

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH  
(CIRCUIT BENCH AT JAMMU)**

...  
**Order reserved on: 11.07.2019**  
**Order Pronounced on: 30.08.2019**

**ORIGINAL APPLICATION NO. 061/00797/2018**

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &  
HON'BLE MS. ARADHANA JOHRI, MEMBER (A)**

...  
Dr. Krishna Kumari age 59 years, Assistant Director (Ay.), Incharge, Regional Ayurveda Research Institute of Urinary Disorders, Jammy. W/o Dr. Girdhari Lal, R/o House NO. 85, Kabir Nagar, Talab Tillo, Jammu.

....Applicant

(By Advocate: Shri Anuj Dewan Raina )

**VERSUS**

1. Union of India through Secretary to Government of India, Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH), Govt. of India, New Delhi, Ayush Bhawan, B-Block Complex, New Delhi-110023.
2. Central Council for Research in Ayurvedic Sciences, Ministry of AYUSH, Government of India, 61-65, Institutional Area Opposite 'D' Block Janakpur, New Delhi110058.
3. Director General Council, Central Council for Research in Ayurvedic Sciences Janakpuri, New Delhi 110058.
4. Director Regional Ayurveda Research Institute for Urinary Disorders, Central Council for Research in Ayurvedic Sciences, Rajinder Nagar Bantalab, Jammu.

....RESPONDENTS

(By Advocate: Shri Raghu Mehta)

**ORDER****Aradhana Johri, Member (A)**

The applicant Dr. Krishna Kumari was appointed as Research Assistant (Ayurveda) in the Regional Centre for Ayurveda, Jammu w.e.f. 18.9.1981 vide appointment order (Annexure-C). She became Assistant Research Officer, (Ayurveda) and finally as Assistant Director (Ayurveda) in the same Research Centre. She was issued a communication no. 4-1/99/CCRAS/Estt/1204 dated 24.7.2017 (Annexure-L), whereby it was directed that the services of the applicant be superannuated w.e.f. 31.12.2017 after attaining the age of 60 years. Aggrieved, by this order the applicant approached before the Hon'ble High Court of Jammu and Kashmir, Jammu by filing SWP NO. 3001/2017. The Hon'ble High Court passed an interim direction on 26.12.2017, which reads as under:

***“ Meanwhile, notice dated 24.07.2017 shall not be acted upon because now the age of retirement is fixed as 65 years, as such present position of the petitioner, till next date before the Bench, shall not be disturbed.”***

2. The writ petition alongwith CPSW No. 71/2018 was transferred to this Tribunal with a direction to the parties to appear before this Tribunal vide order dated 28.5.2018.

3. It is the contention of the applicant that she is a doctor under the Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH), which is governed by the same set of Rules and Law as applicable to department of AYUSH. The Bye-Laws framed by the Department of AYUSH of Central Council for

Research in Ayurvedic Sciences (CCRAS), which is the parent organization of the Research Centre of Jammu, provides that the Rules pertaining to retirement of employees of Govt. of India shall apply to the CCRAS. The Govt. of India issued orders on 24.11.2017 (Annexure-M,) by virtue of which, the age of superannuation of AYUSH doctor's under the Ministry of AYUSH and working in CGHS Dispensaries/Hospitals was enhanced to 65 years w.e.f. 27.9.2017. To buttress, her claim she has stated that she was getting Non-Practicing Allowance, while working as Assistant Director and she was doing clinical work. She has sought the following reliefs:-

***“(ii) Issue writ in the nature of Certiorari quashing the impugned notice/communication NO. 4-1/99/CCRAS/Estt/1204 dated 24-07-2017, whereby the respondent have directed the services of the petitioner be superannuated on 31.12.2017 after attaining the age of 60 years instead of 65 years.***

***(iii) Issue Writ in the nature of Mandamus commanding the respondents to allow the petitioner to continue in service till the age of 65 years as has been directed vide order dated 24.11.2017.***

***(iv) Issue writ in the nature of prohibition restraining the respondents from acting upon the impugned communication dated No. 4-1/99/CCRAS/Estt/1204 dated 24.7.2017.”***

4. The respondents have contested the claim of the applicant in their written statement by stating that CCRAS is an autonomous body under Ministry of AYUSH, Govt. of India. Its activities are carried out through its 30 Institutes/Centers/Units located all over India and also through collaborative studies with various Universities, including Hospitals and Institutes. The research activities of the Council, include Medicinal Plant Research (Medico-

Ethno Botanical Survey, Pharmacognosy and Tissue Culture), Drug Standardization, Pharmacological Research, Clinical Research, Literary Research & Documentation and Tribal Health Care Research Programme. They have further stated that the CCRAS being an autonomous body is governed by Bye-laws and Memorandum of Association. The Doctors/Medical Officers working under Ministry of AYUSH are different from the Research Officers working in CCRAS in various aspects. The Recruitment Rules and the method of recruitment, is also different. The nature of duties performed by Medical Officers is entirely different as compared to Research Officers of CCRAS and its employees are directly under control of CCRAS and are governed by its Bye-Laws. It is also averred that the applicant has concealed facts by seeking to place reliance on the order dated 24.11.2017 issued by respondent no. 1, which is a clarification regarding the age of retirement of AYUSH doctors working under the Ministry of AYUSH and under CGHS Dispensaries/Hospitals. The applicant is admittedly working with respondent no. 4, which is an autonomous organization under the Ministry of AYUSH (which is different to doctors directly under the Ministry of AYUSH) and the same (CCRAS) has not been brought within the purview of the Order dated 24.11.2017 (Annexure-M). This order has to be read with respondent no. 1 letter's dated 31.10.2017, which clarifies that the decision of the Cabinet, enhancing the age of superannuation to 65 years, would not be applicable to autonomous bodies, functioning under the Ministry of AYUSH i.e. Research Councils/National Institutes. The relevant

para no. 2 of said letter dated 31.10.2017 (Annexure R-2) reads as under:-

***“2. The decision of the Cabinet is applicable to the AYUSH doctors directly working under the administrative control of Ministry of AYUSH i.e. AYUSH doctors working under CGHS. The decision of the Union Cabinet is not applicable to autonomous bodies functioning under Ministry of AYUSH i.e. Research Councils/National Institutes.”***

5. The respondents have also stated that the decision to enhance the age of retirement was taken since there was a shortage of doctors working in Hospitals and it was never intended to enhance the age of retirement of personnel engaged in research institutes. It is stated that two cases were instituted before the Central Administrative Tribunal, Principal Bench, New Delhi alleging parity with CGHS doctors for seeking benefit of enhanced age of superannuation from 60 to 65 years i.e O.A. No. 2712 of 2016- **Dr. Santosh Kumar Sharma vs NDMC** and O.A. No. 2442 of 2017- **Dr. K.S. Sethi vs Ministry of Ayush**. In its order dated 24.8.2017 and 5.9.2017, the Principal Bench accorded them the same benefit. However, the same have been challenged before the Hon'ble High Court of Delhi through WP (c) No. 8704 of 2017. The Hon'ble High Court vide its order dated 26.9.2017 stayed the operation of CAT's orders. The very fact that the Hon'ble High Court has stayed the operation of the impugned orders goes to show that there is some substance in the Writ Petition filed by the department. Further, the respondent (employee) in the said cases have been directed not to be paid any salary.

6. We have heard Mr. Anuj Dewan Raina, learned counsel for applicant as well as Mr. Raghu Mehta, learned counsel appearing on behalf of respondents respectively and have carefully gone through the pleadings available on record.

7. It is not controverted that the Regional Ayurveda Research Institute for Urinary disorders, where the applicant was appointed, comes under the CCRAS, which is an autonomous organization, under the Ministry of AYUSH and is governed by Bye-Laws and Memorandum of Association. Its affairs are managed by the Governing Body of the CCRAS, which takes all decisions relating to the Council including service conditions etc. of the employees. It is also not controverted that the mandate of the various institutions under CCRAS is various kinds of research. Notification dated 12.4.2016 has been filed at (Page 118 of the paper-book) which lists out the specific areas assigned to various institutes under CCRAS. It is clear from perusal of this document that the primary focus is clinical research. The applicant has not filed her duty and job chart as Assistant Director of the Institute. Be that as it may, whatever work is done in dealing with patients would be performed with a view to furthering the goal of its research activities, as is clear from the Memorandum of Association that the objective of CCRAS is research. Further, the applicant is from the Research side.

8. Attention has been drawn to the decision of the Principal Bench of this Tribunal in O.A. NO. 335/2018- **Dr. Salma Khatoon**

**vs. Ministry of AYUSH & Ors.** dated 21.8.2018, wherein it has been held that the applicant, who was working in Central Council for Research in Unani Medicines was an employee of a purely research organization, the management of which has not taken a decision to implement the notification of the Central Govt. for enhancement of age of superannuation. This Tribunal further held in para 8 as under:-

***“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 OA-355/2018 6 are similar to the 3rd 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. In Writ Petition (c ) 9554/2018 & C.M. No. 37179/2018 – **Dr.**

**Salma Khatoon vs Ministry of Ayush and Ors.** filed before the Hon'ble High Court of Delhi during the pendency of the said O.A. NO. 335/2018 against the interim order dated 24.1.2018, directing that the petitioner shall not be retired on 31.01.2018 when she attained the age of 60 years. The Hon'ble High Court did not interfere with the said order and on 12.9.2018 directed that the petitioner shall continue to discharge her duties with the respondent no. 3 during the pendency of the present petition without receiving any remuneration. The release of the salary to the petitioner shall be considered at the final stage.

10. Attention has also been drawn to the Writ Petition (c) 610/2018-  
**Ministry of AYUSH VS Dr. Kanwal S. Sethi** before the Hon'ble High Court of Delhi. Dr. Sethi was Homeopathy doctor working directly under the Ministry of AYUSH. Her matter is distinct from that of the applicant in this OA, who is an officer engaged in an autonomous institution and not directly in the Ministry of AYUSH.

11. In view of the orders passed in the case of **Dr. Salma Khatoon** (supra) by the Principal Bench of this Tribunal and the above indicated decisions, the O.A. is found to be devoid of any merit and is accordingly dismissed with no order as to costs.

**(ARADHANA JOHRI)**  
**MEMBER (A)**

**(SANJEEV KAUSHIK)**  
**MEMBER (J)**

**Dated: 30.08.2019**

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