

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE-IV,  
QUETTA,**

**Civil Appeal No.18/2024.**

Muzafar Ahmed Son of Abdul Raheem,  
Resident of Spiny Road, Quetta.

**Appellant.**

**Versus.**

The Chairman Balochistan,  
Board of Intermediate & Secondary Education,  
Samungli Road, Quetta.

**Respondent.**

**CIVIL APPEAL U/S 96 CPC AGAINST THE  
IMPUGNED JUDGMENT & DECREE DATED  
29.04.2024 PASSED BY SENIOR CIVIL JUDGE-IV,  
QUETTA.**

Mr. Ishaq George Advocate for appellant,  
Miss. Aster Mehak Legal Advisor.

**JUDGMENT**

**02<sup>nd</sup> September, 2024.**

1. By this judgment, I intend to dispose of the instant appeal filed by the appellant against the judgment and decree dated 29<sup>th</sup> April, 2024 (hereinafter referred to as the "Impugned Judgment"), passed by the learned Senior Civil Judge-IV, Quetta (hereinafter referred to as the "Trial Court"), whereby the suit filed by the appellant/plaintiff was dismissed. The appellant pray for setting aside the same and for decreeing the suit in his favour.

2. Brief facts as gleaned from the appeal are that appellant/ plaintiff filed "Suit for Declaration, Correction of Date of Birth and Mandatory Injunction" against the respondent in the court of learned Senior Civil Judge-IV, Quetta with following prayer:-

A. To declare that the correct date of birth of plaintiff as 01.03.2001 instead of 11.04.1998.

B. To direct the defendant for correction date of birth of plaintiff in Board record as 01.03.2001 instead of 11.04.1998 and to issue new Matric Certificate/Sanad with correct date of birth.



C. Any other relief which this Hon'ble Court deems fit and proper may also be granted in favour of plaintiff.

3. On the other hand, the respondent filed his written statement and contested the claim of appellant on legal as well factual grounds. Out of divergent pleadings of the parties, following issues have been formulated on 30.03.2024:-

1. Whether no cause of action has ever been accrued to the plaintiff to file the instant suit against defendant, therefore, the instant plaint is liable to be rejected under Order VII Rule 11 CPC?
2. Whether the suit of plaintiff is barred by time under the law of limitation?
3. Whether the suit of plaintiff suffers from misjoinder and non-joinder of necessary parties?
4. Whether the correct date of birth of the plaintiff is 01.03.2001, but the defendant has wrongly entered the same as 11.04.1998 in his matriculation certificate?
5. Whether the plaintiff is entitled to the relief claimed for?
6. Relief?

4. After framing of issues the parties were directed to produce evidence in support of their respective claims. In order to substantiate their claim, the appellant/plaintiff produced as many as two witnesses and lastly recorded his own statement. In rebuttal, defendant neither adduced any evidence nor got recorded the statement of any of the representatives, however, the legal advisor, Board Office Relied upon the written statement.

5. After close of trial, the learned trial court after hearing final arguments from learned counsels for the parties, through impugned judgment and decree dated 29.04.2024 dismissed the suit. Hence this appeal.

6. On registration of appeal, notice was issued to the respondent and record was called from the learned trial court. The respondent made his appearance. I have heard the arguments and have gone through record of the cases, in view whereof formulated the following points for determination:-



1. Whether the suit of the plaintiff is barred under the law of limitation?
2. Whether the correct date of birth of the appellant/plaintiff is 01.03.2001 instead of 11.04.1998?
3. Whether the appellant is entitled to the relief claimed for?

7. In view of above, my findings on the formulated points for determination are as under:-

**POINT NO.1:**

Whether the suit of the plaintiff is barred under the law of limitation?

8. The appellant/plaintiff has filed the present suit seeking a declaratory judgment, asserting that his correct date of birth is 01.03.2001, as reflected in his school records. The appellant/plaintiff contends that when he appeared for the Secondary School Certificate (SSC) examination in 2020, he discovered, upon receiving his Detailed Marks Certificate (DMC), that his date of birth was erroneously recorded as 11.04.1998 instead of 01.03.2001. Consequently, the appellant/plaintiff filed this suit for a declaration on 13.11.2023.

9. Under Section 42 of the Specific Relief Act, 1877, read in conjunction with the relevant provisions of the Limitation Act, 1908, a suit for a declaration can be instituted within six years from the date when the right to sue accrues. In the present case, the right to sue accrued in July 2020, when the appellant/plaintiff received his DMC and became aware of the incorrect entry regarding his date of birth. The appellant/plaintiff, therefore, initiated legal proceedings in November 2023, which is within the statutory limitation period of six years.

10. It is pertinent to note that the limitation period begins to run from the date of the discovery of the mistake, in this instance, the issuance date of the DMC, which was 29th July 2020. The law provides the appellant/plaintiff with the right to seek a correction of the public record within a reasonable time frame from such discovery. By filing the suit within three years of the discovery of the error, the appellant/plaintiff has acted within a reasonable period and well within the statutory limit.



11. The primary grievance of the appellant/plaintiff concerns the incorrect date of birth mentioned in his DMC. Therefore, his suit is filed within the prescribed limitation period and is not barred by the law of limitation.

**POINT NO.2:**

Whether the correct date of birth of the appellant/plaintiff is 01.03.2001 instead of 11.04.1998?

12. The appellant/plaintiff has filed his case asserting that his correct date of birth is 01.03.2001, not 11.04.1998, as incorrectly recorded by the defendant in his SSC Detailed Marks Certificate (DMC). The plaintiff further contends that there is an unnatural and implausible discrepancy between his date of birth and that of his brother, Muhammad Younas. He claims that if the incorrect date of birth is accepted, it would result in only a one-month difference between his birth and that of his brother, Muhammad Younas, which is clearly unrealistic.

13. To substantiate his case, the appellant/plaintiff has presented two witnesses and recorded his own statement before the Court. PW-1, an Office Assistant from Model Higher Secondary School, produced the admission register marked as Exhibit P/1, which lists the plaintiff's date of birth as 01.03.2001. PW-2, Naveed Ahmed, provided oral testimony, asserting that the plaintiff's actual date of birth is 01.03.2001. However, PW-2 failed to explain the basis of his knowledge regarding the plaintiff's date of birth, as he is neither a close relative of the plaintiff nor older than the plaintiff. Furthermore, according to PW-2's own Computerized National Identity Card (CNIC), his date of birth is 11.08.2000, making his testimony less credible. As such, the statement of PW-2 lacks probative value and is not worthy of reliance.

14. The appellant/plaintiff has not produced any documentary evidence such as a B-form, birth certificate, CNIC, or local certificate, nor has he presented testimony from close relatives who could have corroborated his claim regarding his correct date of birth. Although the appellant/plaintiff has alleged an unnatural difference of only one month between his date of birth and that of his brother, Muhammad



Younas, he has failed to provide any evidence to support this assertion. The plaintiff did not produce his brother, Muhammad Younas, as a witness to validate the alleged discrepancy.

15. In conclusion, the appellant/plaintiff has not met the burden of proof required to establish his claim that his correct date of birth is 01.03.2001. The evidence presented, including the testimony of PW-1 and PW-2, lacks sufficient credibility and reliability to substantiate the appellant/plaintiff's assertions. Moreover, the absence of corroborative documentary evidence, such as a birth certificate or testimony from close relatives, further weakens the appellant/plaintiff's case. Consequently, the appellant/plaintiff has failed to provide clear, convincing, and legally compelling evidence to support his claim for correction of the date of birth recorded in his SSC DMC. Accordingly, the suit does not merit favorable consideration by the Court.


**POINT NO.3:-**

Whether the appellant is entitled to the relief claimed for?

16. Since the material points have been decided against the appellant, therefore, he is not entitled to the relief claimed. Civil Appeal No.18/2024 filed by the appellant is hereby dismissed. Consequently, the impugned judgment and decree dated 29.04.2024 passed by the learned Senior Civil Judge-IV, Quetta, are upheld. A decree sheet of the appeal shall be prepared. A copy of this judgment and decree of the appeal shall be sent back to the learned trial court as required under Order 41, Rule 37 of the CPC. The file, after completion and compilation, shall be consigned to the record.


**Announced in open court**

This on 02<sup>nd</sup> day of September, 2024.

  
(Muhammad Iqbal)  
Additional District Judge-IV,  
Quetta.

Compared By.....  
Section Writer  
S.M. Farooq.....  


18-09-2024

  
Certified to be True Copy  
District & Session Judge, Quetta.  
Article 87 of the Qanun-e-Salawat Order 1984

**DECREE IN APPEAL**  
**(ORDER XLI, RULE 35 OF THE CODE OF CIVIL PROCEDURE)**  
**IN THE COURT OF ADDITIONAL DISTRICT JUDGE-IV,**  
**QUETTA.**

Civil Appeal No.18/2024.

Muzafar Ahmed Son of Abdul Raheem,  
 Resident of Spiny Road, Quetta.

Appellant.

Versus.

The Chairman Balochistan,  
 Board of Intermediate & Secondary Education,  
 Samunqli Road, Quetta.

Respondent.

**CIVIL APPEAL U/S 96 CPC AGAINST THE**  
**IMPUGNED JUDGMENT & DECREE DATED**  
**29.04.2024 PASSED BY SENIOR CIVIL JUDGE-IV,**  
**QUETTA.**


Mr. Ishaq George Advocate for appellant.  
 Miss. Aster Mehak Legal Advisor.

This appeal, coming on this 02<sup>nd</sup> day of September 2024 for final disposal before me, Muhammad Iqbal, Additional District Judge-IV, Quetta in presence of their counsels.

It is ordered:-

“The Civil Appeal No.18/2024 filed by the appellant is hereby dismissed. Consequently, the impugned judgment and decree dated 29.04.2024 passed by the learned Senior Civil Judge-IV, Quetta, are upheld.”

GIVEN under my hand and seal of the court, this on 02<sup>nd</sup> day of September 2024.

  
 (Muhammad Iqbal)  
 Additional District Judge-IV,  
 Quetta.

Compared By  
 Section Writer  
 S.M. Farooq

COSTS OF APPEAL IN APPEAL NO.18/2024.					
Appellant.			Respondent.		
		Amount			Amount
1.	Stamp for memo of Appeal	Rs.65/-	1.	Stamp for power	Rs.Nil
2.	Court Fee	Rs.Nil	2.	Services of Process.	Rs.Nil
3.	Stamp for power	Rs.05/-	3.	Miscellaneous.	Rs.Nil
4.	Services of Process.	Rs.05/-			
5.	Miscellaneous.	Rs.Nil			
	<b>Grand Total</b>	<b>Rs.75/-</b>		<b>Grand Total</b>	<b>Rs.Nil</b>

