



W.A. No.2355 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2025

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CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.A. No.2355 of 2025
and C.M.P. No.17970 of 2025

The Registrar,
Periyar University,
Salem.

.... Appellant
Vs.

1. A. Saravanan S/o. G. Arumugam

2. The State of Tamil Nadu:

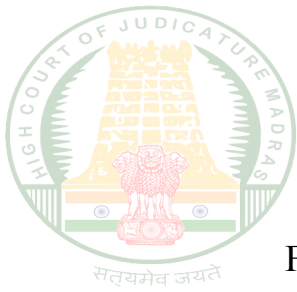
represented by its
Principal Secretary to Government,
Higher Education Directorate,
Secretariat, Fort St. George,
Chennai - 600 009.

... Respondents

PRAYER: The Writ appeal is filed under Clause 15 of Letters Patent
praying to set aside the order dated 31.07.2024 made in W.P. No.16604 of
2024.

For Appellant

: Mr. P. Godson Swaminath
for ISAAC Chambers.



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W.A. No.2355 of 2025

For Respondents : Ms. N. Kavitha Rameshwar
[for R1]

Mr. D. Ravichander [for R2]
Special Government Pleader.

JUDGMENT

(Judgment of the Court was made by P.DHANABAL,J.)

This Writ Appeal has been preferred as against the order passed by the Writ Court in W.P. No.16604 of 2024 dated 31.07.2024, wherein the the 1st respondent herein has filed the Writ petition challenging the order passed by the appellant dated 28.03.2024, thereby, not allowing the 1st respondent to retire from service. The Writ Court allowed the petition and the appellant was directed to allow the 1st respondent to retire from service on attaining the age of superannuation on 31.03.2021 and to disburse all the service and terminal benefits forthwith. Aggrieved by the said order, the present Writ appeal has been filed by the appellant.

2. **The short facts necessary to dispose of the Writ appeal are as follows:**

The 1st respondent was appointed as an Assistant through direct recruitment and he joined service in the appellant University on 03.05.2000. There were certain allegations against the 1st respondent, when he was working as Superintendent, in relation to failure on scrutinising cash bills



W.A. No.2355 of 2023

submitted by a Professor Mr. V. Krishnan, Department of Physics, Periyar University and also he failed to acknowledge the cash bills for the supplies for the amount received. Therefore, there was Directorate of Vigilance and Anti Corruption enquiry. The Government issued a G.O (3D) No.7, Higher Education Department dated 24.09.2020, directing the University to initiate disciplinary action against the employees in the University, who are allegedly involved in submission of fake receipts and disbursement of grants given for research projects. Based on the above said Government Order, the University decided to initiate disciplinary action against the employees named in the Government order. Accordingly, charges were framed. The University issued a Charge Memo through proceedings dated 04.03.2021 to the 1st respondent and he also gave his explanation dated 15.03.2021 by denying the charges. In the meantime, in view of the communication dated 08.02.2021 from the Directorate of Vigilance and Anti-Corruption, the University has not proceeded the matter.

2.1. While so, the Syndicate of the University, in its meeting held on 08.03.2024, decided that the 1st respondent not be allowed to retire from service and he may be provided the provisional pension, leave salary benefits, UPF and SPF which was earned by him as per the norms with the approval of



W.A. No.2355 of 2023

Local Fund Audit. Therefore, as per the Minutes of the Syndicate of the University and in view of the pendency of the DVAC case and the disciplinary action initiated by the University and since the 1st respondent is due to retire on 31.03.2024, the University informed the decision of the Syndicate to the 1st respondent and he was not allowed to retire from service. Aggrieved by the said order, a Writ petition, which is impugned in this Writ appeal, has been filed by the 1st respondent. The Writ court, after hearing both sides, allowed the Writ petition and quashed the order passed by the 2nd respondent dated 28.03.2024 and directed the 2nd respondent to allow the petitioner to retire from service on attainment of his superannuation that is on 31.03.2024 and disburse all the service and terminal benefits forthwith. Aggrieved by the said order of the Writ Court, the University, who is the 2nd respondent in the Writ petition, has preferred the present Writ appeal.

3. The learned counsel appearing for the appellant would submit that the 1st respondent was appointed as an Assistant through direct recruitment and he joined in the appellant's University on 03.05.2000. There were certain allegations against the 1st respondent in relation to failure in scrutinizing the cash bills and he failed to acknowledge the cash bills for the supplies for the amount received and thereby, the matter was under enquiry by the Directorate of Vigilance and Anti-Corruption. In the meantime, the Government issued



W.A. No.2355 of 2025

an order in G.O. (3D) No.7, Higher Education (K1) Department dated 24.09.2020 directing the University to initiate disciplinary proceedings against the employees who are involved in submission of fake receipts and disbursement of grants given for research projects and the 1st respondent's name was also included in the said Government Order. Thereafter, a confidential communication from the Directorate of Vigilance and Anti-Corruption dated 08.02.2021 was received by the University and it was informed by the Directorate of Vigilance and Anti-Corruption that the witness and documents mentioned in the Charge Memo and the witness and documents in the trial case are one and the same. Therefore, the witnesses in the disciplinary proceedings may be examined after the deposition before the Court in the trial case. Therefore, the University was unable to pursue the disciplinary proceedings pending against the 1st respondent.. The University vide proceedings dated 04.03.2021 issued a Charge Memo to the 1st respondent and he submitted his explanation dated 15.03.2021. In view of the communication dated 08.02.2021 from the Directorate of Vigilance and Anti-Corruption, the University could not proceed the matter.

3.1. Thereafter, the University wrote a letter to the Directorate of Vigilance and Anti-Corruption about the attainment of age of superannuation by the 1st respondent on 31.03.2024. In the meantime, the Syndicate of the



W.A. No.2355 of 2023

Periyar University meeting held on 08.03.2024 and the Syndicate decided that the individual not be allowed to retire from service and he may be provided with the provisional pension, leave salary benefits, UPF and SPF which was earned by him as per the norms with the approval of Local Fund Audit. Based on the above said order, the 1st respondent was not allowed to retire from service and the said proceedings was communicated to the 1st respondent on 28.03.2024. Thereafter, the said order was challenged by the 1st respondent before the Writ Court. The Writ Court, without considering the gravity of the charges and by holding that as per the decision of the Hon'ble Division Bench of this Court in W.A. No.224 of 2023 and batch of cases dated 20.10.2023 and by relying upon the judgment of Hon'ble Supreme Court in State of Punjab and others vs. Rafiq Masih reported in AIR 2015 SC 696, allowed the Writ petition erroneously. Therefore, the order passed by the Writ Court is liable to be set aside.

4. The learned counsel appearing for the 1st respondent would submit that the 1st respondent was issued with a Charge Memo by the appellant University through Proceedings dated 04.03.2021 and he also submitted his explanation dated 15.03.2021 by denying the charges. Thereafter, no any action was taken by the appellant. While so, when the 1st respondent was in



W.A. No.2355 of 2023

the verge of his retirement on 31.03.2024, the appellant served the order which is impugned in the Writ petition on 28.03.2024 and not allowed the 1st respondent to retire from service. The appellant issued Charge Memo on 04.03.2021 and till his retirement on 31.03.2024, ie., nearly for 3 years, they have not taken any steps and a couple of days prior to the retirement of the 1st respondent, the appellant served the order impugned in the Writ petition. Therefore, the 1st respondent approached the Writ Court. In fact, the allegations mentioned in the order was that the appellant without passing DSO, ATSOP-I and ATEO for declaration of probation in the feeder category and further, he has not passed ATSOP-II, the appellant was promoted to the post of Superintendent and before even completing four years of service in the post of Superintendent, he was promoted to the post of Assistant Registrar without passing ATSOP-II in the year 2016. In fact, the 1st respondent passed District Office Manual (DSO) test, Account Test for Subordinate Officer paper [ATSOP-I] and Account Test for Executive Officer [ATEO].

4.1. While the 1st respondent was about to retire from service on attaining the age of superannuation on 31.03.2024, the order impugned in the Writ petition was passed, thereby not allowing the 1st respondent to retire from service on the ground that the 1st respondent has not passed the DSO,



W.A. No.2355 of 2023

ATSOP-I and ATEO for declaration of probation in the feeder category. In the earlier notice dated 21.04.2023 calling for explanation, there is no mention about the present allegation in the notice impugned in the Writ petition. The 1st respondent also submitted his explanation and thereafter, no orders was passed on the previous Show Cause Notice. Therefore, the Writ Court passed a reasoned order by observing that 'the 2nd respondent had ignored the factual background as well as the circumstances in which the Audit department cannot interfere with the decision of the 2nd respondent to grant promotion. After functioning in all the promotional post, the petitioner is now being sought to be recovered, that too, at the verge of his retirement. Further the petitioner has not been promoted on his false representation or misrepresentation'. Therefore, the Writ Court has correctly allowed the Writ petition and the Writ appeal is liable to be dismissed.

5. Heard both sides and perused the entire materials available on record.

6. In this case, there is no dispute that earlier charges were framed against the 1st respondent for the delinquencies through a Charge Memo dated 04.03.2021 and thereafter, the 1st respondent gave his explanation dated 15.03.2021 denying the charges and thereafter, the appellant University



W.A. No.2355 of 2023

has not taken any steps to pursue the matter. According to the Writ petitioner / 2nd respondent, based on the request made by the Directorate of Vigilance and Anti-Corruption, they have not examined the witnesses in the above said disciplinary proceedings. In the meantime, the 1st respondent attained the age of superannuation on 31.03.2024. Immediately the 2nd respondent served an order dated 28.03.2024 to the 1st respondent, which is impugned in the Writ petition, thereby not allowing the 1st respondent to retire from service stating that in accordance with the Syndicate Resolution Minutes dated 08.03.2024, he was not allowed to retire from service of the University, since he was superannuated on 31.03.2024. Further he was downgraded from the post of Assistant Registrar to the post of Superintendent and for the purpose of disbursing Provisional Pension till orders of the Government is obtained, based on the Show Cause Notice dated 21.04.2023. As per the Syndicate Minutes, the individual not be allowed to retire from service and he may be provided the provisional pension, leave salary benefits, UPF and SPF which was earned by him as per the norms with the approval of Local Fund Audit.

7. As per the Charge Memo dated 21.04.2023, the 1st respondent has not passed DSO Test, ATSOP-I and ATEO for declaration of probation in the feeder category. He was again promoted to the post of Superintendent on 01.08.2006 and without passing ATSOP-II before even completing four years



W.A. No.2355 of 2023

of service in the post of Superintendent, he was promoted to the post of Section Officer on 20.11.2009 and further without passing ATSOP-II in the year 2016, he was promoted to the post of Assistant Registrar on 04.01.2016, which is against rules, therefore, the above said acts indicates lacunae in his appointments and promotions, and likely revision to be made by the University to rectify the defects in the appointment and promotion. For that, the 1st respondent also suitably replied on 22.05.2023 and thereafter, the appellant has not passed any detailed order and issued the notice, impugned in the Writ petition, two days prior to the retirement of the 1st respondent.

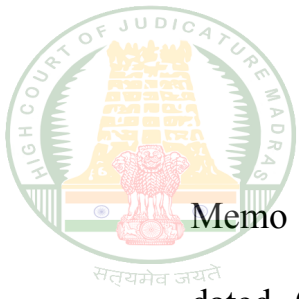
8. Therefore, challenging the same, the 1st respondent filed the Writ petition to quash the proceedings dated 28.03.2024 and to disburse the retirement benefits. The Writ Court allowed the Writ petition by holding that "the 1st respondent has passed DSO Test, ATSOP-I and ATEO and before the impugned order was passed, the 1st respondent was issued with Show Cause Notice dated 21.04.2023 and the same was suitably replied by the 1st respondent on 08.05.2023 and further action was taken and the 1st respondent had qualifications for the promotional posts and now, based on the Local Fund Audit report, the 1st respondent was issued with a Show Cause Notice and after referring the judgment of the Hon'ble Division Bench of this Court



W.A. No.2355 of 2023

in a batch of Writ Appeals in W.A. No.224 of 2023 and batch dated 20.10.2023, wherein this Court held that the local fund audit report cannot be sustained and the Show Cause Notice issued in pursuance to the local fund audit objection and the order of not permitting the petitioner to retire from service cannot be sustained and as per the judgment of the Hon'ble Supreme Court in the case of *State of Punjab & others vs. Rafiq Masih (White Washer) and others*, passed an order that "the Audit Department cannot interfere with the decision of the University to grant promotions; after functioning in all the promotional post, the petitioner is now being sought to be recovered, that too, at the verge of his retirement and the petitioner has not been promoted on his false representation or any misrepresentation". Therefore, quashed the order passed by the 2nd respondent dated 28.03.2024 and directed 2nd respondent to allow the petitioner to retire from service on attainment of his superannuation and disburse all the service and terminal benefits. The above said order passed by the Writ Court is based on the well settled legal principles.

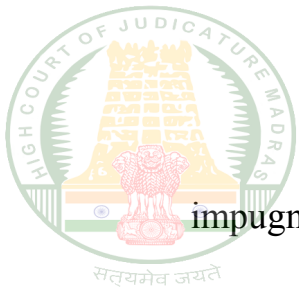
9. Moreover, the order passed by the appellant, which is impugned in the Writ petition, indicates that the reply for the Show Cause Notice dated 21.04.2023 is not accepted. There is no reference about the earlier Charge



W.A. No.2355 of 2023

Memo issued by the appellant to the 1st respondent through proceedings dated 04.03.2021 and the reply submitted by the 1st respondent dated 15.03.2021 and the order only indicates about the Minutes of the Syndicate and the order of Vice Chancellor. Without proceeding the Charge Memo dated 04.03.2021, they issued a Show Cause Notice dated 21.04.2023 and the same was replied by the 1st respondent on 22.05.2023. In this case, the appellant without exercising their power for initiating disciplinary proceedings against their Staff, awaited for orders from the Authorities of Directorate of Vigilance and Anti-Corruption.

10. The Directorate of Vigilance and Anti-Corruption has no role in the Disciplinary Proceedings against the 1st respondent and the Directorate of Vigilance and Anti-Corruption can only make preliminary enquiry and they cannot sit over the matter as Disciplinary Authority. However, the appellant acted as per the instructions of the Directorate of Vigilance and Anti-Corruption and the same cannot be permitted and without pursuing the matter for more than 3 years, they awaited and passed the impugned order two days prior to the date of retirement and the same is not appreciable. Without passing a speaking order, the appellant has passed the vague order dated 28.03.2024, which is impugned in the Writ petition. Therefore, the order



W.A. No.2355 of 2023

impugned before the Writ Court was rightly set aside by the Writ Court.

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11. As far as the allegations in respect of the promotions are concerned, the 1st respondent is noway responsible for the promotions granted by the Authorities of the Appellant and it is the duty of the Officers concerned to verify the records before granting promotions. As rightly observed by the Writ Court, the 1st respondent has not made any false representations or misrepresentations in respect of his promotions. There are no allegations against the 1st respondent. Therefore the Writ Court, after analysing the factual and legal aspects, has correctly quashed the order and directed to permit the 1st respondent to retire from service on attainment of his superannuation and to disburse all the service and terminal benefits forthwith.

12. In view of the above discussions, this Court is of the view that the order passed by the Writ Court is in accordance with law. There are no grounds to interfere with the order of the Writ Court and the Writ appeal has no merits and deserves to be dismissed.

13. Accordingly, the Writ appeal is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.



W.A. No.2355 of 2025

(R.S.K.J.) & (P.D.B.J)

13.08.2025

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Index : Yes/No

Speaking order/non-speaking order
mjs

To

The Principal Secretary to Government,
Higher Education Directorate,
Secretariat, Fort St. George,
Chennai - 600 009.

R. SURESH KUMAR,J

and

P.DHANABAL,J

mjs



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W.A. No.2355 of 2025

W.A. No.2355 of 2025

13.08.2025