

**Central Administrative Tribunal
Principal Bench**

**OA No.1792/2017
With
OA No. 1051/2017**

New Delhi, this the 4th day of September, 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K. N. Shrivastava, Member (A)**

OA No.1792/2017

Dr. Promila Malhotra,
W/o Shri Madhu Sudan,
R/o G-4 Friends Apartment,
IP Extension, Patpar Ganj,
Delhi

Aged about 60 years,
(Presently working as CMO (NFSG) Homeopathy
Under Department of AYUSH, Homeopathy Wing -Group 'A'

- Applicant

(By Advocate : Shri Manish Verma)

Vs.

1. Govt. of NCT of Delhi
Through its Chief Secretary
A-Wing, 5th Floor,
Delhi Secretariat, IP Estate,
New Delhi
2. The Principal Secretary,
(Health & Family Welfare)
(GNCT of Delhi)
9th Level, A-Wing, IP Estate,
Delhi Secretariat, Delhi-110002
3. The Principal Secretary,
Directorate of AYUSH
Govt. of NCT of Delhi,
New Delhi-110003

4. The Union of India
Through its Secretary,
Ministry of Health & Family Welfare
Room No. 348, 'A' Wing,
Nirman Bhavan, New Delhi-110011
5. Director/Deputy Director
Directorate of AYUSH
Govt. of NCT of Delhi,
New Delhi - 110003 - Respondents

(By Advocates: Mr. NK Singh for Ms. Avnish Ahlawat and Mr. ND Kaushik)

OA No. 1051/2017

Dr. Madhu Aggarwal,
D/o Shri RP Aggarwal,
R/o 9, Delhi Administration Flats,
Karkardoom, Delhi
Aged about 60 years,
(Presently
(Presently working as CMO (NFSG) Homeopathy
Under Department of AYUSH, Homeopathy Wing -Group 'A'

- Applicant

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Room No. 348, 'A' Wing,
Nirman Bhavan, New Delhi-110011
5. Director/Deputy Director
Directorate of AYUSH
Govt. of NCT of Delhi,
New Delhi - 110003

- Respondents

(By Advocates: Mr. NK Singh for Ms. Avnish Ahlawat and Mr. ND Kaushik)

: O R D E R (ORAL) :

Justice Permod Kohli :

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

2. Dr. Promila Malhotra - the applicant in OA No. 1792/2017 is working as CMO (NFSG) Homeopathy under Department of AYUSH, Homeopathy Wing in Delhi Government. She was ordered to be retired on attaining the age of superannuation on 30.06.2017 vide impugned order dated 27.01.2017. The said impugned order for retirement of the applicant w.e.f. 30.06.2017 was kept in abeyance by this Tribunal on 25.05.2017 and she was allowed to continue in service till further orders. This Application has been filed seeking quashment of the aforesaid order with

further direction to the respondents to continue the applicant in service till she attains the age of 65 years.

3. Dr. Madhu Aggarwal – the applicant in OA No. 1051/2017 is also working as CMO (NFSG) Homeopathy under the Department of AYUSH, Homeopathy Wing. She was also ordered to be retired from service on attaining the age of superannuation, i.e. 60 years w.e.f. 31.03.2017 vide the impugned order dated 13.12.2016. The operation of the order of retirement of the applicant dated 13.12.2016 was stayed by this Tribunal on 29.03.2017 and she was allowed to continue till further orders.

4. Their 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.

5. Both the applicants continue to be in service till date on the strength of the aforesaid interim orders.

6. 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.”

7. 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 13.12.2016 and 27.01.2017 respectively are hereby quashed. Since the retirement

of the applicants was already stayed and as they continue to be in service, the respondents shall continue them in service till they attain the age of 65 years.

(K. N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

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