



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

%

Judgment reserved on: 27.02.2026

Judgment delivered on: 04.05.2026

Judgment uploaded on: *As per Digital Signature~*

+ **W.P.(C) 13189/2023**

DR R D THAKUR

.....Petitioner

versus

UNION OF INDIA & ORS.

.....Respondents

Advocates who appeared in this case

For the Petitioner : Mr. Ankur Chhibber, Adv.

For the Respondents : Mr Nirvikar Verma, SPC.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

V. KAMESWAR RAO, J.

1. This writ petition was been filed by two petitioners. During the course of hearing on 27.02.2026, we were informed that the Registry of this Court is in receipt of a letter addressed to the petitioners counsel/Mr. Ankur Chhibber, wherein the petitioner no. 1 namely Dr. Debajyoti Chakraborty has stated that, for medical reasons, he does not wish to pursue this petition. Accordingly, his name was deleted from the array of parties, with petitioner No.2/Dr. R. D. Thakur, as the petitioner.

2. This petition has been filed with the following prayers:-



*“(i) Issue a writ of certiorari quashing speaking order dated 03.07.2023 issued by the respondents;
(ii) Issue a writ of mandamus to forthwith enhance the superannuation age of Doctors/Medical Officers working in General Reserve Engineering Force/Border Roads Organization including the petitioners from 60 years to 65 years;
(iii) Pass any such other orders as it may deem fit to this Hon’ble Court in the facts and circumstances of the case.”*

3. The facts as noted from the records are that the petitioner was appointed in General Reserve Engineering Force/Border Roads Organisation (“GREF” / “BRO”) as Civilian Medical Officer.

4. Prior to 31.05.2016, the superannuation age of all Doctors/Medical Officers working in various organisation of the Central government was 60 years. On 31.05.2016, the Department of Personnel & Training (DoP&T), Ministry of Personnel, Public Grievances and Pensions issued a notification amending Rule 56 of the Fundamental Rules, 1922 (“FR, 1922”) thereby increasing the age of superannuation in respect of General Duty Medical Officers and Specialists included in Teaching, Non-Teaching and Public Health Sub-cadres of Central Health Service to 65 years.

5. On 05.01.2018, DoP&T issued another notification amending Rule 56 of the FR, 1922 expanding the scope of its earlier notification dated 31.05.2016, increasing the age of superannuation for AYUSH doctors, Civilian Doctors under Directorate General of Armed Forces Medical Services, Medical officers of Indian Ordnance Factories Health Services, Dental Doctors working under Ministry of Health and Family Welfare; doctors of Indian Railways Medical Service and Dental Doctors under



Ministry of Railways, doctors of General Duty Medical Officers Sub-cadre of Central Armed Police Forces and Assam Rifles and Specialist Medical Officers of Central Armed Police Forces and Assam Rifles to 65 years. Thereafter, DoP&T consolidated the above notifications thereby increasing the retirement age of the Doctors in the above organisations to 65 years vide memoranda dated 30.11.2022 and 01.12.2022.

6. The grievance of the petitioner is primarily that the Doctors/Medical Officers working in GREF/BRO were not included in the memoranda dated 30.11.2022 and 01.12.2022 for increasing the age of retirement of the doctors working in GREF/BRO from 60 to 65 years, though the retirement age in other organisation has increased.

7. According to the petitioner, there was no reason/justification to exclude Doctors/Medical Officers working in GREF/BRO in the memoranda dated 30.11.2022 and 01.12.2022, whereby, the retirement age of doctors working in other organisation including Central Armed Police Forces ('CAPF') was increased to 65 years. On 11.02.2023, the petitioner submitted an application requesting enhancement of superannuation age of Doctors/Medical Officers in GREF/BRO to 65 years.

8. On 19.04.2023, the petitioner filed a writ petition being W.P. (C) No.4951/2023 before this Court seeking a mandamus directing the respondents to enhance the superannuation age of petitioner/Doctors/Medical Officers working in GREF/BRO to 65 years. The said petition was disposed of with directions to the Ministry of Defence to take a final



decision on proposal for enhancement of age of superannuation of Doctors/Medical Officers.

9. The Directorate General (DG) BRO requested Ministry of Defence to take a decision on the proposal for enhancement of age of superannuation. On 30.05.2023, the DG-BRO withdrew the proposal for enhancement of age. In any case, the respondents with regard to the request of the petitioner passed a speaking order on 03.07.2023 rejecting the prayer made by the petitioner, in the following manner:-

“3. AND WHEREAS on according approval of the Director General Border Roads, a case for withdrawal of a proposal, which was already submitted to Ministry of Defence vide HQ DGBR letter No.18358/Med/DGBR/T&C dated 04 Sep 2018 for enhancement of superannuation age of general duty medical officers of GREF/BRO from 60 years to 65 years was submitted to MoD (BR) vide the Dte letter No. 18363/Med Offr/DGBR/35/T&C-1 dated 30 May 2023.

4. AND WHEREAS MoD(BR) has approved the said withdrawal of proposal vide their ID No.BRDB/03/03/2018/GE.I dated 07 Jun 2023 and also directed Dte GBR to take following actions for proper disposal of the subject matter:-

(i) In the Court hearing on 19.04.2023 Dte GBR had submitted that the decision in the subject matter was pending with Ministry of Defence, and court had directed the Ministry to take the decision and communicate the decision to the Petitioners within 8 weeks. Now, Dte GBR has not recommended and has requested to treat the proposal as withdrawn which is accepted by MoD. Therefore, Dte GBR is directed to submit before Hon'ble Court proper justification for not recommending the proposal and duly defend the case on behalf of the Ministry.



(ii) Dte GBR is instructed to communicate their recommendation with due justification to the Petitioners for proper disposal of the matter.

5. AND WHEREAS presently GREF Officers/Personnel including Medical Officers with Low Medical Category and with higher age profile can not be posted to High Altitude Area due to constraints of departmental posting policy imposed based on geographical/environmental/circumstantial/extreme weather condition based requirement therefore the Officers/Personnel with less physical capacity (Low Medical Category) are performed to be posted to other locations not falling under the criteria of High Altitude Area. 6. AND WHEREAS most of the places/stations of units/projects of BRO are located in remote and High Altitude Areas, further is stated that maximum services of Medical Officers are required in these areas as no Civil Medical facilities are available in such areas. Enhancing age of superannuation of Medical Officers of GREF/BRO from 60 years to 65 years will lead to difficulties of their postings to High Altitude Areas, Hard Areas and areas of remote locations considering the administrative/policy constraints as the officers attaining age of 56 years and above are unfit to post in High Altitude Areas. Similarly the Officers in Low Medical Categories are also not being considered for posting to Hard Areas or areas of remote locations as requisite/adequate medical facilities are generally not available at such locations where Low Medical category Medical Officers can continue medical treatment for their own ailment or carry out periodical review of their own medical category. 7. AND WHEREAS enhancing the age of superannuation of GREF/BRO Medical Officers from 60 years to 65 years will also cause undue delay in their promotional avenues in the feeder grades which will further lead to stagnation of younger Medical Officers at a particular stage. 8. NOW WHEREAS it is hereby conveyed to you the Petitioners that having considered the demand of the Association made in W.P.(C) No. 4951/2023 filed before the Hon'ble High Court of Delhi at New Delhi with a prayer to enhance age of your superannuation from 60 years to 65 years while serving in General Reserve Engineering Force (GREF)/Border Road Organization (BRO) is considered



and summarily rejected having no merit as clarified in preceding paragraphs.”

10. Mr. Ankur Chhibber, learned counsel for the petitioner contested the reasons given by the respondents in the order as totally frivolous as they do not stand the test of facts.

11. According to him, when it comes to posting, even the low medical category officers are deemed fit for all climate and terrains below altitude of 15000 ft. The petitioner, who is holding the rank of Senior Medical Officer, cannot be posted below the level of HQ and HQ of Central MI Rooms and HQs of projects of BRO. He stated that, there is not even a single Medical Officer who is posted above the altitude of 10,000 ft.

12. He submitted that, age of superannuation of Medical Officers in CAPF is 65 years and it is not open for the respondents to deny the service conditions of personnel in CAPF. According to him, the duties of GREP/BRO are equally challenging like CAPF as such cannot deny extension of age of superannuation to the petitioner otherwise the same would amount to denial of right to equality as there is a complete lack of intelligible differentia.

13. According to him, the revocation of proposal for extension of age of superannuation by the DG BRO is untenable. He stated that, since the respondents' proposal was largely based on operational requirements, it is incumbent upon the respondents to show the material change that caused them to revoke the proposal. He also stated that the Deputy Director General Medical was not consulted prior to revocation of proposal by the



respondents which add to arbitrariness, as the DG-BRO is not the competent authority to decide matters of medical eligibility of Medical personnel in the service.

14. Mr. Chhibber stated that the doctors in other organisation of the Government of India have the retirement age of 65 years except in GREF/BRO. He placed reliance on the judgment of this Court in the case of ***Dev Sharma v. Indo Tibetan Border Police and Another, 2019 SCC OnLine Del 6797***. He has also relied upon the instructions in respect of categorisation/posting of the GREF personnel to contend that there is no limitation for posting the GREF personnel in a high terrain area as well. He seeks the prayer in the petition.

15. On the other hand, Mr. Nirvikar Verma, learned Senior Panel Counsel for the respondents apart from reiterating the stand of the respondents in their counter-affidavit, has relied upon the judgment of the Supreme Court in ***Central Council for Research in Ayurvedic Sciences & Anr. v. Bikartan Das & Ors., 2023(11) SCALE 93***.

16. The case of the respondents is primarily that the GREF/BRO under the Ministry of Defence has separate Medical Cadre of Medical Officers for providing medical cover to personnel engaged in the construction of strategic roads. The Medical Cadre Officers are civilian officers appointed through UPSC and governed by CCS Rules.

17. He stated the GREF Officers/Personnel including Medical Officers with Low Medical Category and with higher age profile cannot be posted to High Altitude Area due to departmental policy based on geographical /



environmental / circumstantial / extreme weather condition. Therefore, the Officers/Personnel with less physical capacity are perforce to be posted to other locations not falling under the said criteria. As most of the places/stations of units/projects of BRO are located in remote and High Altitude Areas, maximum services of Medical Officers are required in these areas as no civil medical facilities are available in such areas. Enhancing age of superannuation of Medical Officers in GREF/BRO to 65 years will lead to difficulties of their postings to High Altitude Areas/Hard Areas.

18. Mr. Chhibber has in rejoinder contested the grounds on which the respondents have rejected the request of the petitioner for enhancement of the retirement age.

19. Having heard the learned counsel for the parties and perused the record, it is noted that in the most of the organisations under the Government of India, more specifically, in the Medical Cadre, the age of retirement for Doctors/Medical Officers has been enhanced to 65 years. It appears an exception has been drawn in respect of Medical Officers in GREF/BRO and this is primarily for the reasons recorded in the impugned order dated 03.07.2023.

20. The moot question, which falls for consideration is whether the reasons given by the respondents for not increasing the age of the retirement for the Doctors/Medical Officers is reasonable/justified and whether this Court can exercise writ jurisdiction to issue a mandamus directing the respondents to increase the age of retirement of Doctors/Medical Officers in GREF/BRO.



21. Mr. Chhibber has relied upon the judgment in the case of **Dev Sharma (supra)**, wherein the issue which fell for consideration is, whether the retirement age of members of three CAPFs to the rank of Commandant, which was fixed at 57 years; need to be enhanced to 60 years. In that context the Court while considering the issue, whether the Court can issue a mandamus to the respondents to re-cast a particular Rule, has in paragraphs 104 and 105, held as under:-

“104. In the present petitions, while the primary challenge is to Rule 43(a) of the CRPF Rules, the corresponding challenge is in effect to separate rules applicable to each of the three CAPFs in question i.e. the CRPF, the BSF, and the ITBP. To recapitulate, Rule 14 of the CRPF Group (A) General Duty Officers Recruitment Rules, 2001 stipulates that officers holding post higher than the rank of Commandants shall retire from service "on the afternoon of the day of the month in which they attained the age of 60 years and officers of other ranks shall retire from the service on the afternoon of the last day of the month in which they attained the age of 57 years." Rule 8(a) of the ITBP General Duty in Group 'A' Posts Rules stipulates that officers holding the rank of Deputy Inspector General (General Duty) (DIG), Inspector General Duty and Inspector General Duty shall retire when they attained the age of 60 years. For officers holding the rank of AC, DC, Second-in-command and Commandant the age of retirement is 57 years. Likewise Rule 12 of the BSF (General Duty Officers) Recruitment Rules, 2001 stipulates that officers of the BSF holding post higher than the rank of Commandant shall retire when they attained the age of 60 years and officers of other ranks will retire from service when they attained the age of 57 years.

105. In view of the above conclusion of this Court that Rule 43(a) of the CRPF Rules, 1955 as it presently stands is unconstitutional and liable to be struck down,



correspondingly Rule 14 of the CRPF Group (A) General Duty Officers Recruitment Rules, 2001, Rule 8(a) of the ITBP General Duty in Group 'A' Posts Rules and Rule 12 of the BSF (General Duty Officers) Recruitment Rules, 2001 to that extent are also held to be unconstitutional and liable to be struck down.”

22. The above would reveal that the Court has directed enhancement of age of retirement from 57 years to 60 years, by holding that, Rule 43(a) of the CRPF Rules as arbitrary as it prescribe 57 years as retirement age whereas the age of officer in the rank of DIG/IG is 60 years. Suffice to state, there is no such challenge in this petition rather the prayer is seeking parity *quo* Medical Officers working in other similar organisations / cadres.

23. The reasoning given by the respondents in their speaking order to deny the parity is the following:

- i. Enhancement of age of superannuation of Medical Officers in GREF/BRO from 60 years to 65 years will lead to difficulties in posting to High Altitude Areas, Hard Areas and areas of remote locations considering the administrative/policy constraints as the officers attaining the age of 56 years and above are unfit to be posted in High Altitude Areas;
- ii. Officers in Low Medical categories are also not being considered for posting to Hard areas or areas of remote locations as requisite/adequate medical facilities are generally not available at such locations; and



- iii. Such enhancement will cause undue delay in the promotional avenues of feeder grades which will further lead to stagnation of younger Medical Officers at a particular stage.

24. The Supreme Court in the case of ***Bikartan Das & Ors. (supra)*** as relied upon by the counsel for the respondents on an identical issue, which arises for consideration in this writ petition, inasmuch as, whether the retirement age of doctors in AYUSH are entitled to enhancement of retirement age from 60 years to 65 years, has held as under:-

“48. We may only say that the entire approach of the High Court towards the present litigation was incorrect. We are a bit disappointed to observe that the High Court dealt with the present litigation in a very casual manner. First, the High Court went to the extent of granting interim relief extending the period of service beyond 60 years till the disposal of the Original Petition by the CAT. By virtue of such interim order which the High Court ordinarily should not grant, the respondent No. 1 although was to retire in 2018 yet continued in service till 2021. It is only when this Court stayed the operation of the impugned order passed by the High Court while issuing notice that the service of the respondent No. 1 came to an end. The Court or the Tribunal should, therefore, be slow and circumspect in granting interim relief for continuation in service, unless prima facie evidence of unimpeachable character is produced because if the public servant succeeds, he can always be compensated. But if he fails, he would have enjoyed undeserved benefit of extended service and merely caused of injustice to his immediate junior. At the cost of repetition, we may state that the High Court was conscious of the fact as very much ed recorded in the impugned order that the respondent No. 1 was appointed as a Research Assistant and was functioning as a Researcher under the Research Council and his service conditions were also different compared to the AYUSH



doctors serving with the Ministry of AYUSH. The High Court misdirected itself saying that the benefit of enhanced age of superannuation can also be granted if the duties performed are the same of like AYUSH doctors. We fail to understand how can the Court fix the age of superannuation of an employee saying that he is very much devoted towards his job. The age of superannuation is always governed by statutory rules & other service conditions.”

25. The above ratio in the judgment makes it clear that it is not for the Courts to fix the age of retirement. The respondents have given reasons for not enhancing the age of retirement to 65 years, though such reasons have been contested by Mr. Chhibber, it is not for this Court to go into the merits as the same are not *ex facie* arbitrary/perverse. There is some basis for the respondents to invoke the above reasons to deny the enhancement of retirement age. Any direction to increase the retirement age despite the reasons shall be contrary to the law laid down by the Supreme Court in the aforesaid judgment.

26. It is well settled position of law that the age of retirement is purely policy matter which lies within the domain of the executive and it is not for the Courts to prescribe a different age of retirement from one applicable to government employees under relevant rules and regulations. It is upon the executive to take a call as to whether the circumstances demand that a decision be taken to extend the age of superannuation in respect of a set of employees or not. It must be assumed that they would have weighed all the pros and cons before denying the grant of extension of age. It would not be a ground for the Court to tread into matters of policy.



2026:DHC:3745-DB



27. We find no merit in the prayers as sought in the petition. The petition is, accordingly, dismissed.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

MAY 04, 2026/sr

Signature Not Verified

Signed By: PRADEEP
SHARMA
Signing Date: 04.05.2026
14:49:36

WP(C) No.13189/2023

Page 13 of 13