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W.A.(MD)NO.369 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2026

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MRS.JUSTICE R.KALAIMATHI

W.A.(MD)Nos.369 & 370 of 2022 and
C.M.P.(MD)No.3745 & 3746 of 2022

Dr.I.K.Manonmani

... Appellant / Petitioner
in W.A.(MD)No.369 of 2022

Dr.A.Balasubramani

... Appellant / Petitioner
in W.A.(MD)No.370 of 2022

Vs.

1. The Registrar,
Madurai Kamaraj University,
Palkalai Nagar, Madurai,
Madurai District.

2. The Deputy Director of Local Fund Audit,
Madurai Kamaraj University,
Palkalai Nagar, Madurai,
Madurai District.

... Respondents / Respondents
in both W.As.

Common Prayer: Writ appeals filed under Clause 15 of Letters Patent Act, to set aside the order passed by the learned Judge in W.P. (MD)Nos.22981 & 22982 of 2021 dated 14.03.2022 and allow the writ appeals as prayed for.



(in both W.As.)

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For Appellant : Mr.B.Saravanan,
Senior counsel,
for M/s.B.Saravanan Associates.

For Respondents : Mr.K.Ragadheesh Kumar,
Standing counsel for R-1.
Mr.A.Baskaran,
Additional Government Pleader for R-2.

* * *

COMMON JUDGMENT

Heard the learned Senior counsel appearing for the appellants and the learned Standing counsel appearing for Madurai Kamaraj University and the learned Additional Government Pleader appearing for the second respondent.

2. The appellants joined Madurai Kamaraj University as Technicians on 14.02.1991 and 13.01.1992 respectively. This post was subsequently redesignated as Technical Officer. When open competition was held in the year 2013 for recruitment to the post of Assistant Professor in the disciplines of Geography and Zoology, the appellants herein participated and turned out to be successful. I.K.Manonmani was appointed as Assistant Professor of Geography and A.Balasubramani was appointed as Assistant Professor of



Zoology. On account of the syndicate resolution passed on 04.06.2018, the appellants enjoyed pay protection. While so, vide proceedings dated 29.04.2021, the appellants were informed that their pay was wrongly fixed. Accordingly, their pay was refixed and the amounts of Rs.32,08,479/- and Rs.30,56,627/- respectively were also ordered to be recovered from each of the appellants. Since this order was passed without putting the appellants on notice, the appellants filed W.P.(MD)Nos.9349 and 9352 of 2021. Both the writ petitions were allowed by vide order dated 05.05.2021 and the matter was remitted to the University for fresh consideration. Thereafter, the matter was reconsidered and after putting the appellants on notice, the earlier position was reiterated vide proceedings dated 25.11.2021. Challenging the same, the appellants filed W.P.(MD)No.22981 and 22982 of 2021. The learned single Judge dismissed the writ petitions vide order dated 14.03.2022. Questioning the same, these writ appeals have been filed.

3. Before the learned single Judge, the appellants relied on the provisions set out in Chapter No.24 Clause 11(a)(i)(a) of the Madurai Kamaraj University statute. It reads as follows:-



“The initial pay of a University servant who is appointed to a post on a time-scale of pay shall be regulated as follows:-

(a) The initial substantive pay of a University servant who is appointed substantively to a post on a time-scale shall be regulated as follows:-

(i) If he holds a lien on a permanent post,

(a) when appointment to the new post involves the assumption of duties or responsibilities of greater importance than those attaching to such former post, he shall be entitled to draw as initial pay, the stage of the time scale next above his substantive pay in respect of the old post.”

4. Obviously, the aforesaid provision has no application whatsoever to the case on hand. The appellants were working as Technical Officers. They were directly recruited as Assistant Professors. They ceased to have any lien on the earlier post of Technical Officers held by them. Therefore, the learned single Judge rightly held that the aforesaid provision cannot be invoked. The learned Senior counsel submitted that this Court should invoke Clause 11(a)(ii) which reads as follows:-

“(ii) Should the conditions prescribed in clause (i) be not fulfilled, he shall draw as initial pay



the minimum of the time-scale; provided that both in cases covered by (i) and (ii) should he have previously held substantively a post or officiated in the same post or a permanent or temporary post on the same time-scale, the initial pay shall not be less than the pay other than special pay which he drew on the last such occasion, and the period during which he drew that pay on such last and previous occasion shall count for increment."

5. This contention appears to be having considerable force. But then, it will come to the appellants' rescue only if it is shown that the post originally held and the post to which they have been substantively appointed are in the same time scale of pay. It is submitted by the learned Standing counsel for the University that while the post of Technical Officer carries time scale of pay of Rs. 9,300-Rs.34,800+Grade Pay Rs.4,600/-, the post of Assistant Professor carries time scale of pay of Rs.15,600-Rs.39,100+ Grade Pay Rs.6,000/-. The time scales of pay are not one and the same. Hence, the aforesaid Clause 11(a)(ii) cannot be pressed into service by the appellants.

6. We therefore have no hesitation to uphold the order of the learned single Judge to the extent sustaining the refixation order. The



next question that calls for consideration is whether recovery was rightly made. Admittedly, the appellants cannot be said to be guilty of any kind of misrepresentation. In fact, the Syndicate Resolution appears to be favouring them. However in view of the objection raised by the Local Fund Audit, the issue was revisited. In these circumstances, directing recovery to the tune of Rs.30 Lakhs each would be iniquitous and harsh to the appellants. The Hon'ble Supreme Court in the decision reported in AIR 2015 SC 696 (State of Punjab & Ors etc. Vs. Rafiq Masih (White Washer)), 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.

(iii) 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.

(iv) 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.

(v) 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."

7. The learned Standing counsel for the University relied on the decision of the Hon'ble Supreme Court reported in **2016 (14) SCC 267 (High Court Of Punjab & Haryana Vs. Jagdev Singh)** contended that since undertaking given by the employee concerned, **White Washer** case cannot be invoked. But then, paragraph No.11 of the said decision reads as follows:-

"11 The principle enunciated in proposition (ii) above cannot apply to a situation such as in the present case. In the present case, 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. The officer furnished an undertaking while opting for the revised pay scale. He is bound by the undertaking.”

8. As already been mentioned, this undertaking can be put against the employee only when the proposition (ii) of the **White Washer** case is invoked. The case on hand is covered by proposition (v). Therefore, the undertaking given by the employee cannot be relied on by the employer.

9. In this view of the matter, the order for recovery is set aside. The order passed by the learned single Judge is modified and these writ appeals are partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.SWAMINATHAN, J.) & (R.KALAIMATHI, J.)
2nd February 2026

NCC : Yes / No
Index : Yes / No
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To:

The Deputy Director of Local Fund Audit,
Madurai Kamaraj University,
Palkalai Nagar, Madurai,
Madurai District.



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