
(2026) 02 DEL CK 1651

In the Delhi High Court

Case No : Writ Petition (C) No. 2525 Of 2020 & Civil Miscellaneous Petition No. 8840 Of 2020

Delhi Administration Doctors Welfare Association And Anr

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 10-02-2026

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226, 309
Fundamental Rules, 1922 — Rule 56, 56(bb)

Citation : (2026) 02 DEL CK 1651

Hon'ble Judges : Anil Kshetarpal, J; Amit Mahajan, J

Bench : Division Bench

Advocate : Sagar Saxena, Avnish Ahlawat, Nitesh Kumar Singh, Aliza Alam, Mohnish Sehrawat, Sahil Munjal, Rhea Gandhi

Final Decision : Dismissed

Judgement

Anil Kshetarpal, J

1. With the consent of learned counsel for the parties, the present batch of five Writ Petitions, all arising out of a common factual background and assailing the same order dated 14.08.2019 [hereinafter referred to as 'Impugned Order'] passed by the Central Administrative Tribunal, Principal Bench, New Delhi [hereinafter referred to as 'the Tribunal'], are being heard together and disposed of by this common judgment.

2. The principal question that arises for consideration in the present batch of matters is whether the amendment to Rule 56 of the Fundamental Rules, effected vide Notification dated 11.08.2018, insofar as it stipulates that doctors of the Central Health Service and other allied services may continue in service up to the age of 65 years only on non-administrative assignments, is arbitrary, unconstitutional, or otherwise unsustainable in law; and whether the Tribunal was justified in dismissing the Original Applications filed by the Petitioners and upholding the validity of the aforesaid amendment.

FACTUAL MATRIX:

3. In order to appreciate the controversy involved in the present batch of Writ Petitions, it is necessary to notice the relevant and largely undisputed factual background, which constitutes the common substratum of all the Petitions.

4. The Petitioners are doctors belonging to the Central Health Service ['CHS'] and allied medical services under the Union of India. Some of the Petitioners are individual medical officers, whereas others are associations representing such doctors. It is not in dispute that the controversy in all the Writ Petitions centres around the age of superannuation and the conditions governing continuation in service beyond the age of 62 years.

5. Prior to the year 2016, the age of superannuation of doctors under the Central Government was either 60 or 62 years, depending upon the nature of duties and the posts held by them. With a view to utilise the services of experienced medical professionals in the fields of teaching and patient care, the Government of India, in exercise of powers under the proviso to Article 309 of the Constitution of India, amended Rule 56 of the Fundamental Rules vide Notification dated 31.05.2016, thereby enhancing the age of superannuation of doctors belonging to the specified services up to 65 years.

6. With a view to operationalise the enhancement of the age of superannuation and to address issues that arose in its implementation, the Government thereafter issued a further notification dated 22.03.2017, wherein it was mentioned that the Doctors shall not hold administrative positions after 62 years of age. The said notification gave rise to a spate of litigation before the Tribunal by doctors who were, at the relevant time, holding administrative positions and were aggrieved by the prospect of being divested of such responsibilities upon attaining the age of 62 years.

7. The record reflects that in one such proceeding, namely Dr. Jagdish Prasad v. Union of India O.A. No. 494/2017, the Tribunal, after undertaking extensive discussion on the scope of the rule-making power of the Government and the principles governing judicial review of service conditions, declined to interfere with the amendment. However, an observation was made therein to the effect that an officer could not be deprived of an administrative post held by him unless an equivalent post of the same rank was created. It is not in dispute that the said observation was stayed by this Court in proceedings arising therefrom.

8. In order to bring finality to the recurring disputes concerning continuation in service beyond the age of 62 years and the nature of duties to be discharged during such extended tenure, the Government issued the Notification dated 11.08.2018, whereby Rule 56(bb) of the Fundamental Rules was substituted. Under the said amendment, the age of superannuation of doctors belonging to the Central Health Service and other specified medical services was stipulated as 62 years, with an option to continue in service up to the age of 65 years, subject to the condition that such continuation would be confined to teaching, clinical,

patient care, implementation of health programmes, public health functions, and advisory or consultancy roles, as determined by the competent authority. The amended provision expressly excluded continuation on administrative posts beyond the age of 62 years.

9. The amendment further provided a limited window to serving doctors who had either already attained the age of 62 years or were to attain the said age within six months from the date of publication of the amendment, to exercise an option for continuation in service beyond that age. Failure to exercise such option within the prescribed period was stipulated to result in superannuation upon attaining the age of 62 years.

10. Pursuant to the aforesaid amendment, the Ministry of Health and Family Welfare also prescribed a formal option format, wherein the concerned doctors were required to indicate their willingness to continue in service up to the age of 65 years and acknowledge that such continuation would be subject to posting on non-administrative assignments, depending upon availability of vacancies and administrative exigencies, as decided by the competent authority.

11. Aggrieved by the conditions attached to the continuation of service beyond the age of 62 years, several doctors belonging to the CHS and allied services approached the Tribunal by filing a batch of Original Applications, including O.A. No. 3746/2018 and other connected matters. The principal grievance raised therein was that the impugned amendment arbitrarily deprived them of administrative responsibilities, adversely affected their status and career progression, and resulted in juniors being placed in positions of authority over seniors who had opted to continue in service.

12. It was, inter alia, contended before the Tribunal that the amendment of 2018 had the effect of divesting doctors, who were otherwise entitled to continue till the age of 65 years, of their administrative positions upon attaining the age of 62 years; that such divestment amounted to reduction in rank; that the right to be considered for promotion was adversely affected; and that the condition of exercising an option for continuation was arbitrary and coercive.

13. The respondents, on the other hand, opposed the Original Applications by contending that the very object of enhancing the age of superannuation was to utilise the expertise of senior doctors in the fields of teaching and patient care, and that permitting continuation on administrative posts beyond the age of 62 years would lead to stagnation in the lower echelons of the service. It was further submitted that continuation in service beyond the age of 62 years was not a matter of right but was expressly made optional under the amended Rule 56(bb), subject to the conditions stipulated therein. The respondents also asserted that Rule 56 of the Fundamental Rules has been framed in exercise of powers under the proviso to Article 309 of the Constitution of India, and that the rule-making authority is competent to amend the same in public interest. It was thus contended that no Government servant has a vested right to insist upon

continuation in a particular assignment or administrative position beyond the age of superannuation prescribed by the governing rule.

14. After considering the rival submissions, the Tribunal, by way of Impugned Order, dismissed the batch of Original Applications holding that the age of superannuation remained 62 years; that continuation beyond that age was optional; and that the amendment did not warrant interference.

15. Aggrieved thereby, the present batch of Writ Petitions came to be filed.

CONTENTIONS OF THE PARTIES:

16. Contentions of the Petitioners:

16.1 Learned counsel for the Order primarily on the ground Fundamental Rule 56(bb) vide Petitioners assailed the Impugned that the amendment carried out to Notification dated 31.05.2016 was clear, unconditional and unequivocal in its intent and effect. It was contended that by virtue of the said Notification, the age of superannuation in respect of all sub-cadres of the CHS stood enhanced to 65 years, without any stipulation, restriction or qualification. According to the Petitioners, the amendment brought parity among the four sub-cadres of CHS, whose members were earlier retiring at different ages, namely 60, 62 and 65 years in the case of General Duty Medical Officers (GDMOs), Non-teaching/Public Health Specialists and Teaching Specialists respectively. The Notification dated 31.05.2016, it was submitted, neither required the doctors to exercise any option for continuation beyond 62 years nor imposed any condition disentitling them from holding administrative posts upon attaining that age.

16.2 It was further contended that the subsequent Notification dated 11.08.2018, read with Notification dated 05.01.2018 and Office Memorandum dated 13.08.2018, had been erroneously interpreted by the Tribunal. According to the Petitioners, the Notification dated 11.08.2018 does not expressly exclude doctors from performing administrative duties or from holding administrative posts after the age of 62 years. The finding recorded by the Tribunal that doctors beyond the age of 62 years would be utilized only in the fields of teaching, clinical patient care and implementation of health programmes and public health, and not on the administrative side, is stated to be unsustainable as such exclusion is not borne out from the language of the Notification itself.

16.3 It was next submitted that the requirement of furnishing an "option" under the Notification dated 11.08.2018 is illusory and not a genuine choice. It was argued that the said requirement effectively compels doctors, upon attaining the age of 62 years, either to forgo continuation in service or to relinquish their existing administrative positions and work under officers junior to them. Such a consequence, it was urged, results in a clear alteration of service conditions to their detriment and is contrary to settled principles of service jurisprudence. It is their case that the Union Cabinet, while enhancing the age of superannuation to 65 years, never intended to divest doctors of the status, powers and privileges

attached to their posts.

16.4 It was further contended that the form prescribed pursuant to the Office Memorandum dated 13.08.2018 travels beyond the parent Notifications. It was submitted that in the option form, it has been stipulated that doctors would be considered for posts other than administrative posts, a condition which, according to the Petitioners, finds no mention either in the Notification dated 11.08.2018 or in the Office Memorandum dated 13.08.2018. It was argued that a form or executive instruction cannot override, supplement or supplant the main statutory notification or rule. In this regard, reliance was placed upon the judgment passed by the Supreme Court in *Commissioner of Income Tax v. Tulsyan NEC Ltd.* (2011) 2 SCC 1, and *St. Johns Teachers Training Institute v. Regional Director, NCTE* (2003) 3 SCC 321.

16.5 The Petitioners also assailed the impugned Notifications on the ground of lack of authority, contending that the amendments introducing the impugned proviso to FR 56(bb) vide Notifications dated 11.08.2018 and 05.01.2018 were carried out without approval of the Cabinet and thus amount to transgression of delegated legislative power. It was submitted that subordinate legislation must operate strictly within the bounds of the enabling provision and cannot override or dilute the substantive decision of the Cabinet enhancing the age of superannuation.

16.6 It was further contended that the impugned action results in hostile discrimination and violates Articles 14 and 16 of the Constitution of India. According to the Petitioners, similarly situated doctors serving in the Assam Rifles, Central Armed Police Forces, PGI Chandigarh, AIIMS New Delhi and other AIIMS institutions are permitted to continue up to the age of 65 years without restriction and are not precluded from holding administrative posts. It was also urged that certain doctors within CHS have allegedly been allowed to continue in administrative positions even after attaining the age of 62 years. Such differential treatment, it was submitted, creates a class within a class and is constitutionally impermissible.

16.7 Additionally, it was contended that the impugned action adversely affects their right to be considered for promotion. It was submitted that while preparing the common seniority list of Senior Administrative Grade (SAG) doctors released vide Office Memorandum dated 29.06.2019 for the purpose of promotion to Higher Administrative Grade (HAG), the names of doctors who had attained the age of 62 years were excluded despite their continued service up to 65 years. Consequently, juniors were considered and promoted, thereby ignoring seniors solely on the ground of age. Reliance in this regard is placed upon *State of M.P. v. Shardul Singh* (1970) 1 SCC 108.

16.8 It is the specific case of the Petitioners that enhancement of the age of superannuation to 65 years under FR 56(bb), with effect from 31.05.2016, created a vested right to continue in service up to that age, along with the

status, powers and privileges attached to the post. The subsequent Notifications dated 05.01.2018 and 11.08.2018, as well as the Office Memorandum dated 13.08.2018, are alleged to have curtailed this vested right and are therefore arbitrary, illegal and unconstitutional.

16.9 Lastly, reliance was placed upon *Federation of Railway Officers Association v. Union of India* (2003) 4 SCC 289; and *Vasavi Engineering College Parents Association v. State of Telangana* (2019) 7 SCC 172, to contend that this Court is empowered to judicially review arbitrary policy decisions lacking reasonable nexus.

17. Contentions of the Respondent Nos.1 & 2 [Union of India through the Ministry of Health and Family Welfare and the Ministry of Personnel, Public Grievances and Pensions (DoPT)]:

17.1 Per contra, learned counsel for Respondent Nos.1 and 2, at the outset, submitted that the present Writ Petitions have been rendered infructuous. It was contended that all the Petitioners have already retired from service upon attaining the age of 62 years and, therefore, no effective writ could now be issued granting the reliefs as prayed for.

17.2 It was submitted that the CHS is a statutory service governed by the Central Health Service Rules, 2014 as amended by the Central Health Service (Amendment) Rules, 2019, and comprises four sub-cadres, namely, Teaching, Non-Teaching, Public Health and General Duty Medical Officer (GDMO). Prior to 31.05.2016, the age of superannuation for persons holding posts in various sub-cadres of CHS was 62 years, except for the GDMO sub-cadre where it was 60 years. Specialists included in the Teaching sub-cadre who were engaged in teaching activities and not occupying administrative positions were permitted to continue up to 65 years of age. Specialists of the Teaching sub-cadre who were occupying administrative positions had the option to hold teaching positions, in case they desired to continue up to the age of 65 years.

17.3 It was submitted that with a view to utilize the experience of doctors belonging to various sub-cadres of CHS in the fields of teaching, patient care and public health, a proposal was mooted by the Department of Health and Family Welfare on 31.05.2016 to enhance the age of superannuation of Non-Teaching Specialists, Public Health Specialists and GDMOs to 65 years with effect from 31.05.2016. Simultaneously, it was proposed that the Department of Health and Family Welfare be empowered to take an appropriate decision in respect of the age for holding charge of administrative positions as per functional requirements. The proposal was approved by the competent authority on 31.05.2016 and was thereafter ratified by the Union Cabinet on 15.06.2016.

17.4 Pursuant to the said approval, clause (bb) was inserted in FR 56 vide Notification dated 31.05.2016 enhancing the age of superannuation in respect of GDMOs and Specialists included in the Teaching, Non-Teaching and Public Health sub-cadres of CHS to 65 years. It was emphasized that the Cabinet had

specifically empowered the Ministry to take an appropriate decision with respect to the age for holding administrative charge.

17.5 In exercise of the aforesaid authority, the Department of Health and Family Welfare issued an Office Memorandum dated 19.07.2016 taking a policy decision that officers of various sub-cadres of CHS should not hold administrative posts after attaining the age of 62 years. Subsequently, to give statutory effect to the said policy decision, the Fundamental (First/Second) Amendment Rules were notified vide Notification dated 22.03.2017, thereby providing statutory flavour to the decision that officers of the various sub-cadres of CHS should not hold administrative posts after attaining the age of 62 years.

17.6 It is further submitted that the aforesaid Notification dated 22.03.2017 was challenged before the Tribunal in O.A. No. 494/2017 captioned Dr. Jagdish Prasad (supra). The Tribunal granted certain relief to the applicant therein by judgment dated 05.04.2018. The said decision was assailed before this Court in W.P.(C) No. 4727/2018 captioned Union of India v. Dr. Jagdish Prasad, wherein this Court, by order dated 30.07.2018, stayed the operation of the Tribunal's judgment. It is stated that the said writ petition was ultimately disposed of by this Court on 08.01.2020 without granting any relief to Dr. Jagdish Prasad.

17.7 It was submitted that thereafter FR 56(bb) was further amended vide Notification dated 11.08.2018. By virtue of the said amendment, the age of superannuation in respect of doctors belonging to CHS was stipulated as 62 years, unless they exercised an option in the prescribed format for posting to Teaching, Clinical, Patient Care, Implementation of Health Programmes, Public Health Programmes and functions including advisory and consultancy, depending upon their expertise and experience. The amendment further provided that doctors who had attained or were to attain the age of 62 years and failed to exercise such option would superannuate upon attaining the age of 62 years. It was submitted that, as per the records, almost all doctors exercised the option to continue beyond the age of 62 years on the terms and conditions stipulated in the Notification dated 11.08.2018.

17.8 It was contended that the Petitioners have no vested right to continue in service beyond the age of 62 years. It was submitted that the right to continue up to 65 years was made available only by virtue of the Notification dated 31.05.2016 and is subject to the conditions attached thereto and to subsequent amendments. Such a right, it was urged, cannot be treated as an indefeasible or vested right and can be amended or modified in accordance with law. The Petitioners, it was contended, cannot claim the benefit of extended tenure without complying with the attendant conditions.

17.9 It was further submitted that the policy underlying the impugned amendment is rational and seeks to utilize the experience of senior doctors in the areas of teaching, clinical work, patient care and public health, rather than in

administrative assignments. The amendment being founded on a policy decision, its wisdom cannot be subjected to judicial review unless it is shown to be manifestly arbitrary or violative of constitutional or statutory provisions.

18. Contentions of the Respondent Nos.3 & 4 [Deen Dayal Upadhyay Hospital and the Department of Health and Family Welfare, Government of NCT of Delhi]:

18.1 Learned counsel for Respondent Nos.3 and 4 broadly adopted the submissions advanced on behalf of the Union of India. It was reiterated that CHS is a statutory service comprising four sub-cadres and that prior to 31.05.2016, the age of superannuation was 62 years (60 years in the case of GDMOs), except for teaching specialists not holding administrative posts who could continue up to 65 years.

18.2 It was submitted that the decision that officers of various sub-cadres of CHS should not hold administrative posts after attaining the age of 62 years was taken as a matter of policy pursuant to Cabinet approval empowering the Ministry to decide the age for holding administrative charge as per functional requirements. The subsequent amendments to FR 56(bb) merely gave statutory effect to such policy decision.

18.3 It was asserted that neither the right to continue beyond 62 years nor the right to hold an administrative position beyond that age is a vested right or a condition of service that cannot be altered. The enhancement of age up to 65 years is itself subject to conditions and the Petitioners cannot insist upon continuation in administrative posts as a matter of right.

18.4. In support of the limited scope of judicial review in matters of policy, reliance was placed upon the judgments of the Supreme Court in *Directorate of Film Festivals v. Gaurav Ashwin Jain* (2007) 4 SCC 737; *Union of India v. M. Selvakumar* (2017) 3 SCC 504; *Rachna v. Union of India* (2021) 5 SCC 638; and *NOIDA v. B.D. Singhal* Civil Appeal No. 2310 of 2021, decided on 15.07.2021. It was submitted that the enhancement of age of superannuation and the conditions subject to which such enhancement is granted fall squarely within the realm of policy, and this Court ought not to trench upon the domain of the executive unless the policy is shown to be arbitrary or unconstitutional.

ISSUES FOR DETERMINATION:

19. The following questions arise for consideration in the present batch of Writ Petitions:

I. Whether, after the substitution of Rule 56(bb) of the Fundamental Rules vide Notification dated 11.08.2018, the age of superannuation of doctors belonging to the CHS and other specified services is 62 years, with an enabling provision for continuation up to 65 years subject to conditions, or whether 65 years constitutes the unconditional age of superannuation;

II. Whether the stipulation that continuation in service beyond the age of 62

years shall be confined to teaching, clinical, patient care, implementation of health programmes, public health functions and advisory or consultancy roles amounts to divestment of rank or reduction in status;

III. Whether the Petitioners possess a vested or indefeasible right to continue in service up to the age of 65 years along with the right to hold administrative posts;

IV. Whether the Notifications dated 05.01.2018 and 11.08.2018, and the consequential Office Memorandum dated 13.08.2018 prescribing an option format, suffer from lack of authority or travel beyond the scope of the enabling provision;

V. Whether the impugned amendment results in hostile discrimination in violation of Articles 14 and 16 of the Constitution of India; and

VI. Whether the exclusion of doctors who have attained the age of 62 years from consideration for further promotion to higher administrative grades is legally sustainable.

ANALYSIS & FINDINGS:

20. This Court has carefully considered the submissions advanced on behalf of the parties and perused the material on record. The aforesaid questions are interrelated and arise out of the same statutory framework. They are, therefore, being examined together in the following analysis.

20A. Though learned counsel for the Union of India contended that the Petitions have been rendered infructuous as the Petitioners have already superannuated, this objection cannot be accepted. The Petitioners have challenged the validity and interpretation of a statutory rule and seek consequential benefits. The issue raised is not rendered academic merely because Petitioners have retired, particularly when service benefits and promotional consequences are asserted.

I. Nature and Effect of the Amendment to Rule 56(bb):

21. The foundational issue that falls for determination is the true import of Rule 56(bb) of the Fundamental Rules as substituted by Notification dated 11.08.2018. The Petitioners' challenge proceeds on the premise that the earlier Notification dated 31.05.2016 enhanced the age of superannuation of doctors belonging to the Central Health Service to 65 years without qualification, and that any subsequent restriction disentitling them from holding administrative posts beyond the age of 62 years amounts to curtailment of that right.

22. At this stage, it would be apposite to reproduce the relevant portion of the Amendment introduced vide Notification dated 11.08.2018, which reads as under:

2. ".....In the Fundamental Rules, 1922, in rule 56, for clause (bb). the following shall be substituted, namely:-

"(bb) (i) The age of superannuation in respect of the doctors belonging to-

- (i) Central Health Service;
- (ii) Indian Railways Medical Service;
- (iii) AYUSH and working under the Ministry of AYUSH;
- (iv) Civilian doctors under the Directorate General of Armed Forces Medical Service;
- (v) Medical Officers of the Indian Ordnance Factories Health Service;
- (vi) Dental Doctors under the Department of Health and Family Welfare;
- (vii) Dental doctors under the Ministry of Railways; and
- (viii) General Duty Medical Officers, Specialist Grade doctors and Teaching Medical Faculty working in Bhopal Memorial Hospital and Research Centre, shall be sixty-two years unless they exercise the option of posting to Teaching, Clinical, Patient Care, Implementation of Health programmes; Public Health programmes and functions including advisory and consultancy depending on their expertise and experience, as decided by the competent authority in the concerned Ministry or Department from time to time, in case they desire to continue in their service upto the age of sixty-five years:

Provided that the age of superannuation in respect of the doctors belonging to the General Duty Medical Officers sub-cadre of Central Armed Police Forces and Assam Rifles and Specialist Medical officers of Central Armed Police Forces and Assam Rifles shall be sixty-five years.

(ii) The serving doctors belonging to the services referred to in sub-clause (i) who have either already attained the age of sixty-two years or attaining the age of sixty-two years within six months from the date of publication of these amendment rules in the Official Gazette, may exercise their option in regard to their posting to Teaching, Clinical, Patient Care, Implementation of Health programmes, Public Health programmes and functions including advisory and consultancy as specified in sub-clause (i), within a period of thirty days from the date of the commencement of the Fundamental (Second Amendment) Rules, 2018.

(iii) The serving doctors who fail to exercise the option in regard to their posting to Teaching, Clinical Patient Care, Implementation of Health programmes, Public Health programmes and functions including advisory and consultancy as specified in sub-clause i), within the period specified in sub-clause (ii), shall be superannuated from their service on attaining the age of sixty-two years or on expiry of a period of thirty days from the date of the commencement of the Fundamental (Second Amendment) Rules, 2018, whichever is later.

.....”

23. The structure of the amended rule is clear. Superannuation at the age of 62 years is the norm. Continuation beyond that age is not automatic or

unconditional; it is contingent upon (i) the exercise of an option within the prescribed time, and (ii) acceptance of posting in the functional domains specified in the rule. The rule does not provide for continuation on administrative posts beyond the age of 62 years. On the contrary, the categories of duties enumerated in the provision indicate the nature of assignments to which such continuation is confined.

24. The amendment further provides that doctors who fail to exercise the option within the stipulated period shall superannuate upon attaining the age of 62 years. The prescription of an option and the consequences attached thereto reinforce the conclusion that continuation beyond 62 years is in the nature of an enabling provision, subject to conditions, and not an automatic extension of service.

25. When the language of a statutory rule is clear and unambiguous, the Court must give effect to its plain meaning. The substituted Rule 56(bb), read as a whole, leaves little room for doubt that the age of superannuation remains 62 years and that continuation up to 65 years is conditional and confined to specified functional roles. The Tribunal, in the Impugned Order, has interpreted the provision in this manner and held that continuation beyond 62 years is optional and not a matter of right. Upon an independent consideration of the rule, this Court finds no infirmity in that interpretation.

II. Whether Exclusion from Administrative Posts Amounts to Reduction in Rank or Divestment of Status?

26. The next limb of the Petitioners' challenge is that the stipulation confining continuation beyond the age of 62 years to teaching, clinical, patient care, public health and advisory functions has the effect of divesting them of administrative responsibilities and thereby amounts to reduction in rank or status.

27. This contention proceeds on the assumption that holding an administrative post constitutes an immutable component of the Petitioners' service conditions and that cessation of such assignment, upon attaining the age of 62 years, necessarily entails a civil consequence in the nature of reduction in rank. The argument, however, cannot be accepted in the statutory context in which the amended Rule 56(bb) operates.

28. It is not in dispute that the amended rule prescribes superannuation at the age of 62 years as the norm. Continuation up to

65 years is made permissible only upon exercise of an option and subject to the nature of duties specified therein. Once the rule itself confines such extended tenure to particular functional domains, continuation in administrative assignments beyond the age of 62 years stands excluded by necessary implication.

29. It is not shown that administrative charge constitutes a separate cadre distinct from the substantive post held by the concerned doctors. The amended

rule does not alter the substantive rank held by the concerned doctors. It merely regulates the nature of duties to be discharged during the period of extended tenure beyond the prescribed age of superannuation. The distinction between rank and assignment is well recognised in service jurisprudence. A change in duties, consistent with the governing rule, does not ipso facto amount to reduction in rank.

30. It is also material to note that the Petitioners, upon attaining the age of 62 years, have no right to continue in service unless they opt for the extended tenure contemplated under the rule. If continuation itself is conditional and not automatic, the terms subject to which such continuation is granted cannot be characterised as punitive or as amounting to demotion.

31. The essence of reduction in rank lies in lowering an employee in the hierarchy of service or in diminishing the substantive status attached to the post. The amended Rule 56(bb) does not provide for reversion to a lower cadre, reduction in pay, or alteration of substantive designation. It only stipulates that the extended period of service, beyond the normal age of superannuation, shall be devoted to specified professional functions rather than administrative assignments.

32. Viewed thus, the restriction on holding administrative posts after attaining the age of 62 years does not constitute reduction in rank. It is a regulatory condition attached to an optional extension of service and forms part of the statutory framework governing such continuation.

33. In the allied context of continuation beyond the normal age of superannuation, the Punjab & Haryana High Court in *Dr. Kamla Singh v. State of Haryana* CWP No. 24557 of 2016, decided on 08.05.2019 upheld a policy whereby, notwithstanding the normal retirement age of 58 years under the governing service rules, doctors were permitted to continue up to 65 years subject to the condition that, upon attaining the age of 58 years, they would cease to hold administrative posts and would be assigned only clinical duties. The challenge to the said stipulation was repelled, the Court holding that the extension beyond the prescribed age was structured in public interest and that no vested right existed to insist upon continuation in administrative assignments. The decision illustrates that continuation beyond the normal age of superannuation may validly be made subject to functional limitations flowing from a statutory or authorised policy framework.

III. Whether the Petitioners Possess a Vested or Indefeasible Right to Continue up to 65 Years with Administrative Charge?

34. The central plank of the Petitioners' case is that the Notification dated 31.05.2016 created a vested and indefeasible right to continue in service up to the age of 65 years, along with all incidents of the post, including administrative charge. According to them, the subsequent amendments dilute this right and are therefore impermissible.

35. This contention requires careful examination of the nature of the right, if any, that accrued under the Notification dated 31.05.2016. The power to prescribe the age of superannuation flows from the proviso to Article 309 of the Constitution of India. Rules framed thereunder are subject to amendment, modification or substitution in accordance with law.

36. It is well settled that a Government servant has no vested right in the age of superannuation as such. The age of retirement is a condition of service which may be altered by the competent rule-making authority, subject to constitutional limitations. An enhancement of the age of superannuation, introduced in public interest, does not create an indefeasible right immune from subsequent statutory modification.

37. In the present case, even assuming that the Notification dated 31.05.2016 enhanced the age of superannuation to 65 years, the same was effected by amendment of Rule 56(bb) in exercise of rule-making power under Article 309. The substituted Rule 56(bb), notified on 11.08.2018, represents a valid exercise of the same power. Once the rule stands amended, the rights and obligations of the Petitioners must be governed by the rule as it exists.

38. The Petitioners cannot claim a vested right in the continuance of a particular statutory regime. Nor can they assert that the executive is precluded from refining or restructuring service conditions in light of administrative exigencies or policy considerations, so long as such action is taken within the bounds of constitutional and statutory authority.

39. In the present case, the amended rule does not retrospectively curtail any accrued benefit. It regulates the conditions subject to which continuation beyond 62 years may be availed. The Petitioners, therefore, cannot successfully contend that an indefeasible right to continue up to 65 years with administrative charge stood crystallised in their favour.

IV. Challenge on the Ground of Lack of Authority / Excess of Delegated Power:

40. The Petitioners have also sought to contend that the stipulation confining continuation beyond the age of 62 years to teaching, clinical, patient care, public health and advisory functions travels beyond the scope of the enabling power under Article 309 of the Constitution of India and amounts to an impermissible alteration of service conditions.

41. The submission does not merit acceptance. The proviso to Article 309 confers upon the competent authority the power to frame rules regulating recruitment and conditions of service of persons serving in connection with the affairs of the Union. The expression "conditions of service" has consistently been understood to include matters relating to tenure, superannuation, duties, responsibilities and assignments attached to a post.

42. The amended Rule 56(bb), as notified on 11.08.2018, forms part of the Fundamental Rules framed in exercise of the said constitutional power. The

stipulation that continuation beyond 62 years shall be confined to specified functional domains is embedded in the rule itself. It is not an executive instruction dehors the statutory framework. Once the rule validly prescribes the nature of duties during extended tenure, the same cannot be characterised as an act in excess of delegated authority. The requirement of Cabinet approval pertains to internal governmental procedure. Once the rule stands notified in exercise of power under the proviso to Article 309, its validity cannot be questioned on the ground of alleged absence of Cabinet approval, unless such approval is mandated by statute.

43. It is also pertinent that the rule does not operate selectively or arbitrarily against the Petitioners. The prescription applies uniformly to all doctors falling within the categories enumerated therein, save and except those expressly carved out by the proviso. The classification, therefore, flows directly from the statutory text and not from any discretionary or ad hoc administrative action. The stipulation regarding the nature of duties during extended tenure flows directly from the statutory text of Rule 56(bb) itself. The prescribed option form merely reflects and operationalises the statutory condition and does not introduce any independent restriction. The reliance placed upon *Tulsyan NEC Ltd.* (supra) and *St. John's Teachers Training Institute* (supra) is misplaced, inasmuch as the restriction in the present case emanates from the statutory text of Rule 56(bb) itself and not from any executive instruction seeking to override or supplement the rule.

44. In the absence of any demonstrated constitutional infirmity, the Court cannot substitute its own view for that of the rule-making authority in matters of policy concerning utilisation of medical personnel in public service. The scope of judicial review in such matters is limited to examining legality, not wisdom.

V. Alleged Violation of Articles 14 and 16:

45. The Petitioners have further urged that the amended framework results in hostile discrimination inasmuch as certain categories of doctors are permitted to continue up to 65 years without restriction, while others are confined to specified roles.

46. The contention overlooks the plain structure of the rule. The proviso to clause (bb) expressly stipulates that the age of superannuation in respect of doctors belonging to the General Duty Medical Officers sub-cadre of Central Armed Police Forces and Assam Rifles, and Specialist Medical Officers of such Forces, shall be sixty-five years. This constitutes a distinct class carved out by the rule itself.

47. It is trite that Article 14 does not forbid reasonable classification. The differentiation must be founded on an intelligible differentia having a rational nexus with the object sought to be achieved. The rule-making authority, in its wisdom, has treated doctors serving in specified uniformed forces as a separate category. No material has been placed before this Court to demonstrate that

such classification is manifestly arbitrary or devoid of rational basis.

48. Equally, the Petitioners cannot invoke Article 16 to claim a right to continue in administrative assignments beyond the age prescribed by the governing rule. Equality of opportunity in matters of public employment does not extend to claiming continuation in service contrary to statutory prescription. Mere allegation of isolated deviations, even if assumed, cannot render the statutory rule unconstitutional. An illegality, if any, cannot be perpetuated on the ground of parity.

49. The amended Rule 56(bb) operates prospectively and uniformly within each identified category. In the absence of arbitrariness or hostile discrimination, no violation of Articles 14 or 16 is made out.

VI. Issue Relating to Promotion, Seniority and Stagnation:

50. An ancillary argument advanced on behalf of the Petitioners is that exclusion from administrative posts after attaining the age of 62 years adversely affects their promotional prospects and seniority position.

51. This submission fails to appreciate the temporal context of the rule. Where the governing rule treats 62 years as the normal age of superannuation and permits continuation beyond that age only for specified purposes, promotional progression within the administrative hierarchy cannot be claimed as of right during such conditional extended tenure. Once superannuation at 62 years is the norm under the rule, no question of further promotional entitlement as of right arises beyond that stage. The decision in *Shardul Singh* (supra) dealt with denial of consideration within the normal tenure of service and has no application where continuation itself beyond 62 years is conditional under the governing rule.

52. Continuation up to 65 years is not an extension of the normal tenure in the same sense as service prior to superannuation. It is a conditional retention in service for specified purposes. The rule does not envisage promotional advancement during such extended tenure in administrative hierarchy. The absence of promotional avenues during a conditional extension cannot be equated with deprivation of a vested promotional right.

53. On the contrary, as noticed by the Tribunal, the restriction on holding administrative posts beyond 62 years subserves the objective of preventing stagnation and enabling progression within the cadre. The policy choice underlying the amendment cannot be said to be irrational or unconstitutional. Exclusion of officers who had attained the age of 62 years from consideration in the common seniority list for promotion to HAG is consistent with the statutory framework which treats 62 years as the normal age of superannuation.

VII. Scope of Judicial Review and Final Determination:

54. Before parting, it is necessary to reiterate that the present batch of Petitions arises from a challenge to a statutory rule framed in exercise of powers under

the proviso to Article 309 of the Constitution of India and to the order of the Tribunal upholding the same. The scope of interference in exercise of jurisdiction under Article 226 of the Constitution, particularly in matters involving policy choices reflected in statutory service rules, is circumscribed.

55. The Court does not sit in appeal over the wisdom of the rule-making authority. Unless a rule is shown to be manifestly arbitrary, discriminatory, ultra vires the parent power, or violative of a constitutional or statutory provision, judicial review does not extend to substituting the Court's perception of desirability for that of the competent authority. The judgments in Federation of Railway Officers Association (supra) and Vasavi Engineering College Parents Association (supra) merely reiterate the limited scope of judicial review over policy decisions. The Impugned Rule does not suffer from manifest arbitrariness.

56. In the present case, as discussed hereinabove, the amended Rule 56(bb), introduced vide Notification dated 11.08.2018, (i) retains the age of superannuation at 62 years as the norm; (ii) provides an enabling and conditional continuation up to 65 years in specified functional domains; and (iii) does not result in reduction of rank, deprivation of accrued benefits, or hostile discrimination within the meaning of Articles 14 and 16 of the Constitution of India.

57. The contention that the earlier Notification dated 31.05.2016 created an absolute and indefeasible right to continue in service up to the age of 65 years, irrespective of the nature of duties to be assigned, has rightly been rejected by the Tribunal. We find no infirmity, factual or legal, in the reasoning adopted by the Tribunal in the Impugned Order dated 14.08.2019.

58. The distinction drawn by the amended rule between administrative assignments and teaching/clinical/public health functions during the extended period of service cannot be said to be arbitrary or constitutionally impermissible. The rule operates uniformly within the identified categories and falls squarely within the competence of the rule-making authority.

59. The authorities relied upon by the Petitioners, namely Tulsyan NEC Ltd. (supra), St. John's Teachers Training Institute (supra), Shardul Singh (supra), Federation of Railway Officers Association (supra), and Vasavi Engineering College Parents Association (supra), do not advance their case. The said decisions reiterate settled principles relating to:

- i. supremacy of statutory rules over executive instructions,
- ii. the right to be considered for promotion during the normal tenure of service, and
- iii. the scope of judicial review over policy decisions

For the reasons recorded hereinabove, the impugned amendment flows directly from the statutory text of Rule 56(bb), does not deny any vested promotional

right within the normal tenure, and does not suffer from manifest arbitrariness. The precedents relied upon are, therefore, distinguishable.

60. In view of the foregoing discussion, this Court is of the considered opinion that no ground is made out for interference with the Impugned Order passed by the Tribunal. The challenge to the validity of the Notification dated 11.08.2018, insofar as it substitutes clause (bb) of Rule 56 of the Fundamental Rules, is devoid of merit.

CONCLUSION:

61. In view of the foregoing, the present Petitions are dismissed. All pending applications also stand closed.