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

Date of decision : 17.09.2019

+ W.P.(C) 9495/2019

PROF (DR.) J. SUNDARESAN PILLAI Petitioner
Through : Ms. Romy Chacko, Advocate.

versus

UNION OF INDIA AND ORS. Respondents
Through : Mr. Arun Bhardwaj, CGSC for UOI
with Mr.Nikhil Bhardwaj, Advocate.
Mr. Jayesh K. Unnikrishnan,
Advocate for R1,2 &3.

CORAM:

HON'BLE MR. JUSTICE G.S. SISTANI
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

G.S.SISTANI, J. (ORAL)

1. The petitioner is aggrieved by order dated 26.07.2019 passed by the Central Administrative Tribunal (hereinafter referred to as 'the Tribunal').
2. Some facts which are required to be noticed for disposal of this writ petition are that the petitioner started his career as a Scientist at CSIR-NISCAIR in the year 1992. The age of retirement for scientists in the Ministry of Agriculture was increased from 60 years to 62 years w.e.f.

13.10.2003 and the age of retirement for scientists in ICMR was also increased to 62 years.

3. The petitioner superannuated on 31.01.2019. Subsequently he made an application dated 10.04.2019 to respondents Nos. 1 & 2 for extension of service, relying upon a policy which lays down the criteria for extension/re-employment as per CSIR Rules, Regulations and Procedures (Volume II), a copy of which has been placed on record.

4. Learned counsel for the petitioner has placed reliance upon the following paragraphs of the policy which read as under:

***“(23.4.9) Criteria of Extension/re-employment-
Extract From Chapter XX of “hand Book for
Personnel Officers”, Deptt. Of Personnel And A.R.
Cabinet Secretariat, New Delhi.***

(1) xxx

(2) Extension of service/re-employment can be justified only in very rare and exceptions circumstances. Even in such cases, 60 years of age should be the deadline for non-scientific/non-technical posts and 62 years in the case of scientific/technical personnel. This should not be construed to mean that extension of service/re-employment can be granted to non-scientific/non-technical personnel upto the age of 60 years and to scientific/technical upto the age of 62 years more or less as a matter of course. The overriding consideration for the grant of extension of service/re-employment is that it must be clearly in public interest and in addition satisfy one of the

following two conditions :-

- (i) that other officers are not ripe enough to take over the job or*
- (ii) that the retiring officer is of outstanding merit.*

Test (i) would be satisfied only if there is shortage in particular specialization, or if it is not possible to find a suitable successor or if the officer is engaged on a work or project of vital importance which is likely to produce results in a year or two....”

5. Counsel for the petitioner also draws attention to the ACR gradings of the petitioner to show that the same are outstanding for the past 7 years. Reliance is also placed on the recommendation made by the Director, CSIR-NISCAIR which reads as under :

“Dr. J. Sundaresan Pillai is the key functionary of the countrywide climate change project conceptualized and implemented by him under CSIR-NISCAIR in larger public and national interest. Therefore, his active services are essential for not only continuity but also taking it to logical conclusion as no such expertise is available in the Institute; hence extension of his service in current position is strongly recommended.”

6. Learned counsel submits that with regard to the ACRs and the recommendation made by the Director, CSIR-NISCAIR, the criteria and requirements of clause (2) of the policy would stand satisfied as the retiring officer is of outstanding merit. He submits that as far as sub-clause (i) of clause (2) of the policy is concerned, at the relevant time there was no

officer ready to take-over the job.

7. In view thereof, counsel prays that the order of the Tribunal be set-aside and direction be issued to respondent No. 3 to grant extension to the petitioner.

8. Learned counsel for respondent No. 3 submits that as per the policy extension of service/re-employment can be granted only in very rare cases and in exceptional circumstances. It is submitted that it is incorrect to say that no officer is ready to take over the job. Counsel has handed-over Office Memorandum dated 10.04.2019 whereby the job in question was assigned to Dr. T.K. Jana, Principal Scientist, CSIR-NISCAIR with immediate effect. He submits on instructions that Dr. T.K. Jana has since taken-over charge of CCI section/unit. Counsel submits that they do not dispute that the petitioner is an outstanding scientist; however the date of superannuation is fixed and grant of extension is not a matter of right but would depend on the circumstances.

9. In view of the above discussion, we find no infirmity in the impugned order passed by the Tribunal and thus do not find any ground to interfere by way of the present writ petition.

10. However, as prayed, in case a representation is made by the petitioner, the respondents would consider the same within a period of six weeks in the light of the extension policy. Having said so, we make it clear however that filing of the representation would not give a fresh cause of action to the

petitioner.

11. With these directions, the writ petition is disposed of.

G.S.SISTANI, J.

ANUP JAIRAM BHAMBHANI, J.

SEPTEMBER 17, 2019

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