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W.P.(MD) No.9478 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.9478 of 2021

and

W.M.P.(MD) No.7206 of 2021

P.Mariappan

... Petitioner

-vs-

1.The Registrar
Gandhigram Rural Institute
Gandhigram
Dindigul District
Tamil Nadu-624 302

2.The Registrar
Shri Lal Bahadur Shastri
National Sanskrit University
B-4, Qutub Institutional Area
New Delhi-110 016

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus to direct the respondents 1 and 2 to revert back their recovery orders in vide letter Ref. Est.5/Deputation/2021-22/42 dated 21.04.2021 of the first respondent Gandhigram Rural Institute and in vide



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office order bearing No. F.1(294)/LBSV/Admn./2006/813 dated 12.03.2021 of the second respondent Shri Lal Bahadur Shastri National Sanskrit University based on the petitioner's representations dated 29.04.2021 and 02.05.2021 to the both respondents within a stipulated time.

For Petitioner : Mr.P.Murugadasan

For Respondents : Mr.Ma.P.Thangavel
Standing Counsel for R1
Mr.Vibhakar Mishra
for M/s.B.Saravanan Associates
Standing Counsel for R2

ORDER

This writ petition has been filed for a mandamus seeking for a direction to the respondents to revert back the recovery orders dated 21.04.2021, issued by the first respondent – Institute, and 12.03.2021, issued by the second respondent – University.

2. The grievance of the petitioner is that the advance increments granted to him while he was in service have been withdrawn under the aforementioned recovery orders issued by the respective respondents arbitrarily and illegally.



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3. A counter affidavit has been filed by the second respondent – University denying the contentions of the petitioner. The second respondent – University, in the counter affidavit, would contend as follows:

- (a) The writ petition filed by the petitioner is not maintainable before this Court, since the cause of action arose only at New Delhi, wherein the second respondent – University is having its office. According to the second respondent – University, being a Central University under the administrative control of the Ministry of Education, Government of India, situated at New Delhi, this writ petition filed before this Court is not maintainable. They would also contend that the entire cause of action arose only at New Delhi pursuant to the office order dated 12.03.2021 of the second respondent – University, which is based on the audit report dated 20.03.2017. According to them, the entire cause of action arose only at New Delhi and



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hence, this writ petition is not maintainable before this Court.

- (b) Only based on the audit objections, the advance increments granted to the petitioner earlier erroneously were withdrawn. Having not challenged the audit report and for not arraying the necessary party, namely, the Director General (Audit) as a party respondent, this writ petition is not maintainable.

4. Learned Standing Counsel appearing for the first respondent – Institute also raised the very same objections that were raised by the second respondent – University through their counter. In addition to that, he would submit that only on deputation by the second respondent – University, the petitioner was working in the first respondent – Institute. He would also submit that even prior to the date of superannuation of the petitioner, proceedings were initiated by the respondents to recover the advance increments made to the petitioner erroneously by the second respondent – University.



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5. The law is now well settled by the decision rendered by the Honourable Supreme Court in the case of ***State of Punjab and others vs. Rafiq Masih (White Washer) and others***, reported in ***(2015) 4 SCC 334***, wherein, it has been held that recovery from the retired employees, or the employees who are due to retire within one year of the order of recovery, is legally impermissible.

6. In the case on hand, admittedly, the petitioner has retired from service after reaching the age of superannuation. The petitioner retired from service on 21.05.2021, whereas the recovery orders issued to him by the respective respondents on 21.04.2021 and 12.03.2021, which are within the period of one year prior to the date of the petitioner's retirement. Therefore, decision rendered by the Honourable Supreme Court, referred to supra, squarely applies to the case of the petitioner. Therefore, even in cases where erroneously excess payments were made to the employee while he was in service, the same cannot be recovered after his retirement or within one year from the date of superannuation. The defences raised by the respective respondents before this Court are only technical defences. The Courts are



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there to render justice to the parties, who deserve the same in accordance with law. The Courts cannot break the law, but can bend the law to render justice. Though the relief sought for by the petitioner before this Court is only for a mandamus without challenging the objections raised by the Director General (Audit) or without challenging the recovery orders issued by the respective respondents, this Court cannot ignore the well settled law rendered by the Honourable Supreme Court referred to supra, wherein it has been made clear that recovery from the retired employees is impermissible under law. In view of the same, the objections raised by the respective respondents before this Court, which are only technical objections, are summarily rejected. This Court is, therefore, inclined to grant the relief as prayed for by the petitioner, which is in accordance with the law laid down by the Honourable Supreme Court in **White Washer's** case, referred to supra.

7. Accordingly, this Court directs the respondents to revert back their recovery orders dated 21.04.2021 and 12.03.2021, issued to the petitioner, and they are restrained from recovering the advance increments earlier made to the petitioner erroneously. Accordingly, this writ petition is allowed as prayed for. The objections raised by the Director General (Audit),



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at this stage that too only on 28.10.2020 is uncalled for, since the advance increments are said to have been paid to the petitioner erroneously in the year 2006 itself. No costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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ABDUL QUDDHOSE, J.

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