



Writ Petition Nos.23686, 23689, 23693, 24114,
24411, 24413, 25951, 25994 & 25997 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

**Writ Petition Nos.23686, 23689, 23693, 24114, 24411,
24413, 25951, 25994 & 25997 of 2024**

and

**W.M.P.Nos.25917, 25920, 25924, 25925, 25928, 25930, 26367, 26368,
26693, 26694, 26696, 26697, 28390, 28391, 28392, 28394, 28395,
28399, 28400 & 28401 of 2024**

R.Thiruvalluvan
S/o.N.Ramakrishnan ... Petitioner in W.P.No.23686/2024

S.Prabakaran
S/o.Samandham ... Petitioner in W.P.No.23689/2024

K.Ravichandran
S/o.Kaliyaperumal ... Petitioner in W.P.No.23693/2024

R.Ravi
S/o.R.Rajamani ... Petitioner in W.P.No.24114/2024

M.Balasundaram
S/o.S.Mahadevan ... Petitioner in W.P.No.24411/2024

S.Sridhar
S/o.S.Sadagopan ... Petitioner in W.P.No.24413/2024

S.Gopalakrishnan
S/o.N.Swaminathan ... Petitioner in W.P.No.25951/2024

D.Muthukumaran
S/o.Duraisingam ... Petitioner in W.P.No.25994/2024



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R.Neelavanan
S/o.M.Rathinam

... Petitioner in W.P.No.25997/2024

Vs.

- 1.The State of Tamil Nadu,
represented by Secretary to Government,
Higher Education Department,
Fort St.George, Chennai - 9.
 - 2.The Syndicate of Annamalai University,
represented by its Secretary,
Annamalai University,
Annamalai Nagar, Chidambaram.
 - 3.The Registrar,
Annamalai University,
Annamalai Nagar, Chidambaram.
 - 4.The Deputy Director,
Local Fund Audit,
Annamalai University,
Annamalai Nagar, Chidambaram.
 - 5.The Finance Committe of Annamalai University,
represented by its Secretary,
Annamalai University,
Annamalai Nagar,
Chidambaram.
- ... Respondents in all W.Ps.

Prayer:

W.P.Nos. 23686, 23689, 23693, 24114, 24411 & 24413 of 2024

Writ Petitions filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records in University Order No.577/2024 on the file of the third respondent dated 16.07.2024 and quash the same as illegal, incompetent,



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without jurisdiction and further direct the respondents to grant petitioner the IV stage of upgradation from the date of completion of 21 years, 28 years, 21 years, 21 years, 21 years, 21 years of service respectively as in view of the judgment of the Apex Court in (2015) 4 SCC 334 (White Washers case).

W.P.Nos.25951, 25994 & 25997 of 2024

Writ Petitions filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records in Office Memorandum No.C2-2/2023, dated 26.12.2023 and modified notice in Office Memorandum No.C2-2/2024, dated 16.07.2024 on the file of third respondent and quash the same as illegal, incompetent, without jurisdiction and further direct the respondents to grant petitioner the IV stage of upgradation from the date of completion of 21 years of service and III and IV stage of upgradation from the date of completion of 14 and 21 years of service respectively as in view of the judgment of the Apex Court in (2015) 4 SCC 334 (White Washers) and judgment in Civil Appeal Nos.1635 of 2013, dated 08.08.2024.

For Petitioners : Mr.M.Muruganantham
[in all W.Ps.]

For Respondents : Mr.K.Surendran,
[in all W.Ps.] Additional Government Pleader [R1]
Mr.S.Sithirai Anandan,
Standing Counsel [R2 to R5]

COMMON ORDER



Writ Petition Nos.23686, 23689, 23693, 24114,
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These writ petitions were heard on 04.10.2024 in part and the following order was passed by this Court:

"These writ petitions have been filed challenging the proceedings of the Registrar, Annamalai University, as illegal, incompetent and without jurisdiction and for a further direction to the respondents to grant the fourth stage of upgradation from the date of completion of twenty one years of service.

2. The subject matter of challenge in all these writ petitions either pertains to the show cause notice issued by the Registrar of Annamalai University or the final order passed by the Registrar of Annamalai University.

3. The sum and substance of the action taken by the Annamalai University is that the petitioners were given upgradation of pay once in seven years as per the decision taken by the Syndicate of Annamalai University. Accordingly, the first upgradation was given on the completion of seven years and second upgradation was given on the completion of 14 years. All the petitioners joined as drivers during the period from 1992 to 1997.

4. The grievance of the petitioners is that based on the objections given by the Local Fund Audit, the third respondent had issued the show cause notice calling for explanation from the petitioners on the ground that they are entitled for time bound upgradation only at the end of each ten years at every stage of service and they cannot be given upgradation at the end of every seven years. Based on the same, the Registrar of Annamalai University has re-worked the entire pay on completion of ten years and on completion of 20 years and thereby, the excess payment made to the petitioners on the completion of 7 and 14 years respectively was sought to be recovered and the pay of the petitioners was also sought to be refixed. Aggrieved by the same, these writ petitions have been filed before this Court.

5. A common counter affidavit has been filed by third respondent. The third respondent has taken a stand that prior to 2013, the third respondent University granted upgradation/promotion to the non-teaching staff in four stages.



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Stage I - on completion of 7 years; Stage II - on completion of 14 years; Stage III - on completion of 21 years; Stage IV - on completion of 28 years. Accordingly, the petitioners were granted higher scales of pay on completion of 7, 14 and 21 years of their service. After the University was taken over by the Government, an objection was raised by the Local Fund Audit on the grant of four stages of promotion by the third respondent University to all the non-teaching staff. It is stated that the said practice followed was not on par with any of the Government Orders and in Government service, such upgradation/promotion is given only on completion of 10 years and 20 years in the respective service. In view of the same, it was decided to refix the pay. To support this claim, the third respondent has relied upon the judgment of the Apex Court in ***P.Singaravelan & Ors. v. The District Collector, Tiruppur & Ors. [Civil Appeal Nos.9533-9537 of 2019]***, dated 18.12.2019.

6. In view of the above, show causes notices were issued to the petitioners. In six of the writ petitions, reply was also received and final orders were passed and in three writ petitions, show cause notice itself has been put to challenge. The third respondent has justified the action taken to refix the pay and to recover the excess pay made on the ground that objections were raised by the Local Fund Audit and that the Selection Grade and Special Grade given to the petitioners on the completion of 7, 14 and 21 years is not in line with the Government Orders and that such Selection Grade and Special Grade can be granted only on completion of 10 years and 20 years of service. Since the third respondent wanted to regulate the pay scales of drivers, necessary action was initiated and orders were passed in some writ petitions and in other writ petitions, it is in the stage of show cause notice. Accordingly, the amount that is sought to be recovered from each of the petitioner is tabulated in the counter affidavit as hereunder:

<i>S.No.</i>	<i>Name</i>	<i>Excess pay to be recovered (Rs.)</i>
01.	K.Ravichandran	8,04,696
02.	R.Ravi	8,04,696
03.	M.Balasundaram	8,04,696
04.	R.Thiruvalluvan	7,93,707
05.	S.Sridhar	7,93,707



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<i>S.No.</i>	<i>Name</i>	<i>Excess pay to be recovered (Rs.)</i>
06.	S.Prabakaran	4,44,867
* 07.	S.Gopalakrishnan	16,82,372
* 08.	R.Neelavanan	14,46,325
* 09.	D.Muthukumaran	12,99,747
	Total	88,74,813

7. That apart, the pay of the petitioners has also been refixed in the following manner:

Name: S.Prabakaran Writ Petition No.23689/2024				Name : R.Thiruvalluvan Writ Petition No.23686/2024				Name : K.Ravichandran Writ Petition No.23693/2024			
Y e a r s	Date	As per Unive rsity	As per Gover nment	Y e a r s	Date	As per Univer sity	As per Gover nment	Y e a r s	Date	As per Univer sity	As per Governme nt
7	01.07 .2002	II (5500/ 5500- 175- 9000)	-	7	01.10. 2000	II (5500/5 500- 175- 9000)	-	7	01.04.1 999	II (5500/5 500- 175- 9000)	-
1 0	01.07 .2005	-	Selecti on Grade (4100+ 35/400 0-100- 6000)	1 0	01.10. 2003	-	Selecti on Grade (4000/ 4000- 100- 6000)	1 0	01.04.2 002	-	Selection Grade (4000/4000 -100-6000)
1 4	01.07 .2009	III (1812 0)	-	1 4	01.10. 2007	III (17880/ 9300- 348000 +4500 G.P)	-	1 4	01.04.2 006	III (17710/ 9300- 34800+ 4500 G.P)	-
2 0	01.07 .2015	-	Special Grade (19280)	2 0	01.10. 2013	-	Selecti on Grade (18170)	2 0	01.04.2 012	-	Special Grade (17120)
Y e a r s	Date	As per Unive rsity	As per Gover nment	Y e a r s	Date	As per Univer sity	As per Gover nment	Y e a r s	Date	As per Univer sity	As per Governme nt
2	-	-	-	2	-	-	-	2	-	-	-



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Name: S.Prabakaran Writ Petition No.23689/2024				Name : R.Thiruvalluvan Writ Petition No.23686/2024				Name : K.Ravichandran Writ Petition No.23693/2024			
1				1				1			
	01.07.2023	70700/-	64100/-		01.07.2023	98600/-	44700/-		01.04.2024	78200/-	66000/-

Name: S.Sridhar Writ Petition No.24413/2024				Name : R.Ravi Writ Petition No.24114/2024				Name : M.Balasundaram Writ Petition No.24411/2024			
Y e a r s	Date	As per Unive rsity	As per Gover nment	Y e a r s	Date	As per Unive rsity	As per Gover nmen t	Ye ars	Date	As per Unive rsity	As per Governe nt
7	01.08.2004	II (5500/ 5500- 175- 9000)	-	7	01.04.1999	II (5500/5 500- 175- 9000)	-	7	26.05.2000	II (5500/ 5500- 175- 9000)	-
10	01.08.2007	-	Selecti on Grade (10360)	10	01.04.2002	-	Selecti on Grade (4000/ 4000- 100- 6000)	10	26.05.2003	-	Selection Grade (4000/4000 -100-6000)
14	01.08.2011	III (1842/ 9300- 34800 +4400 GP)	-	14	01.04.2006	III (17710/ 9300- 34800+ 4500 G.P)	-	14	26.05.2007	III (17780 /9300- 34800 +4500 G.P)	-
20	01.08.2017	-	Selecti on Grade [37400(Level 8, Cell 23)]	20	01.04.2012	-	Specia l Grade (1712 0)	20	26.05.2013	-	Special Grade (18170)
21	-	-	-	21	-	-	-	21	-	-	-
	01.07.2023	68600/-	44700/-		01.04.2024	78200/-	66000/-		01.04.2024	78200/-	66000/-
Name: R.Neelavanan Writ Petition No.25997/2024				Name : D.Muthukumaran Writ Petition No.25994/2024				Name : S.Gopalakrishnan Writ Petition No.25951/2024			
Y e a	Date	As per Univ	As per Govern ment	Ye ars	Date	As per Universit y	As per Govern ment	Y e a	Date	As per Univer sity	As per Gover



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Sl. No.	Order No.	Category	Grade	Sl. No.	Order No.	Category	Grade	Sl. No.	Order No.	Category	Grade
7	09.08.2005	II (5500/5500-175-9000)	-	7	01.01.2006	II (5500/5500-175-9000)	-	7	01.08.2004	II (5500/5500-175-9000)	-
10	09.08.2008	-	Selection Grade (10670)	10	13.01.2009	-	Selection Grade (10670)	10	01.08.2007	-	Selection Grade (10360)
14	09.08.2012	III (18560)	-	14	-	-	-	14	01.08.2011	III (1842/9300-34800+4400 G.P)	-
20	09.08.2018	-	Special Grade [39700 (Level 8, Cell 25)]	20	13.01.2019	-	Special Grade 39700 (Level 8, Cell 25)	20	01.08.2017	-	Selection Grade [37400 (Level 8, Cell 23)]
21	-	-	-	21	-	-	-	21	-	-	-
	01.07.2023	66000/-	46000/-		01.01.2024	64700/-	46000/-		01.07.2023	68600/-	44700/-

8. In view of the above, the third respondent has sought for the dismissal of these writ petitions.

9. Learned counsel for petitioners, by bringing to the notice of this Court the Annamalai University Act, 2013, submitted that the Syndicate has been given sufficient powers under Section 20 of the Act to prescribe the mode of appointment, fixation of emoluments and the duties and conditions of service *etc.* Pursuant to the same, the Syndicate of the University took a decision to grant upgradation once in 7 years to the non-teaching staff. Learned counsel submitted that such decision taken by the Syndicate cannot be interfered based on objections raised by Local Fund Audit. Learned counsel further submitted that insofar as the recovery that is sought to be made against the petitioners, the issue is squarely covered by the judgment of the Apex Court in ***State of Punjab and others v. Rafiq Masih (White Washer) and others [(2015) 4 SCC 334]***. Learned counsel specifically placed reliance upon paragraph



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No.18 of that judgment.

10. Insofar as the refixation of pay is concerned, learned counsel submitted that the Government cannot refix the pay with retrospective effect and can redo an exercise which was validly done by the Syndicate of Annamalai University. Learned counsel submitted that the Government cannot exercise its executive power and interfere with a power that was conferred by the Legislature on the Syndicate of the University. Learned counsel further submitted that the objections raised by Local Fund Audit will not empower the Government to interfere with a decision already taken by the University in accordance with law, more particularly, where the Syndicate of the University was conferred with the power of appointment, fixation of pay *etc.* Learned counsel, in order to substantiate his submission, relied upon the judgment of this Court ***The Madras University Staff Association v. State of Tamil Nadu [2012 (3) CTC 337]*** and also the judgment in ***Tamil University v. Dr.C.Lakshmanan [W.A.(MD) Nos.564 & 579 of 2017]***. Learned counsel also placed reliance upon the judgment of the Apex Court in ***Jagdish Prasad Singh v. State of Bihar and others [Civil Appeal No.1635 of 2013, dated 08.08.2024]***.

11. In the light of the above submission, learned counsel contended that the impugned proceedings of the third respondent *viz.*, Registrar of Annamalai University seeking to refix the pay and to recover the excess pay is illegal and requires the interference of this Court.

12. Learned Standing Counsel appearing on behalf of the Annamalai University seeks for some time to make his submissions.

Post these writ petitions under the caption 'Part-heard Cases' on 19.10.2024."

2. Heard Mr.M.Muruganantham, learned counsel for petitioners, Mr.K.Surendran, learned Additional Government Pleader appearing for first respondent and Mr.S.Sithirai Anandan, learned



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Standing Counsel appearing for respondents 2 to 5.

3. Learned Standing Counsel appearing on behalf of the Annamalai University submitted that the re-fixation of pay was necessitated by virtue of the order passed by the Apex Court in Civil Appeal Nos.9533-9537/19, dated 18.12.2019. This was followed by letter No.4866/CMPC/2013-14, dated 22.01.2020 whereby the Government, taking note of the judgment of the Supreme Court, directed all the Heads of Departments as follows:

"8. Accordingly, the Government directs that the Drivers are entitled to Ordinary Grade scale of pay a Rs.3200-85-4900 Selection Grade at Rs.4000-100-6000 and Special Grade Scale of pay at Rs.4300-100-6000 only. The scale of pay of Drivers whose Selection Grade/ Special Grade has been fixed erroneously at Rs.5000-8000 and Rs.5500-9000 has to be refixed as indicated at para 7 above and excess amount paid on account of erroneous fixation has to be regulated with effect from the date of orders of Hon'ble Supreme Court of India in Special Leave Petition (Civil) No.9560-9561 of 2019 dated : 18-12-2019. All the Heads of Departments are requested to ensure that the Selection Grade / Special Grade pay of Drivers are fixed in terms of Serial No.6 of Schedule II of G.O.Ms.No.162, Finance (Pay Cell) Department dated 13.04.1998 at Rs.4000-100-6000 in the Selection Grade and Rs.4300-100-6000 in the Special Grade. Any failure to adhere the same will be viewed seriously and responsibility fixed on pay fixing authorities.

9. All Heads of Departments are also requested to furnish a compliance report to Government indicating that the Selection Grade / Special Grade pay of the Drivers has been fixed in terms as ordered by the Hon'ble Supreme Court of India within



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the University undertook the exercise of re-fixation of pay and allowance and for recovering all the excess pay made to the petitioners.

7. Insofar as the issue of recovery of the excess pay is concerned, learned Standing Counsel submitted that all the petitioners will come under the category of Group-B employees, who are drawing a grade pay of Rs.4400-6600. Therefore, the judgment relied upon by learned counsel for petitioners in *White Washer's* case, referred supra, will not come to the aid of the petitioners. Learned Standing Counsel submitted that the said judgment pertains to a protection that was given only to those employees, who are in the Group-C and Group-D category. In the light of the above submission, learned counsel sought for the dismissal of all these writ petitions.

8. The primary issue that arises for consideration in these writ petitions is as to whether the proceedings of the Registrar, Annamalai University refixing the pay of the petitioners and consequently initiating proceedings for recovery of the excess pay made to the petitioners is legal and sustainable.



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9. The specific stand taken by the Annamalai University is that such revision of pay and the recovery was impelled by the order passed by the Apex Court in Civil Appeal Nos.9533-9537/19, dated 18.12.2019, which was followed by letter No.4866/CMPC/2013-2014, dated 22.01.2020 and which was directed to be implemented by the Local Fund Audit.

10. It is not in dispute that the Annamalai University was originally governed by Annamalai University Act, 1928 and the regulations of the year 1929. It is also not in dispute that the Syndicate had taken the decision on 01.10.1994 with respect of upgradation/promotion to the non-teaching staff in four stages. In line with this decision, the upgradation was fixed for the petitioners as and when they complete the particular stage. It is brought to the notice of this Court that some of the petitioners have reached Stage-III and some are at Stage-II. The petitioner in W.P.No.23686 of 2024 [R.Thiruvalluvan] has attained superannuation on 30.09.2024 and has retired from service.

11. In the instant case, as above stated, the decision for upgradation of the non-teaching staff was taken by the Syndicate on



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01.10.1994. Pursuant to the same, the upgradation is taking place on completion of 7 years, 14 years and 21 years in three stages. The Annamalai University Act was passed in the year 2013. The regulations came into effect only from 11.02.2020. Only by virtue of this regulation, it was provided that the pay and allowance admissible to various categories of posts in the Annamalai University can be fixed by the Syndicate from time to time only in accordance with the Government Order. Even insofar as the applicability of the fundamental rules are concerned, it was provided that the regulations will be subject to modifications or amendments which have to be made by the Syndicate from time to time in accordance with the Government Orders as and when situation warrants.

12. The decision was taken to re-fix the pay scale by relying upon G.O.(Ms) No.162, dated 13.04.1998. This Government Order provided for selection grade and special grade pay only on completion of 10 years, 20 years and 30 years of service. For the purpose of complying with this Government Order, the University has undertaken the process of re-fixation since the petitioners were getting this benefit on the completion of 7 years, 14 years and 21 years.



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13. The order of the Supreme Court relied upon pertains to such fixation of selection grade and special grade for the Car drivers belonging to the High Court. While dealing with that issue, the High Court held that the pay scale of the drivers employed at the High Court must be fixed in line with the Government Order issued by the State Government in G.O.(Ms) No.162, dated 13.04.1998. This order, which became the basis for initiating action against the petitioners, does not have a direct bearing insofar as the case of the petitioners is concerned. The above order of the Supreme Court had resulted in the issuance of a Government letter dated 22.01.2020, which was followed by the Local Fund Audit objection. If at all, the order passed by the Supreme Court and the Government letter issued thereafter will have an impact on the staff belonging to Annamalai University, it can only be after the coming into force of the regulations dated 11.02.2020. This regulation contemplated that the pay and allowance can be fixed only in accordance with the Government Orders issued by the State Government. When the decision was taken by the Syndicate for fixing the upgradation of pay in the year 1994, the University was governed only by the 1929 regulation, which did not have any similar provision. Hence, the Syndicate had the complete authority to fix the pay and allowance to various categories of posts in the Annamalai



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University.
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14. The regulations dated 11.02.2020 cannot be given a retrospective effect and it cannot withdraw whatever benefits have already been given to the staff long before the regulations came into effect. In fact, the terms of the regulations cannot be read to the extent of refusing the terms and conditions of service of employees to their detriment by defeating the rights and privileges that have already accrued in favour of the employees/staff.

15. The 2020 regulations can only have a prospective effect and after the coming into force of this regulation from 11.02.2020, the pay and allowance will have to be necessarily fixed in line with the Government Orders issued by the State Government. Hence, none of the petitioners or other similarly placed persons, can hereafter seek for any grade pay by placing reliance upon the old regulation and the decision taken in the year 1994. Whatever benefits have already accrued in favour of the petitioners will remain in tact since the Syndicate had conferred such benefits and the Syndicate had all the powers to take such a decision during the relevant point of time. This was done much prior to the coming



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into force of the Annamalai University Act in the year 2013 and the regulations in the year 2020.

16. In the light of the above discussion, this Court holds that the benefit that has already accrued in favour of the petitioners cannot be taken away to the detriment of the rights and privileges of the petitioners, which was conferred by the Syndicate at the relevant point of time. As a consequence, the decision taken by the Annamalai University to re-fix the scale of pay of the petitioners and consequently, recovering the excess amount paid to the petitioners is unsustainable and illegal.

17. It is also made clear that the petitioners will not be entitled for any benefits henceforth unless it is in line with the provisions of the Annamalai University Act, 2013 and regulations which came into effect on 11.02.2020. Whatever benefits to which the petitioners are entitled for or which flows in their favour by virtue of this order shall be extended to the petitioners forthwith.

In the result, all these writ petitions are allowed and the relevant impugned orders and show cause notices, which have been challenged in these writ petitions, are quashed. No costs. Consequently, connected miscellaneous petitions are closed.



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19.10.2024

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order
gm

To

- 1.The Secretary to Government,
Higher Education Department,
Fort St.George, Chennai - 9.
- 2.The Secretary,
Syndicate of Annamalai University,
Annamalai University,
Annamalai Nagar, Chidambaram.
- 3.The Registrar,
Annamalai University,
Annamalai Nagar, Chidambaram.
- 4.The Deputy Director,
Local Fund Audit,
Annamalai University,
Annamalai Nagar, Chidambaram.
- 5.The Secretary,
Finance Committee of Annamalai University,
Annamalai University,
Annamalai Nagar, Chidambaram.



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N.ANAND VENKATESH, J

gm

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