



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.16061 to 16063 of 2020
and W.M.P.Nos.20001,20002, 20005,
20006, 20010 and 20011
(Through Video Conferencing)

W.P.No.16061 of 2020

- 1.R.Rajasekaran
- 2.R.Manimekalai
- 3.E.Sumathi
- 4.N.Balakrishnan
- 5.R.P.Soundarajan
- 6.V.R.Saminathan
- 7.V.Saravanakumar
- 8.M.Shanthasheela
- 9.K.Sathiyabama
- 10.A.Janaki Rani
- 11.M.Ramasubramanian
- 12.B.Jeberlin Prabina
- 13.R.Subhashini
- 14.N.Seenivasan
- 15.R.Renuka
- 16.P.Muraliarthanari
- 17.B.Bakiyathusaliha
- 18.V.Manivannan
- 19.N.K.Sathiyamoorthy
- 20.G.Guru
- 21.M.Joseph
- 22.N.Thavaprakash
- 23.S.D.Sivakumar

... Petitioners

W.P.No.16062 of 2020

- 1.N.Vadivel
- 2.R.Veeraputhiran
- 3.M.Vijayakumar
- 4.S.Somasundaram
- 5.C.Umameswari
- 6.V.Ravichandran
- 7.D.Vijayalakshmi
- 8.K.Sivasubramanian



9.P.T.Ramesh
10.A.Bharani
11.P.Geetha
12.G.Sashidevi
13.P.S.Geetha
14.R.Vijayalakshmi
15.R.Jude Sudhagar
16.C.Indu Rani
17.P.Aruna
18.V.Krishnamoorthy
19.L.Nalina
20.K.R.Rajadurai
21.V.Rajasree
22.C.Subesh Ranjith Kumar
23.R.Sudhagar
24.N.Anandaraj

.. Petitioners

W.P.No.16063 of 2020

1.S.Anbumani
2.M.Madhan Mohan
3.S.Lakshmi Narayanan
4.M.Vaithiyalingam
5.R.Chandirakala
6.R.Manimaran
7.P.Arutchenthil
8.D.Malarvizhi
9.A.Yuvaraja
10.P.Renukadevi
11.Manoranjitham S.K
12.E.Rajeswari
13.G.Thiribhuvanamala
14.C.Ushamalini
15.R.Mahendiran
16.A.Kamaraj
17.K.Malarkodi
18.S.Lakshmi
19.G.Sasthri
20.K.M.Sellamuthu
21.R.Jagadeeswaran
22.D.Jagadeeswari
23.M.Elayarajan

.. Petitioners

vs.

1. State of Tamil Nadu
Represented by its Secretary,
Department of Agriculture,
Fort St.George,
Chennai 600 009.



2. The Tamil Nadu Agricultural University,
Represented by its Registrar,
Lawley Road, P.N.Pudur,
Coimbatore 641 003.

.. Respondents in all W.Ps.

Prayer in all W.Ps.:— Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to count the services of the petitioners on the temporary basis from their initial date of appointment till the date of regularization dated 01.06.2006 for the purpose of conferment of Career Advancement Scheme (pursuant to the Proceedings No.R3/14062/2020 dated 19.10.2020) and pension benefits accordingly refix the salaries of the petitioners with all monetary and service benefits from the date of Career Advancement to the next cadre.

For Petitioners : Mr.Dakshayani Reddy
(in all W.Ps.)

For R1 : Mr.L.S.M.Hasan Fizal
Government Advocate.

For R2 : Mr.Vijay Meganath for
Ms.Abdul Saleem

C O M M O N O R D E R

The petitioners were one among the 135 persons who were appointed as Teaching Assistants along with 87 Assistant Professors pursuant to a notification dated 16.9.2004 whereby the applications were called for filling up of the aforesaid vacancies of 222 (135+87).

2. The qualification and the selection procedure for appointing Assistant Professors and Teaching Assistants were one and the same. The application also made it clear that a single application would suffice for both the post of the Assistant Professors and Teaching Assistants. About 87 persons were appointed as Assistant Professors while 135 persons as Teaching Assistants by the 2nd respondent University. Later the services of 131 Teaching Assistants of the 134 who were selected and regularised with effect from 1.6.2006 in terms of G.O.Ms.No.21 Agriculture (AU) Department dated 25.1.2007.

3. It is the case of the petitioners that they have been making repeated representations for regularising their appointment from the initial date of appointment of 87 Assistant Professors as the petitioners were appointed as Teaching Assistants only on account of lack of vacancies and budgetary



constraints during 2004 expressed by the Government. The petitioners are some of the persons who were appointed as Teaching Assistants.

4. It is submitted that the Board of Management of the Respondent University in its proceedings dated 26.11.2007 also has taken a decision to regularise the services of the petitioners from the date of their original appointment and a suitable proposal has been sent to the Government for consideration and issuance of appropriate orders.

5. It is submitted that the 2nd respondent University is under the control of Indian Council for Agricultural Research (ICAR.). It is submitted that ICAR has taken a decision to implement the Career Advancement Scheme for the Staffs of a Agricultural University. It is further submitted that the Government of Tamil Nadu has also issued G.O.Ms.No.270, Agriculture (AU) dated 8.10.2001 for implementing the revised guidelines for the implementation of the Career Advancement Scheme in conformity with the guidelines issued by ICAR.

6. It was submitted that though the petitioners, where given Career Advancement, it has been given only from 1.6.2006. It is submitted that the petitioners have satisfied the requirement of Indian Council of Agricultural Research that for the purpose of being absorbed as Teaching Assistant, their selection should have been by a Selection Committee and should have continued without any break. It is submitted that the petitioners have satisfied all the conditions.

7. The learned counsel for the petitioner has drawn attention to para nos.12 to 15 of the decision of this Court vide order dated 01.08.2013 in W.P.No.3012 of 2008, which reads as under:-

12. With regard to the argument of the learned Senior counsel for the petitioner that the respondent, by passing the impugned order had given the promotion to the post of Reader only with effect from 01.04.2004 instead of 05.08.1998, it is relevant to extract UGC guideline under Career Advancement Scheme for promotion to the post of Reader and the same is stated below:

"READER (Promotion)

A lecturer in the Senior scale will be eligible for promotion to the post of Reader if she/he has:



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- i. Completed 5 years of service in the senior scale.
- ii. Obtained a Ph.D., degree or has equivalent published work;
- iii. Made some mark in the areas of scholarship and research as evidenced by self-assessment, reports of referees, quality of publications contribution to educational innovation, design of new courses and curricula and extension activities.
- iv. After placement in the senior scale participated in two refresher courses / summer institutes of approved duration, or engaged in other appropriate continuing education programmes of comparable quality as may be specified or approval by the UGC; and
- v. Possesses consistently good performance appraisal reports. Promotion to the post of Reader will be through a process of selection by a selection committee to be set up by the appointing authorities".

13. From the above said guideline of the UGC, it is clear that for the promotion to the post of Reader, one should have completed five years of service in senior grade of Lecturer. Admittedly, in the present case, as stated above, the petitioner was appointed as Project Officer on 05.08.1989, which is equivalent to the post of Lecturer and thereafter, he was also granted Senior Grade Scale with effect from 05.08.1994 and this was even admitted by the petitioner in his representation sent to the Registrar of Madras University on 03.01.2007. Therefore, he was eligible to be considered for the post of Reader from 05.08.1999, as per the Guidelines of the UGC for promotion to the post of Reader, whereas the respondent University had given promotion to him to the post of Reader only with effect from 01.04.2004. In view of these admitted facts, the claim of the petitioner seeking to give him the promotion to the post of Reader with effect from 05.08.1999, but not from 05.08.1998, cannot be refused.



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14. Further, it is settled law that all the services rendered, whether it is temporary or regular in the same institution or even in other Colleges, are eligible to be counted for promotion, therefore, there is no justification in refusing to count the services rendered by the petitioner from 05.08.1989 to 01.04.1995 for the purpose of promotion to the post of Reader under Career Advancement Scheme, especially, when two years of temporary service of Dr.Mrs.NazeemAkthar rendered in Voluntary Agency State Resource Centre for Non Formal Education also was taken into consideration for promotion.

15. Almost in a similar circumstances, the Hon'ble Division Bench of this Court in W.Suryapushpam v. The Government of Tamil Nadu (W.P.No.31244 of 2004, dated 20.09.2007), while dealing with the modification of the date of regularisation of service of a Government Servant, held that once the service of any person is regularised at an early date by any proceeding, the same cannot be modified without affording any opportunity of hearing to the aggrieved person, as it is prejudicial to the interest of the same person. Admittedly, in this case, when the respondent University has regularised the service of the petitioner in the post of Project Officer on 05.08.1989 in Population Education Resource Centre and subsequently, his probation was also declared on 04.08.1991, the action of the respondent University in re-designating the post of the petitioner as Project Officer-cum-Lecturer with effect from 01.04.1995 and again absorbing him in the post of Project Officer on 01.04.1997, is neither tenable nor justifiable, for the reason that the period of qualified and confirmed service from 05.08.1998 to 01.04.2004 would go in vain.

8. The learned counsel for the petitioners submits that the above guidelines of UGC are para-materia to the ICAR guidelines. It is therefore submitted that since the petitioners were one among the 135 persons who were appointed as Teaching Assistants along with 87 Assistant Professors pursuant to a notification dated 16.9.2004 whereby the applications were called for filling up of the aforesaid vacancies of 222 (135+87), they are entitled to the benefits.



9. The learned counsel also referred to the decision of the Rajasthan High Court at Jodhpur in the case of Rajasthan Agricultural University, Bikaner Now known as Swami Keshwanand Rajasthan Agriculture University, Bikaner, Through its Registrar, (SKRAU), Bikaner (raj.) vs. Dr.Mohan Lal Gupta and 8 others, D.B.Spl.Appeal Writ No.56 of 2017 wherein the appeal filed by the University dismissed by following the decision of the Hon'ble Supreme Court in the State of Rajasthan and another vs. Milap Chand Jain & Another, (2013) 14 SCC 562, which reads as under:-

4. Accordingly, this writ petition is also allowed in the light of the co-ordinate Bench decision of this Court in Anuradha Shirvastava's case (supra). The respondents are directed to take into consideration the period for which the petitioners rendered service in adhoc/temporary capacity before their regular selection on the post of Assistant Professor while determining their eligibility for the grant of Senior/Selection Scale under Career Advancement Scheme. The needful shall be done and the consequential benefits shall be granted to the petitioners by the respondents within a period of three months from the date of receipt of certified copy of this order. No order as to costs."

10. It is submitted that the qualification and the selection procedure for appointing Assistant Professors and Teaching Assistants were one and the same and the application also made it clear that a single application would suffice for both the post of the Assistant Professors and Teaching Assistants. About 87 persons were appointed as Assistant Professors with the 2nd respondent University.

11. Later the services of 131 Teaching Assistants which included the petitioners were regularised with effect from 1.6.2006 in terms of G.O. Ms.No.21 Agriculture (AU) Department dated 25.1.2007. It is the case of the petitioners that they have been making repeated representations for regularising their appointment from the initial date of appointment of 87 Assistant Professors as the petitioners were appointed as Teaching Assistants only on account of lack of vacancies and budgetary constraints during 2004 expressed by the Government.

12. No counter has been filed by 1st respondent. The 2nd respondent in their counter have stated that the Tamil Nadu Agricultural University sent a proposal to the Government vide its letter dated 21.07.2004 for filling up of the 222 vacant posts of Assistant Professors in Tamil Nadu Agricultural



University on the basis of sub-committee's report approved by the Board of Management.

13. Thereafter, the said Agricultural University took a decision to fill up 87 posts under aided projects out of 222 posts on a Regular Time Scale basis and the remaining 135 vacancies under State Government were to be filled up on a tenurial basis as "Teaching Assistants" on a consolidated salary of Rs.8,000/- per month. Thus, the following guidelines were issued:

a) Filling up of 87 vacant posts of Assistant Professors in the scales of pay of Rs.8000-275-13500 in respect of externally aided projects is allowed, subject to condition that the posts have to be terminated as and when the external aid is stopped.

b) Filling up of 135 vacant posts with Teaching Assistants, with a consolidated pay of Rs.8000/- (Rupees eight thousand only) is allowed on a tenurial basis for a period of two years. After a period of two years the "Teaching Assistants" may be appointed on regular basis against the vacancies arising on account of retirement at the level of Assistant Professors in the pay scale of Rs.8000-275-13500.

c) The University shall take necessary action in accordance with the statutory provisions to fill up the vacancies. The qualification and other norms shall as prescribed by the University Grants Commission, ICAR and the following Tamil Nadu Agricultural University Statutory provisions:

i) Master's Degree in relevant subject with atleast 55% i) of marks and good academic record.

ii) Should have qualified in comprehensive test NET.

iii) Candidates with Ph.D., degree may be preferred.

d) The Rule of Reservation and Rule of recruitment and other norms as per Government Orders in force to be scrupulously followed in addition to the procedures being followed in Tamil Nadu Agricultural University.

14. The learned counsel for the 2nd respondent further stated that the proposal sent by the Registrar, Tamil Nadu



Agricultural University, Coimbatore, the Government after careful examination decided to accept the proposals sent by the Registrar, TNAU, Coimbatore vide letter dated 24.08.2004.

15. The learned counsel for the 2nd respondent further submitted that the Government in their policy had decided to give employment to three lakhs people and also to bring the teachers on consolidated pay on regular basis as they were attending to teaching, research and extension activities in the Tamil Nadu Agricultural University (TNAU) had requested that the case of Teaching Assistants may be considered favourably for regular appointment as Assistant Professor in the time scale of pay Rs.8,000-275-13500 from the date of joining as Teaching Assistants.

16. The Government scrutinized the proposals of the Registrar, TNAU, Coimbatore and issued G.O.Ms.No.21 Agricultural (AU) Dept. dated 25.01.2007 stating that 131 Teaching Assistants of the TNAU detailed in the Annexure to that order, who were working consolidated pay may be appointed as Assistant Professors in the Regular Time Scale of pay of Rs.8,000/-275-13500 with effect from 01.06.2006 subject to the following conditions.

"i) The Teaching Assistant posts on consolidated pay must be abolished on the movement of the incumbents to the regular time scale of pay i.e., with effect from 01.06.2006.

ii) As per rule 22 and Schedule-V of the General Rule for Tamil Nadu State and Subordinate Services. The vacancies reserved for ST shall not be allowed to be lapsed and have to be carried forward and filled up as per the procedure explained therein.

iii) While appointing them in to the regular time scale of pay the Educational and other criteria should be followed.

iv) The individuals should be appointed against sanctioned vacant posts only. If any surplus posts are identified in any of the categories carrying the time scale of pay of Rs.8000-275-13500 such surplus posts should not be utilized for absorbing these candidates and the surplus post must be abolished forthwith".



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17. Heard the learned counsel for the petitioners and the learned Government Advocate for 1st respondent and the learned counsel for 2nd respondent. I have perused the impugned notifications and the case laws which has been filed by the learned counsel for the petitioners.

18. The petitioners were appointed as Teaching Assistants pursuant to a notification issued by the University dated 16.09.2004. Their services were later confirmed vide G.O.Ms.No.21 dated 25.01.2007. The 2nd respondent being a University is governed by the University of Grant Commission and the Career Advancement Scheme of UGC which is implemented uniformly. Regulation 10 of the UGC, reads as under:

10. Counting of Past services for Direct Recruitment and Promotion under CAS:

Previous regular service, whether national or international, as Assistant Professor, Associate Professor or Professor or equivalent in a University College, National Laboratories or other scientific/professional organisations such as the CSIR, ICAR, DRDO, UGC, ICSSR, ICHR, ICMR and DBT, should count for the direct recruitment and promotion under the CAS of a teacher as Assistant Professor, Associate Professor, Professor or any other nomenclature, provided that:

(a) The essential qualifications of the post held were not lower than the qualifications prescribed by the UGC for Assistant Professor, Associate Professor and Professor, as the case may be.

(b) The post is /was in an equivalent grade or of the pre-revised scale of pay as the post of Assistant Professor (Lecturer) Associate Professor and Professor, as the case may be.

© The concerned Assistant Professor, Associate Professor and Professor should possess the same minimum qualifications as prescribed by the UGC for appointment to the post of Assistant Professor, Associate Professor and Professor, as the case



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may be.

(d) The post was filled in accordance with the prescribed selection should poss the same minimum qualifications as prescribed by the UGC for appointment to the post of Assistant Professor, Associate Professor and Professor, as the case may be.

(e) The previous appointment was not as guest lecturer for any duration.

(f) The previous Ad-hoc or Temporary or contractual service (by whatever nomenclature it may be called) shall be counted for direct recruitment and for promotion, provided that;

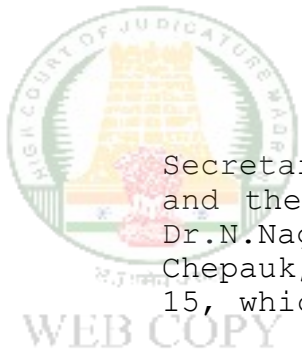
i) the essential qualifications the post held were not lower than the qualifications prescribed by the UGC for Assistant Professor, Associate Professor and Professor, as the case may be.

ii) the incumbent was appointed on the recommendation of a duly constituted Selection Committee/Selection Committee constituted as per the rules of the respective university;

g) No distinctions shall be made with reference to the nature of management of the institution where previous service was rendered (private / local body/ Government), while counting the past service under this clause.

19. A reading of the above Regulation makes it clear for previous appointment even if it was on adhoc and temporary basis for a period of more than one year duration, it can be counted provided, the incumbent was appointed on the recommendation of a duly constituted Selection Committee/Selection Committee constituted as per the rules of the respective university. Thus, the respondents cannot ignore legitimate prayer of the petitioners while counting the services under the Career Advancement Scheme.

20. The UGC guidelines are pari-materia with guidelines applicable to the 2nd respondent University. This Court in W.P.No.30292 of 2013 vide order dated 10.07.2017 in the case of Dr.A.Annadurai vs. The Government of Tamil Nadu Rep.by its



Secretary Higher Education Department, Fort St.George, Chennai-9 and the another decision of this Court in W.P.No.3012 of 2008, Dr.N.Nagarajan vs. University of Madras, Rep. by its Registrar, Chepauk, Chennai 5 had considered UGC. Paragraph Nos.13 to 15, which reads as under:

"13. From the above said guideline of the UGC, it is clear that for the promotion to the post of Reader, one should have completed five years of service in senior grade of Lecturer. Admittedly, in the present case, as stated above, the petitioner was appointed as Project Officer on 05.08.1989, which is equivalent to the post of Lecturer and thereafter, he was also granted Senior Grade Scale with effect from 05.08.1994 and this was even admitted by the petitioner in his representation sent to the Registrar of Madras University on 03.01.2007. Therefore, he was eligible to be considered for the post of Reader from 05.08.1999, as per the Guidelines of the UGC for promotion to the post of Reader, whereas the respondent University had given promotion to him to the post of Reader only with effect from 01.04.2004. In view of these admitted facts, the claim of the petitioner seeking to give him the promotion to the post of Reader with effect from 05.08.1999, but not from 05.08.1998, cannot be refused.

14. Further, it is settled law that all the services rendered, whether it is temporary or regular in the same institution or even in other Colleges, are eligible to be counted for promotion, therefore, there is no justification in refusing to count the services rendered by the petitioner from 05.08.1989 to 01.04.1995 for the purpose of promotion to the post of Reader under Career Advancement Scheme, especially, when two years of temporary service of Dr.Mrs.Nazeem Akthar rendered in Voluntary Agency State Resource Centre for Non Formal Education also was taken into consideration for promotion.

15. Almost in a similar circumstances, the Hon'ble Division Bench of this Court in W.Suryapushpam v. The Government of Tamil Nadu (W.P.No.31244 of 2004, dated 20.09.2007), while dealing with the modification of the date of regularisation of service of a Government Servant, held that once the service



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of any person is regularised at an early date by any proceeding, the same cannot be modified without affording any opportunity of hearing to the aggrieved person, as it is prejudicial to the interest of the same person. Admittedly, in this case, when the respondent University has regularised the service of the petitioner in the post of Project Officer on 05.08.1989 in Population Education Resource Centre and subsequently, his probation was also declared on 04.08.1991, the action of the respondent University in re-designating the post of the petitioner as Project Officer-cum-Lecturer with effect from 01.04.1995 and again absorbing him in the post of Project Officer on 01.04.1997, is neither tenable nor justifiable, for the reason that the period of qualified and confirmed service from 05.08.1998 to 01.04.2004 would go in vain".

21. The Rajasthan High Court at Jodhpur in the case of Rajasthan Agricultural University, Bikaner Now known as Swami Keshwanand Rajasthan Agriculture University, Bikaner, Through its Registrar, (SKRAU), Bikaner (raj.) vs. Dr.Mohan Lal Gupta and 8 others in Division Bench, Spl.Appeal Writ No.56 of 2017, the appeal filed by the University was dismissed by following the decision of the Hon'ble Supreme Court in the State of Rajasthan and another vs. Milap Chand Jain & Another, (2013) 14 SCC 562. The Hon'ble Supreme Court held as under:-

"4. Accordingly, this writ petition is also allowed in the light of the co-ordinate Bench decision of this Court in Anuradha Shirvastava's case (supra). The respondents are directed to take into consideration the period for which the petitioners rendered service in adhoc/temporary capacity before their regular selection on the post of Assistant Professor while determining their eligibility for the grant of Senior/Selection Scale under Career Advancement Scheme. The needful shall be done and the consequential benefits shall be granted to the petitioners by the respondents within a period of three months from the date of receipt of certified copy of this order. No order as to costs."

22. The work undertaken by the petitioners and the 87 Assistant Professors were one and the same. The only difference



was that former were appointed as permanent employees as Assistant Professors whereas the petitioners were appointed on temporary basis as Teaching Assistants.

23. The petitioners were not appointed in the capacity of a Guest Lecturer. Their appointment was on Ad hoc-Temporary basis. They were later absorbed as Assistant Professors, though belatedly. They are therefore entitled for Career Advancement as has been implemented in the case of Assistant Professors who were appointed on the same date as the petitioners on regular basis as Assistant Professors while the petitioners were appointed as Teaching Assistants.

24. The appointment of the petitioners as Teaching Assistants was only on account of the budgetary constraints at that point of time. The petitioners were otherwise eligible to be appointed as Assistant Professors along with 87 others who were appointed as Assistant Professors in 2004. The appointment as Teaching Assistants were not due to any other disqualification, but only due to budgetary constraints. Their service were eventually regularised later in 2006.

25. The work undertaken by the petitioners and the 87 Assistant Professors were one and the same. The only difference was that former were appointed as permanent employees as Assistant Professors whereas the petitioners were appointed on temporary basis as Teaching Assistants.

26. The petitioners therefore are entitled to count their temporary services in the capacity of Teaching Assistants for the Purpose of Career Advancement Scheme of the ICAR which has been implemented by the respondent.

27. The 2nd respondent has also sent representations with proposals. The 2nd respondent in its 145 meeting of the Board of Management held on 12.11.2007 had also recommended the same and thereafter reiterated its position again in its 161st meeting held on 20.4.2012.

28. The petitioners have got 5 increments for holding Ph.D., degree at the time of their appointment as Assistant Professors as per the VI Pay Commission Report. If Career Advancement Scheme is implemented, any pay anomaly will have to be removed. However, while carrying such exercise, the respondents shall ensure that the petitioners do not get any undue advantage over their seniors who were appointed as Assistant Professors before them in the year 2004.



29. Consequently, these writ petitions are disposed by directing the respondents to count the services of the petitioners on the temporary basis from the date of appointment till the date of regularisation on 01.06.2006. The respondents are also directed to refix the salaries of the petitioners with all monetary benefits from the date of Career Advancement to the next cadre and effect such changes in their respective Service Register. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

kkd

To

1.The Secretary,
Department of Agriculture,
Fort St.George, Chennai 600 009.

2.The Registrar,
Tamil Nadu Agricultural University,
Lawley Road, P.N.Pudur,
Coimbatore 641 003.

+1cc to the Government Pleader Sr No.41077

+1cc to M/s.Dakshayani Reddy, Advocate Sr No.41284

W.P.Nos.16061 to 16063 of 2020

KK (CO)
PR (29/10/2021)