

W.A(MD) No.1637 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 01.07.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A(MD) No.1637 of 2025

and

C.M.P.(MD)No.9185 of 2025

1.The State of Tamil Nadu
Rep. by its Secretary to Government,
Home Department,
St.George Fort,
Chennai-9.

2.The Director (in-charge),
Forensic Sciences Department,
Kamarajar Salai,
Mylapore, Chennai-4.

... Appellants / Respondents

Vs.

M.S.Hameeda Begum

... Respondent / Writ Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order of this Court in W.P.(MD)No.18473 of 2016, dated 23.02.2023.



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For Appellants : Mr.Veera Kathiravan
assisted by
Mr.A.Kannan
Additional Government Pleader

For Respondent : Mr.M.Mohammed Zamil
for M/s.Ajmal Associates

JUDGMENT

(Judgment of the Court was made by **G.R.SWAMINATHAN, J.**)

The State is on appeal challenging the order dated 23.02.2023 allowing W.P.(MD)No.18473 of 2016 filed by the respondent herein. The respondent herein retired as Deputy Director in the Regional Forensic Science Laboratory, Madurai. She joined the said department as Scientific Assistant Grade-II on 02.06.1982. The promotional post was Scientific Assistant Grade-I. The respondent herein was promoted to the post of Scientific Assistant Grade-I on 10.09.1990 and then reverted as Scientific Assistant Grade-II on 16.07.1991. She was again promoted as Scientific Assistant Grade-I on 21.09.1991 and again reverted on 09.05.1992 and she was once again promoted as Scientific Assistant Grade-I on 11.09.1992.



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2. The only question that arises for consideration is the date on which the respondent can be conferred with selection grade in Scientific Assistant Grade-I post. The department had erroneously conferred selection grade on the writ petitioner in the said post with effect from 02.06.1995. This mistake was noticed by the audit department much later, virtually on the eve of her retirement. Hence, the order dated 12.09.2016 was passed by the Director, Forensic Science Department, Chennai not only refixing her pay but also ordering recovery to the tune of Rs.10,58,544/-. Challenging the said order, the respondent herein filed W.P.(MD)No.18473 of 2016. The writ petition was allowed by the learned single Judge on 23.02.2023. Challenging the same, this writ appeal has been filed.

3. Two questions that arises for reconsideration is

(I) Whether the Government was justified in directing recovery of the excess payment.

(II) What should be the cut off date for conferring the selection grade on the writ petitioner in the post of Scientific Assistant Grade-I.

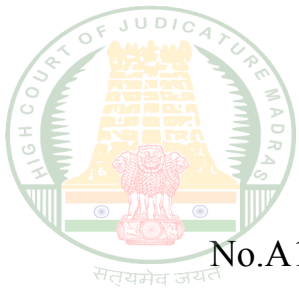


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4. As regards the first issue, there is no difficulty. The learned single Judge rightly applied the *White Washer Case* and held that recovery cannot be effected. The writ petitioner has already retired from service. The Hon'ble Supreme Court has held that recovery from a retired employee is impermissible in law. We therefore decline to interfere with this part of the order passed by the learned single Judge.

5. The learned counsel for the writ petitioner submits that due to some amalgamation of the departments, several anomalies arose and that is why, the Director of Forensic Science Department, Chennai vide proceedings dated 12.01.1999 notionally granted promotion to the writ petitioner in the post of Scientific Assistant Grade-I with effect from 02.06.1985 and that is how, the selection grade came to be conferred to her with effect from 1995. He fairly inform us that these proceedings were quashed by the State Administrative Tribunal and it was also confirmed by the Hon'ble Division Bench. Be that as it may, according to the learned counsel, in view of the proceedings of the Director of Forensic Science Department, Chennai, issued vide proceedings



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No.A1/42200/2006-O.O.No.194/2006, dated 25.10.2006, the writ petitioner was regularised in the post of Scientific Assistant Grade-I with effect from 30.08.1990 and therefore, the cut off date for conferring selection grade should be 30.08.2000. Though this argument is attractive, we are not inclined to accept the same.

6. As rightly pointed out by the learned Additional Advocate General, the proceedings dated 25.10.2006 was issued with the sole purpose of fixing seniority alone and not for any monetary benefits. We are able to notice that these proceedings dated 25.10.2006 came to be issued in order to resolve all the anomalies in the wake of the Tribunal's decision. It is a fact that the writ petitioner was reverted to the post of Scientific Assistant Grade-II atleast twice in 1990 as well as 1991. She was finally promoted as Scientific Assistant Grade-I only on 11.09.1992. Therefore, it is this date that should be taken as the reckoning date. Viewed in that perspective, only with effect from 11.09.2002, the writ petitioner could have been conferred with the selection grade.



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7. We are of the view that the learned single Judge erred in setting aside the refixation order also. To this extent, the order of the learned single Judge warrants interference. The benefits payable to the writ petitioner shall be settled by the appellant within a period of twelve weeks from the date of receipt of a copy of this order. The only reason why we decline to interfere with the order forbidding recovery is that the writ petitioner cannot be said to be guilty of any misrepresentation and there have been two many litigations in this case. The Writ Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) (K.R.S., J.)
01.07.2025

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