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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6917 OF 2002

1. The Principal
KIT's College of Engineering
Gokul Shirgaon, Kolhapur.
2. The Secretary,
Kolhapur Institute of Technology,
Gokul Shirgaon, Kolhapur .. Petitioners

Vs.

1. Mrs. S. S. Adure
Trymboli Housing Society Ltd.
Flat No.1, Mali Colony, Kolhapur.
2. The Director,
B.C.U.D., Shivaji University,
Kolhapur.
3. Shri Suhas S. Barve
Presiding Officer, Pune /
Shivaji University and College
Tribunal, Kolhapur. .. Respondents

Ms. Manisha Devkar I/by Mr. S. S. Pakale for petitioners.
None for the respondents.

CORAM: PRADEEP NANDRAJOG, CJ. &
N. M. JAMDAR, J.

JUNE 06, 2019.

P.C.:

1. Challenge is to an order dated 17 July 2001 passed by the University and College Tribunal in Appeal No. 32 of 1998. Appeal was filed by the respondent No.1 challenging an order dated 22 June 1998 passed by the Management of the Writ Petitioners recording her designation to be that as an Assistant Librarian and as a consequence placing her in the pay-scale applicable to the post of Assistant Librarian.

2. Case of the respondent No.1 was that she was appointed as a Librarian on 1 January 1985 in the then pay-scale of ₹ 290-540. She was paid salary in the revised pay-scale notified by the 4th Pay Commission in the year 1986. Further revised, when the recommendations of the 5th Central Pay Commission were implemented. Simply put, her case was being appointed as a Librarian she could not be down graded to the lower post of Assistant Librarian and place in the pay-scale applicable to the post of Assistant Librarian.

3. After noting the pleadings and the material placed before it, the Tribunal held that the first respondent did not possess the requisite educational qualifications for being appointed as a Librarian. Her educational qualifications entitled her to be appointed as an Assistant Librarian. The Tribunal held that the first respondent is entitled to hold the post of an Assistant Librarian and draw pay in the applicable scale.

4. The Tribunal has not dealt with the issue whether: appointed as a Librarian could the first respondent be down graded to the post of an Assistant Librarian notwithstanding the initial action of the writ petitioners in appointing her as a Librarian being erroneous.

5. But, we need not trouble ourselves on this controversy for the reason first respondent has not challenged the impugned order.

6. The grievance of the petitioners is that after holding positively in their favour that the first respondent was

entitled to draw pay in the scale of an Assistant Librarian the Tribunal has directed her pay to be fixed in the scale of ₹ 7450-11025 which as per the petitioners is the pay-scale recommended by the 5th Pay Commission for the post of Librarian.

7. We agree with the contention advanced by the petitioners. Once the Tribunal held that the first respondent was entitled to receive salary in the pay-scale applicable to the post of an Assistant Librarian, it could not be directed by the Tribunal that she be paid salary in the scale of a Librarian.

8. The petition is accordingly disposed of quashing the direction issued in the impugned order that the first respondent be paid salary in the scale of ₹ 7450-11025. It is declared that the first respondent would be entitled to salary in the applicable pay-scale of Assistant Librarian.

N. M. JAMDAR, J.

CHIEF JUSTICE