants stand were allowed to appear in the matric examination successfully. The petitioner/ plaintiff was thus obliged to move an application under Order XVIII Rule 17 read with section 151 of CPC for recalling DW-1 (representative/ official witness of defendants) to produce the record of the students details of whom were given therein so as to prove that the defence taken by defendants is not only discriminatory but also unconstitutional. The said application was however, dismissed by learned trial court, however it was held that the objection will be considered at the time of final judgment but the same was not all considered in the final judgment. The learned trial court thus failed to exercise its jurisdiction in accordance of law and justice the same is therefore, liable to be dismissed.
- e. That findings of both the courts below are against facts of the case and law governing the subject and are not tenable in the eyes of law at all.
- f. That the judgment/ decrees of both the courts below do not qualify the requirement of legal judgment, which is wholly extraneous, therefore, the same are liable to be interfered with.
- g. That both the judgments and decrees of learned courts below are the outcome of irregularity and illegality.

ATTESTED
EXAMINER
Peshawar High Court

- (6)
- (98)
- h. That the impugned judgments and decrees are based on misinterpretation and misapplication of law, therefore, the same are liable to be set aside.
 - i. That the impugned judgments and decrees are on the face of it arbitrary and unwholesome. The learned trial court as well as by Appellate Court did not proceed on substantial reason. In fact, both the courts below exhibited loss of application of the judicial mind, therefore, the impugned judgment and decrees are without justification and liable to be set aside.
 - j. That findings of the learned trial court on issues NO.2,3 and 4 and affirmed by the appellate court are against law and material available on record, hence untenable and liable to be reversed.
 - k. That findings of the learned trial court and affirmed by the appellate court on the question of limitation are also illegal and against the record as soon as the petitioner came to know of the wrong entry he without loss of time approached the court.
 - l. That the petitioner was a project employee and after regularization of both (petitioner/ brother) in 2018, the department while preparing salaries of both, noticed the unnatural gap and informed/ directed for rectification/ correction.
 - m. That the actual age and date of birth as per (Secondary School) record and form submitted to the Board by School Authority is 01.09.1983. However, during cross examination in trial court, the representative of Board himself admitted that there exist unknown and identified cutting/ erasure in the form which make it crystal white clear the doubt and demands actual authenticity at the part of Board representative.
 - n. That if the dates of birth of the petitioner and his elder brother as recorded in their CNICs and school certificates are taken as correct then there is difference of only six months in the age of both

ATTESTED
EXAMINER
Peshawar High Court


(7)

(46)

brothers thus which is unnatural and unbelievable this fact was fully proved through cogent, reliable and trustworthy evidence but both the learned courts below failed to take notice of the same thus failed in the exercise of their jurisdiction in accordance with law, their judgments and decrees are therefore, liable to be set aside.

- o. That any other ground will be raised at the time of arguments with the permission of this Hon'ble Court.

It is, therefore, most humbly prayed that on acceptance of this revision petition, the impugned judgment and decree dated 14.07.2021 passed by the learned ASJ-X, Peshawar as well as judgment and decree dated 21.01.2021 passed by learned Civil Judge-XVIII, Peshawar may very graciously be set aside and the suit of plaintiff/ petitioner may be decreed in favour of petitioner and against the respondents with costs throughout.



Petitioner

Through

Asghar Ali,
Advocate High Court

ATTESTED
EXAMINER
Peshawar High Court

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BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

C.R.No. _____/2021

Naeem Ullah..... Petitioner

Versus

Board of Intermediate and Secondary Education, Peshawar
through its Chairman and others..... Respondents

ADDRESSES OF THE PARTIES

PETITIONER:

Naeem Ullah s/o Azeem Ullah
R/o Mohallah Achar, Deh Bahadur,
Tehsil and District Peshawar

RESPONDENTS:

1. Board of Intermediate and Secondary Education, Peshawar
through its Chairman.
2. Secretary Board of Intermediate and Secondary Education,
Peshawar.
3. Controller of Examination Board of Intermediate and Secondary
Education, Peshawar
4. NADRA through its Director General, Blue Area, Fazal-e-Haq
Road, Islamabad.
5. Regional Director NADRA, Phase-V, Hayatabad, Peshawar.


Petitioner

Through

Asghar Ali
Advocate High Court

ATTESTED
EXAMINER
Peshawar High Court

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, PESHAWAR
[JUDICIAL DEPARTMENT]

C.R.No. 987-P/2021

Naeem Ullah

versus

*Board of Intermediate and Secondary Education,
Peshawar through its Chairman and others.*

Date of hearing: 20.10.2023.

Mr. Asghar Ali, Advocate, for the petitioner.

*Mr. Saadatullah Khan Tangi, Advocate, for
respondent No.1.*

*Mr. Shahid Imran Gigyani, Law Officer, for
NADRA.*

JUDGMENT

SHAKEEL AHMAD. I.-The plaintiff, who lost before
the lower fora, is the petitioner herein.

2. The facts of the case, in brief, are that, the
petitioner brought a suit for rectification of his date
of birth, incorporated in his Secondary School
Certificate, issued in the year, 1997. According to
plaintiff / petitioner, his actual date of birth is
01.09.1983, whereas it was inadvertently and
incorrectly recorded as 01.09.1981 in his said
certificate. After a full dressed trial, the suit filed by



ATTESTED
EXAMINER
Peshawar High Court

the petitioner was dismissed vide judgment and decree dated 21.01.2021 by the learned Civil Judge-XVIII, Peshawar. Feeling discontentment from the judgment and decree of the learned trial Court, the petitioner went in appeal, which was dismissed vide judgment and decree dated 14.07.2021. Being aggrieved of the judgments and decrees of the learned lower fora, the petitioner has landed up before this Court through the instant petition.

3. During the course of arguments, the learned counsel appearing on behalf of the respondents pointed out that the petitioner is a civil servant and the suit filed by him before the learned Civil Judge, Peshawar for rectification of his date of birth was factually and legally not maintainable for want of jurisdiction.

4. When the learned counsel for the petitioner was confronted with the contention of the learned counsel for the respondents, he admitted that

ATTESTED
EXAMINER
Peshawar High Court

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petitioner is serving in the government department as a civil servant.

5. In the circumstances, I am of the view that the petitioner has filed the suit before the wrong forum, which was legally and factually not maintainable for want of jurisdiction.

6. In view of the above, the impugned judgment and decree of the learned lower fora, dismissing the suit of the petitioner, is set aside, leaving the petitioner at liberty to seek his relief before the Khyber Pakhtunkhwa Service Tribunal for rectification of his date of birth as the dispute relates to the terms and conditions of service, if so desired.

[Signature]
JUDGE

Announced
20.10.2023.

CERTIFIED TO BE TRUE COPY
[Signature]
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 8, 7 of
the Qanun-e-Shahadat Act 1984
26 OCT 2023

14700
Date of Presentation of Application 20-10-2023
No of Pages 10-8 (SR) Hon'ble Mr. Justice Shakeel Ahmad
Copying fee 40-00 Nona Shah
Total 26-10-2023
Date of Preparation of Copy 26-10-2023
Date of Delivery of Copy 26-10-2023
[Signature]

To

The Additional Chief Secretary,
Home and Tribal Department
Government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.

9-51

Subject: Departmental Appeal for correction of date of birth.

Respectfully submitted;

Brief facts giving rise to the instant departmental appeal are as under:-

- 1) That the undersigned is working as Assistant Director in Home Department, Civil Secretariat, Peshawar since 17.03 2013.
- 2) That earlier the undersigned filed a civil suit for correction of date of birth, however, vide judgment dated 20.10.2023 passed by the Hon'ble Peshawar High Court, Peshawar whereby the impugned judgment/ decree of the learned lower Court dismissing the suit of petitioner (appellant) was set aside and it was observed that the petitioner is at liberty to seek his relief before the Provincial Service Tribunal Khyber Pakhtunkhwa.

It is pertinent to mention that prior to filing service appeal in the matter in hand before the KP Service Tribunal, it is mandatory to file departmental appeal before the appellate authority to seek the desired relief otherwise service appeal before the Tribunal is not maintainable.

(Copy of judgment dated 20.10.2023 is enclosed)

- 3) That according to the birth certificate the actual date of birth of the undersigned is 01.09.1983 however, the same has wrongly been mentioned/ incorporated as 01.09.1981 in SSC certificate and service record, which needs to be rectified as per the contents of birth certificate.

M.S./A.S. KP Home Deptt:

Diary No. 273 Dated 23/2/24

Spl Secy

Addl Secy

Deputy Secy


(A)

(G)

SA ATTSTED
23/2

- (52)
- 4) That the date of birth of my elder brother namely Naeem Ullah is 26.03.1982, therefore, the wrong date of birth of the undersigned i.e. 01.09.1981 seems to be unnatural because there is a gap of only six months between the two brothers, which does not appeal to a man of ordinary prudent.
- 5) That it is settled principle of law that entry in NADRA record is not conclusive proof of age, therefore, reliance can be validly placed on birth certificate and there is no legal impediment to rectify the wrong date of birth.
- 6) That the issue of date of birth was promptly tackled by the undersigned by approaching the Court of civil jurisdiction in the year 2018, however, vide judgment dated 20.10.2023 the proceedings of lower fora were set aside on the ground of lacking jurisdiction, hence, no fault can be attributed to the undersigned particularly when the Hon'ble High Court allowed the undersigned (appellant) to seek relief from the competent forum i.e. KP Service Tribunal.

Keeping in view the aforesaid submissions, it is, therefore, humbly prayed to allow this departmental appeal, to correct the date of birth of the undersigned as 01.09.1983 as per Birth Certificate issued by Municipal Corporation, Peshawar.


Naeem Ullah
Assistant Director
Home Department,
Civil Secretariat, Peshawar

Dated: 22.02.2024


ATTSTED

POWER OF ATTORNEY/VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

NAEEM ULLAH

VERSUS

HOME DEPTT

Appeal No. _____-P/2024

On behalf of Petitioner/Appellant No.

I/ we the petitioners/appellant hereby appoint Mr. Afrasiab Khan Wazir Advocate in the above-mentioned case, to do all or any of the following acts, deeds things.

1. To appear, act, sign, record Statement and plead for me/us in the above-mentioned case in this court /Tribunal or any other Court /Tribunal in which the same may be tried or heard, and other proceedings arising out of or connected therewith.
2. To sign, verify compromise and file or withdraw all proceedings, petitions, appeals, affidavits, and any other documents, as may be deemed necessary of advisable by them for the conduct, prosecution or defense of the said case at its stages.
3. To receive payments of, and issue receipts for, all money that may be or become due and payable to us during the course or on the conclusion of the proceedings.
4. To do all other acts and things which may be deemed necessary or advisable during the proceedings.

AND HEREBY AGREE:

- a. To ratify whatever the said advocate may do in the proceedings.
- b. Not to hold the Advocate responsible if the said case be proceeded ex-parte or dismissed in default in consequence of absence from the Court/Tribunal when it is called for hearing.
- c. An advocate shall not be responsible for any concealment, fraud, misrepresentation made by the client before any tribunal, court or forum.
- d. That the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fees remains unpaid.

In witness whereof, I/We have signed this power of Attorney/ Vakalatnama hereunder, the contents of which have been read/ explained to me/us and fully understood by me/ us.

Terms Accepted

Signatures

Accepted & Attested

Afrasiab Khan Wazir

Advocate Peshawar High Court, Peshawar.

Office:

Room No. B-16, Govt College Chowk,

Nimra Plaza, Peshawar.

Cell: 0312-9888752.