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

**REVIEW PETITION NO.122 OF 2022
IN
WRIT PETITION NO. 6999 OF 2017**

Dr.Maheshkumar Narsingrao Yenkie Petitioner

Vs.

The State of Maharashtra and Ors. Respondents

**WITH
REVIEW PETITION NO.126 OF 2022
IN
WRIT PETITION NO. 6991 OF 2017**

Dr.(Mrs.) Munawwar Sultana Shastri Petitioner

Vs.

The State of Maharashtra and Ors. Respondents

**WITH
REVIEW PETITION NO.125 OF 2022
IN
WRIT PETITION NO. 7009 OF 2017**

Dr.(Ku.) Mandakini Bhiku Patil Petitioner

Vs.

The State of Maharashtra and Ors. Respondents

**WITH
REVIEW PETITION NO.11 OF 2023
IN
WRIT PETITION NO. 6993 OF 2017**

Kuduva Swami Bharti Petitioner

Vs.

The State of Maharashtra and Ors. Respondents

**WITH
REVIEW PETITION NO.124 OF 2022
IN
WRIT PETITION NO. 6997 OF 2017**

Rajiv Shridhar Sapakal

..... Petitioner

Vs.

The State of Maharashtra and Ors.

..... Respondents

**WITH
REVIEW PETITION NO.123 OF 2022
IN
WRIT PETITION NO.6987 OF 2017**

Subha Sanjay Johari

..... Petitioner

Vs.

The State of Maharashtra and Ors.

..... Respondents

Mr.Swapnajit Sanyal a/w Mr.Kiran S. Mohite and Mr.Venkat Subramaniam i/b Mr.Kiran S. Mohite for the Petitioners

Mr.B.V.Samant, A.G.P. for the State

**CORAM: S.V.GANGAPURWALA, ACJ &
ARIF S. DOCTOR, J.**

DATED : FEBRUARY 24, 2023

P.C.

1 *Prima facie*, we do not find any merit in the Review Petitions.

2 The Applicants seek review of the order of this court dated 01.08.2022 passed in the Writ Petitions. In the Writ Petitions filed

by the Petitioners, the Petitioners sought direction to decide the proposal dated 12.04.2016 submitted by the University to the Respondent no.2 therein to grant extension in service to the Petitioners upto the age of 62 years. The other prayers were that the Respondent nos.1 to 4 be directed to continue the service of the Petitioners as Professors upto 30.06.2018, so also, to grant extension in service upto the age of 62 years. It also sought directions to declare that the G.R. dated 12.07.2016 would be prospective in operation. This court dismissed the Writ Petitions on the basis of the judgment delivered by this court dated 06.06.2017 in Writ Petition No.7831 of 2016.

3 The learned Counsel for the Petitioners submits that the G.R. dated 12.07.2016 would have a prospective effect. The Petitioners attained the age of 60 years in April, May and June, 2016, respectively. In view of that, the Petitioners would be governed by the policy in force as on the date the Petitioners attained the age of 60 years and the policy in force on that date was that the age of retirement was extended up to 62 years. The learned counsel submits that the Petitioners had approached this court by filing Writ Petition and under order dated 20.06.2016, it was observed that the Petitioner is free to continue with Respondent no.4-University till the returnable date. However, it was made clear that the Petitioner

would not be entitled to salary for the period during which he would work either from the State Government or from the Management.

4 According to the learned counsel, the G.R. of July, 2016 would have prospective effect and would not defeat the right of the Petitioners. The Petitioners would have got the salary till the age of 62 years. The said aspect is not considered while disposing of the Writ Petition under order dated 01.08.2022.

5 Reliance is placed by the learned Counsel for the Petitioners on the judgment of the Apex Court in the case of *North Delhi Municipal Corporation Vs. Dr. Ram Naresh Sharma and Others*¹.

6 It would appear that the policy as existed prior to G.R. dated 12.07.2016 was granting extension upto age of 62 years, however, upon decision of the Government. The performance was required to be reviewed by the Committee. Recommendation was required to be sent to the Government and it is for the Government to take decision whether to grant extension to the age of retirement or upto a particular period.

7 In the present case, admittedly, the Government had never taken a decision to grant the benefit of extension of age to the

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Petitioners and no decision was taken by the Government to grant extension. In that case, the Petitioners would not be entitled for the relief. Those who were recommended by the Performance Review Committee to the Government and the Government had passed order granting extension till the age of 62 years, were granted the benefit. In the present case, as no decision was taken by the Government to grant the Petitioners benefit of extension upto the age of retirement of 62 years, case of Petitioners certainly could not be considered.

8 The Petitioners had worked on their own volition. The Petitioners could not have remained in service upto the age of 62 years without the decision of the Government to grant extension of age of 62 years of retirement.

9 In the case of North Delhi Municipal Corporation (Supra), Petitioners therein were providing services to the countless patients, without remuneration or benefits. Their services are utilized by the employer in Government establishments, without demur.

10 In the present case, the Petitioners have worked on their own volition. The court had actually observed that the Petitioners are free to continue to work. The court did not direct any stay to the

G.R. dated 12.07.2016, on the contrary, the Petitioners were put to notice that they can work but would not be entitled to salary. In view of that, it will not be possible to accept the contention of the Petitioners.

11 Review Petitions, as such, are disposed of. No costs.

(ARIF S. DOCTOR, J)

(ACTING CHIEF JUSTICE)