



W.A.(MD).No.1798 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 30.06.2025

CORAM

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

**W.A.(MD).No.1798 of 2025
and
C.M.P.(MD).No.10168 of 2025**

Tamil University,
Represented by its Registrar,
Thanjavur – 613 006.

... Appellant/2nd Respondent

Vs.

1.G.Swaminathan

... 1st Respondent/Petitioner

2.Government of Tamil Nadu,
Represented by its Secretary,
Tamil Development and Information Department,
Fort St.George,
Chennai – 600 009.

... 2nd Respondent/1st Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 06.10.2023 in Rev.Aplw(MD)No.62 of 2023 in WP(MD)No.3061 of 2017.



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For Appellant : Mr.M.K.Sachin Rahul
for M/s.C.Arulvadivel Associates
For R-1 : Mr.T.B.Cibi Chakraborty
For R-2 : Mr.J.Raveendran
Additional Advocate General
assisted by Mr.N.Satheesh Kumar
Additional Government Pleader

JUDGMENT

(By G.R.SWAMINATHAN, J.)

This Writ Appeal has been filed by the Tamil University questioning the order dated 06.10.2023 made in REV.APLW.(MD).No.62 of 2023.

2.We heard the submissions made by the learned Standing Counsel for the University, the learned Additional Advocate General for the State Government as well as the learned counsel for the writ petitioner.

3.The writ petitioner, Thiru.G.Swaminathan was appointed as a Technical Assistant (Electrical Supervisor) in Tamil University on 21.02.1990 on daily wages. His appointment was regularised vide order dated 10.01.1991. The syndicate in the meetings held on 03.08.1996 and 06.12.1996 passed resolution



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to give person oriented promotion to 7 Technical Assistants including the writ

petitioner. Based on the said resolutions, the Registrar, Tamil University issued

proceedings dated 27.12.1996 granting person oriented promotion to the writ

petitioner as Technician (Electrical Maintenance) with effect from 01.10.1996.

The writ petitioner continued to languish in the said post without any further

promotion. The representations sent by him were of no avail. Left with no

other option, he filed WP(MD)No.3061 of 2017 seeking conferment of

selection grade and special grade in the post of Technician on completion of 7

years and 14 years respectively as per the time bound promotion scheme

approved by the Syndicate in its meeting held on 03.08.1996 and for payment

of monetary and other consequential benefits. The employer filed counter

affidavit. It was stated therein that the writ petitioner was given promotion on

condition that it was subject to government's approval and that this approval

never came. That is why, there was an audit objection and recovery to the tune

of Rs.5,67,658/- was ordered to be effected. After considering the rival

contentions, the learned Single Judge vide common order dated 21.11.2022

dismissed the writ petition in the following terms :



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7. The issue of granting selection grade and special bread after completion of 7 years and 14 years in the Universities were considered in the case of Bharathidasan University, Manonmaniam Sundaranar University and Tamil University. In several cases, this Court has repeatedly held that granting of selection grade and special grade can be granted only after completion of 10 years and 20 years. If the University is passing such a resolution then the University cannot seek any financial aid from the Government to pay selection grade and special grade. The Universities are repeatedly passing such resolutions and creating complicated problems for both Government as well as employees.

8....

9. In the present case, the selection grade was granted based on the resolution of the Syndicate, however, the University has granted the same with a condition that the same is subject to the approval of the Government as well as the Audit Department. When such undertaking was given, the case would come under the principles laid down in High Court of Punjab and Haryana and others Vs Jagdev Singh reported in 2016 (14) SCC 267, wherein it has been held that the officer to whom the payment was made in the first instance was clearly placed on notice that any payment found to have been made in excess would be required to be refunded, then the respondents have power to pass recovery order. Therefore, the Universities are empowered to recover the same. Therefore, the petitioners in the writ petitions



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have not raised any legally sustainable grounds. The writ petitions are rejected.

10. The respondents are directed to recover the said amount as per the audit objection. However, the respondents shall grant installments to the petitioners for repaying the same. At this juncture, the learned Senior Counsel appearing for the petitioners in all the writ petitions submitted that because of this pendency of this issue, the respondents have not granted selection grade even after completion of 10 years. Therefore, the respondents are directed to grant selection grade after completion of 10 years and the same shall be paid to the petitioners within a period of six weeks from the date of receipt of a copy of this order.

11. This Court with great concern is observing that the Universities cannot pass any resolution beyond its power, especially, where it has implications on the Government Exchequer. Before passing such a resolution which has implications on the Government Exchequer, the University ought to have taken prior permission from the Government. More so, it is depending upon the financial assistance from the Government. If such prior permission is obtained, the present complication would have been avoided.”

Aggrieved by the same, the writ petitioner filed Rev.Aplc(MD)No.62 of 2023.

It was pointed out that in the audit objection, no specific ground had been urged



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against the writ petitioner. It was further contended that the entire counter affidavit was more on conferring selection grade and special grade and that the petitioner had only received the salary attached to the promotional post of Technician.

4.In response to the review application, the employer filed counter affidavit and contended that granting promotion to the post of Technician was not in order. The government had constituted Kulandaisamy Committee to review the organisational structure and based on its recommendations G.O (Ms) No.96 dated 09.10.1998 was issued. This G.O was subsequently amended vide G.O (Ms) No.284, Tamil Development Endowments and Information Department dated 16.09.2009. The effect of these two G.Os is that the Government had accorded its sanction for creation of 222 ministerial posts. The post of Technician is not one among the said 222 posts. It is for this reason, direction was given for recovering the excess pay given to the writ petitioner.

5.The learned Single Judge allowed the review application vide order dated 06.10.2023. Aggrieved by the same, this writ appeal has been filed. The learned counsel appearing for the appellant University contended that the



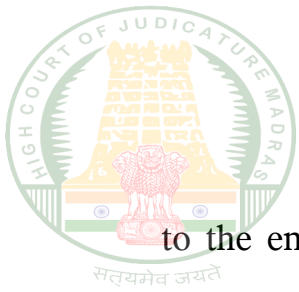
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University is run only by the grant given by the Tamil Nadu Government. The

University is therefore bound by the rules of the State Government. The writ petitioner was appointed as Technical Assistant in the year 1990. Granting him time bound promotion as Technician which was not a sanctioned post was illegal. In fact, promotion was granted to the writ petitioner only after obtaining an undertaking that in case of audit objection, the excess amount would be recovered. In this case, there was audit objection and that is why, recovery was ordered. He called upon this Court to set aside the order of the learned Single Judge.

6.Per contra, the learned counsel appearing for the writ petitioner submitted that the impugned order is well reasoned and that it does not call for interference.

7.We carefully considered the rival contentions and went through the materials on record. It is true that the post of Technician is not one of the 222 sanctioned posts set out in G.O (Ms)No.284 dated 16.09.2009. But this post is specifically enumerated in the University statutes. The writ petitioner has only been promoted to a post that finds specific mention in the University statutes. The writ petitioner had served the University since 1990 till 2022. If according



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to the employer, the writ petitioner was wrongly promoted as Technician, he ought to have been reverted as Technical Assistant at the appropriate time. That was not done. On the other hand, the University took up cudgels on behalf the employee and entered into a protracted correspondence with the government. Now that the writ petitioner had retired from service, the question of reverting him to the post of Technical Assistant will not arise at all. The matter has become infructuous as far as the writ petitioner is concerned.

8.The writ petitioner is not guilty of any misrepresentation. He was promoted on the basis of a Syndicate resolution. The Syndicate cannot be said to have acted arbitrarily. It had taken inspiration only from the statutes of the University. If the University had sufficient wherewithal on its own, the writ petitioner would be justified in demanding selection grade and special grade in the post of Technician. There was nothing inherently illegal or even irregular about the grant of promotion to the post of Technician in favour of the writ petitioner. It very much fell within the jurisdiction of the syndicate. The syndicate is the final authority as per the statute. It is only because of the poor financial status of the University, the whole issue has arisen. At the same time, the Government ought not to fail to take note of the fact that the University is its own creation and the writ petitioner had served the university for more than



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three decades. The Government ought to treat the case on hand as something special and give a quietus by treating the writ petitioner as a regular Technician.

Considering the fact that the post was not sanctioned by the Government, the writ petitioner had stated that he would not insist on conferment of selection grade and special grade.

9. Taking into account the foregoing reasons, this writ appeal is disposed of in the following terms :

(i) No recovery will be effected from the writ petitioner's terminal benefits;

(ii) The writ petitioner relinquishes his claim for selection grade or special grade in the post of Technician;

(iii) The writ petitioner's pensionary benefits will be fixed by taking into account his last drawn pay;

(iv) The direction for investigation set out in paragraph 17 of the order passed in REV.APLW.(MD).No.62 of 2023 dated 06.10.2023 is set aside;

(v) The adverse observations made in paragraph 16 of the impugned order are expunged.

(vi) The pension disbursing authority and other competent authorities will settle the monetary benefits payable to the writ petitioner within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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There shall be no order as to costs. Consequently, connected miscellaneous

petition stands closed.

(G.R.S.,J.) (K.R.S.,J.)
30.06.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

SKM

Note : Issue order copy on 20.08.2025

To

The Secretary,
Government of Tamil Nadu,
Tamil Development and Information Department,
Fort St.George,
Chennai – 600 009.



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