

**Central Administrative Tribunal  
Principal Bench  
New Delhi**

**OA No.335/2018  
CP No.355/2018  
MA Nos.1438, 2214, 2215/2018**

Order Reserved on : 30.07.2018  
Pronounced on : 21.08.2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman**  
**Hon'ble Ms. Aradhana Johri, Member (A)**

Dr. Salma Khatoon W/o Sagheer Ahmed,  
R/o E-48/A, Abul Fazal Enclave,  
Jamia Nagar, New Delhi-110025.

... Applicant

( By Mr. Manish Verma, Advocate )

Versus

1. Ministry of AYUSH  
through its Secretary,  
Ayush Bhawan, B Block,  
GPO Complex, INA,  
New Delhi-110023.
2. Union of India  
through its Secretary,  
Ministry of Health and Family Welfare,  
Room No.348, 'A' Wing, Nirman Bhawan,  
New Delhi-110011.
3. Central Council for Research in Unani Medicines  
through its Director General,  
Jawahar Lal Nehru Bhartiya Chikitsa Avum  
Homeopathy Anusandhan Bhawan,  
61-65 Institutional Area, Opp. 'D' Block,  
Janakpuri, New Delhi-110058. ... Respondents

( By Mr. Kumar Onkareshwar, Advocate )

## **ORDER**

**Justice L. Narasimha Reddy, Chairman :**

The applicant joined the service of the Central Council for Research in Unani Medicines, the 3<sup>rd</sup> respondent herein, which is under the Ministry of Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homeopathy (AYUSH), Government of India. She was holding the charge of the post of Assistant Director. Recently, the Government of India took a policy decision to enhance the age of superannuation of medical doctors working in the Central Government and its allied institutions, to 65 years, through a notification dated 31.05.2016. The relevant service rules were also amended. This was followed by addition of a proviso to the effect that the doctors who are entitled to the benefit of the enhanced age of superannuation, shall not hold administrative positions beyond the age of 62 years. Cases pertaining to the interpretation of this provision are pending before the Tribunal, and one such case has been disposed of.

2. The applicant submitted a representation to the 3<sup>rd</sup> respondent claiming that she is also entitled to remain in service till the age of 65 years. Through a communication dated

17.01.2017 (Annexure A-1), the 3<sup>rd</sup> respondent informed the applicant that the decision of the Union Cabinet enhancing the age of superannuation of doctors is not applicable to the employees of autonomous bodies functioning under the Ministry of AYUSH. As a result, the applicant stood retired with effect from 31.01.2018. This OA is filed with a prayer to quash the impugned order dated 17.01.2018, and the action of the respondents in retiring the applicant w.e.f. 31.01.2018, and for a direction to them to continue her till she attains the age of 65 years.

3. It is pleaded that the very purpose of enhancing the age of superannuation of the doctors was to avail their services of the doctors for the benefit of the people at large, and that the distinction between the employees in the health services of the Central Government and other organisations, on the one hand, and the autonomous bodies, like the 3<sup>rd</sup> respondent, on the other hand, is violative of Article 14 of the Constitution of India, apart from being unreasonable, unfair and discriminatory.

4. The respondents filed a counter affidavit stating *inter alia* that the decision to enhance the age of superannuation

was taken with the sole objective of making the services of experienced doctors available for treatment of the patients in the hospitals. It is stated that the 3<sup>rd</sup> respondent is not associated with any activities of treatment of patients, and it being purely a research institution, the employees therein cannot be compared with the doctors who treat the patients.

5. Heard Shri Manish Verma, learned counsel for the applicant, and Shri Kumar Onkareshwar, learned counsel for the respondents.

6. It is not in dispute that the age of superannuation as per the service conditions and the rules that are in force in the 3<sup>rd</sup> respondent organisation, for the post held by the applicant, is 60 years. The notification issued by the Central Government enhancing the age of superannuation of doctors reads as under:

“The President is pleased to enhance 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 to 65 years with immediate effect.”

A clause was added thereafter to the effect that the doctors who avail the benefit of the enhanced age of superannuation shall not be entitled to hold administrative positions beyond the age

of 62 years. Some uncertainty prevailed as to whether the benefit of enhanced age of superannuation is available to the doctors working in the AYUSH department. In OA No.2292/2017 and batch, a Division Bench of this Tribunal, through its judgment dated 05.09.2017, held that the benefit is available to such doctors also.

7. We would certainly have granted the same relief to the applicant, had she been a doctor working in the hospitals established by the department. Admittedly, she is an employee of the 3<sup>rd</sup> respondent, which is purely a research organisation. It is not even alleged that the employees or specialists working in the 3<sup>rd</sup> respondent organisation treat the patients of any kind whatever. Further, the management of the 3<sup>rd</sup> respondent has not taken a decision to implement the notification of the Central Government in their organisation also.

8. The age of superannuation happens to be an important condition of service, and an employee has to retire at the age of superannuation stipulated under the relevant rules. The question of discrimination in matters of this nature would arise only if the benefit is extended to employees or to the doctors who are employed in the research organisations, which

are similar to the 3<sup>rd</sup> respondent. Though medical doctors may constitute a class in general, viewed in the context of the degrees which they hold, their further classification depending upon the nature of duties assigned or discharged by them, cannot be treated an irrelevant consideration in the context of their classification. When the age of superannuation was enhanced with the sole objective of making the services of experienced doctors available to the needy public, the question of extending that very benefit to doctors who are associated purely with research activities does not arise. We are, therefore, not inclined to grant any relief to the applicant.

9. The OA is accordingly dismissed. There shall be no order as to costs.

CP No.355/2018

10. In view of the order passed in the OA, the CP does not survive. It is accordingly closed.

**( Aradhana Johri )**  
**Member (A)**

**( Justice L. Narasimha Reddy )**  
**Chairman**

/as/