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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 460/2018

UNION OF INDIA

..... Petitioner

Through: Mr. Jasmeet Singh, CGSC with
Mr.Srivats Kaushal, Advocate.

versus

DR H P SINGH

..... Respondent

Through: Mr. Manish Verma, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

15.11.2018

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The Union of India has preferred the present writ petition to assail the order dated 25.08.2017 passed by the Central Administrative Tribunal, Principal Bench, New Delhi ('the Tribunal') in OA No.332/2016.

The Tribunal allowed the said original application preferred by the respondent and held that the retirement age of the respondent stands enhanced to 65 years. His retirement vide order dated 17.09.2016 has been set aside.

The retirement age of the respondent-who is a dental surgeon and was serving as Staff Surgeon in Non-Functional selection grade under the Ministry of Health and Family Welfare, was 60 years. He was aggrieved by the fact that though the Central Government had raised the retirement age of Allopathic doctors (General Duty Medical Officers(GDMOs)) of the Central Health Service (CHS) vide order dated 31.05.2016 to 65 years, the age of retirement of the respondent was not similarly raised and it continued to remain as 60 years.

The Tribunal, as aforesaid, allowed the original application on 25.08.2017. Aggrieved by that decision, the petitioner has preferred the present writ petition. However, subsequent to the filing of the present petition, the Government has consciously taken a decision on 30.09.2017 thereby enhancing the age of superannuation of dental doctors working under the Ministry of Health and Family Welfare to 65 years with immediate effect.

Since the Government itself has subsequently raised the retirement age of dental doctors to 65 years, in our view there is no justification to deny the said relief to the respondent. Therefore, without going into the merits of the arguments sought to be advanced by the Union of India, on equitable considerations, we are not inclined to interfere with the impugned order in exercise of our discretionary jurisdiction under Article 226 of the Constitution of India. We accordingly dismiss this petition.

In case the respondent continued to serve the petitioner even after attaining the age of 60 years, and he continues to do so, we direct petitioner to make payment of arrears of salary and allowances to the respondent within four weeks from today, and to continue to pay his salary and other allowances in future till the respondent superannuates at the age of 65 years. However, it is made clear that the respondent shall not be assigned any administrative duties in terms of the Governmental decision.

VIPIN SANGHI, J

A. K. CHAWLA, J

NOVEMBER 15, 2018/nn