CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD

OA/21/926/2019 & MA/21/903/2019

Reserved on: 19.08.2020
Pronounced on: 04.09.2020

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member

Dr. Ala Narayana, S/o. Mondaiah,
Aged about 60 years, Occ: Director,
National Institute of Indian Medical Heritage (NIIMH),
(CCRAS, Ministry of AYUSH, Government of India.)
Hyderabad – 500 036, Telangana,
R/o. H.No.2-17-25/20/2, Uppal,
Hyderabad – 500 039, Telangana.

... Applicant

(By Advocate: K. Sudhaker Reddy)

Vs.

1. Union of India rep. by its
Secretary to Government,
Ministry of AYUSH, Government of India,
AYUSH Bhavan, B- Block, GPO Complex,
New Delhi – 110 023.

2. The Director General,
Central Council for Research in Ayurvedic Sciences,
(Ministry of Ayush, Government o India,
Jawaharlal Nehru Bhartiya Chikitsa Evam Homeopathy
Anusandhan Bhawan, 61-65, Institutional Area,
Opp. D Block, Janakpuri, New Delhi – 110 058.

3. The Assistant Director (AY),
National Institute of Indian Medical Heritage (NIIMH),
(CCRAS, Ministry of AYUSH, Government of India,),
Hyderabad – 500 036, Telangana.

... Respondents

(By Advocate: Mrs. K. Rajitha, Sr. CGSC)

O R D E R

Hon'ble Mr. B.V. Sudhakar, Admn. Member

2. The OA is filed in regard to enhancement of retirement age from 60 to 65 years.

3. Brief facts of the case are that the applicant, who is a qualified doctor, is working as Director, National Institute of Indian Medical Heritage at Hyderabad, which comes under the jurisdiction of the Central Council for Research in Ayurvedic Sciences (for short "***CCRAS"***) under the Ministry of AYUSH. Applicant claims that as per bye-laws of CCRAS, his appointment is governed by CCS (CCA) Rules and by the laws applicable to Central Govt. employees. Ministry of AYUSH recruits General Duty Medical Officers/ Research officers. The officers when posted at the Ministry are designated as Research Officers and they are not involved in patient care, and on duty in CGHS, they don the designation of Medical Officer to treat patients. Applicant is on par with General Duty Doctor/ Medical Officer of CGHS. The applicant is aggrieved that he is illegally being superannuated on 31.10.2019 on attaining the age of 60 years although the age of retirement has been augmented for Allopathy and AYUSH doctors working in CGHS w.e.f. 31.5.2016 & 24.11.2017 respectively, to 65 years. Aggrieved, OA has been filed.

4. The contentions of the applicant are that the clauses 34, 35 and 47 of the bye laws of CCRAS are in his favour. Officers posted in the Ministry and in the CGHS clinics are paid NPA by treating both the posts as clinical.

Therefore, cabinet decision taken on 27.9.2017 in regard to enhancement of retirement age to 65 years to improve service delivery, is equally applicable to Medical officers and Research Officers. The press note released subsequent to the cabinet decision is applicable to institutions working under the administrative control of respective Ministries with a reference to AYUSH doctors as well. CCRAS works under Ministry AYUSH. As per O.M dated 19.9.2019, Research Officer working in Ministry is equal to an officer working in a clinical unit. Designation is not the criteria but the qualification and work performed. Relief sought has been extended to doctors of CHS & New Delhi Municipal Corporation as well as doctors working under the respondents. Applicant is similarly placed performing similar nature of work and hence, cannot be discriminated. Govt. of NCT of Delhi has implemented the measure of amplifying the retirement age to 65 on 30.9.2016. Hon'ble Principal Bench of this Tribunal has provided the relief sought in different OAs to the doctors working in North, South and East Delhi Municipal Corporations. Bye-laws do not speak of retirement age and hence, as per Rule 14 of Recruitment Rules applicable to Central Civil Services shall apply. Gazette notification of DOPT dated 5.1.2018 does not distinguish the AYUSH doctors in terms of designation, nature of duties, institution etc. Doctors working for CHS, Ministry of AYUSH, CCRAS are inter-transferable in the same capacity and hence, there can be no difference amongst these doctors. Hon'ble Apex Court has equated veterinary doctors with Medical Officer and thereby, they are getting benefits as are extended to Allopathy and AYUSH doctors. As per the 5th and 6th CPC reports and also as per Hon'ble Principal Bench judgment of this Tribunal in OA 2442/2017, doctors working under Ministry of AYUSH

are at par with those working under Allopathy stream. Ministry of Shipping, Railways, Dept. of Higher Education, Autonomous Bodies have increased the retirement age, but not CCRAS. Hence, Courts/ Tribunals intervened and issued interim orders allowing those who approached to be continued in service.

This Tribunal initially granted an interim order on 29.10.2019 directing the respondents to allow the applicant to continue in service beyond 60 years of age, without claiming any remuneration. Subsequently, applicant filed MA No.71/2020 for a direction praying for payment of salary, in pursuance of the Interim order of the Tribunal dtd. 29.10.2019 permitting continuance of the applicant in service, subject to further orders at the time of final disposal of WP (C) No.9554 of 2018 filed before the Hon'ble High Court of Delhi. MA No.71/2020 was allowed.

5. Respondents in their reply statement contend that CCRAS is an autonomous body registered as a Society and working under the aegis of the Ministry of AYUSH to promote research in Ayurvedic sciences. Staff matters are dealt as per the bye laws of the Institute and the Governing Body is competent to take organizational decisions including laying down bye-laws. Recruitment Rules and nature of duties performed by General Duty Medical Officers working for CGHS/CHS are different from those of Technical Officers/ Research Officers including applicant's cadre. Applicant relied on the first respondent letter dated 24.11.2017 but concealed the letter dated 31.10.2017 issued by the same respondent making the applicant ineligible for the relief sought. Interim order was obtained on 29.10.2019 by not revealing the letter of 31.10.2017. Similar

relief sought by similarly placed employees like Dr Krishna Kumari and Dr. G.C.Nanda has been declined by different benches of the Tribunal. The employees of autonomous bodies will be entitled for any pay and allowances only if the G.O.I. agrees to the same. In respect of enhancement of age, G.O.I. has denied vide lr. dtd 31.10.2017. Cabinet decision and press release thereupon are, therefore, of no relevance to the applicant's case. NPA is given based on qualification. Clauses 34& 47 of the Bye laws and rules published in official Gazette are inapplicable to the case of the applicant. Applicant is not involved in patient care. Judicial orders referred to by the applicant are irrelevant since the facts therein are different. FR 56 Clause (d) is applicable to the applicant but not FR 56 (bb). Doctors of the respondent organization are not transferable to the Ministry of AYUSH and the applicant has never been posted in Min. of AYUSH. Representations received from the applicant have been disposed on 8.6.2018.

Respondents filed MA 963/2019 for vacation of stay relying on the judgments of the Hon'ble High Courts of Delhi, Karnataka and Hon'ble Principal Bench of this Tribunal delivered on 31.10.2019, 25.1.2001 and 11.09.2018 respectively.

6. Heard both the counsel and perused the pleadings on record.

7. I. The dispute is in regard to enhancement of retirement age from 60 to 65 years on par with doctors of Central Health Service (CHS) who got the said benefit by Presidential order of 31.5.2016. The issue was examined

by the cabinet and it was decided to enhance the retirement age to 65 years on 27.9.2017 to doctors other than those belonging to CHS in the following manner:

> *"i. Ex-Post facto approval to enhance the superannuation age of doctors of Indian Railways Medical Service to 65 years.*
>
> *ii. Ex-Post facto approval to enhance the superannuation age to 65 years for doctors working in Central Universities and IITs (Autonomous Bodies) under Department of Higher Education and doctors in Major Port Trusts (Autonomous Bodies) under Ministry of Shipping.*
>
> *iii. The superannuation age has been enhanced to 65 years in respect of doctors under their administrative control of the respective Ministries/Departments (M/o of AYUSH (AYUSH Doctors)., Department of Defence (civilian doctors under Directorate General of Armed Forces Medical Service), Department of Defence Production (Indian Ordnance Factories Health Service Medical Officers), Dental Doctors under D/o Health & Family Welfare, Dental doctors under Ministry of Railways and of doctors working in Higher Education and Technical Institutions under Department of Higher Education."*

The cabinet decision was taken to improve patient care, academic activities in Medical Colleges and for effective implementation of National Health Programmes for delivery of Health services.

II. As can be seen, from clause (iii) of the cabinet decision doctors under the administrative control of Min. of AYUSH (AYUSH) doctors, are also included. Accordingly the Ministry of AYUSH has issued a concurrent order on 24.11.2017 which is extracted hereunder:

> *"The President is pleased to enhance the age of superannuation of the AYUSH doctors under the Ministry of AYUSH and working in CGHS Dispensaries/Hospitals to 65 years with effect from 27.9.2017 i.e from the date of the approval of the Union Cabinet. "*

The applicant is working in the Central Counsel for Research in Ayurvedic Sciences (CCRAS) which has been registered as a Society under the Society Registration Act, 1860 in order to coordinate, formulate, develop and promote research in Ayurvedic Sciences. It is an Autonomous Body governed by bye laws framed and is administered by a Governing Body. The above order refers to AYUSH doctors, who are working in CGHS Dispensaries/Hospitals, but it does not speak of those working in Autonomous Bodies like CCRAS, in which, the applicant is working. The Ministry of AYUSH has further clarified this aspect at para 2 in their letter dated 31.10.2017 as under:

> *"The decision of the cabinet is applicable to the AYUSH doctors directly working under the administrative control of Ministry of AYUSH ie AYUSH doctors working under CGHS. The decision of the Union Cabinet is not applicable to autonomous bodies functioning under the Ministry of AYUSH ie Research Councils/National Institutes."*

The applicant is working in CCRAS, which is an autonomous body involved in promoting research activity and hence, the benefit of increase in retirement age does not apply to his case as clarified supra.

III. However, the applicant harps on the aspect that clauses 34,35 & 47 of the bye laws of CCRAS state that the service rules as are applicable to Central Govt. Employees, do apply to those working in CCRAS and particularly in the context of there being no provision governing retirement in the bye laws. The clauses cited are extracted hereunder for reference.

> *"34. The rules governing the retirement of employees of the Government of India as amended from time to time or as desired*

by the Governing Body shall apply to the employees of the Central Council. Provided that an employee can be retained in service after prescribed age of superannuation if he continues to be physically fit and efficient and it is in the interest of the Central Council to retain him in service.

35 The Fundamental and Supplementary Rules and General Financial Rules of Government of India as amended from time to time shall apply mutatis mutandis to employees of the Central Council."

"47. In respect of matters not provided for in these regulations the rules as applicable to Central Government servants regarding the general conditions of service, pay, allowances, T.A. and daily allowances, foreign service terms, deputation in India and abroad, etc. and orders and decisions issued in this regard by the Central Government from time to time shall apply mutatis mutandis to the employees of the Central Council"

Clause 34 of the bye-law makes it crystal clear that the Governing Body has to take a decision in regard to the enhancement of the retirement age. The Governing body has no necessity to take a decision in the context of the Ministry of AYUSH, Govt. of India having made it clear that enhancement of retirement age is not applicable to an autonomous body like CCRAS. Therefore, the G.O.I. rule of not extending the enhancement of retirement age to CCRAS compliments the clauses 35 & 47 of the bye laws. We do not find any error in the decision taken by the respondents in terms of the bye laws.

As recently as 31.10.2019, the Hon'ble Delhi High Court in W.P. (C) 4115/2014, while resolving the dispute between U.O.I. & ors v. Association of Employees of Indian Institute of Mass Communication and Ors, relying on Hon'ble Supreme Court observations, has observed that the CCS (Pension) Rules 1972 are not applicable to Autonomous Bodies unless

the Autonomous Bodies decide to accept them in accordance with their bye-laws and Memorandum of Association. The relevant para is extracted hereunder:

> *31. The Hon"ble Supreme Court after considering the facts and circumstances and the submissions made by the contesting parties, concluded that NWDA had framed its own regulations namely the CPF Rules, 1982 and the said Rules were duly approved by the Governing Body. As NWDA is an Autonomous Body under the Ministry of Water Resources and it has framed its own bye-laws governing the employees so the Court must adopt an attitude of total non-interference or minimum interference in the matter of interpretation of Rules framed by autonomous institutions as was held in the matter of Chairman and M.D Kerala SRTC vs. K.O. Varghese (2007) 8 SCC 231, hence, the Hon"ble Supreme Court reached to a conclusion that as the Appellants were governed by the CPF Rules, 1982, so the OM applicable to Central Government employees regarding GPF-cum-Pension Scheme is not applicable to them."*

Hence, the repeated argument of the applicant that the CCS (Pension) Rules shall be applicable to the CCRAS, an autonomous body, *mutatis mutandis* has to be laid to rest in view of the verdict of the Hon'ble Delhi Court on the matter.

IV. Besides, the applicant emphasized the fact that there is no difference between Medical Officers working in CGHS/CHS and the Research Officers. This is incorrect since in regard to the mode of recruitment, nature of work etc. there is an ocean of difference. Research Officers are recruited by the CCRAS for its research work and the Medical Officers of CGHS/CHS who treat patients are selected by the UPSC. Rules of engagement are different. Duties, responsibilities and eligibility criteria for selection are different based on the recruitment rules/bye laws in respect

of the cadres cited. Bye laws and the decisions of the Governing Body of CCRAS constitute the frame work in regard to the service conditions of the applicant. Rules framed by CCRAS gain primary importance in regulating the service matters of the applicant but not those laid for CGHS/CHS doctors. It is the Governing Body of CCRAS, considering its autonomous nature, which has to take the call in imbibing any rule applicable to Central Government servants and thereafter, approach the Ministry of AYUSH for concurrence as is seen in the case of implementation of 7th CPC recommendations in the respondents organization. True to speak, the CGHS/CHS doctors have a different job design/ description and therefore, it is farfetched to claim that the rules of CGHS/CHS doctors apply to the applicant for reasons given above. Even the rules cited by the applicant in the official gazette referred to by the applicant in para 4.15 of the OA nor the decision of the Govt. of NCT of Delhi in enhancing the retirement age of the Allopathy doctors as claimed at par 4.11 of the OA are of no consequence, since CCRAS is an Autonomous Body whose decision, which matters to enhance retirement age. In particular, focusing our attention to Rule 56(bb) adduced in the gazette notifications dated 5.1.2018 & 11.8.2018 dealing with superannuation on which the applicant has pinned his hopes, they speak of General Duty Medical Officers, Specialists included Teaching & Non Teaching and public health sub cadres of Central Health Services, Indian Railway Doctors, CHS, AYUSH and working under Ministry of AYUSH etc. The applicant is not covered under any of the categories since he is an employee of an autonomous research body which is placed in a different paradigm altogether with reference to recruitment rules, nature of duties, responsibilities and so on. *Defacto*,

CGHS/ CHS doctors are involved in patient care whereas the applicant work domain is research work. The cabinet decision of 27.9.2017 to enhance retirement age was to improve patient care, academic activities and ensure effective implementation of National Health Programmes for delivery of health services. Nowhere, was the aspect of research work touched upon. Applicant is working as the Director of the National Institute of Indian Medical Heritage, which has a mandate for literary research and documentation. The work obviously done is in respect of conducting research and observational studies relating to Ayurvedic parameters and formulations. Thus applicant is not involved in any patient care whatsoever, which, in fact, is mostly the spirit of the cabinet decision referred to, for amplifying the retirement age. If at all, the applicant was involved in extending medical aid as part of Tribal Health Care Research Project, it was in pursuance of the research work done to study living conditions, dietetic habits, documentation of folklore claims as per material papers submitted as part of the annual report ending 31st march 2018, while seeking interim relief. Therefore, in sum and substance, the applicant's claim that since he is similarly placed like the CHS/CGHS etc doctors lacks logic. CCRAS rules apply to him lock, stock and barrel. In this regard, we take support of observation of the Hon'ble High Court of Karnataka made on 25.1.2001 in WP No.42833-43/1999(S), wherein CCRAS is a party, as under:

> *"The mere fact that an employee working in different organization and discharging similar functions as that of the petitioners is being paid an enhance allowance is no ground to claim that the petitioners are also entitled under law to similar allowance. The right to such higher allowance should emanate from the rules and service conditions which are applicable to petitioners."*

Telescoping the above on to the case of the applicant, it is evident that the applicant can seek enhancement of retirement only if the rules of CCRAS permit.

V. The Ld. Counsel for the applicant made an interesting observation that the CCRAS has not taken a decision in the matter and therefore, it is time that they act and fill up the gap in decision making. We have observed that it is not necessary in view of the direction of the Ministry of AYUSH dtd 31.10.2017. In fact, service law permits to fill up the so called gap projected by issue of administrative instruction by those concerned within the contours of the policy guidelines in terms of the observation of the Hon'ble Supreme Court in Union of India v. K.P. Joseph, (1973) 1 SCC 194 : 1973 SCC (L&S) 133 at page 196 as under:

> ***"9.*** *xxx. This Court has held in Sant Ram Sharma v. State of Rajasthan [AIR 1967 SC 1910 : (1968) 1 SCR 111 : (1968) 1 SCJ 672] that although Government cannot supersede statutory rules by administrative instructions, yet, if the rules framed under Article 309 of the Constitution are silent on any particular point, the Government can fill up gaps and supplement the rules and issue instructions not inconsistent with the rules already framed and these instructions will govern the conditions of service."*

The letter issued by the Min. of AYUSH on 31.10.2017 is in accordance with the Union Cabinet decision and the CCRAS is under the administrative control of Ministry of AYUSH. Hence, a separate instruction from CCRAS is uncalled for to fill the stated gap.

VI. Indeed, the rule/executive instruction which rules the roost in regard to the enhancement of retirement age is the letter dated 31.10.2017 of the Minister of AYUSH which cannot be infringed as observed by the Hon'ble Supreme Court in T.Kannan and ors vs S.K. Nayyar (1991) 1 SCC 544 as under:

"*Action in respect of matters covered by rules should be regulated by rules*".

Further, the Hon'ble Apex Court has further observed in regard to rules in (2007) 7 SCJ 353 as under:

" *the court cannot de hors rules*"

Hence, in view of the above observations neither the respondents nor the Tribunal can direct anything which contravenes the Min of AYUSH letter dated 31.102017 not permitting any enhancement of age as sought by the applicant working for an institution like CCRAS.

VII. One another aspect raised by the applicant is that NPA has been granted considering his post as a clinical one. However, the NPA is granted as a compensation to the applicant for having acquired the qualification of a medical doctor but not allowed to have private practice since he is working for the CCRAS. Therefore, the contention raised has no legs to stand. An allied averment was that the applicant's job is inter-transferable and he is liable to be posted to Ministry of Ayush/CHS, which was flatly denied by the respondents by claiming that the applicant was never posted in the Ministry of AYUSH. An implicit admission since the applicant has not filed a rejoinder denying the same.

VIII. Learned counsel for the applicant unwaveringly went on mounting his attack by stating that the doctors of Ministry of Shipping, Railway doctors, IIT, Universities, CHS, CGHS doctors and in particular, Veterinary Doctors were extended the benefit of enhancement of retirement age but not the applicant, who is similarly placed. The sting in the argument was that when doctors who treat animals could be given the benefit of enhancement then why not the applicant who is into the profession of treating human beings. True, the applicant has got the medical qualification to treat human beings, but he is presently into an occupation of intense research activity. The goal of the enhancement of the retirement age was, to a great extent, to improve patient care as per the Union Cabinet decision and the subsequent press release. The applicant does not fit into the frame of things of the cabinet decision as was categorically called out by the Ministry of AYUSH in its letter dated 31.10.2017 and hence, he has to retire on the pre-ordained date.

IX. The Fundamental Rules are clear as to when the applicant has to retire as elaborated in FR 56 (a) and FR 56 (d) and reproduced below:

> *F.R. 56(a) Except as otherwise provided in this rule, every Government servant shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years:*
>
> *F.R. 56 (d) No Government servant shall be granted extension in service beyond the age of retirement of sixty years.*

Applicant can be no exception to the above rules, albeit he did try to make out a case for enhancement of retirement age by drawing a parallel with CGHS/CHS and others, but in vain, as discussed in the preceding paragraphs. The provision of FR 56 (bb) amending retirement age to 65

years would come into operation, provided the Governing body of CCRAS decided to adopt it. Facts make it explicit that the CCRAS did not adopt the amendment in view of the Ministry of AUSH letter dated 31.10.2017.

X. i. Nevertheless, applicant relied on the Hon'ble Principal Bench of this Tribunal in OA Nos.2712, 2771, 2946, 4066, 4192, 4189 of 2016 to further his cause. At para 30 of the cited judgment, it was observed as under:

> *"On the analysis of the factual matrix, we find that although the doctors working under CHS and those working under the Indian System of Medicines belong to different streams, nonetheless all the doctors perform similar nature of duties ie treatment of patient and health care in their own systems of medicines. The service conditions of both the streams, though governed by separate rules, but are similar in nature. xxxx"*

The anchor point of the judgment is that the nature of duties of different streams of CHS i.e. Health care and patient treatment are similar though service conditions of both the streams are governed by separate rules. The applicant is not involved in patient care and his nature of duties are research oriented unlike the ones discharged by CHS. Further, the applicant does not come under one of the streams of CHS to be brought under the ambit of the judgment spoken about. He has been directly recruited by the CCRAS for a specific purpose of research. Hence the judgment cited is no assistance to the applicant.

ii. Even the verdict of Hon'ble High Court of Delhi in Dr Asha Aggarwal and ors v Union of India & Ors., in WP(C) No.460/2007 banked upon by the applicant was in regard to enhancement of retirement age of General Duties Medical Officers from 60 years to 62 years. The applicant is not a General Duty Medical officer. He is from the research line and that

too, working for an Autonomous Body. Hence, the verdict referred is irrelevant, more so, in the context of Ministry of AYUSH letter dated 31.10.2017 denying enhancement of retirement age to those working in CCRAS, to which institution the applicant belongs to. To reiterate, the mandate of CCRAS is to promote research and therefore, applicant cannot claim parity with CGHS/CHS doctors in terms of the nature of duties discharged.

iii. Further, the relief of enhancing retirement age granted by the Hon'ble Principal Bench of this Tribunal in OA 2442/2017 in the case of Dr K.S.Sethi cited by the applicant, cannot be extended to the applicant since Dr. K.S. Sethi was a AYUSH doctor working in the Ministry of AYUSH, whereas the applicant is not a AYUSH doctor and he finds himself in CCRAS, for which institution the Ministry of AYUSH has decided not to extend the benefit vide its letter dated 31.10.2017.

iv. Besides, applicant did refer to the orders of the Hon'ble Principal Bench of this Tribunal in different OAs cited in para 4.21 of the OA in respect of Doctors of Delhi Municipal Corporation to fortify his case. These judgments are not applicable to the case of the applicant since regulation 4 of the Delhi Municipal Corporation Act, 1957 treats all doctors alike under different streams of medicine and all the service conditions applicable to the Central Government Employees have been made applicable to the officers and employees working under various municipal corporations. Such a blanket regulation is not available to cover the case of the applicant. MCD is statutory body whereas CCRAS is an autonomous body. It needs no elaboration that there can be no comparison between the

employees of the two entities. The Governing body of CCRAS is the kingpin in deciding as to what is required to be done including norms of retirement. The decision of the Ministry of AYUSH communicated in letter dated 31.10.2017 is the Lakshmana rekha which CCRAS has decided not to transgress. We have gone through other cases wherein the applicants have been granted the relief for reasons of being involved in patient care unlike the applicant whose main work domain is research. Therefore, they would be of not help to the applicant.

v. Applicant also enclosed cases (Annexure A-XV) seeking enhancement of retirement age in different judicial forums where in interim orders have been issued enabling the applicants therein to continue in service. However, the orders being interim in nature, they are not binding. One has to wait for the final outcome. Indeed the final outcome, in respect of OAs 797/2018, 1121/2018 decided by Hon'ble Chandigarh and Principal benches of this Tribunal in respect of Dr Krishna Kumari and Dr G.C. Nanda who are similarly placed like the applicant, is dismissal on merits. It is this decision of negating the relief sought, which is binding as per verdict of the Hon'ble Supreme Court in S.I. Rooplal And Anr vs Lt. Governor Through Chief ... on 14 December, 1999, Appeal (Civil) 5363-64 of 1997.

vi. Moreover, one of the reasons for issue of the interim order passed by this Tribunal on 29.10.2019 was the interim relief provided by the Hon'ble Principal Bench in respect of Dr Subhash Singh v U.O.I & Ors in OA 2072 of 2018. The same has been vacated by the Principal Bench

based on the dismissal of Dr Salma Khatoon v. U.O.I. &ors in OA 335/2018 thereby snuffing out the steam in the instant case.

vii. In regard to the interim order dated 30.07.2019 passed by the Hon'ble Court of Judicature for Rajasthan, Bench at Jaipur in CWP No.12769/2019 favoring petitioner therein in regard to a similar issue, it is to be pointed out that the said Writ Petition has been finally dismissed by the Hon'ble High Court vide order dt. 05.08.2020, against the petitioner therein. Resultantly applicant can seek no succor by citing the judgment referred to.

XI. Being on the subject of legal pronouncements, Hon'ble Apex Court on 1.6.2020 in CA Nos.2476-2428 of 2020 has vacated the interim stay granted on 12.9.2018 & 23.1.2020 by the Hon'ble High Court of Delhi in Central Counsel for Research in Unani Medicine v. Dr. Salman Khatoon and remanded the matter to the Hon'ble High Court for further adjudication in the pending writ petition. Dr. Salman Khatoon is a Research Officer who sought enhancement of retirement age, like the applicant in the instant OA, by filing OA 335 of 2018 before the Hon'ble Principal Bench which was dismissed on 21.8.2018. Consequently, as has been rightly pointed out by the Ld. Counsel for the respondents the interim order issued by this order should also go. The learned counsel for the applicant did also submit the judgment of the Hon'ble Principal Bench of this Tribunal in OA No.1468/2012 in support of his case. But, in view of the subsequent orders passed by the Hon'ble Principal Bench in similar matters cited supra denying the relief sought for by the applicant, the order in OA No. 1468/2012 will be of no help to the applicant.

XII. In view of an array of judgments adduced above, which are not in favour of the applicant, CCRAS being an Instrumentality of the State, has to follow the orders of the courts as was pointed out by the Hon'ble Supreme Court in ***Anil Kumar Vs. Union of India and Ors*** [Civil Appeal No. 888 of 2019 arising out of SLP(C) 32073 of 2016]:

> *"CSIR by reason of its autonomy may have certain administrative privileges. No authority can, however, claim a privilege not to comply with a judgment of this Court. Once the law was enunciated in Dev Dutt's case (supra), all instrumentalities of the State were bound to follow the principles laid down by this Court. CSIR was no exception"*

XIII. The applicant has also asserted that it is a legitimate expectation to retire at the age of 65 like all others in CGHS/CHS etc and belying it is unfair. Facts and law are heavily stacked against the applicant as was brought out in the previous paras. The paramount aspect which has to be gone into is public interest. The public interest in the Cabinet decision is dominantly patient care. The very nature of the work of the applicant relates to research and not patient care. The decision of the respondents, who are public authorities, is a bonafide decision keeping in view the import of the Cabinet decision. We take support of the Hon'ble Apex Court directions, as under, in ***Food Corporation Of India vs Kamdhenu Cattle Feed Industries,*** dt. 11th November, 1992, while making the above observations:

> *"Whether the expectation of the claimant is reasonable or legitimate in the context is a question of fact in each case. Whenever the question arises, it is to be determined not according to the claimant's perception but in larger public interest wherein other more important considerations may outweigh what would otherwise have been the legitimate expectation of the claimant. A bona fide decision of the public authority reached in this manner would satisfy the requirement of non-arbitrariness and withstand judicial scrutiny. The doctrine of legitimate expectation gets assimilated in the rule of law and operates in our legal system in this manner and to this extent. "*

In view of the above judgment, it cannot be said that the legitimate expectation of the applicant has been ignored.

XIV. It is also to be noticed that the respondents have not extended the benefit sought to any other similarly placed employee like the applicant. Therefore, we are of the view that the decision of the respondents in negating the request of the applicant is proper, reasonable, rational, objective and transparent. The respondents decision negating the relief sought is within the purview of the observation of the Hon'ble Supreme Court in ***Asha Sharma v. Chandigarh Admn., (2011) 10 SCC 86 : (2012) 1 SCC (L&S) 354*** at page 95, as under:

> *"xxx Rationality, reasonableness, objectivity and application of mind are some of the prerequisites of proper decision making. The concept of transparency in the decision-making process of the State has also become an essential part of our Administrative law."*

Thus, we find that there is no arbitrariness as alleged by the applicant in not conceding to the request of the applicant for allowing him to hang the boots on attaining the age of 65 years. Neither are Articles 14 and 16 of the Constitution of India violated for reasons stated in paras supra.

XV. It is well settled in law that the courts should not sit on appeal over administrative decisions. Courts can interfere if there is an inadequacy in the decision making process which vitiates the decision as stated by the Hon'ble Apex Court in ***West Bengal Central School Service Commission & Ors vs Abdul Halim & Ors,*** decided on 24 July, 2019 in CIVIL

APPEAL NO.5824 OF 2019 (arising out of SLP (C) NO. 30035 OF 2016), as under:

> *"27. It is well settled that the High Court in exercise of jurisdiction under Article 226 of the Constitution of India does not sit in appeal over an administrative decision. The Court might only examine the decision making process to ascertain whether there was such infirmity in the decision making process, which vitiates the decision and calls for intervention under Article 226 of the Constitution of India."*

There is no infirmity in the decision making process of the respondents in declining the request of the applicant for enhanced age of retirement, for the Tribunal to interfere and neither is it permitted to do so.

XVI. To conclude, we are of the view that in view of the rules and law discussed in paras supra, there is no conceivable ground for the Tribunal to intervene on behalf of the applicant. The OA is thus devoid of merit and hence, has to be necessarily dismissed. Accordingly, OA is dismissed. The interim orders issued on 29.10.2019 & 12.2.2020 stand vacated and the MA No.903 of 2019 is accordingly allowed. However, while doing so, we hasten to add that the salary paid to the applicant for rendering services for the period he has worked after his retirement on 31.10.2019, in pursuance of the interim orders of the Tribunal, be not recovered, in consonance with the observations of the Hon'ble Apex Court on 1.6.2020 in CA Nos.2476-2428 of 2020 in ***CCRUM v Dr Salma Khatoon*** referred to above. No order as to costs.

(B.V. SUDHAKAR) ***(ASHISH KALIA)***
MEMBER (ADMN.) ***MEMBER (JUDL.)***

al/evr