IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2025

CORAM

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

W.P.No.44328 of 2025
and
W.M.P.Nos.49446, 49447 & 49448 of 2025

D.Senthilkumar .... Petitioner

Vs

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

2.The Vice Chancellor,
Periyar University,
Periyar Palakalai Nagar,
Salem – 636 011.

3.The Registrar,
Periyar University,
Periyar Palakalai Nagar,
Salem – 636 011.

4.The Special Director,
Directorate of Local Fund Audit Department,
Integrated Office Complex for Finance Department,
Nandanam, Chennai – 600 035.

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

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

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records in the impugned order dated 31.05.2024 issued by the third respondent vide P.No.PU/Estt/R6/009330/24F95768/2024-2, quash the same and consequently direct the second and third respondents to disburse all the service and terminal benefits such as pension, gratuity, earned and unearned leave salary, University Provident Fund and all other benefits to the petitioner which he is entitled to as Section Officer.

For Petitioner : Mr.Naveenkumarmurthy

for M/s.S.Varsha

For R1 : Mr.M.R.Gokul Krishnan
Additional Government Pleader

For R2 & R3 : Ms.H.Mary Sowmi Rexi
for M/s.Isaac Chambers

ORDER

This writ petition has been filed challenging the order passed by the third respondent dated 31.05.2024, thereby not allowing the petitioner to retire from service.

2. The petitioner was initially appointed as nominal muster on 19.06.1998 and was continuously working in the third respondent University. Thereafter, the petitioner was appointed as Junior Assistant from 10.08.2000 and the service of the petitioner was regularized on 20.09.2019. Subsequently, the petitioner was promoted to the post of Superintendent on 01.08.2010 and as Section Officer on 14.07.2016. While the petitioner was about to retire from service on attaining

superannuation on 31.05.2024, the order impugned in the present writ petition was passed, thereby not allowing the petitioner to retire from service on the ground that the petitioner has passed Typewriting Higher Grade in Tamil on February, 2020.

3. Before the impugned order was passed, the petitioner was served with the show-cause notice dated 21.04.2023, calling for explanation on or before 08.05.2023. The petitioner submitted his explanation and according to the petitioner, the same was not considered and the petitioner was not allowed to retire from service by the order impugned dated 31.05.2024.

4. The qualification for the post of Assistant, the promotional posts of Superintendent, Section Officer and Assistant Registrar, by way of promotion, as per the regulations, are as follows:-

Post	Qualification	
	By Direct Recruitment	By Promotion
	I with not less than 5 years' service in the cadre of Assistant.	

Post	Qualification	
	By Direct Recruitment	By Promotion
	the extent of carrying official correspondences and drafting reports. 4. Knowledge in visual basic, oracle and web tech. with two years experience.	

	they will be eligible to draw increments after acquiring a degree in four years. 4. Typrewriting Higher grade in English and Tamil. 5. Diploma in Computer Applications.	
Assistant	1. B.Sc. (Comp. Sci) or BCA or PG Diploma in Comp. Applications. 2. Typrewriting Higher grade in Tamil and English 3. Knowledge of Tamil to	By promotion from the category of Junior Assistant/Steno Typist with four years of service.

5. Accordingly, the petitioner possessed the relevant qualifications for the promotional posts. In view of the proposal sent for service benefits, approval of local fund audit is necessary for disbursement of service

benefits, however, as per the local fund audit report, the petitioner was served with show-cause notice. That too, after a period of several years of his service and at the vague end of his carrier.

6. On instructions, Ms.H.Mary Sowmi Rexi, learned counsel for the third respondent submits that only on the basis of the local fund audit report, the petitioner was issued with show-cause notice and he was not allowed to retire from service.

7. In this regard, it is relevant to rely upon the judgment of the Division Bench of this Court in a batch of writ appeals in W.A.No.224 of 2023 and etc. batch dated 20.10.2023, where it is held as follows:

> *"21. The decision referred to above makes it clear as daylight that even if the state government is a body that funds the University, the state government cannot under the guise of auditing the accounts of the University, interfere with the internal administration of the University, which power of the University includes the power to make appointments as well as promotions. The*

other decision relied upon by the learned counsel for the appellants is Sushil Kumar Tripathi v. Jagadguru Ram Bhadracharya Handicapped University and Ors., [AIR 2021 SC 5702], wherein, in similar circumstances, under the UGC Plan, assurance was obtained from the University to maintain and take over the liability of these posts after the plan period of the UGC. The Hon'ble Supreme Court held that the termination of the services of the appellant therein was incorrect and therefore, his services were to be continued as per the UGC plan. Further, in identical circumstances, in R. Soranam v. Manonmaniam Sundaranar University, in WP (MD) No. 3935 of 2012 decided on 20.09.2012 in respect of the very same UGC XI plan, this Court taking into consideration the guidelines of the UGC, which had stipulated that in order to get grant from the UGC, it is for the University to file an undertaking with respect to maintenance of the posts after the UGC XI Plan period, held that the University cannot after having benefited under the UGC plan and utilising the funds and grants made by the UGC, wriggle out of such an undertaking as was required under *the guidelines of the UGC.*

22. The above judgements would make it clear that the third respondent had ignored this factual background as well as the circumstances in which the appellants claim to be appointed as Assistant Professors in the respondent University under the UGC plan, and more importantly, that it was beyond their power as well as jurisdiction under the Tamil Nadu Local Fund Audit Act, 2014 as well as under the Bharathiar University Act, 1981 to have raised objections with regard to the validity of the appointments made under the UGC XI Plan. This Court deprecates the practice of the third respondent of not accepting or settling the objections even after a period of 13 years, especially, when it is the annual accounts of the University which is to be looked into by the third respondent and to the extent as provided for, without causing any undue interference into the internal administration and management of the University. It is unfortunate that even after 13 years of service in the respondent University and after having completed probation as well as being promoted, the appellants are *made to face such audit objections with respect to their initial appointments itself, which hang like the sword of Damocles, on their careers. The audit objections therefore deserve to be quashed and the respondent University is directed to pay the appellants within four (4) weeks, the arrears of pay that they are entitled to on the basis of the CAS promotion orders, and the consequent pay fixation orders passed during the pendency of these appeals."*

8. Therefore, 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. Further, as per the show-cause notice, the salary of the petitioner was re-fixed and ordered to recover the excess payment, which was paid due to his promotions to various posts.

9. Recovering the excess, where the employee has wrongly been regarded to discharge duties of a higher post and has been paid accordingly, even though it should have rightfully been recovered to work against an inferior post shall not be made, that too, after a period of

several years.

10. In this regard, it is relevant to rely on the judgment of the Hon'ble Supreme Court of India in the case of State Of Punjab & Ors vs Rafiq Masih (White Washer) and Ors.1, wherein it is 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 1 (2015) 4 SCC 334 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.*
>
> *(iii) 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.

(iv) 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.

(v) 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."

11. Thus, it is clear that the Audit Department cannot interfere with the decision of the third respondent 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. Further, the petitioner has not been promoted on his false representation or any misrepresentation.

12. In view of the above, the order passed by the third respondent dated 31.05.2024 cannot be sustained and deserves to be quashed and accordingly, stands quashed. The third respondent is directed to allow the petitioner to retire from service on attainment of his superannuation, that is, on 31.05.2024 and disburse all the service and terminal benefits forthwith. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

14.11.2025

Neutral citation :Yes/No
Index:Yes/No
Speaking/Non speaking
Lpp

To

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

G.K.ILANTHIRAIYAN, J.

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