

(2019) 08 CAT CK 0099

In the Central Administrative Tribunal

Case No : Original Application No. 2828 Of 2018, Miscellaneous Application No. 3156 Of 2018

Dr. Shabana Parveen

APPELLANT

Vs

Ministry Of AYUSH And Ors

RESPONDENT

Date of Decision : 21-08-2019

Acts Referred:

Constitution Of India, 1950 — Article 14

Citation : (2019) 08 CAT CK 0099

Hon'ble Judges : L. Narasimha Reddy, J; Aradhana Johri, Member (A)

Bench : Division Bench

Advocate : Manish Verma, Kumar Onkareshwar

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. The applicant joined the service of the Central Council for Research in Unani Medicines, the 3rd respondent herein, which is under the Ministry of Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homeopathy (AYUSH), Government of India. She was holding the post of Research Officer (Unani). 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 3rd respondent claiming that she is also entitled to remain in service till the age of 65 years. Through a communication dated 22.01.2018 (Annexure A-1), the 3rd 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 31.07.2018. This OA is filed with a prayer to quash the impugned order dated 22.01.2018, and the action of the respondents in retiring the applicant w.e.f. 31.07.2018, 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 3rd respondent, on the other hand, is violative of Article 14 of the Constitution of India, apart from being unreasonable, unfair and discriminatory.

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

5. It is submitted on behalf of the respondents 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 3rd 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.

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 3rd 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 3rd respondent, which is purely a research organisation. It is not even alleged that the employees or specialists working in the 3rd respondent organisation treat the patients of any kind whatever. Further,

the management of the 3rd 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 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. The OA is accordingly dismissed. There shall be no order as to costs.