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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.904 OF 2022
IN
WRIT PETITION NO. 1592 OF 2016**

Mrs. Leena Navin Soni

..... Applicant

Vs.

The State of Maharashtra & Ors.

..... Respondents

Ms. Kalpalata Patil Bharaswadkar for the Applicant

Mrs. R. A. Salunkhe, AGP for the State

**CORAM: S.V.GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATED : APRIL 21, 2023

P.C.

1. We have heard the learned Counsel for the Applicant and the learned Counsel for the Respondents.

2. The Writ Petition is filed by the State against the judgment of the Tribunal. The arena of dispute is the age of retirement.

3. The Applicant was working as a Librarian. According to the Applicant the age of retirement is 62 years. Whereas, according to the State, the age of retirement is 58 years. The State relies on the judgment of this Court in the matter of *Ravindra Chandrashekhar Kulkarni Vs. The State of Maharashtra & Ors. dated 17th*

February 2021 in Writ Petition No.642 of 2021 to contend that the librarians are not included in the definition of “Teachers”. The Division Bench of this Court in the said judgment was concerned with the librarian working in the college governed by the Maharashtra University of Health Sciences Act, 1998. The Applicant herein is also working in the Dental college governed by the Maharashtra University of Health Sciences Act, 1998. The Division Bench held that the librarian would be governed by the Maharashtra University of Health Sciences Act, 1998 and not the University Grants Commission. The word “Librarian” is not included in the definition of “Teachers”.

4. The Applicant already stood retired. The Applicant has worked upto the age of 62 years pursuant to the orders passed by the Court. The Applicant seeks pension. Considering the dispute involved in the present matter, we proposed to the learned Counsel for the Applicant that whether the Applicant would accept pension and all retiral benefits considering the age of retirement as 58 years without prejudice to the rights and contentions of the parties, subject to the decision in the Writ Petition.

5. The learned Counsel for the Applicant submits that the Applicant is facing hardship and as such the Applicant would accept the retiral benefits and pension considering the age of retirement as

58 years without prejudice to the rights and contentions of the parties, subject to the decision in the Writ Petition.

6. In light of that the State shall pay the retiral and pensionary benefits to the Applicant considering the age of retirement as 58 years. Same shall be without prejudice to the rights and contentions so also will be subject to the decision in the Writ Petition.

7. The State shall not recover the amount paid to the Applicant for services rendered from the age of 58 years upto 62 years. The same shall be decided at the time of final decision of the Writ Petition.

8. The Interim Application stands disposed of.

(SANDEEP V. MARNE, J)

(ACTING CHIEF JUSTICE)