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

Date of Decision*: *02nd September, 2026

\# **CNR No. DLHC010238772026**

\+ W.P.(C) 7368/2026 & CM APPL. 57218/2026

DR. KUNDA MENDHEKAR .....Petitioner

Through: Mr. Rajat Asija, Advocate with Petitioner in person.

versus

TATA POWER DELHI DISTRIBUTION LIMITED (TPDDL)AND ORS .....Respondents

Through: Mr. Sudhir Nandrajog, Senior Advocate with Mr. Sujit Kumar Singh, Ms. Ankita Singh, Mr. Abhishek, Mr. Amit Singh, Advocates for R-1.
Mrs. Avnish Ahlawat, SC for R-2 & 3 with Mrs. Tania Ahlawat, Mr. N.K. Singh, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advocates for R-2 & 3.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The Petitioner has been made to retire at 60. She says that was five years too early. Her case is that she entered Tata Power Delhi Distribution Ltd. ["TPDDL"] as a transferred Delhi Vidyut Board ["DVB"] doctor, remained subject to the protected FR/SR service framework, and was therefore entitled to the later enhancement of doctors' retirement age to 65. TPDDL says the protection did not go that far. It preserved existing service

conditions; it did not bind TPDDL to every later Government change unless TPDDL chose to adopt it. The dispute, therefore, is less about continuity of service and more about what that continuity legally carried with it.

Factual Background

2. The Petitioner entered service in the Delhi power establishment in 1996. She was selected through the Union Public Service Commission ["UPSC"] for appointment as a Medical Officer in the Delhi Electric Supply Undertaking ["DESU"] and joined service on 10th April, 1996. DESU was subsequently subsumed into DVB.

3. When DVB was proposed to be restructured, its employees were apprehensive that the change might affect their employment and service conditions. Those apprehensions were expressly recorded in the Tripartite Agreement dated 28th October, 2000 between the GNCTD, DVB and the Joint Action Committee representing the employees. The Agreement records that it was intended to allay those fears and facilitate the smooth implementation of the restructuring.

4. Clause 3(b) specifically addressed the terms and conditions of service applicable to employees upon their transfer to the new entities:

> *"The terms and conditions of service upon transfer to the corporate entities…regulated by existing regulations/service rules e.g. FR/SR will be guaranteed to continue the same…"*

5. It added that any modifications were to be made through mutual negotiation and settlement with the recognised unions and associations, without reducing existing benefits. Clause 3(f) separately protected all benefits arising from the service rendered by employees in DVB.

6. The statutory transfer followed. Section 16(2) of the Delhi Electricity

Reform Act, 2000 ["Reform Act"] required that the terms and conditions of service in the transferee company should not be less favourable than those applicable immediately before transfer; continuity of service and benefits of service accrued before the transfer were also protected. Rule 6(7) of the Delhi Electricity Reform (Transfer Scheme) Rules, 2001 ["Transfer Scheme Rules"] permitted the transferee to frame its own service regulations, but until then, the existing service conditions of DVB were to continue *mutatis mutandis*. Rule 6(6), at the same time, provided that the transferred employee would cease to be in the service of DVB.

7. The Petitioner's services were transferred to North Delhi Power Ltd. ["NDPL"], which subsequently became TPDDL. She continued there for more than two decades. Her most recent promotion was with effect from 1st July, 2025, when TPDDL elevated her to Senior General Manager (Medical). The promotion letter itself stated that she would be entitled to one special increment equivalent to one annual increment on her current Basic Pay in the existing Pay Level in the "FRSR pay structure".

8. The issue that ultimately gave rise to the present dispute traces its origin to a Government of India order dated 31st May, 2016. It provided:

> *"The President is pleased to enhance the age of superannuation of the specialists of Non-Teaching and Public Health sub-cadres of Central Health Service (CHS) and General Duty Medical Officers of CHS to 65 years with immediate effect."*

The order further requested the Department of Personnel and Training to make the necessary amendments in FR 56.

9. Thereafter, on 30th September, 2016, the GNCTD issued a similar order in respect of doctors of the Delhi Health Service:

> *"The Lieutenant Governor of GNCT of Delhi is pleased to enhance the*

> *age of superannuation of the Specialists of Non-Teaching sub-cadre of Delhi Health Service (DHS) and General Duty Medical Officers of DHS to 65 years with immediate effect."*

10. The successor companies did not all respond to the 2016 development in the same way. Delhi Transco Ltd. ["DTL"] placed the issue before its Board of Directors. On 22nd March, 2017, the Board specifically approved the enhancement of the age of superannuation of its regular Medical Officers to 65 years. The Office Order dated 13th April, 2017 recorded that decision in these terms:

> *"...the approval of the Board be and is hereby accorded for the enhancement of the age of superannuation of regular Medical Officers posted in Delhi Transco Limited to 65 years."*

It concluded that, henceforth, regular Medical Officers in DTL would superannuate at 65.

11. Indraprastha Power Generation Co. Ltd. ["IPGCL"] and Pragati Power Co. Ltd. ["PPCL"] followed in 2018. The Board of Directors of IPGCL and PPCL, in its meeting held on 17th July, 2018, approved the enhancement of the age of superannuation of regular Medical Officers from 60 to 65 years. The Circular dated 31st July, 2018 expressly records that the decision was taken "in line with" the amendment made by the Government of India and its adoption by the GNCTD.

12. The Petitioner, perhaps sensing that she was going to be retired earlier, began writing to TPDDL. The record contains communications from 2016 onwards, right up until 2026, seeking that her age of superannuation be updated in her service records. After the DTL order, she repeatedly enclosed that order as well in her representations.

13. By March 2026, the Petitioner had put the matter squarely. She asked

TPDDL to bring her age of superannuation in line with the Government decision and the orders issued by DTL and IPGCL. She also pointed to the arrangement under which medical officers could hold administrative posts up to 62 and, thereafter, continue in non-administrative positions up to 65.

14. TPDDL did not accept the request. On 24th April, 2026, it informed the Petitioner that she would attain the age of superannuation on 31st May, 2026 and asked her to submit the pension and terminal-formality documents.

15. The Petitioner objected and asked TPDDL to identify the rule under which it proposed to retire her at 60. In its reply dated 4th May, 2026, TPDDL accepted that her service conditions continued to be governed by the framework arising from the restructuring, including the Reform Act, the Transfer Scheme Rules and the Tripartite Agreement. It maintained, however, that those arrangements did not alter the applicable age of superannuation of 60 years. TPDDL added that the amendment to FR 56 applied only to specified services or posts; subsequent Government amendments did not automatically extend to TPDDL; and the decisions of DTL and IPGCL did not bind it.

16. TPDDL also wrote to the DVB Pension Trust on 5th May, 2026. It stated that the Petitioner was due to superannuate on 31st May, 2026 at the age of 60 and that her request for enhancement of the age of superannuation to 65 had not been accepted. TPDDL sought the Trust's clarification on whether the Petitioner would be eligible for pension upon retirement at 60.

17. The Trust took a different view. Based on legal opinion, it informed TPDDL that transferred DVB doctors were entitled to the enhanced age and concluded that "TPPDL cannot retire a doctor on attaining the age of 60 years". It asked TPDDL to consider implementing the Tripartite Agreement

and FR 56 on that basis.

18. The Petitioner approached this Court before she was relieved from service. On 25th May, 2026, this Court declined interim continuation, noting that the issue required detailed consideration and that permitting her to continue would, at that stage, substantially grant the final relief. It was also observed that, if the Petitioner ultimately succeeded, continuity of service, monetary benefits and other attendant service benefits could be addressed at the final stage.

19. TPDDL thereafter relieved the Petitioner from service on the afternoon of 31st May, 2026, on her attaining the age which it treated as the age of superannuation.

20. The disagreement over the retirement date then travelled into the pension process as well. The Pension Trust returned the pension folder, recording that it could administer and disburse pensionary benefits only on the basis of a valid and undisputed retirement and that, with the superannuation date under challenge before this Court, processing or release of pension could prejudice the rights of the parties. That is how the matter now stands: TPDDL treats the Petitioner as having retired at 60; the Petitioner says the protected service framework carried a later enhancement with it; and the Pension Trust has returned the pension folder pending the outcome of these proceedings.

Submissions

21. Mr. Rajat Asija, counsel for the Petitioner, begins the Petitioner's case with the manner in which she came to be in TPDDL. She was not recruited by TPDDL. She entered DESU through a UPSC selection in 1996, thereafter served in DVB and, upon unbundling, was transferred to TPDDL under a

statutory arrangement which expressly protected the service conditions of the employees being transferred. The Tripartite Agreement, he submits, is therefore not merely incidental to her employment with TPDDL; it formed part of the very arrangement under which her service came to be transferred.

22. He places particular emphasis on Clause 3(b) of the Tripartite Agreement. The assurance given to the transferred employees was that their conditions of service, then regulated by rules such as FR/SR, would "be guaranteed to continue the same". Mr. Asija submits that this preserved a continuing service structure, not merely the FR/SR provisions as they stood on the date of transfer. The Petitioner remained within that structure throughout her service with TPDDL. Even the promotion order issued in July 2025 records her pay in the "FRSR pay structure". He also relies upon TPDDL's subsequent extension of revisions in pay, allowances, DACP and other service benefits to contend that TPDDL itself did not treat the transfer as severing the Petitioner from later Government-linked changes.

23. Mr. Asija then turns to the Government orders of 2016. On 31st May, 2016, the Central Government enhanced the age of superannuation of specified categories of CHS doctors to 65 years; the GNCTD followed on 30th September, 2016 in respect of corresponding categories in the Delhi Health Service. His submission is that, once the Petitioner continued to be governed by the FRSR structure after her transfer, a subsequent change in the retirement regime could not be denied to her merely because she had, by then, been allocated to TPDDL.

24. He draws further support from the manner in which the other DVB successor companies dealt with the same change. DTL enhanced the retirement age of its Medical Officers in 2017, followed by IPGCL and

PPCL in 2018. Mr. Asija points out that these employees came from the same parent organisation, were transferred under the same statutory scheme and carried the protection of the same Tripartite Agreement. On that basis, he contends that a doctor transferred to TPDDL could not be placed at a disadvantage, in the matter of retirement age, when compared with another doctor transferred from DVB to one of the other successor companies.

25. Mr. Asija also relies upon TPDDL's own conduct after unbundling. He points not to an isolated instance, but to a course of treatment extending over several years in which Central Pay Commission revisions, Government-pattern allowances, DACP and other service benefits were extended to transferred employees who continued within the FRSR structure. According to him, TPDDL cannot regard that structure as continuing when later Government changes enhance pay or other benefits, but treat it as having ceased to operate when the change concerns the age of retirement.

26. ***Sushil Kumar Khanna v. BSES Yamuna Power Ltd.***[1] is invoked in support of the parity argument. Mr. Asija points out that this Court had extended to a transferred employee the benefit of the Time Bound Promotion Scheme after noticing the treatment given to similarly placed DVB employees in DTL. He says the decision recognises that allocation among successor companies cannot, without reason, fracture rights which arose from a common DVB service structure.

27. The order dated 13th August, 2008 in ***DVB Engineers Assn. v. Lt. Governor of Delhi & Ors.***[2] gives the argument another dimension. Counsel

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[1] W.P.(C) 6203/2013, decided on 31st August, 2017 (Delhi High Court).
[2] W.P.(C) 5875/2008, order dated 13th August, 2008 (Delhi High Court).

for the private DISCOMs had stated before this Court that they would extend "all the benefits at par" with those given to erstwhile DVB employees in the transmission, generation and holding companies, and that the service conditions of the transferred employees would remain governed by the Tripartite Agreement, FRSR structure, CCS Rules and the Transfer Scheme Rules. Mr. Asija relies upon the breadth of that statement and says TPDDL cannot now contend that parity ended with the particular wage revision which led to those proceedings.

28. Ms. Avnish Ahlawat, SC for Respondents No. 2 and 3, appearing for the DVB Pension Trust, supports the Petitioner on the principal issue. She too reads the Tripartite Agreement as providing continuing protection to the transferred employees. Her submission is that employees who were allocated among the successor entities as part of the restructuring cannot have the extent of that protection depend upon whether the entity to which they were transferred is Government-owned or privately managed. She relies upon their common origin in DVB, the common statutory arrangement under which the transfers took place, and the continued extension of Government-linked benefits after unbundling.

29. Ms. Ahlawat also points to the pensionary consequence of TPDDL's stand. The Pension Trust, which administers the terminal benefits of transferred DVB employees, obtained legal advice and took the view that a transferred doctor could not be retired by TPDDL at 60 once the enhanced retirement age became applicable. Its communication to TPDDL records that position in express terms. According to Ms. Ahlawat, TPDDL's construction therefore produces an anomalous situation: TPDDL treats the Petitioner as having retired, while the Pension Trust does not accept 60 as

the age at which her pension becomes payable.

30. Mr. Sudhir Nandrajog, Senior Counsel appearing on behalf of TPDDL, begins with the scope of the protection itself. He accepts that the Tripartite Agreement protected the transferred employees, but disputes the meaning which the Petitioner places upon that protection. Clause 3(b), he states, preserved the service conditions applicable to an employee immediately before transfer to the transferee company, while Clause 3(f) protects the benefits of service rendered "as on the date of restructuring". Section 16(2) of the Reform Act and Rule 6(7) of the Transfer Scheme Rules similarly refer to the conditions applicable "immediately before the transfer". None of these provisions, according to him, requires every subsequent Government amendment to be automatically incorporated into the service conditions of each successor company.

31. On that basis, Mr. Nandrajog states that TPDDL did not reduce the Petitioner's retirement age. It was 60 when she was transferred and continued to be 60 thereafter. What she now seeks is an enhancement to 65. Such an enhancement must have an independent legal source.

32. He relies, in this context, upon the manner in which DTL, IPGCL and PPCL themselves dealt with the 2016 Government decision. DTL placed the matter before its Board, which specifically approved enhancement of the retirement age of its Medical Officers to 65. IPGCL and PPCL followed the same course through decisions of their Board. Mr. Nandrajog submits that these documents show conscious adoption by the individual companies rather than automatic application of the Government decision. TPDDL took no corresponding decision.

33. Mr. Nandrajog also disputes the Petitioner's direct reliance upon the

Government orders and FR 56. The Central Government order dated 31st May, 2016 applies to specified categories of doctors in CHS, while the GNCTD order concerns specified categories in DHS. FR 56(bb) likewise identifies the medical services to which the special retirement arrangement applies. The Petitioner, he submits, belongs to none of those services. Her selection through UPSC did not make her a CHS or DHS officer, and her service after the statutory transfer was with TPDDL.

34. He then relies upon ***Rajeev Kumar Garg v. BSES Rajdhani Power Ltd.***[3], ***Mamta v. Delhi Transco Ltd. & Anr.***[4] and ***Anju Koshal v. GNCTD & Ors.***[5] to answer the broader proposition advanced by the Petitioner regarding the automatic application of the Government decisions. He argues that the fact that the Government rules formed part of the service conditions inherited from DVB does not mean that every amendment made by Government after unbundling automatically becomes a condition of service in the successor organisation. A subsequent amendment must be adopted by the successor employer before it can operate there.

35. Mr. Nandrajog also relies upon ***Vice Chairman, DDA v. Narender Kumar & Ors***[6]. He submits that even an autonomous public body which follows Central Government patterns in matters of pay and service benefits does not become bound by every subsequent Government decision without adoption by its competent authority. That principle, according to him, makes the Petitioner's case for automatic incorporation still more difficult.

36. Mr. Nandrajog then turns to the order passed in *DVB Engineers Assn.*

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[3] W.P.(C) 1828/2013, order dated 20th March, 2013 (Delhi High Court).
[4] W.P.(C) 4437/2014, order dated 26th October, 2018 (Delhi High Court).
[5] W.P.(C) 12243/2019, order dated 29th April, 2025 (Delhi High Court).
[6] (2022) 11 SCC 641.

He does not dispute the terms of the statement recorded there, but states that they must be understood in the proceedings in which they were made. *DVB Engineers Assn.* concerned the Wage Revision Committee constituted for erstwhile DVB employees in the transmission, generation and holding companies, from which employees transferred to the private DISCOMs had been left out. The relief sought was extension of the Committee's interim and final recommendations to those employees. The order records the statement made on behalf of the DISCOMs and concludes with the assurance that the recommendations of the Wage Revision Committee would also be extended to their transferred employees.

37. Mr. Nandrajog places Clause 3(c) of the Tripartite Agreement alongside that order. The clause separately deals with wage negotiations and continues the existing system of bipartite negotiations. He therefore reads *DVB Engineers Assn.* in the context of wage revision. His submission is that a statement made in those proceedings cannot be enlarged into a continuing undertaking that every future service decision taken by DTL, including one concerning retirement age, would automatically alter the service conditions in TPDDL.

38. When the Court drew the attention of the parties to the 2015 Appellate Tribunal for Electricity ["APTEL"] decision in ***Tata Power Delhi Distribution Ltd. v. Delhi Electricity Regulatory Commission***[7], Mr. Nandrajog maintained the same distinction. He accepted that TPDDL had itself relied upon *DVB Engineers Assn.* before APTEL, and that APTEL held TPDDL bound to extend the enhanced food allowance and Children Education Allowance available to DTL employees, with the corresponding

expenditure being recognised for tariff purposes. He distinguishes the decision on the nature of the benefits involved. Both concerned pay and allowances. APTEL was not deciding whether a subsequent decision of DTL altering the tenure or retirement age of its employees would, without adoption, also bind TPDDL.

39. Mr. Nandrajog also points to the relief sought in the writ petition. The first prayer asks the Court to direct TPDDL to implement the 2016 Government decision and enhance the Petitioner's retirement age. According to him, there is no existing rule of TPDDL fixing her retirement age at 65 which the Court is being asked to enforce. The relief would instead require TPDDL to give effect to a later change which it has never adopted. A writ of mandamus, he submits, can enforce an existing legal obligation; it cannot substitute the Court's decision for an act of adoption which the employer has declined to undertake.

40. On the position taken by the Pension Trust, Mr. Nandrajog submits that its role follows the lawful date of retirement; it does not determine that date. If the Petitioner was lawfully retired at 60, the Trust would have to process her pension on that basis. Its contrary view on the age of superannuation cannot, according to him, determine the tenure of an employee of TPDDL.

41. TPDDL has also raised an objection to the maintainability of the writ petition against it as a private distribution company. Mr. Nandrajog, however, did not insist upon a decision on that objection once the parties had been heard at length on the substantive issue. He left the objection open and invited the Court to decide the claim on merits.

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[7] Appeal No. 171/2012, decision dated 10th February, 2015 (APTEL).

Issues for Determination

42. The controversy, in the opinion of this Court, raises four questions for determination:

(i) Whether the protection afforded to the Petitioner under Section 16 of the Reform Act, the Transfer Scheme Rules and the Tripartite Agreement preserved the service conditions applicable at the time of transfer, or also carried into TPDDL subsequent amendments to FR/SR without any further act of adoption.

(ii) Whether the Government decisions of 2016 and the subsequent amendment of FR 56 applied to the Petitioner, and what significance attaches to the fact that DTL, IPGCL and PPCL enhanced the retirement age of their Medical Officers through decisions of their Boards.

(iii) Whether *DVB Engineers Assn.*, read with the later decision of APTEL in *Tata Power Delhi Distribution Ltd. v. DERC* and TPDDL's own extension of Government-linked service benefits, created a continuing obligation upon TPDDL to maintain parity with the other DVB successor companies in the matter of retirement age.

(iv) If no existing service condition entitled the Petitioner to continue in service until the age of 65, whether the Court could nevertheless direct TPDDL, by a writ of mandamus, to enhance her age of superannuation.

Analysis

Service Conditions Carried into TPDDL

43. When DVB was unbundled, its employees were not leaving one employer and entering the service of another by choice. Their services were transferred under a statutory scheme. The safeguards attached to that transfer must therefore be read as substantive protections. Section 16(2) of the

Reform Act ensured that the conditions in the transferee company would not be less favourable than those applicable immediately before the transfer. Rule 6(7) of the Transfer Scheme Rules proceeded on the same basis and, until the transferee framed regulations of its own, continued the existing DVB service conditions *mutatis mutandis*. The Tripartite Agreement added a further assurance: conditions governed by the existing regulations and service rules, including FR/SR, would continue, while past service and accrued benefits would remain protected.

44. Those protections must be given their full effect. TPDDL could not, by reason of the restructuring, disregard the Petitioner's past service or place her on terms inferior to those protected at the time of transfer in respect of pay, pensionary rights or other conditions of service.

45. The present claim, however, requires something further. It proceeds on the footing that once FR/SR continued to govern the transferred employee, every beneficial amendment made to those rules thereafter also became part of her service conditions in TPDDL without any further act of adoption. The Court is unable to read the governing instruments that way.

46. Section 16(2) fixes the comparison with the conditions applicable "immediately before the transfer". Rule 6(7) of the Transfer Scheme Rules uses the same point of reference. Clause 3(f) protects the benefits of service rendered "as on the date of restructuring", while Clause 3(b) speaks of the "existing regulations/service rules". Each of these provisions therefore begins with the service position at the time of transfer. They protect that position against diminution; none says that TPDDL would thereafter remain bound by every amendment which Government might make to any rule forming part of that service structure.

47. Mr. Asija's answer to this has some force. FR/SR could not sensibly have meant a static version of those rules frozen on the date of transfer. TPDDL itself continued to give effect to later pay revisions and other Government-linked benefits. The Petitioner's service record therefore does not support the suggestion that her connection with the FRSR structure ended in 2002.

48. That, however, does not resolve the present question. Continuation of the FRSR structure and automatic incorporation of every subsequent amendment within that structure are different propositions. The record supports the former. The latter must still be found in the instruments governing the transfer.

49. ***Central Council for Research in Ayurvedic Sciences & Anr. v. Bikartan Das & Anr.***[8] is instructive in this regard. There, the Supreme Court considered Bye-Laws 34 and 35 of the Council, under which the rules governing retirement of Government employees and the FRSR were to apply to the employees of the Council, with the latter expressly providing for their application "as amended from time to time" *mutatis mutandis*. The Supreme Court nevertheless held that the applicability of the FRs was subject to the specific provision in Clause 34 governing superannuation. The Governing Body had fixed the age of superannuation at 60 years, and that decision was held applicable on the date of the employee's superannuation. The Court, thus, upheld the view that the assumption that FR 56, as amended from time to time, would automatically apply to the employees of the Council was not correct, having regard to the specific provision governing superannuation.

50. Although the setting in *Central Council for Research* is different, but the decision is useful for the more limited point that even a continuing application of FR/SR does not, by itself, answer how a subsequent change in the age of superannuation enters the service conditions of another employer.

Adoption by DTL, IPGCL and PPCL

51. The Petitioner places considerable reliance on the position of Medical Officers in DTL, IPGCL and PPCL. These companies also emerged from the restructuring of DVB, and each subsequently enhanced the retirement age of its Medical Officers. The manner in which that enhancement was brought about is relevant.

52. DTL placed the matter before its Board, which approved the enhancement on 22nd March, 2017. The Office Order dated 13th April, 2017 records that approval and provides that, "henceforth", the age of superannuation of regular Medical Officers in DTL would be 65 years. IPGCL and PPCL followed a similar course. Their Board of Directors approved the enhancement from 60 to 65 before the change was implemented.

53. These Board decisions cannot, of course, determine the meaning of TPDDL's service conditions. Their relevance is narrower. They show that the other successor companies did not proceed on the footing that the 2016 Government decision, by itself, had automatically altered the retirement age applicable to their Medical Officers. Rather, each acted through its competent Board before extending the enhanced retirement age. The possibility that these decisions merely formalised a benefit which had already become applicable cannot be entirely excluded, but the language of

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[8] (2023) 16 SCC 462.

the DTL Office Order does not readily support that reading: it records the Board's approval of the enhancement and makes the revised retirement age applicable "henceforth". The IPGCL and PPCL decision similarly records approval by their Board before the change was implemented.

54. This also answers the point that TPDDL has not produced any subsequent decision separately fixing the Petitioner's retirement age at 60. None was required for that purpose. 60 was the applicable age when her service was transferred to TPDDL. The legal source which has to be found is, therefore, not for the continuance of 60, but for its enhancement to 65.

Applicability of the 2016 Government Decisions

55. There is a further difficulty with the Petitioner's reliance upon the Government decisions of 2016. The GOI order dated 31st May, 2016 does not enhance the retirement age of medical officers generally. It applies to Specialists in the specified sub-cadres of CHS and to General Duty Medical Officers of CHS. The GNCTD order dated 30th September, 2016 similarly concerns the corresponding categories of doctors in DHS.

56. The Petitioner was selected through UPSC for appointment in DESU. That explains the manner of her entry into service; it does not make her a member of CHS or DHS.

57. The subsequent formulation of FR 56(bb) reinforces this position. The provision identifies the medical services to which the special retirement arrangement applies. Nor does it simply prescribe 65 as the age of superannuation for every doctor covered by it. In the case of the specified services, it contemplates retirement at 62, with provision for continuation up to 65 in designated teaching, clinical, patient-care, public-health, advisory or consultancy functions, subject to the prescribed option and the decision of

the competent authority.

58. The Petitioner's own representation of March 2026 proceeds on substantially the same understanding. She referred to continuation in administrative positions up to the age of 62 and thereafter in non-administrative functions.

59. Thus, even if the Petitioner were right in contending that subsequent amendments to FR/SR travelled into TPDDL without separate adoption, the provisions on which she relies would not, by themselves, confer an unconditional right to continue in her existing post until the age of 65.

Effect of Post-Unbundling Amendments and related Decisions

60. The decisions in *Rajeev Kumar Garg* and *Mamta* deal more directly with the effect of amendments made by the Government after the unbundling of DVB.

61. In *Rajeev Kumar Garg*, the Court considered Government rules and circulars issued after the unbundling of DVB and held that the Government might continue to modify its rules, but this would not mean that such subsequent amendments or circulars would automatically apply to employees of a private successor organisation.

62. *Mamta* is particularly relevant because the employer there was DTL. The Court applied the principle in *Rajeev Kumar Garg* and denied the benefit of the post-unbundling amendment since it had not been adopted by DTL. The principle, therefore, is relevant both to private successor DISCOMs such as the respondent in *Rajeev Kumar Garg* and to other successor entities of DVB.

63. *Anju Koshal* followed the same approach while considering subsequent Government OMs relating to family pension. Though the benefit

in question was different, the Court again declined to treat a post-unbundling Government amendment as automatically incorporated into the service conditions of the successor organisation.

64. These decisions are consistent with the distinction which emerges from Section 16 of the Reform Act and Rule 6 of the Transfer Scheme Rules: the service conditions carried across on transfer remained protected, but a subsequent enlargement of those conditions did not become binding merely because its source lay in Government rules.

65. *Sushil Kumar Khanna* stands on a different footing. The Time Bound Promotion Scheme considered there had been introduced by DVB before its unbundling, and the claim was founded upon the interpretation of the DVB Office Orders governing that scheme. The Court was, thus, enforcing a benefit arising under an existing DVB scheme and preserving the service benefits attaching to the employee prior to the restructuring. The case did not concern a benefit introduced by the Government for the first time after the transfer to a successor organisation. That distinction is material here. The enhancement on which the Petitioner relies came in 2016, long after her service had been transferred to TPDDL.

66. ***Kuldeep Kumar & Ors. v. Delhi Power Co. Ltd. DPCL & Ors.***[9], though arising from disciplinary proceedings, is also of some assistance in understanding the structure of the transfer. The Division Bench, affirming the view of the Single Judge, recognised that the Transfer Scheme Rules effected a statutory severance of the employees from DVB. Upon transfer, the employees ceased to be in the service of DVB and could no longer claim service benefits under the Board; Rule 6(7), however, preserved continuity

of the existing service conditions, as an interim arrangement, until the transferee framed its own regulations. The decision is relevant to that limited proposition. Continuity of the protected service conditions did not mean that the transferee continued to be DVB, or that the regulations of the transferor remained permanently applicable to the transferred employees.

Effect of the order dated 13th August, 2008 in DVB Engineers Assn.

67. The Petitioner places considerable reliance on *DVB Engineers Assn*. The reliance is understandable. The order records a statement on behalf of the private DISCOMs that they would extend "all the benefits at par" with those available to erstwhile DVB employees in the transmission, generation and holding companies. It also records that the terms and conditions of service of the transferred employees would be governed by the Tripartite Agreement, FRSR structure, CCS Rules and the Transfer Scheme Rules.

68. Those words, however, have to be read in the proceedings in which they were recorded. *DVB Engineers Assn.* arose out of the constitution of a Wage Revision Committee for erstwhile DVB employees serving in the transmission, generation and holding companies. Employees allocated to the private DISCOMs had been informed that they were not covered by the recommendations of that Committee, and the relief sought was to extend to them the interim and final recommendations of the Committee.

69. The private DISCOMs initially resisted that claim on the ground that they were not bound by the pay structure recommended by the Government-appointed Committee. The statement regarding parity was thereafter made and recorded by the Court. On that basis, the order records that the interim as well as final recommendations of the Wage Revision Committee would

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[9] LPA 392/2026, decision dated 20th May, 2026 (Delhi High Court).

also be made applicable to the members of the petitioner association, following which the petition was not pressed for any further relief.

70. Clause 3(c) of the Tripartite Agreement is also relevant in understanding that setting. Immediately after Clause 3(b), it provides:

> *"With regard to wage negotiations, the present system of bipartite negotiations shall continue."*

71. *DVB Engineers Assn.* therefore addressed the exclusion of employees transferred to the private DISCOMs from the wage revision then being undertaken for their counterparts in the transmission, generation and holding companies. The statement recorded by the Court must be given full effect in that setting.

72. The difficulty lies in carrying the words "all benefits at par" beyond that setting and treating them as a continuing undertaking that every subsequent decision concerning retirement age or other service conditions in another successor company would, without anything further, become applicable in TPDDL. Neither the subject of the proceedings nor the terms in which they were disposed of support so wide a conclusion. Such a reading would, in substance, require the successor companies to maintain identical service conditions indefinitely, notwithstanding their separate corporate existence and subsequent decisions on matters of service administration. The Transfer Scheme Rules do not impose such an obligation.

73. At the same time, the 2008 order cannot be treated as inconsequential merely because it records a statement made by counsel. The petition was disposed of on that basis, and the statement must be given effect in the field which the order addressed. However, that order neither adjudicates upon any parity claim nor does it hold that parity between the successor companies

must continue in respect of every service condition introduced in the future.

74. ***MCD v. Gurnam Kaur***[10] is relevant only to this limited extent. The Supreme Court held that when an order is made by consent, the Court does not adjudicate upon the rights of the parties or lay down any principle, and that only the principle forming the *ratio decidendi* of a case is binding. The decision, therefore, cautions against treating an order resting on consent or concession as an adjudication of a wider proposition of law. It does not, however, render the statement recorded in 2008 inconsequential between the parties or deprive it of effect within the field addressed by that order.

The later decision of APTEL

75. The decision of APTEL in *Tata Power Delhi Distribution Ltd. v. DERC* requires closer consideration. It cannot be distinguished merely on the ground that it arose in tariff proceedings.

76. TPDDL itself relied before APTEL upon the order in *DVB Engineers Assn.* and upon the obligations arising from the transfer arrangement. In relation to food allowance and Children Education Allowance, APTEL accepted that the enhanced benefits were required to be extended to the FRSR Structure employees and directed that the corresponding expenditure be recognised for tariff purposes.

77. The decision is significant because APTEL did not treat the obligations arising from the transfer arrangement as having exhausted themselves with the Wage Revision Committee or with the original terms applicable upon restructuring. In relation to food allowance, APTEL specifically held that TPDDL was bound to enhance the allowance in accordance with the Reforms Act, the statutory transfer scheme and the

Tripartite Agreement.

78. The nature of the benefits considered by APTEL nevertheless remains important. Food allowance and Children Education Allowance were employee allowances forming part of employee costs. APTEL was concerned with the expenditure incurred by TPDDL on these allowances and whether the enhanced expenditure was to be recognised in the tariff determination. It was not considering whether a subsequent decision of DTL concerning tenure or age of superannuation would, without adoption by TPDDL, alter the service conditions of TPDDL employees.

79. Had APTEL laid down that every service condition subsequently adopted by DTL automatically became part of the service conditions of transferred employees in TPDDL, the present claim would stand on a very different footing. The decision does not go that far.

80. The APTEL decision thus confirms that the obligations arising from the transfer arrangement remained substantive after 2008, particularly in matters of employee compensation. It does not establish that the separate service policies of the successor companies thereafter ceased to require independent adoption.

TPDDL's Subsequent Conduct

81. The Petitioner also relies upon TPDDL's own conduct after unbundling. The submission has some force. TPDDL has, over the years, extended later Government-linked revisions in pay, DACP and other service benefits to employees who continued within the FRSR structure. The Petitioner therefore asks why the retirement-age revision should be treated differently.

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[10] (1989) 1 SCC 101.

82. The answer cannot rest merely on the fact that TPDDL is privately managed. The service conditions of the transferred employees derive from the statutory arrangements made at restructuring, and TPDDL remains bound by the protections contained in those arrangements.

83. The past practice nevertheless does not establish automatic incorporation of every subsequent Government decision. The record shows that later Government-linked benefits were extended through decisions taken by TPDDL and, in some instances, in the context of the wage arrangements reflected in *DVB Engineers Assn*. That conduct confirms the continued operation of the inherited FRSR structure; it does not establish that every future change within that structure became binding upon TPDDL without any decision on its part.

84. The plea of estoppel does not take the matter further. Adoption of particular Government-linked benefits over time cannot amount to advance adoption of every subsequent change in service conditions.

85. Nor can the doctrine of legitimate expectation create a right to continue in service until 65 where the governing instruments do not confer one. The Petitioner could legitimately expect TPDDL to honour the protections assured at restructuring and to deal with subsequent changes consistently with those protections. That expectation cannot substitute for the legal source required to extend the age of superannuation.

Claim of Parity with the Other Successor Companies

86. The Petitioner's parity argument raises a real concern. Employees who began as Medical Officers in the same organisation and were thereafter allocated to different successor companies may now retire at different ages.

87. That consequence, however, does not by itself establish a violation of

the protections given at restructuring. Those protections ensured that an employee would not suffer a diminution of the service conditions carried into the transferee company. They did not require all successor companies to maintain identical service conditions indefinitely.

88. DTL enhanced the retirement age through a decision of its Board. IPGCL and PPCL did likewise. Once the later Government decision is found not to operate automatically in each successor company, the adoption of that decision by one company cannot, by itself, alter the service conditions in another.

89. The recent decision in ***Union of India Through its Secretary Department of Telecommunication & Ors. v. All India Retired Bharat Sanchar Nigam Ltd. Executive Welfare Association & Ors.***[11], concerning employees of the Department of Telecommunications who were absorbed in BSNL/MTNL, proceeds on a comparable principle, though under a different statutory framework. The Court recognised that, notwithstanding their absorption in the PSUs, the employees retained the limited statutory protection expressly conferred upon them, including the formula for calculation of pension under Rule 37A. It nevertheless held that such protection could not be expanded so as to preserve, in perpetuity, their status or parity with Central Government employees for all subsequent benefits. Upon absorption, they ceased to be Government servants and became subject to the rules of the PSU. The decision is relevant only by analogy; the present case must ultimately be decided on the terms of Section 16 of the Reform Act, the Transfer Scheme Rules and the Tripartite Agreement.

Effect of the Pension Trust's View

90. The view taken by the Pension Trust also deserves consideration. The Trust administers the pensionary arrangements of the transferred DVB employees and, after obtaining legal advice, took the position that TPDDL could not retire the Petitioner at 60. Its opinion is therefore not without relevance.

91. The Trust's function, however, is to administer pensionary benefits consequent upon lawful retirement. It does not determine the age up to which TPDDL is required to employ a transferred employee. Its conclusion rests upon its interpretation of the Tripartite Agreement and FR 56, and the correctness of that interpretation is ultimately a matter for the Court.

92. The resulting difficulty in the release of pensionary benefits is, therefore, a consequence of the dispute over the date of superannuation. If 31st May, 2026 is the lawful date of retirement, the Pension Trust must process the Petitioner's pensionary benefits on that basis. Its contrary understanding of the retirement age cannot, by itself, enlarge the Petitioner's tenure in TPDDL.

Relief and the Scope of Mandamus

93. The nature of the relief sought now assumes importance. If Section 16 of the Reform Act, Rule 6(7) of the Transfer Scheme Rules or the Tripartite Agreement already entitled the Petitioner to continue until 65, the Court would merely be enforcing an existing condition of service. No question of choosing or prescribing a retirement age would then arise.

94. The Court has, however, found no such entitlement. The Petitioner's retirement age was 60 when her service was transferred to TPDDL. The Government subsequently altered the retirement arrangement for specified

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[11] W.P.(C) 4946/2024, decision dated 1st July, 2026 (Delhi High Court).

medical services. DTL, IPGCL and PPCL thereafter adopted the enhancement for their Medical Officers through decisions of their respective Boards. TPDDL did not.

95. The first prayer in the writ petition itself seeks a direction to TPDDL to "enhance" the Petitioner's age of superannuation. The expression used in the prayer is not, of course, determinative. If the higher retirement age already formed part of her service conditions, the Court could enforce that right irrespective of the manner in which the relief had been framed. The difficulty is that no statutory provision, TPDDL rule, Board decision or binding settlement has been shown which fixes her retirement age at 65.

96. It is at this stage that the decision in ***Dr. R.D. Thakur v. Union of India & Ors.***[12] becomes relevant. The case also concerned a prayer for enhancement of the age of superannuation of Doctors/Medical Officers from 60 years to 65 years, where the age had already been enhanced in other Government organisations. The Court, relying upon *Central Council for Research*, held that the age of superannuation is governed by statutory rules and other service conditions and that it is not for the Court to prescribe a different age of retirement. The Court accordingly declined to issue a mandamus directing enhancement of the retirement age.

97. The decision does not, however, answer the anterior question whether the Petitioner already possessed a protected right to continue until 65 years. That question has been examined in the present case independently on the basis of the Reform Act, the Transfer Scheme Rules and the Tripartite Agreement. Once no such right is found, *R.D. Thakur* reinforces the conclusion that the Court cannot, by a writ of mandamus, prescribe a higher

age of retirement merely because such higher age has been granted to Doctors/Medical Officers in other organisations or cadres.

98. A direction requiring TPDDL to continue the Petitioner until 65 would therefore do more than compel compliance with an existing service condition. It would supply the act of adoption which the governing instruments themselves do not supply and which TPDDL has not undertaken.

99. A writ of mandamus cannot be issued for that purpose. It may compel performance of a legal duty which already exists; it cannot create the duty which is sought to be enforced.

Conclusion and Directions

100. For the reasons recorded above, the Petitioner has not established any existing statutory provision, service rule, Board decision or binding settlement entitling her to continue in service with TPDDL until the age of 65 years. The decision of TPDDL to treat the Petitioner as having superannuated on 31st May, 2026 therefore calls for no interference.

101. The objection raised by TPDDL to the maintainability of the writ petition against it need not be decided. The parties have been heard fully on the merits and, in view of the conclusion reached above, that larger question is left open.

102. The position regarding the Petitioner's date of superannuation having now been determined, the DVB Pension Trust ought not to retain or return her pension papers on the ground that the date of retirement remains under challenge. The Petitioner is consequently entitled to have her pensionary and other retirement benefits processed, in accordance with law.

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[12] W.P.(C) 13189/2023, decision dated 4th May, 2026 (Delhi High Court).

103. The writ petition is accordingly dismissed, subject to the following directions:

a. The Petitioner's retirement from TPDDL on 31st May, 2026 shall stand.

b. If any document or formality necessary for processing her pensionary or retirement benefits remains outstanding, TPDDL shall identify the same in one consolidated communication to the Petitioner within one week from the date of this order. The Petitioner shall complete any such requirement within one week thereafter.

c. TPDDL shall thereafter forward the complete pension papers to DVB Pension Trust without delay. If the papers are already complete, no document shall be called for afresh merely because the pension folder was earlier returned.

d. DVB Pension Trust shall process and release the Petitioner's pension, together with arrears admissible from the date of retirement, within six weeks of receipt of the complete pension papers. TPDDL shall, within the same period, release any other retirement dues payable by it which remain outstanding.

e. Any admitted amount which remains unpaid beyond the period stipulated above shall carry simple interest at 6% per annum from the expiry of that period until payment.

104. Pending applications, if any, shall also stand disposed of.

SANJEEV NARULA, J

SEPTEMBER 2, 2026/ab