



WEB COPY

W.P.No.45892 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2025

CORAM:

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

W.P.No.45892 of 2025 and
WMP.Nos.51162 & 51163 of 2025

K.Gunasekaran

... Petitioner

Vs.

1.THE STATE OF TAMILNADU,
REP. BY ITS PRINCIPAL SECRETARY TO GOVERNMENT,
DEPARTMENT OF HIGHER EDUCATION, FORT ST. GEORGE,
SECRETARIAT, CHENNAI-600 009.
2.THE PERIYAR UNIVERSITY,
REP. BY ITS REGISTRAR, UNIVERSITY CAMPUS, PERIYAR
PALKALAI NAGAR, 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

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India
praying to issue a Writ of Certiorarified Mandamus calling for records of
the impugned order dated 30.03.2023 in P.No. PU/ R/ R6/ 00334/
23F70662/ 2023- 8 passed by the 2nd respondent and quash the same as



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being illegal and unsustainable in law and consequently direct the 2nd respondent to restore original fixation of scale of pay to the petitioner in the post of Section officer from the date of his appointment as per the proceedings of the 2nd respondent dated 04.01.2016 and pay all consequential service benefits along with arrears forthwith

For Petitioner : Mr.M.R.Jothimanian

For Respondents

For R1, 3 & 4 : Mr.M.R.Gokulkrishnan,
Additional Government Pleader

For R2 : Ms.I.Abisha Isaac
for M/s.Isaac Chambers

ORDER

This writ petition has been filed challenging the order dated 30.03.2023 in P.No. PU/ R/ R6/ 00334/ 23F70662/ 2023- 8 passed by the 2nd respondent and consequently to direct the 2nd respondent to restore original fixation of scale of pay to the petitioner in the post of Section officer from the date of his appointment as per the proceedings of the 2nd respondent dated 04.01.2016 and to pay all consequential service benefits along with arrears forthwith.

2. The issue involved in this writ petition has already been



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dealt with by this Court in WP.No.13716 of 2025 by order dated

11.11.2025, thereby the respondents therein were directed to disburse all the service benefits in the post of Section Officer. The relevant portion of the order is extracted hereunder:

“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



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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.

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 mis-representation 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



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

3. Therefore, the same order can be passed in this writ petition as well. Accordingly, the impugned order dated 30.03.2023 is quashed and this writ petition is allowed. The respondents are directed to disburse all the service and terminal benefits to the petitioner in the post of Section Officer, within a period of four (4) weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

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DEPARTMENT OF HIGHER EDUCATION, FORT ST. GEORGE,
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