

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 4649 of 2017**

1. Radheshyam Agrawal S/o Late Shri K. M. Agrawal, aged about 61 years, R/o Sarthi Chowk Bhoipara, near SBI ATM Raipur, District Raipur, Chhattisgarh
2. Balkrishna Mishra S/o Late Shri S. S. Mishra, aged about 61 years, R/o Naveen Aushadhalaya, Nagar Nigam Nayapara, Raipur, District Raipur, Chhattisgarh

---- Petitioners**Versus**

1. State of Chhattisgarh through Secretary Department of Health and Family Welfare, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. Secretary, Department of Urban Administration and Development Raipur, District Raipur, Chhattisgarh
3. Commissioner, Municipal Corporation Raipur, District Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Sushobhit Singh, Advocate
For Respondent/State	:	Shri Lav Sharma, Panel Lawyer
For Respondent no.3	:	Shri Pankaj Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****04/04/2018**

The case of the petitioners in the present writ petition is that they are working as Ayurvedic Medical Officer in Municipal Corporation, Raipur. When the petitioners were appointed in the year 1983, the age of retirement was 60 years. However, vide the enactment known as "Chhattisgarh Government Servant (Age of Superannuation) Amendment Ordinance, 2007" the age of superannuation of the medical officers as well as medical teachers was

enhanced from 60 to 62 years. Accordingly, the age of superannuation of the petitioners also stood enhanced from 60 to 62 years. Subsequently, the State Government has again enhanced the age of superannuation of the medical officers as well as medical teachers from 62 to 65 years by way of a fresh amendment known as "Chhattisgarh Government Servant (Age of Superannuation) Amendment Act, 2013 w.e.f. 01.04.2013 on wards.

2. Counsel for the petitioners submits that though the age of superannuation, as per the Act of 2013, has been enhanced from 62 to 65 but the respondents have illegally issued a notice of retirement to petitioner no.1 intimating him that he would stand retired w.e.f. 31.05.2018 whereas as per the amendment brought into force on 01.04.2013, the petitioner no.1 would superannuate only on 31.05.2021 i.e. on attaining the age of 65 years and not 62 years.

3. On 03.10.2017, the respondents took time for filing reply. Subsequently, on 30.10.2017 again the respondents took time to file reply but till date no reply of any of the respondents have been filed.

4. Considering the notice of retirement which has been issued by the respondents to petitioner no.1 and also taking note of the fact that petitioner no.2 would also reach the age of 62 years in December, 2018, this Court is of the opinion that no fruitful purpose would be served in keeping the petition pending.

5. Accordingly, given the facts and situation narrated in the preceding paragraphs, ends of justice would meet if the petition is disposed of with a direction to respondent no.1 to consider the case of the petitioners and decide whether they would stand retired on attaining the age of 62 years or in the light of the amendment brought in 2013 known as Chhattisgarh Government Servant (Age of Superannuation) Amendment Act, 2013 the petitioners would

be entitled for working till attaining the age of 65 years. It is ordered accordingly.

6. Let this exercise be done within a period of 60 days from the date the certified copy of this order is produced before respondent no.1. Till the petitioners' claim is decided, their services would not be discontinued even on their attaining the age of 62 years. The petitioners would be at liberty to challenge the order passed by respondent no.1 if the same is decided against them. The petitioners shall make a fresh representation to respondent no.1 along with the certified copy of this order within a period of 10 days from the date the certified copy of this order is obtained.

**Sd/-
(P. Sam Koshy)
JUDGE**