

R.C.S.No.20/2013,  
Shrikrishnasing -Vs- C. G. M. +3.

**Order Below Exh. (Exh.67)**

The instant application is filed by the plaintiff under Order VI Rule 17 of the Code of Civil Procedure.

02. **Before considering the merits of application, it is necessary to have glimpse of background facts:**

It is submitted by the plaintiff that defendants illegally and forcibly retired him from the services prior to eight years on allegation of incorrect date of birth. Thus, he suffered great prejudice and is entitled for claiming monetary loss of his eight years service. Due to premature retirement he also suffered monetary loss towards provident fund and gratuity amount. The defendants also liable to pay Rs. 34,000/- approximately to him. The plaintiff is claiming declaration and entitlement regarding the same alongwith interest.

03. As per his submission proposed amendment is necessary. If his application is allowed no loss will be caused to the defendant and it is necessary to avoid multiplicity of litigation. Moreover, it does not change nature of the suit.

04. The defendants strongly opposed the application thereby contending that proposed amendment is a new fact based on new ground. The plaintiff is not entitled to claim the amount by making present application.

05. Following points arise for my determination and I have recorded findings thereon with reasons as under.

<b>Sr. No.</b>	<b>POINTS</b>	<b>FINDINGS</b>
1)	Whether the proposed amendment is just and necessary for disposal of the suit?	<b>Yes</b>
2)	What order?	<b>As per final order.</b>

**REASONS**

**AS POINT TO NOS. 1 & 2:**

06. Read the application and say. Perused the record. Heard the learned counsel for the plaintiff and defendants. The present suit is instituted for the relief of declaration and perpetual injunction.

07. On going through the proposed amendment it is seen that the plaintiff wants to add certain facts in his pleading viz., that the defendants illegally and forcibly retired him from the services prior to eight years on allegation of incorrect date of birth. He is entitled for the monetary loss of his eight years remaining service and further amount of Rs. 34,000/-. He is praying for declaration and entitlement of said amount with interest at 18% per annum.

08. The defendants opposed the present application on the ground that proposed amendment is a new fact and plaintiff cannot claim the same in this suit. The proposed amendment cannot be said to be completely new fact and based on new ground as the same is not inconsistent with the earlier pleadings of the plaintiff. The plaintiff through the proposed amendment claimed declaration and entitlement to monetary benefits for his remaining eight years of service with interest.

09. It is further seen that the proposed amendment is necessary to avoid multiplicity of litigation. The defendants have right to meet out the case

put up by the plaintiff during the trial. They may also amend their pleadings in consequence to the pleadings of the plaintiff. Moreover, the proposed amendment did not cause serious prejudice to the defendants. Neither it changes the nature of suit.

10. Hence, in my view the amendment application needs to be allowed in the interest of justice. Thus, I, pass following order.

**ORDER**

- 1) The application (Exh.67) is allowed.
- 2) The plaintiff is directed to carry out amendment within the period of 14 days and to place amended copy of the plaint on record.
- 3) Both parties to bear their own costs.

Dated : 16-12-2015.

( S. S. Mahale )  
2<sup>nd</sup> Jt. Civil Judge (Jr.Dn.)  
Wani, Dist. Yavatmal.