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W.P.No.13716 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.13716 of 2025

and

W.M.P.Nos.15411 & 15412 of 2025

G.Kalaiyazhagan

... Petitioner

-Vs-

1.State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Higher Education Department,
Secretariat, Fort St.George,
Chennai – 600 009.

2.The Registrar,
Periyar University,
Salem – 636 011.

3.The Regional Joint Director,
Local Fund Audit Department,
Cherry Road, Maravaneri,
Salem – 636 007.

4.The Assistant Director,
Local Fund Audit Department,
Salem Corporation Building Campus,
Salem – 636 001.

... Respondents



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Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in his proceedings P.No.PU/R/R6/00334/23F70662/2023-7 dated 30.03.2023 and the consequential order of the 2nd respondent in his proceedings P.No.PU/R6/Estt./003820/23F71231/2023 dated 19.06.2023 and the consequential order of the 2nd respondent in his proceedings P.No.PU/R6/Estt./003820/23F71231/2023-5 dated 30.06.2023 and to quash the same as being illegal and unsustainable in law and for a consequential direction to the respondents to disburse all the petitioner service and terminal benefits such as Pension, Leave Salary, UPF (University Provident Fund), SPF (Special Provident Fund) and all other benefits which the petitioner is entitled to as Section Officer.

For Petitioner : Mr.N.Kavitha Rameshwar

For Respondents : Mr.M.R.Gokulkrishnan
Additional Government Pleader [R1]
Mr.P.Godson Swaminathan
for M/s.Isaac Chambers [R2]
Mr.V.Jeevagiritharan
Additional Government Pleader [R3 & R4]

ORDER

This Writ Petition has been filed by the petitioner challenging the order passed by the 2nd respondent dated 30.03.2023 and the consequential order passed by the 2nd respondent dated 19.06.2023, thereby, reverting the petitioner from the post of Superintendent to the



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post of Assistant and also ordered to recover the excess payment of salary.

2. The petitioner was appointed as a Junior Assistant through direct recruitment on regular vacancy in the 2nd respondent university on 03.05.2000 and his scale of pay was fixed as Rs.3200-85, 4900/-. Thereafter, he passed the typewriting English in Senior Grade exam conducted by the Department of Technical Education and also passed the District Office Manual Test on 16.03.2005 conducted by the Tamil Nadu Public Service Commission (TNPSC). By order dated 21.04.2005, the 2nd respondent had regularized the petitioner's services and thereafter, he was promoted to the post of Assistant w.e.f. 01.08.2006 and his scale of pay was fixed at Rs.4000-100-6000 that too with the approval of the syndicate of the 2nd respondent university. Later, the petitioner was promoted to the post of Superintendent on 27.01.2010 in the scale of pay of Rs.9300-34800 with grade pay of Rs.4800/- on condition that the petitioner should pass the Account Test for Subordinate Officer Part – I within two years. He had also passed the said exam in the month of December, 2011 conducted by the TNPSC and subsequently, passed the



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Account Test for Executive Officer in the month of May, 2012 conducted by the TNPSC. Hence, he was promoted to the post of Section Officer w.e.f. 04.01.2016 in the scale of pay of Rs.15600-39100 with grade pay of Rs.5400. Thereafter, the petitioner has also passed the Account Test for Subordinate Officer Part II in May 2021 conducted by the TNPSC. While being so, the 2nd respondent issued a show cause notice, dated 09.01.2023 calling for explanation from the petitioner in respect of revision of pay in the post of Section Officer. On receipt of the same, he submitted his explanation. However, without considering the explanation submitted by the petitioner, the 2nd respondent vide proceedings dated 30.03.2023 reduced his scale of pay w.e.f. 01.03.2023 in the post of Section Officer, which resulted in reduction of Rs.20,000/- p.m. Thereafter, another show cause notice dated 20.04.2023 was also issued on the objection of “Local Fund Audit” from the year 2007-08 to 2020-21 mentioning that there is a lacuna in his appointment and promotions, since he did not pass the Account Test for Subordinate Officer Part II and the Account Test for Executive Officer for declaration of probation in the feeder category. On receipt of the same, the petitioner has also submitted his explanation on 19.08.2023. However, without considering the



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explanation submitted by the petitioner, the 2nd respondent has passed an order dated 19.06.2023, thereby reverting the petitioner from the post of Section Officer to Assistant, which is two posts lower the post of Section Officer, on the ground that probation has not been declared. Thereafter, the 2nd respondent relieved the petitioner from the service on superannuation in the post of Assistant vide order dated 30.06.2023. Challenging the above orders passed by the 2nd respondent, the petitioner has filed the present writ petition before this Court.

3. Heard both sides and perused the materials available on record.

4. The issue of recovery has already been dealt with by the Hon'ble Apex Court and this Court repeatedly. In this regard, it is relevant to rely upon the decision of the Madurai Bench of this Court in W.P.(MD).No.6635 of 2019, dated 25.09.2013, wherein it is held as follows :-

“2. The Government vide Letter (Ms) No.174, dated 25.09.2013 directed the Registrars of all Universities to take suitable action to re-fix pay/reverse wrong promotions/increments given which were pointed out in the report of



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the Director of Local Fund Audit. The Registrars were also called upon to recover the excess payment from the individual staff concerned. Challenging the same, the present writ petition came to be filed.

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8. Section 27 of the Act will not empower the Government to issue a direction of this nature. The Director of Local Fund Audit had gone to the extent of stating that the university has been giving wrong promotions /increments. The job of the Local Fund Audit is to see if the expenditure incurred by the university is in consonance with the policy of the university. As per Section 27 of the Act, the Syndicate has the power to appoint the University Lectures, University staff and fix their emoluments. It is not for the Local Fund Audit to go into the justification of the promotions given by the university. The Government has gone entirely by the report of the Local Fund Audit. It clearly amounts to interference with the internal administration of the university. Section 27 of the Act has been misconstrued by the Government. The impugned communication is without jurisdiction. It is quashed and the writ petition is allowed.”

Therefore, insofar as the 2nd respondent university is concerned, the sub section 27 (a) and (b) of the Periyar University Act, the syndicate has the power to appoint the University Lecturers, Readers, Professors, Teachers



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and the administrative staff along with similar posts and fix their emoluments, if any, define their duties and the conditions of their services and provide for filling up for temporary vacancies.

5. It is seen that the show cause notice issued by the 2nd respondent dated 20.04.2023 was issued on the objections raised by the Local Fund Audit from the year 2007-08 to 2020-21. As per statutes of the 2nd respondent, qualification to the post of Junior Assistant, Superintendent and Section Officer has follows :-

Post	Qualification	
	By Direct Recruitment	By promotion
Section Officer	1. Graduate (55% or B grade). 2. A pass in Account test for subordinate officer Part-I with not less than 5 years' service in the cadre of Assistant. 3. Typewriting Higher grade in English and Tamil. 4. Diploma in Computer Applications	By promotion from the category of Superintendent with four years of service.
Superintendent	1. Graduate (55% or B grade). 2. A pass in Account test for subordinate officer Part-I. 3. The Assistants who do not possess the degree qualification shall be promoted on condition that they will be eligible to draw increments after acquiring a degree in four years. 4. Typewriting Higher grade in English and Tamil. 5. Diploma in Computer Applications	By promotion from the category of Assistant with four years of service.



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Post	Qualification	
	By Direct Recruitment	By promotion
Assistant	1. B.Sc.(Comp.Sci.) or BCA or PG Diploma in Comp. Applications 2. Typewriting Higher grade in English and Tamil. 3. Knowledge of Tamil to the extent of carrying official correspondences and drafting reports. 4. Knowledge in visual basic, Oracle & Web Tech. with 2 years experience.	By promotion from the category of Junior Assistant/Steno Typist with four years of service.
Junior Assistant	1. B.Sc.(Comp.Sci.) or BCA or PG Diploma in Comp. Applications 2. Typewriting Higher grade in English and Tamil. 3. Knowledge of Tamil to the extent of carrying official correspondences and drafting reports. 4. Knowledge in Visual Basic, oracle & Web Tech. with 2 years experience.	1. By direct recruitment or By promotion from category of Record Clerk/Officer Asst./ Attender having 5 yrs of service and a basic qualification of +2. He shall not be eligible to draw increments until he acquires a degree in 4 years.

6. The petitioner had qualifications of Typewriting English in Senior grade, the District Office Manual Test, The Account Test for Subordinate Officer Part – I, the Account Test for Subordinate Officer Part – II. That apart, he was promoted with the approval of the syndicate of the 2nd respondent university.



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7. In this regard, it is relevant to rely upon the judgment of Hon'ble

Supreme Court in the case of *State of Punjab & Ors. Vs. Rafiq Masih*

(White Washer) & Ors. reported in *(2015) 4 SCC 334*, in which the

Hon'ble Supreme Court has held as follows :-

“12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery. Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iii) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(iv) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.”

Thus it is clear that recovery shall not be made after the period of five years.



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8. Further, as far as the promotions are concerned, the petitioner was no way responsible for the promotions granted by the 2nd respondent. It is the duty of the authorities concerned to verify the records before granting promotions to their employees. It is not the case of the 2nd respondent that the petitioner made any false representation or misrepresentation in respect of his promotions. Therefore, the fault, if any, committed by the authorities concerned, cannot be foisted as against the petitioner by reverting him from the post of Section Officer to the post of Assistant, that too, lower by two posts. Further, the show cause notice was issued on the strength of the objections raised by the Audit Department. The audit objections related to the Audit Department cannot interfere with the decision of the 2nd respondent to grant promotions, since it has no power to raise any objections relating to any promotions.

9. In view of the above, the impugned orders passed by the 2nd respondent cannot be sustained and liable to be quashed and accordingly, stands quashed. The respondents are directed to disburse all the service and terminal benefits to the petitioner in the post of Section Officer,



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within a period of four (4) weeks from the date of receipt of a copy of this order.

10. With the above observations and directions, this writ petition stands allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

11.11.2025

Index : Yes/No
Neutral Citation: Yes/No
Speaking/Non Speaking order
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To

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Chennai – 600 009.
- 2.The Registrar,
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G.K.ILANTHIRAIYAN. J,

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