

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

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No. O.A. 664 of 2019

Date of order: 19.9.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Dr. Shayesta Abedin,
MBBS, MD (Cal),
Working as Research Officer (Medical),
Son of Dr. Zainal Abedin,
Resident of
12, North Range,
Suit No. 5,
P.S. - Benia Pukur,
Kolkata - 700 017.

... Applicant

VERSUS -

1. Union of India,
Through the Secretary to the
Government of India,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi - 110 011;
2. Indian Council of Medical Research,
Service through its Director General,
ICMR, V. Ramalingaswamy Bhawan,
Ansari Nagar,
Post Box No. 4911,
New Delhi - 110 029;
3. The Principal,
Medical College and Eden Hospital,
Kolkata - 700 073;
4. The Officer-in-Charge,
Human Reproduction Research Centre,
Eden Hospital,
Kolkata under ICMR,
Department of Obstetric Gynaecology,
Medical College Hospital,
Kolkata - 700 073;
5. National Institute of

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International Reproductive Research & Health,
Mumbai, Service through its Director,
Jehangir Merwanji Street,
Parel,
Mumbai - 400 012;

6. Scientist 'F' and
Officer-in-Charge,
National Institute of
International Reproductive Research & Health,
FU, ICMR, Jehangir Merwanji Street,
Parel,
Mumbai - 400 012;

For the Applicant : Mr. A.S. Biswas, Counsel

For the Respondents : Mr. A.P. Deb, Counsel
Ms. J. Saha, Counsel

O R D E R (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

The applicant has approached the Tribunal under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

(a) An order directing the respondents to allow applicant to function as Research Officer (Medical), HRRC, ICMR, Eden Hospital, Kolkata beyond 31.1.2017 and/or not to disturb such function of the applicant till the issue agitated in the instant case, as decided by the Hon'ble Tribunal or till attainment of the 65 years of age of the applicant, whichever is earlier;

(b) An order directing the respondents to extend all consequential and pecuniary benefits to the applicant beyond September, 2019 as Research Officer (Medical), HRRC, ICMR, Eden Hospital, Kolkata till the issue agitated in the instant case are decided by this Hon'ble Tribunal or till attainment of 65 years of age of the applicant, whichever is earlier, as has been extended to other similarly circumstanced doctors by the Ministry of Health and Family Welfare, Government of India and the department of Family Welfare, Government of West Bengal;

(c) An order restraining the respondents from superannuating the applicant in September, 2019 till final disposal of the present application;

(d) An order thereby directing the respondents to arrive at a decision concerning the claim for continuation of service of applicant beyond September, 2019 till attainment of 65 years of age within a time limit as may be stipulated by this Hon'ble Tribunal;

(e) To pass such order or further, order or orders, if required even by mounding the reliefs specifically prayed for herein above as will afford complete relief to the applicant."

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2. Heard both Ld. Counsel, examined pleadings and documents on record.

3. Ld. Counsel for the applicant would submit that the applicant is working as a Research Officer (Medical) in HRRC, ICMR, Eden Hospital, Kolkata. This Tribunal upon adjudicating O.A. 350/01298/2013, had directed on 9.2.2016 that the services of the applicants therein (including the applicant in the present O.A.) be regularized, but respondent authorities are yet to regularize the service of the applicant as a Research Officer in ICMR.

Office Memorandum dated 29.11.2011 of the respondent authorities (Annexure A-5 to the O.A.) directed that the age of superannuation for Researchers in ICMR would be 62 years. Subsequently, vide Office Memorandum dated 31/5/2016 and 22/7/2016 (Annexure A-6 and A-7 to the O.A.) the age of superannuation of officials of Central Health Service (namely, specialists, Non-Teaching and Public Health sub-cadres of Central Health Service (CHS) and General Duty Medical Officers of CHS) were all extended to 65 years with immediate effect and, that, the State Government of West Bengal also extended the superannuation age of West Bengal Health Service (WBHS) and West Bengal Public Health and Administrative Service (WBPH & AS) to 65 years.

According to the applicant, who will attain the age of 62 years as on 30.9.2019, such orders of enhancement of retirement age squarely applies to him. The applicant, vide his representation dated 13.4.2019, (Annexure A-9 to the O.A.), had prayed for extension of his age of retirement till 65 years of age; his prayer was forwarded to Director General of ICMR on 17.4.2019.

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Ld. Counsel for the applicant urges that, as the applicant is going to superannuate shortly, a direction may be issued on the respondent authorities to decide on the same in a time bound manner.

4. In their written statement, the respondents have disputed the claim of the applicant by referring to a decision of the executive Council of ICMR dated 12.10.2017, which resolved as follows:-

"On a suggestion from one of the member on increase in retirement age from 62 to 65 years in view of increase in retirement age of CHS Doctors and Medical Faculty, President, Governing Council observed that the extension in service of deserving scientists after their retirement at the age of 62 years is considered by the Government on case to case basis. However, administrative powers cannot be exercised by the superannuated scientists beyond the age of 62 years."

The respondents have further argued that (a) the decision of the Central Government to enhance the age of superannuation of doctors of CHS to 65 years does not automatically apply to autonomous institutions such as the ICMR as evident from the Ministry of Health & Family Welfare memorandum dated 30.8.2016 (Annexure R-1 to the reply). Accordingly, the resolution of the executive council of ICMR is binding on its employees.

(b) The applicant herein is a contractual Research Officer, whose contract would end on 30.9.2019 and that no decision has been taken by the appropriate authority as yet to approve the regularization of the HRRC Project Staff all over the country including the applicant.

(c) The respondents would also refer to a decision of the Coordinate Bench in **O.A. No. 200/00381/2018 (Dr. V.G. Rao v. Union of India & ors.)** wherein the claim of the applicant/consultant therein for automatic enhancement of his retirement age to 65 years was rejected, and, accordingly, the applicant has no right to claim an automatic extension of his age of superannuation from 62 to 65 years.

5. Ld. Counsel for the applicant, however, would reiterate his earlier submission that, as the applicant's representation dated 13.4.2019

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(Annexure A-9 to the O.A.) has been pending with the respondent authorities and, as he is going to attain the age of 62 years shortly, the respondent authorities may be directed to dispose of the same in a time bound manner.

6. Ld. Counsel for the respondents does not object to consideration of such representation in accordance with law.

7. Accordingly, without entering into the merits of the matter, and, with the consent of the parties, we would hereby direct the competent respondent authority to examine the contents of the representation dated 13.4.2019 (Annexure A-9 to the O.A.), preferably within 30.9.2019, and, to convey such decision forthwith in accordance with law to the applicant thereafter.

8. With these directions, the O.A. is disposed of. No costs.

9. Let a copy of this order be served upon the respondents by the applicant and/or by DASTI under Rule 11 (1)(i) & (ii) of CAT (Procedure) Rules, 1987.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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