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REV. APLW.(MD) Nos.53 and 62 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 22.06.2023

PRONOUNCED ON: 06.10.2023

CORAM:

THE HONOURABLE MRS. JUSTICE S.SRIMATHY

REV. APLW.(MD) Nos.53 and 62 of 2023

REV. APLW.(MD) No.53 of 2023:

R.Selvam

... Petitioner

vs.

1.Government of Tamilnadu,
represented by its Secretary,
Tamil Development and Information
Department,
Fort St. George, Chennai 600 009.

2.Tamil University,
represented by its Registrar,
Thanjavur 613 006.

... Respondents

Review Application is filed under Section 114 and Order 47 Rule 1 of C.P.C. to review as against the aggrieved portion of observation made in W.P.(MD) No.3025 of 2017, dated 21.11.2022, by this Court.

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For Petitioners : Mr.T.Cibi Chakraborty
For R1 : Mr.V.Om Prakash
Government Advocate
For R2 : Mr.B.Vijay Karthikeyan

REV. APLW.(MD) No.62 of 2023:

G.Swaminathan

... Petitioner

VS.

1.Government of Tamilnadu,
represented by its Secretary,
Tamil Development and Information
Department,
Fort St.George, Chennai 600 009.

2.Tamil University,
represented by its Registrar,
Thanjavur 613 006.

... Respondents

Review Application is filed under Section 114 and Order 47 Rule 1 of C.P.C. to review as against the aggrieved portion of observation made in Writ Petition(MD) No.3061 of 2017, dated 21.11.2022, by this Court.

For Petitioner : Mr.M.Mahaboob Athiff
For R1 : Mr.V.Om Prakash
Government Advocate
For R2 : Mr.B.Vijay Karthikeyan

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COMMON ORDER

These review applications are filed against the common order passed in W.P.(MD)Nos.3025 and 3061 of 2017.

2.The above said writ petitions were filed for issuance of a writ of Mandamus, to direct the respondents to grant selection grade and special grade in the post of Technicians from the date of completion of 7 years and 14 years respectively as per the time bound promotion scheme approved by the Syndicate of the 2nd respondent University in the meeting held on 03.08.1996 under Resolution No.2 with all monetary and other consequential benefits as given to other non-teaching staffs and not to reduce their rank from the post of Technician and not to reduce the pay and not to make recovery from the petitioners in any manner.

3.While passing the order, this Court after considering the issue of granting selection grade and special grade on completion of 7 years and 14



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years in Universities has passed the common order, dated 21.11.2022. The selection grade and special grade would be granted on completion of 10 years and 20 years, if the person is stagnating in the same post without any promotion. But strangely, all Universities started granting selection grade and special grade on completion of 7 years and 14 years respectively. When this was brought to the knowledge of the Government, the Government has strictly directed the Universities not to grant selection grade and special grade on completion of 7 years and 14 years and it should be granted strictly on completion on 10 years and 20 years only.

4.While considering the case of the writ petitioner in W.P.(MD)No. 3025 of 2017 namely R.Selvam and W.P.(MD)No.3061 of 2017 namely G.Swaminathan and W.P.(MD)No.3065 of 2017 namely, B.Sekar, this Court passed a common order. In the case of B.Sekar, the respondents have conferred selection grade and special grade and also granted payment. Therefore, this Court while passing the common order directed the



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respondents to recover the same. But in the case of R.Selvam and G.Swaminathan, the respondents never ever granted monetary benefits while granting selection grade and special grade. However, the respondents taking note of the direction granted in the writ petition is taking steps to recover all other benefits, which was granted to the petitioners namely R.Selvam and G.Swaminathan by interfering in their original appointment. Therefore, the aggrieved over the same and petitioners have filed these review applications.

5.The qualification and service particulars of R.Selvam is that he was appointed as Technical Assistant on 07.03.1986 on daily wages basis. Thereafter, he was appointed in the same post on regular basis on 03.01.1989, after undergoing regular selection process. At the time of such appointment, he was possessing Diploma in Electrical and Electronic Engineering (completed in the year 1984). Later on, after obtaining permission and sanction from the second respondent, the petitioner

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completed B.E., degree course in Electronics and Communication Engineering and completed the same in the year 1990. Thereafter, the petitioner completed PGDCA, MCA and M.Phil., in Computer Science the years 2000, 2003 and 2008 respectively. Though the petitioner is having B.E., qualification and has put in long service as Technical Assistant, there was no promotional avenue to the petitioner and also similarly placed persons. Hence, the petitioner and other similarly placed persons submitted their grievance to the Norms Committee.

6. The qualification and service particulars of G.Swaminathan is that after passing plus two, he had received diploma in Electronic and Electrical Engineering and based on the same he was appointed as Technical Assistant (electrical supervisor) on 21.02.1990 on a daily wages basis. Thereafter the service was regularised with effect from 10.01.2001 in the Technical Assistant after undergoing the regular selection process.



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7. The Norms Committee after careful consideration by taking note of the sanctioned vacancy in the post of Audio Visual Technician (AV) passed a resolution its meeting, dated 19.07.1996, recommending person oriented promotions on the basis of the qualification of the Technical Assistants on the condition there must not be any appointment to the post of Technical Assistant held by them. It is pertinent to state this condition is for the University. The Norms Committee in its meeting, dated 03.10.1996, considered the other Universities norms followed for the grant of person oriented promotions and the scale of pay, recommended person oriented promotions to the Technical Assistants on par with similarly placed persons. The Norms Committee recommendations were placed before the Syndicate of the University and the Syndicate vide its resolution, dated 09.08.1996 and 06.12.1996, resolved to accept the recommendation and conferred person oriented promotions to 7 Technical Assistants including the petitioners with effect from 01.10.1996. Pursuant to such resolution of the Syndicate, the University, vide proceedings, dated 27.12.1996, appointed



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the petitioner by promotion in the post of Technicians (AV) with effect from 01.10.1996.

8. Likewise, six other similarly placed persons who were working as Technical Assistants in the University were granted promotions as Technicians and the same is stated hereunder:

S.No.	Description of the post	No.of Post	Name	Designation and Pay Scale
01	Technician (Audio Visual)	2	B.Sekar	Technician (Rs. 1820-3200)
02	Building and Maintenance / Electrical	2	P.Selvapandian G.Swaminathan	Technician (Rs. 1640-2900)
03	Rare Paper Manuscript	1	C.Lakshmanan	Technician (Rs. 1820-3200)
04	Museum	1	K.Devaraj	Technician (Rs. 1820-3200)
05	Garden maintenance	1	M.Elangovan	Technician (Rs. 1640-2900)

9. The said B.Sekar, C.Lakshmanan and K.Devaraj were possessing



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Degree in Engineering and they were fixed with the salary of Rs.1820-3200. After such promotion with effect from 01.01.1996, the Syndicate, vide resolution, dated 09.05.1998, revised the scale of pay from 1820-3200 to Rs.2000-60-230-75-3200-100-3500/- and same was paid vide Syndicate proceedings dated 29.05.1998. While the said P.Selvapandian, M. Elangovan and G.Swaminathan were possessing Diploma in Electronics and Communication, Diploma in Civil Engineering and Degree in Arts and Science respectively and they were fixed with the salary of Rs.1640-2900.

10. Thereafter, many non-teaching staffs, belonging to various categories were granted selection grade and special grade on completion of 7 years and 14 years respectively. Infact the said B.Sekar and C.Lakshmanan and K.Devaraj were granted selection grade of pay of Rs. 9100-10450 corresponding to pre-revised scale of pay of Rs.2500-4000. But the review petitioners were neither granted any further promotion nor paid awarded with any selection grade or special grade on completion of 7 years



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and 14 years respectively. The Audit Department had objected cites various reasons like for granting such selection and special grade no prior sanction was obtained from the Government for revision of scale of pay, that the designation of Technical Assistant was changed into Technicians without any increase in duties and responsibilities and that there was no basis or government order for sanctioning Rs.2000-3500 (pre-revised scale) which is applicable only to Technicians.

11. The contention of the review petitioners is that though their names were not mentioned by the Audit Department, the University issued show cause notice dated 14.03.2007 seeking explanation to the audit objection. The review applicants had submitted explanation dated 09.04.2007 that no prior permission is necessary since the review applicants had put in service for the past 11 years, hence he had been rightly granted person oriented promotion after considering qualification and experience. Moreover, there is no Audit objection for such promotion. It is pertinent to mention here that a

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Review Committee headed by B.S.Kulandaisamy, the then Vice Chancellor of Indira Gandhi Open University was constituted by the State Government to look into the appointments in various Universities and based on the said report the Government issue G.O.Ms.No.284 Tamil Development, Charitable and News Department dated 16.07.2009 and approved 222 such post in Universities and instructed the University to obtain prior permission to fill up such post. The said prior permission would be applicable from 16.07.2009 onwards and not for any promotion granted prior to the said G.O. In such circumstances the University sought permission to State Government for upgrading the existing post of Technician to Assistant Engineer on 20.03.2015, wherein the government had stated that excess payment was disbursed, hence directed to recover the excess payment and then submit the proposal to grant promotion. This issue is being challenged in W.P.(MD)No.3084 of 2017. As far as this writ petition is concerned the review applicants were not paid selection grade and special grade on completion of 7 and 14 years. Hence there is no question of recovery. Infact

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the writ petition is filed for Mandamus to direct the respondents to grant selection grade and special grade on completion of 7 and 14 years. But while considering the case this Court directed to recover the amount. However, the respondents have misunderstood the same and started recovering the amount that was fixed in the post of Technical Assistant in the original scale of pay.

12. Heard Mr.T.Cibi Chakraborty and Mr.M.Mahaboob Athiff, the Learned Counsels appearing for the review applicants, Mr.V.Om Prakash, the Learned Government Advocate appearing for the 1st respondent and Mr.B.Vijay Karthikeyan, the Learned Counsel appearing for the 2nd respondent and perused the records.

13. The contention of the 2nd respondent is that the initial appointment of the petitioners itself is illegal, therefore, the petitioners are not entitled to the scale of pay that was fixed earlier. In the audit objection, the scale of



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pay was also raised as one of the objections, therefore the respondents are entitled to recover the same. This contention of the 2nd respondent cannot be considered since this Court never considered the fixation of scale of pay which was fixed to the petitioners as early as 1996. This Court has considered the issue whether selection grade and special grade can be conferred on completion of 7 years and 14 years respectively and has held that same as illegal, since the selection grade and special grade can be conferred only on completion of 10 years and 20 years respectively and not prior to that. Hence this Court has held that the Syndicate resolution which granted permission to confer selection grade and special grade on completion of 7 years and 14 years respectively as illegal. Therefore, the respondents have totally misunderstood the order of this Court. This Court has not held the scale of pay that was fixed to the post as early as 1996 as illegal. Under the guise of the order passed in writ petitions the 2nd respondent is not having power to revisit the promotion and scale of pay fixed as early as 1996.



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14.The next contention that was raised by the 2nd respondent is that the post itself is not available in the University and in the Statutes of the Tamil University. But the said contention was refuted by the petitioners and produced the Statutes of the Tamil University. In the Statutes of Tamil University, under Serial No. 17, “A.V.Technician” post is available, under Serial No.18, “Technicians” posts are available, under Serial No.21, “Library Technical Assistant” post is available and under Serial No.23(b) “Technician Museum”, “Technician Manuscripts Library” is available. From this, it is evident that the Statute provides for these posts and the petitioners were appointed only in the available sanctioned posts and not in any other posts. Therefore, the claim of the 2nd respondent that the petitioners were appointed in unsanctioned post cannot be sustained. The petitioners were appointed only on the sanctioned posts available in Statutes.

15. As rightly pointed out by the review applicants that the condition

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of obtaining prior permission was imposed based on the report of Review Committee headed by B.S.Kulandaisamy, the then Vice Chancellor of Indira Gandhi Open University. Based on the said report the Government issue G.O.Ms.No.284 Tamil Development, Charitable and News Department dated 16.07.2009 and approved 222 such post in Universities and instructed the University to obtain prior permission to fill up such post. Therefore the condition of prior permission would be applicable from 16.07.2009 onwards and not for any appointment or promotion granted prior to the said G.O. Therefore the 2nd respondent shall not reopen any appointment or promotion which were granted prior to 16.07.2009.

16. The issue of granting selection grade and special grade on completion of 7 years and 14 years respectively is a recurring issue wherein all the Universities have committed the same mistake. The Syndicates are totally mismanaging the University and none of the Universities are exempted from such mismanagement. The Syndicate is being appointed or



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being nominated by the Government and they occupy the special posts in the University and they have reputation in the Society as well. Such Syndicate members passing such resolutions and mismanaging the University cannot be allowed. This Court cannot close its eyes on such mismanagement.

17. Therefore, this Court is directing the 1st respondent to appoint an Investigation Committee and investigate the resolutions passed by the Universities and if any corruption is found out, the Government is directed to take action against the members of the Syndicate. As far as the Tamil University is concerned, the Syndicate of this University has repeatedly committed several mistakes. Each and every time when there is a representation from the employees through the Grievance Committee, the Syndicate will pass a resolution without taking any concurrence from the Finance Committee or approval from the Government. Based on the Grievance Committee report, the Syndicate would pass a resolution

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immediately to grant the benefits. After the payment only, the entire issue will be placed before the Finance Committee. The Finance Committee would submit a report objecting to the said resolution and objecting to such payment. Immediately, the same would be reversed there will be repeated litigations and this *modus operandi* of repeated mistake. Therefore, the Government is directed to take strict and stringent action against the erred Syndicate, if need be, criminal prosecution may also be initiated against them so that in future, such mistakes will never happen. The registry shall mark the copy of this order to Chief Secretary to State Government and to the Principle Secretary, Higher Education Department.

18. With the above said observation, the review applications are allowed. No costs.

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Index : Yes / No

Internet : Yes

NCC : Yes / No

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To

Secretary,
Government of Tamilnadu,
Tamil Development and Information Department,
Fort St. George, Chennai 600 009.

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S.SRIMATHY, J.

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