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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 4525/2026 and CM APPLs. 22028-22030/2026

SHRI MANISH KUMAR & ANR. .....Petitioners

Through: Mr. Santosh Kumar Tripathi, Sr. Advocate with Mr. Arun Panwar and Mr. Rishabh Srivastava Advocates

versus

SHRI AJAY KUMAR SHARMA & ORS. .....Respondents

Through: Mrs. Avnish Ahlawat, SC GNCTD, Mr. Nitesh Kumar Singh, Ms. Aliza Alam, Mr Mohnish Sehrawat

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% 07.04.2026

C. HARI SHANKAR, J.

1. We are of the view that this writ petition is completely unnecessary and has needlessly burdened the docket of this Court.

2. The challenge in this writ petition is to order dated 11 December 2025 passed by the Central Administrative Tribunal[1] in OA 398/2022, whereby the Tribunal allowed the application of Respondents 1 and 2, as the applicants before the Tribunal, to amend the prayer clause in the OA.

[1] "the Tribunal" hereinafter

3. Aggrieved thereby, the petitioners, who were the private respondents before the Tribunal, have instituted the present writ petition.

4. The challenge in the OA, as well as in the amended OA, deals with fixation of seniority of Respondents 1 and 2 vis-à-vis the present petitioners. In the original OA, Respondents 1 and 2 had sought fixation of seniority "in the same manner as has been done in the case of Sh. Somvir Singh". However, after the OA was filed with the said prayer, it appears that the official respondents passed an order on 14 January 2025 rejecting the case of Somvir Singh. In that view of the matter, Respondents 1 and 2 chose to amend the prayer clause in the petition, challenging the seniority list as such, removing the reliance on the case of Somvir Singh.

5. Mr. Tripathi, learned Senior Counsel appearing for the petitioners submits that the OA would not be maintainable as the jurisdiction of the Tribunal could be invoked only after the official respondents had taken a decision in the matter. He further submits that his client has been suffering for several years facing litigation and allowing the amendment would only further add to her agony.

6. These, to our mind, are not ground on which the impugned order passed by the Tribunal can be challenged.

7. Mr. Tripathi further submits that the amendment alters the very nature of the cause of action and the relief sought in the OA, as the relief was, earlier predicated on the case of Somvir Singh and, by the

amendment, the respondents have abandoned reliance on Somvir Singh's case and seeks to set up an independent challenge to their seniority vis-à-vis the petitioners.

8. We are unable to agree.

9. The law relating to amendment now stands settled by the judgment of the Supreme Court in ***LIC v. Sanjeev Builders (P) Ltd.***[2], from which we may reproduce for advance the following paragraphs:

> "18. It is well settled that the court must be extremely liberal in granting the prayer for amendment, if the court is of the view that if such amendment is not allowed, a party, who has prayed for such an amendment, shall suffer irreparable loss and injury. It is also equally well settled that there is no absolute rule that in every case where a relief is barred because of limitation, amendment should not be allowed. It is always open to the court to allow an amendment if it is of the view that allowing of an amendment shall really subserve the ultimate cause of justice and avoid further litigation.
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> 19. In ***L.J. Leach & Co. Ltd. v. Jardine Skinner & Co***[3]**,** this Court at para 16 of the said decision observed as follows :
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> > "16. It is no doubt true that courts would, as a rule, decline to allow amendments, if a fresh suit on the amended claim would be barred by limitation on the date of the application. But that is a factor to be taken into account in exercise of the discretion as to whether amendment should be ordered, and does not affect the power of the court to order it, if that is required in the interests of justice."
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> 20. Again in ***T.N. Alloy Foundry Co. Ltd. v. T.N. Electricity Board***[4], this Court observed as follows :
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> > "2. … The law as regards permitting amendment to the plaint, is well settled. In ***L.J. Leach & Co. Ltd.*** it was held that the Court would as a rule decline to allow amendments,

[2] **(2022) 16 SCC 1**
[3] **AIR 1957 SC 357**
[4] **(2004) 3 SCC 392**

if a fresh suit on the amended claim would be barred by limitation on the date of the application. But that is a factor to be taken into account in exercise of the discretion as to whether amendment should be ordered, and does not affect the power of the court to order it.

3. It is not disputed that the appellate court has a coextensive power of the trial court. We find that the discretion exercised by the High Court in rejecting the plaint was in conformity with law."

21. So far as the answer to the specific plea that the claim of damages is barred by limitation and cannot be permitted at this stage is concerned, it becomes necessary to examine the various judicial pronouncements of this Court. The principles governing an amendment which may be permitted even after the expiry of the statutory period of limitation were laid down by the Privy Council in its judgment in ***Charan Das v. Amir Khan***[5]. In this case, the Privy Council laid down the principles thus :

> "… That there was full power to make the amendment cannot be disputed, and though such a power should not as a rule be exercised where its effect is to take away from a defendant a legal right which has accrued to him by lapse of time, yet there are cases : see for example ***Mohd. Zahoor Ali Khan v. Rutta Koer***[6], where such considerations are outweighed by the special circumstances of the case, and their Lordships are not prepared to differ from the Judicial Commissioner in thinking that the present case is one."

22. It would be useful to also notice the observations of this Court in ***Pirgonda Hongonda Patil v. Kalgonda Shidgonda Patil***[7], wherein this Court considered an objection to the amendment on the ground that the same amounted to a new case and a new cause of action. In this case, this Court laid down the principles which would govern the exercise of discretion as to whether the court ought to permit an amendment of the pleadings or not. This Court approved the observations of Batchelor, J., in ***Kisandas Rupchand v. Rachappa Vithoba Shilwant***[8], when he laid down the principles thus : **(*Pirgonda Hongonda Patil case*)**

> "10. … '… All amendments ought to be allowed which satisfy the two conditions (*a*) of not working injustice to the other side, and (*b*) of being necessary for the purpose of determining the real questions in controversy between the

[5] **AIR 1921 PC 50**
[6] **(1866-67) 11 Moo IA 468**
[7] **AIR 1957 SC 363**
[8] **ILR (1909) 33 Bom 644**

> parties. … but I refrain from citing further authorities, as, in my opinion, they all lay down precisely the same doctrine. That doctrine, as I understand it, is that amendments should be refused only where the other party cannot be placed in the same position as if the pleading had been originally correct, but the amendment would cause him an injury which could not be compensated in costs. It is merely a particular case of this general rule that where a plaintiff seeks to amend by setting up a fresh claim in respect of a cause of action which since the institution of the suit had become barred by limitation, the amendment must be refused; to allow it would be to cause the defendant an injury which could not be compensated in costs by depriving him of a good defence to the claim. The ultimate test therefore still remains the same : can the amendment be allowed without injustice to the other side, or can it not?' "

23. This Court has repeatedly held that the power to allow an amendment is undoubtedly wide and may be appropriately exercised at any stage in the interests of justice, notwithstanding the law of limitation. In this behalf, in ***Ganga Bai v. Vijay Kumar***[9], this Court held thus :

> "22. … The power to allow an amendment is undoubtedly wide and may at any stage be appropriately exercised in the interest of justice, the law of limitation notwithstanding. But the exercise of such far-reaching discretionary powers is governed by judicial considerations and wider the discretion, greater ought to be the care and circumspection on the part of the Court."

24. Again in ***Ganesh Trading Co. v. Moji Ram***[10], this Court laid down the principles thus :

> "4. It is clear from the foregoing summary of the main rules of pleadings that provisions for the amendment of pleadings, subject to such terms as to costs and giving of all parties concerned necessary opportunities to meet exact situations resulting from amendments, are intended for promoting the ends of justice and not for defeating them. Even if a party or its counsel is inefficient in setting out its case initially the shortcoming can certainly be removed generally by appropriate steps taken by a party which must no doubt pay costs for the inconvenience or expense caused to the other side from its omissions. The error is not incapable of being rectified so long as remedial steps do not

[9] **(1974) 2 SCC 393**
[10] **(1978) 2 SCC 91**

unjustifiably injure rights accrued."

25. The principles applicable to the amendments of the plaint are equally applicable to the amendments of the written statements. The courts are more generous in allowing the amendment of the written statement as question of prejudice is less likely to operate in that event. The defendant has a right to take alternative plea in defence which, however, is subject to an exception that by the proposed amendment other side should not be subjected to injustice and that any admission made in favour of the plaintiff is not withdrawn. All amendments of the pleadings should be allowed which are necessary for determination of the real controversies in the suit provided the proposed amendment does not alter or substitute a new cause of action on the basis of which the original lis was raised or defence taken. Inconsistent and contradictory allegations in negation to the admitted position of facts or mutually destructive allegations of facts should not be allowed to be incorporated by means of amendment to the pleadings. The proposed amendment should not cause such prejudice to the other side which cannot be compensated by costs. No amendment should be allowed which amounts to or relates in defeating a legal right accruing to the opposite party on account of lapse of time. The delay in filing the application for amendment of the pleadings should be properly compensated by costs and error or mistake which, if not fraudulent, should not be made a ground for rejecting the application for amendment of plaint or written statement. (See ***South Konkan Distilleries v. Prabhakar Gajanan Naik***[11])

26. But undoubtedly, every case and every application for amendment has to be tested in the applicable facts and circumstances of the case. As the proposed amendment of the pleadings amounts to only a different or an additional approach to the same facts, this Court has repeatedly laid down the principle that such an amendment would be allowed even after the expiry of statutory period of limitation.

27. In this behalf, in ***A.K. Gupta & Sons Ltd. v. Damodar Valley Corpn***.[12], this Court held thus:

> "7. … a new case or a new cause of action particularly when a suit on the new case or cause of action is barred : ***Weldon v. Neal***[13]. But it is also well recognised that where the amendment does not constitute the addition of a new cause of action or raise a different case, but amounts to no more than a different or additional approach to the same

[11] **(2008) 14 SCC 632**
[12] **AIR 1967 SC 96**
[13] **(1887) LR 19 QBD 394 (CA)**

facts, the amendment will be allowed even after the expiry of the statutory period of limitation:

28. In entitled, ***G. Nagamma v. Siromanamma***[14], this Court considered the proposed amendment of the plaint and noticing that neither the cause of action would change nor the relief would be materially affected, allowed the same. This Court in this case noticed that in the plaintiff's suit for specific performance, the plaintiff was entitled to plead even inconsistent pleas and that in the present case, the plaintiffs were seeking only the alternative reliefs. It appears that the plaintiffs had filed a suit for specific performance of an agreement of re-conveyance. By the application under Order 6 Rule 17CPC for amendment of the plaint, the appellants were pleading that the transactions of execution of the sale deed and obtaining a document for re-conveyance were single transactions viz. mortgage by conditional sale. They also wanted to incorporate an alternative relief to redeem the mortgage. At the end of the prayer, the plaintiff sought alternatively to grant of a decree for redemption of the mortgage. This amendment was permitted by this Court.

29. In ***Pankaja v. Yellappa***[15], this Court held that it was in the discretion of the court to allow an application under Order 6 Rule 17 CPC seeking amendment of the plaint even where the relief sought to be added by amendment was allegedly barred by limitation. The Court noticed that there was no absolute rule that the amendment in such a case should not be allowed. It was pointed out that the court's discretion in this regard depends on the facts and circumstances of the case and has to be exercised on a judicial evaluation thereof.

30. It would be apposite to notice the observations of this Court in this pronouncement in extenso. The principles were laid down by this Court thus : (***Pankaja case***)

> "12. So far as the court's jurisdiction to allow an amendment of pleadings is concerned, there can be no two opinions that the same is wide enough to permit amendments even in cases where there has been substantial delay in filing such amendment applications. This Court in numerous cases has held that the dominant purpose of allowing the amendment is to minimise the litigation, therefore, if the facts of the case so permit, it is always open to the court to allow applications in spite of the delay and laches in moving such amendment application.

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[14] (1996) 2 SCC 25
[15] (2004) 6 SCC 415

13. But the question for our consideration is whether in cases where the delay has extinguished the right of the party by virtue of expiry of the period of limitation prescribed in law, can the court in the exercise of its discretion take away the right accrued to another party by allowing such belated amendments.

14. The law in this regard is also quite clear and consistent that there is no absolute rule that in every case where a relief is barred because of limitation an amendment should not be allowed. Discretion in such cases depends on the facts and circumstances of the case. The jurisdiction to allow or not allow an amendment being discretionary, the same will have to be exercised on a judicious evaluation of the facts and circumstances in which the amendment is sought. If the granting of an amendment really subserves the ultimate cause of justice and avoids further litigation the same should be allowed. There can be no straitjacket formula for allowing or disallowing an amendment of pleadings. Each case depends on the factual background of that case.

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16. This view of this Court has, since, been followed by a three-Judge Bench of this Court in ***T.N. Alloy Foundry Co. Ltd.. Therefore***, an application for amendment of the pleading should not be disallowed merely because it is opposed on the ground that the same is barred by limitation, on the contrary, application will have to be considered bearing in mind the discretion that is vested with the court in allowing or disallowing such amendment in the interest of justice.

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18. We think that the course adopted by this Court in ***Ragu Thilak D. John case***[16] applies appropriately to the facts of this case. The courts below have proceeded on an assumption that the amendment sought for by the appellants is ipso facto barred by the law of limitation and amounts to introduction of different relief than what the plaintiff had asked for in the original plaint. We do not agree with the courts below that the amendment sought for by the plaintiff introduces a different relief so as to bar the grant of prayer for amendment, necessary factual basis has already been laid down in the plaint in regard to the title which, of

[16] **Ragu Thilak D. John v. S. Rayappan, (2001) 2 SCC 472**

course, was denied by the respondent in his written statement which will be an issue to be decided in a trial. Therefore, in the facts of this case, it will be incorrect to come to the conclusion that by the amendment the plaintiff will be introducing a different relief."

31. From the above, therefore, one of the cardinal principles of law in allowing or rejecting an application for amendment of the pleading is that the courts generally, as a rule, decline to allow amendments, if a fresh suit on the amended claim would be barred by limitation on the date of filing of the application. But that would be a factor to be taken into account in the exercise of the discretion as to whether the amendment should be ordered, and does not affect the power of the court to order it, if that is required in the interest of justice.

32. In ***Ragu Thilak D. John,*** this Court also observed that where the amendment was barred by time or not, was a disputed question of fact and, therefore, that prayer for amendment could not be rejected and in that circumstance the issue of limitation can be made an issue in the suit itself like the one made by the High Court in the case on hand.

33. In a decision in ***Vishwambhar v. Laxminarayan***[17], this Court held that the amendment though properly made cannot relate back to the date of filing of the suit, but to the date of filing of the application.

34. Again, in ***Vineet Kumar v. Mangal Sain Wadhera***[18], this Court held that if a prayer for amendment merely adds to the facts already on record, the amendment would be allowed even after the statutory period of limitation."

10. There is no change in the reliefs that the Respondents 1 and 2 sought before the Tribunal, as a result of the amendment. Both prior and after the amendment, Respondents 1 and 2 were challenging the fixation of their seniority vis-a-vis the petitioners.

11. The only difference was that the Respondents 1 and 2 were earlier predicating their case on the case of Somvir Singh and, by the

[17] **(2001) 6 SCC 163**
[18] **(1984) 3 SCC 352**

amendment, were no longer relying on the case of Somvir Singh and were independently ventilating their case of seniority.

12. In fact, the amendment is not even so much an amendment of the prayer clause as merely a change of the ground on which the challenge to seniority was based.

13. As the *dominus litus*, we see no reason why Respondents 1 and 2 could not be permitted to amend the OA as sought. It is for the respondents, as the applicants before the Tribunal, to choose the ground on which they press their claim for seniority vis-à-vis the petitioners. Whether to predicate their claim on the case of Somvir Singh, or independently thereof, is, therefore, entirely the respondents' prerogative. The mere fact that the respondents do not now choose to rely on the case of Somvir Singh cannot, therefore, be said to constitute any fundamental change in the cause of action, or the *lis* agitated before the Tribunal.

14. We, therefore, find no error in the impugned judgment of the Tribunal whereby the amendment has been allowed.

15. Accordingly, the writ petition is dismissed in *limine*.

16. Needless to say, however, all defences which may be available in law shall be open to the petitioners to be raised by way of response to the amended OA.

17. We do not express any view on any of these aspects.

18. The writ petition is, accordingly, dismissed.

C. HARI SHANKAR, J

OM PRAKASH SHUKLA, J

APRIL 7, 2026/yg