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W.P.No.46696 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2025

CORAM:

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

W.P.No.46696 of 2025

and

W.M.P.Nos.52106, 52108 & 52109 of 2025

1.R. Kulandaivel
2.M.N.Nelson
3.S.Rajamanickam
4.D.Senthilkumar

...Petitioners

-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 Vice Chancellor,
Periyar University,
Salem - 636 011.

3.The Registrar,
Periyar University,
Salem - 636 011.

4.The Syndicate
Periyar University
Salem - 636 011

5.The Special Director
Directorate of Local Fund Audit Department,
Integrated Office Complex For Finance Department,
Nandanam, Chennai - 600 035.



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

7.The Assistant Director
Local Fund Audit Department
Salem Corporation Building Campus
Salem - 636 001.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records in impugned orders vide proceedings P.No.PU/R/R6/001754/23F69162/2023-2, P.No.PU/R/R6/001754/23F69162/2023-1, P.No.PU/R/R6/001754/23F69162/2023-4, P.No.PU/R/R6/001754/23F69162/2023-3 dated 30.03.2023 issued by the 3rd respondent, quash the same and consequently direct the 2nd and 3rd respondents to pay the salary and other emoluments in the scale of pay of Rs.15600 - 39100 + Grade Pay of Rs.5400 to the petitioners which they are entitled to as Section Officer.

For Petitioner : Mr.Naveen Kumar Murthy
for Ms.S.Varsha

For R1, R5 to R7 : Mr.M.R.Gokul Krishnan
Additional Government Pleader

For R2 to R4 : Mrs.Abisha Isaac for
M/s.Isaac Chambers

ORDER

This Writ Petition has been filed by the petitioners challenging the order passed by the third respondent dated 30.03.2023, thereby reverting the



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petitioners from the post of Section Officer to the post of Assistant and also ordered to recover the excess payment of salary.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. It is seen that a similar issue has already been dealt with by this Court in W.P.No.13716 of 2025. This Court, by an order dated 11.11.2025, allowed the writ petition and held as follows :

*“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



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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 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



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*in the post of Section Officer, within a period of four (4) weeks
from the date of receipt of a copy of this order.”*

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4. In view of the aforesaid order passed by this Court, the impugned orders passed by the third respondent cannot be sustained and are liable to be quashed and accordingly, the same are quashed. The respondents are directed to disburse all the service and terminal benefits to the petitioners in the post of Section Officer, within a period of four (4) weeks from the date of receipt of a copy of this order.

5. With the above direction, this Writ Petition stands allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

28.11.2025

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No
Lpp

G.K.ILANTHIRAIYAN, J.

The matter is listed today under the caption 'for being mentioned' in the Chamber at the instance of the learned counsel for the petitioners.



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2.The learned counsel appearing for the petitioners submitted that, in the order dated 28.11.2025, this Court has dealt with the issue arising in W.P.No.13716 of 2025, dated 11.11.2025, but, which is not a similar issue. He further submitted that W.P.No.45999 of 2025, dated 26.11.2025, pertains to the similar issue and that the same ought to have been incorporated in the order dated 28.11.2025. Therefore, he prayed for appropriate corrections.

3.In view of the said submission, paragraphs 3 to 5 of the order dated 28.11.2025 shall be substituted by the following paragraphs:

“3.It is seen that a similar issue has already been dealt with by this Court in W.P.No.45999 of 2025. This Court, by an order dated 26.11.2025, allowed the writ petition and held as follows:

*“6.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



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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



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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 a period of five years.

7. Further, as far as the promotions are concerned, the petitioner was no way responsible for the promotions granted by the second 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 second 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. 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 second respondent to grant promotions, since it has no power to raise any objections relating to any promotions.

8. In view of the above, the impugned



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orders passed by the second respondent cannot be sustained and are liable to be quashed and accordingly, stands quashed. The second respondent is directed 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 second respondent, dated 01.04.2010 and pay all consequential service benefits along with arrears forthwith within a period of four (4) weeks from the date of receipt of a copy of this order.”

4.In view of the above, the impugned orders passed by the third respondent cannot be sustained and are liable to be quashed and accordingly, stands quashed. The second and third respondents are directed to restore original fixation of scale of pay to the petitioners in the post of Section Officer from the date of their appointment and pay all consequential service benefits along with arrears forthwith within a period of four (4) weeks from the date of receipt of a copy of this order.

5.With the above observations and directions, this Writ Petition stands allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.”



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4. Registry is directed to carry out the aforesaid substitution and

issue corrected copy to the respective parties.

19.12.2025

ps

To

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

G.K.ILANTHIRAIYAN. J,

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28.11.2025