



**Central Administrative Tribunal  
Principal Bench: New Delhi**

**O.A. No.3357/2022**

This the 17<sup>th</sup> day of November, 2022

**Hon'ble Mr. R. N. Singh, Member (J)**  
**Hon'ble Mr. Tarun Shridhar, Member (A)**

Dr. R.B.Gupta,  
S/o Sh. Samar Singh,  
Aged about 62 years,  
R/o H.No.7007, Gali Tanki Wali,  
Pahari Dhiraj, Delhi-110006  
Post : Insurance Medical Officer  
Group-A.

...Applicant

(By Advocate : Shri Anuj Aggarwal)

VERSUS

1. Employees' State Insurance Corporation,  
Through its Director General,  
Panchdeep Bhawan, CIG Marg,  
New Delhi-110002  
Email: [dir-gen@esic.nic.in](mailto:dir-gen@esic.nic.in)
2. Additional Director (Dispensary),  
Directorate Medical Delhi,  
Employees' State Insurance Corporation,  
5<sup>th</sup> & 6<sup>th</sup> Floor, Administrative Officer,  
ESI Hospital Complex,  
Basai Darapur, New Delhi-110015  
Email: [dire-med.dl@esic.nic.in](mailto:dire-med.dl@esic.nic.in)

...Respondents

**ORDER (ORAL)****Hon'ble Mr. Tarun Shridhar, Member (A) :-**

Learned counsel for the applicant confirms that he has effected advance service upon the respondents, however, there is no representation on their behalf.

2. The applicant is aggrieved that despite specific provision in the relevant rules of the Employees' State Insurance Corporation (ESIC) - the respondent, which provides for enhancement of age of superannuation of Non-Teaching Specialists, General Duty Medical Officers and Medical Officers in the ESI Corporation from the existing 60/62 years with immediate effect i.e. 30.12.2016, the date of the said circular, the impugned order dated 31.08.2022 has been passed, vide which the applicant has been retired w.e.f. 31.08.2022 itself, i.e. the date on which he attained the age of 62 years. He argues that 62 years was the earlier age of superannuation and the said provision stands overruled vide the circular/order dated 30.12.2016. For the sake of clarity, the said order is reproduced below :-



“In pursuance of Letter No.S-38020/01/2016-SS.I dated 28<sup>th</sup> December of Ministry of Labour & Employment, Government of India, the undersigned is directed to convey the approval of the Competent Authority for enhancing the age of superannuation of Non-Teaching Specialists, General Duty Medical Officers and Medical Officers in the cadre of Dental, Ayurveda & Homeopathy in ESI Corporation from existing 60/62 years to 65 years with immediate effect.”

3. Learned counsel further draws attention to the amendment carried out in the fundamental rules vide notification dated 11.08.2018, which *inter alia* provides for enhancement of the retirement age of the medical officers in various Central Government Organizations from 62 years to 65 years. However, such amendment specifically mentions that ordinarily the age of retirement is 62 years unless the concerned officer exercise option for its extension to 65 years and such an option shall be approved/decided by the Competent Authority on the basis of their expertise and experience. Although the said notification amending the financial rules does not specifically refers to ESIC, whereas it relates to several other organizations of the Central Government, the guiding principle would be the same since ESIC is also a



Central Govt. Organization and thus this amendment is to be read with the ESIC's own order dated 30.12.2016 referred to in the preceding paragraph. Accordingly, the applicant seeks the following relief(s)

:-

“(i) Set aside the impugned Order dated 31.08.2022, passed by the respondents, whereby the request of the applicant for continuing his service till 31.08.2025 i.e., till the age of 65 years, was rejected;

(ii) Set aside the impugned Advertisement dated 21.09.2022, issued by the Employees' State Insurance Corporation (ESIC), whereby the applications are invited for appointment on the post of Senior Resident against General Duties Medical Officer (GDMO) (Joint Duty Medical Officer) for 1 year on contractual basis;

(iii) Declare that the impugned action on the part of the respondents in retiring the applicant on 31.08.2022 i.e., at the age of 62 years, is illegal as well as unjustified;

(iv) Direct the respondents to reinstate the applicant in service and to continue the applicant in service up to 31.08.2025 (i.e. till the applicant attains 65 years of age in terms of the Order dated 30.12.2016) and also grant all the benefits to the applicant including full back wages/salary, seniority, etc.;

(v) allow the present application with costs in favour of the applicant; and

(vi) issue any other order or direction as this Hon'ble Tribunal may deem fit and proper in the interest of justice and in the

favour of the applicant.”



4. Learned counsel for the applicant submits that the applicant had already given his option to the Competent Authority to serve till the age of 65 years, in accordance with the aforementioned circular/order/notification dated 30.12.2016, and subsequently on the silence of the respondents and further rejection of his request he has submitted a representation to the competent authority along with a legal notice. However, the representation and the legal notice have remained un-answered.

5. We have heard the learned counsel for the applicant and also gone through the pleadings available on record.

6. Although there is no representation on behalf of the respondents, after careful consideration of the issue involved in the present OA and the relevant rules/notification/circular governing the issue at hand, we consider it appropriate to dispose of this OA, at this initial stage. Circular dated 30.12.2016, issued by the ESIC and signed by one Director (Med. Admn.)



is crystal clear and conclusively states that the age of superannuation of medical officers stands enhanced from the existing 62 years to 65 years with immediate effect. Once the ESI Corporation, by its own order, has enhanced the age of retirement of the doctors to 65 years without any rider or condition or proviso whatsoever, there is no cause for them to now issue order of retirement of the applicant on attaining the age of 62 years as that is no longer the age of superannuation. Moreover, the amendment to the Fundamental Rules (FR) also gives option to the concerned Medical Officer to seek enhancement of age from 62 years to 65 years. The only power vested with the Competent Authority, under the FR's, is to decide such an option on the basis of expertise and experience. In case of the Medical Officer, who is professionally qualified and has worked for a period of years, the experience and expertise can be determined only on the basis of testimonials.

7. Therefore, in our considered view, the respondents are required to re-visit their order and review it strictly in accordance with the rules and



instructions governing the subject specifically their own order dated 30.12.2016 bearing No.A-40/11/13/1/2016-Med.VI., read with amendment to FR's. The competent authority amongst the respondents after such a review shall pass appropriate order within a period of four weeks from the date of receipt of a copy of this order.

5. OA stands disposed of in the aforesaid terms.

There shall be no order as to costs.

**(Tarun Shridhar)**  
**Member (A)**

**(R. N. Singh)**  
**Member (J)**

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