

**Central Administrative Tribunal  
Principal Bench**

**OA No.2292/2017**

**OA No. 2442/2017**

**OA No. 2503/2017**

**OA No. 2978/2016**

New Delhi, this the 5<sup>th</sup> day of September, 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman  
Hon'ble Mr. Uday Kumar Varma, Member (A)**

OA No.2292/2017

Dr. Ashok Kumar Garg  
Aged about 60 years,  
S/o Shri Y.J. Kumar,  
R/o 82, Old Gupta Colony,  
Delhi-110009

(Presently working as CMO (NFSG) Ayurveda under  
North Delhi Municipal Corporation - Group 'A'

- Applicant

(By Advocate : Shri Manish Verma)

Vs.

1. North Delhi Municipal Corporation,  
Through Commissioner,  
Dr. SPM Civic Centre, Minto Road,  
New Delhi, Delhi-110002
2. The Principal Secretary,  
Ministry of AYUSH  
AYUSH Bhawan, B Block,  
GPO Complex, INA, New Delhi-110023
3. Dept. of AYUSH  
Through its Secretary,  
Ministry of Health & Family Welfare,  
IRCS Building, New Delhi
4. The Union of India  
Through its Secretary,

Ministry of Health & Family Welfare,  
 Room No. 348, 'A' Wing,  
 Nirman Bhavan, New Delhi-110011

5. Additional Commissioner – Health  
 Dr. SPM Civic Centre, Minto Road,  
 New Delhi, Delhi-110002 - Respondents

(By Advocates: Ms. Anupama Bansal and Mr. RN Singh)

OA No. 2442/2017

MA No. 2866/2017

Dr. KS Sethi,  
 (Dr. Kanwal S Sethi)  
 R/o D 64, 65 Amar Colony,  
 Lajpat Nagar, New Delhi  
 Aged about 60 years,  
 (Presently working as Advisor Homeopathy  
 Under Ministry of AYUSH, Homeopathy Wing  
 Group "A"

- Applicant

(By Advocate : Shri Manish Verma)

Vs.

1. Ministry of AYUSH  
 Through its Secretary,  
 AYUSH Bhawan, B Block,  
 GPO Complex, INA New Delhi-110023  
 New Delhi

2. The Union of India  
 Through its Secretary  
 Ministry of Health & Family Welfare,  
 Room No. 348, 'A' Wing,  
 Nirman Bhavan, New Delhi-110011 - Respondents

(By Advocate: Ms. Geetanjali Sharma)

OA No. 2978/2016

MA No. 1471/2017

Dr. (Mrs.) Vinita Goel, Aged 60 years,

W/o Dr. T.K. Goel,  
R/o G-151, Pushkar Enclave,  
Paschim Vihar, New Delhi-110063

(By Advocates: Mr. Nitin Garg with Ms. Ishan Goel and Mr. OP Gupta

Versus

1. Govt. of NCT of Delhi  
Through its Chief Secretary,  
Delhi Secretariat,  
IP Estate, New Delhi
2. Union of India  
Through its Secretary,  
Ministry of Home Affairs,  
North Block, New Delhi-110001
3. Directorate of AYUSH  
Homeopathic Wing,  
Through its Director,  
A&U Tibia College Campus,  
Karol Bagh, New Delhi-110005

- Respondents

(By Advocate: Mr. Gyanendra Singh and Mr. NK Singh for Ms. Avnish Ahlawat)

OA No. 2503/2017

Dr. Brijesh Kumari aged about 60 years,  
w/o shri APS Kakran,  
R/o 311, South Delhi Apartment,  
Plot No.8, Sector 4, Dwarka,  
Delhi-110078

(Presently working as Director/CMO (NFSG) Ayurveda  
Under South Delhi Municipal Corporation - Group 'A')

Versus

1. South Delhi Municipal Corporation  
Through Commissioner  
Dr. SPM Civic Centre, Minto Road,  
New Delhi, Delhi-110002

2. The Principal Secretary,  
Ministry of AYUSH  
AYUSH Bhawan, B Block,  
CPO Complex, INA, New Delhi-110023
3. The Union of India  
Through its Secretary  
Ministry of Health & Family Welfare,  
Room No.348, 'A' Wing,  
Nirman Bhavan, New Delhi-110011
4. Additional Commissioner – Health  
(South Delhi Municipal Corporation)  
Dr. SPM Civic Centre, Minto Road,  
New Delhi, Delhi-110002

- Respondents

(By Advocate: Mr. Neeraj Jain senior counsel with Mr. RK Jain and Mr. U. Srivastava)

## ORDER (ORAL):

## Justice Permod Kohli :

The controversy in all these four OAs being identical, the same are being disposed of by this common order.

2. Dr. Ashok Kumar Garg – applicant in OA No. 2292/2017 is working as CMO (NFSG) Homeopathy under Department of AYUSH, Homeopathy Wing in Delhi Government. He was ordered to be retired on attaining the age of superannuation w.e.f. 31.08.2017 vide impugned order dated 22.05.2017. Vide interim order dated 16.08.2017 of this Tribunal, it was directed that the applicant shall not be retired on 31.08.2017 and be allowed to continue in service till the next date of hearing.

3. Dr. Kanwal S. Sethi – applicant in OA No. 2442/2017 is working as CMO (NFSG) Homeopathy under Department of AYUSH, Homeopathy Wing in Delhi Government. Presently, she is posted as Advisor under the Ministry of AYUSH, Homeopathy Wing. She was ordered to be retired from service on attaining the age of superannuation, i.e. 60 years w.e.f. 31.07.2017 vide the impugned order dated 27.09.2016. The operation of the order dated 27.09.2016 retiring the applicant w.e.f. 31.07.2017 was kept in abeyance and the applicant was allowed to continue till the next date of hearing.

4. Dr. Brijesh Kumari – applicant in OA No. 2503/2017 is working as Director/CMO (NFSG), Ayurveda under the South Delhi Municipal Corporation. She was ordered to be retired from service on attaining the age of superannuation, i.e. 60 years w.e.f. 31.07.2017 vide the impugned order dated 05.06.2017. Vide interim order of this Tribunal dated 28.07.2017, operation of the order dated 05.06.2017 retiring the applicant w.e.f. 31.07.2017 was kept in abeyance and she was allowed to continue till the next date of hearing.

4.1 Mr. Neeraj Jain, learned senior counsel appearing on behalf of the respondents in OA No. 2503/2017, submits that the applicant is also holding an administrative post, i.e. Director

(NFSG) Ayurveda under South Delhi Municipal Corporation and she will not be entitled to continue on the administrative post even if the age of retirement may be enhanced. From the reliefs claimed in the OA, we find that the applicant has only challenged the age of superannuation, i.e. at 60 years and sought enhancement of retirement age up to 65 years. There is absolutely no prayer for her continuation on the administrative post and thus, the apprehension of the learned senior counsel for the respondents is misplaced

5. Dr. Vinita Goel – applicant in OA No. 2978/2016 is working as CMO (NFSG), Homeopathy under Department of AYUSH, Homeopathy Wing in Delhi Government. Vide the order dated 16.12.2015, she was ordered to be retired from service on attaining the age of superannuation, i.e. 60 years w.e.f. 31.08.2017. Vide the interim order of this Tribunal dated 31.08.2016, operation of the order dated 16.12.2015 retiring the applicant w.e.f. 31.08.2016 was kept in abeyance and she was allowed to continue till the next date of hearing.

6. Applicants' claim is based upon the Government of India, Ministry of Health & Family Welfare, Notification dated 31.05.2016 whereby the age of superannuation of the specialists of Non-Teaching and Public Health sub-cadres of Central Health

Service (CHS) and General Duty Medical Officers of CHS was enhanced to 65 years with immediate effect.

7. All the applicants continue to be in service till date on the strength of the aforesaid interim orders of this Tribunal.

8. A similar issue came to be considered by this Tribunal in bunch of Applications (OA No. 2712/2016 – Dr. Santosh Kumar Sharma & others connected OAs). All these OAs were disposed of vide common judgment dated 24.08.2017 with following directions:-

“31. In view of the legal and factual analysis, these OAs are allowed with the following directions:

- (1) The action of the respondents and the Government order dated 31.05.2016 as also the amendment in FR-56(bb) to the extent the enhancement of age of superannuation is confined to the Doctors under the Central Health Service are declared *ultra vires* to the Constitution and violative of Article 14.
- (2) The applicants in the present OAs are entitled to similar treatment in regard to service conditions including the age of retirement as is available to Doctors working under the Central Health Service. The orders passed by the respondents retiring the applicants at the age of 60 years are hereby declared as null and void.
- (3) The applicants will be entitled to the benefit of enhancement of age of superannuation in terms of the Government of India order dated 31.05.2016 read with the amended FR-56.
- (4) A further direction in the nature of *mandamus* is issued to allow the applicants to continue in service till they complete the age of 65 years. If any of the applicants has been retired at the age of 60 years, he/she shall be

re-induced into service till he/she completes the age of 65 years, and paid salary for the period he/she was out of service on account of retirement at the age of 60 years.”

9. These OAs are squarely covered by the aforesaid judgment and directions issued therein. These OAs are accordingly disposed of in terms of the above directions. The impugned orders of retirement of the applicants dated 22.05.2017, 27.09.2016, 05.06.2017 and 16.12.2015 respectively are hereby quashed. Since the retirement of the applicants was already stayed and they continue to be in service, they will continue in service till they attain the age of 65 years. All the ancillary applications also stand disposed of.

**(Uday Kumar Varma)**  
**Member (A)**

**(Justice Permod Kohli)**  
**Chairman**

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