



W.A.No.545 of 2018 etc batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 27.09.2023

Delivered on : 22.12.2023

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Appeal Nos.545 & 546 of 2018 &
W.P.Nos.8855 of 2020 and 33434 of 2022 &
Cont.P.No.670 of 2022 and Sub Appl.No.167 of 2022
WMPs.32880, 32881 & 32882 of 2022 & WMP Nos.14832, 10765,
10764, 10762 of 2020 & CMP Nos.8305, 12667 of 2022 & 5332 & 5333
of 2018**

W.A.No.545 & 546 of 2018

1.The Registrar

Tamil Nadu Agricultural University
Coimbatore – 641 003.

2.The Vice Chancellor

Tamil Nadu Agricultural University
Coimbatore – 641 003.

... Appellants in both W.As

Vs

1.Tamil Nadu Agricultural University

SC/ST Employees' Welfare Association
(Reg. No.212/2007)

Rep., by its President Dr.R.Chandrasekaran
Having office at No.1, Chinnasamynagar,
P.N.Pudur, Coimbatore – 41.

... 1st Respondent in both W.As.

2.State of Tamil Nadu Represented by

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The Principal Secretary and Agricultural Production
Commissioner,

Agricultural Department, Secretariat,
Chennai.

... 2nd Respondents in W.A.No.545/2018 &

... 3rd respondent in W.A.No.546/2018

2.J.Krishnan ... 2nd respondent in W.A.No.546/2018

COMMON PRAYER Writ Appeal filed under Clause 15 of Letter Patent
against the order dated 31.01.2018 made in W.P.No.25703 of 2012 and
26356 of 2012.

W.P.No.8855 of 2020 & 33434 of 2022

Dr.R.Chandrasekaran ... Petitioner in both W.P.s
... Petitioner in Cont.P.670/2022

Vs

- 1.The State of Tamil Nadu,
Rep., by its Principal Secretary and Agricultural Production
Commissioner, Agricultural Depart, Secretariat,
Chennai – 600 009. ... 1st respondent in W.P.No.8855/2020 &
... 2nd respondent in W.P.No.33434/2022
... 1st respondent in Cont.P.No.670/2022
- 1.The State of Tamilnadu
Rep., by its Chief Secretary,
Secretariat, Chennai – 600 009. ... 1st respondent in W.P.No.33434/2022
- 2.The Vice Chancellor
Tamil Nadu Agricultural University, Coimbatore – 641 003
... 2nd respondent in W.P.No.8855/2020 & Cont.P.No.670/2022
... 3rd respondent in W.P.No.33434/2022
- 3.The Registrar,
Tamil Nadu Agricultural University, Coimbatore – 641 003

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... 3rd respondent in W.P.No.8855/2020 & Cont.P.No.670/2022
... 4th respondent in W.P.No.33434/2022

Common Prayer in W.Ps:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records in connection with the impugned notification viz., circular bearing Nos.R3/07059/2020 & R3/020587/2022 dated 10.06.2020 & 21.11.2022 respectively issued by the 3rd/4th respondent respectively and quash the same and direct the respondents to issue fresh notifications for recruitment to the post of University Officer/Dean adopting rule of reservation applicable to SC/ST category.

Prayer in Contempt:- This Petition had been filed under Section 11 of Contempt of Courts Act, 1971 to punish the respondents herein for their willful disobedience to the orders of this Court in W.P.No.8855/2020 & WMP.Nos.10762,10764,10765 of 2020 dated 07.07.2020

For Appellants : Mr.R.Yashod Vardhan Sr. Counsel for
Assisted by Mr.R.Sivakumar
Mr.S.Manikandan in both W.As., and
R1 & R2 in W.P.No.8855/2020 and
RR3 & 4 in W.P.No.33434/2022 &
RR2 & 3 in Cont.P.No.670 of 2022

Mr.V.Prakash Sr. Counsel for
Mr.K.Krishnamoorthy in both W.Ps. &
Petitioner in Cont.P.No.670 of 2022



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For Respondents : Mr.P.Wilson Sr.Counsel
for Mr.M.Ganesh in both W.As for R1
Mr.V.Sajeev Kumar Spl.G.P., for RR2 & 3
and R1 in W.P.No.8855/2020 & RR1 &2 in
W.P.No.33434/2022 & R1 in Cont.P.670/22

COMMON JUDGMENT

Mr.K.KUMARESH BABU.,J.

The appellants in the Writ Appeals and the second, third and fourth respondents in the Writ Petitions are the Tamil Nadu Agricultural University. The first respondent in Writ Appeals are the employees association representing SC/ST community working in the said Universities, and the President of the employees association has filed writ petitions in individual capacity who is also a Professor of one of the Agricultural University.

2. Heard, Mr.R.Yashod Vardhan learned Senior Counsel, Assisted by Mr.R.Sivakumar, learned counsel for Mr.S.Manikandan, for the appellants in both the Writ Appeals and for 2nd and 3rd respondents in W.P.No.8855 of 2020 and for 3rd and 4th respondents in W.P.No.33434 of 2022. Mr.P.Wilson, learned Senior Counsel for Mr.M.Ganesh, learned counsel



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appearing for the first respondent in both the Writ Appeals and Mr.V.Prakash, learned Senior counsel, for Mr.K.Krishnamoorthy, learned counsel appearing for the petitioner in both the Writ Petitions.

3. The second respondent in W.A.No.546 of 2018 is a member of the first respondent association, despite notice served there was no appearance on behalf of the second respondent, either in person or through his counsel.

4. The learned counsel for the appellants/2nd, 3rd and 4th respondents would submit that in the process of appointment to the post of Deans and Directors, there is no promotion or elevation to a higher position, nor it carries any emoluments. It is only an assignment of certain responsibilities to exercise certain administrative and financial powers for administration of the concern department. The same is a tenure post for a period of 3 years and on completion of 3 years tenure the concern University Officer will be posted back as a Professor. The appointment process, is by way of transfer among the Professors from the University. The present post are not entry level post, the concept of reservation does not arise. So the policy of reservation is not applicable to the appointment to the post of Deans and Directors.

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5. He would further submit that if the candidate selected for the post of University officer has a short term of service less than three years, and after such period if the post of University Officer falls vacant, then it would certainly cause difficulty in running the remaining term of the office without University Officers and to avoid such inconvenience hampering the sphere of administration, the condition of minimum three years of left over service is prescribed based on the resolution passed by the University and this is included to curtail the applicants at the verge of retirement and to shortlist the candidates having surplus of 3 years service. He would submit that the requirement of five years experience as stated in the circulars issued is based on the Resolution passed by the Board of Management of the Tamil Nadu Agricultural University in its 137th Meeting held on 14.02.2005 and such power to amend is conferred as per the provisions of Chapter XI of the Tamil Nadu Agricultural University Act, 1971.

6. He would further submit that, reservations in the matter of selection arises only in cases where backwardness and inadequacy of representation



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exists. He would contend that as per G.O.Ms.No.44 & G.O.Ms.No.91 Adi Dravida and Tribal Welfare Department, dated 20.05.1998 and 28.11.2001 respectively. The Government has fixed the reservation for direct recruitment in each category/Group of posts in the lowest level of post and the same has been strictly followed by the Tamil Nadu Agriculture University. He would further submit that the factum of entire selection to the post of University Officers is only among the Professors who are already in service of the Tamil Nadu Agricultural University and the same is evident from the qualification prescribed in the impugned notification i.e., Minimum Five years of service as Professor in Tamil Nadu Agricultural University. This is to provide equal opportunities for those Professors working in deputation in the State and Central Government Departments.

7. He would submit that the first respondent in the Writ Appeals had filed a W.P No. 23373 of 2008, challenging a notification dated 10.09.2008, almost on the similar grounds in the writ petitions impugned in writ appeal. The W.P.No.23373 of 2008 was heard at length and this court by order dated 23.12.2009 held that the University has followed the reservation



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policy and maintained communal reservation in the cadre of Assistant Professor post. Challenging the order dated 23.12.2009, the first respondent filed an appeal in W.A No.1946 of 2009, before a Division Bench of this court and it was dismissed on the following grounds that the constitutional requirement has been satisfied and the applicants were in the ratio of 6:1 for SC/ST category, they had all passed the National Eligibility Test, possessed Ph.D. Degrees, and they were all meritorious. It is nobody's case that wrong or undeserving persons had been selected. Further it was held that it would cause great injustice if the notification is quashed. Those appointments cannot be quashed as the University followed the roster, no irregularity in the notification, sufficient publicity has been given and it has also been published in newspapers.

8. He would further submit that by the proceedings of the appellant University dated 18.08.2022 a High-Level Committee consisting of 7 senior members was constituted and the Chairman and 2 members of the said High Level committee were belonging to SC/ST communities. The High Level Committee during their meeting held on 23.08.2022 and 24.08.2022 had



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inspected all the documents available and on 25.08.2022, the High Level Committee held discussion with the members of the earlier Committee viz., (Dr.N.Anandhan Committee). After a thorough inspection, the High-Level Committee submitted its report dated 26.08.2022, holding that the backlog vacancy as on 2014 was only 6 (SC-2, SCA-1, ST-3), the same was forwarded to the Social Justice Monitoring Committee and was accepted by appellant University.

9. He would further submit that the issue involved in Writ Appeal 546 of 2018 pertains to filling up of shortfall vacancies in the University, and he would contend that the short fall vacancies were filled in accordance with the Rules and Regulations of the University and the appellant has acted in accordance with law. The Learned single Judge has not given any reasons for allowing W.P.No.26356 of 2013 and has only discussed regarding the issue in W.P.No.25703 of 2012 which was posted along with it. He would contend that the SC/ST employees are adequately represented in the said post of the University Officers and does not warrant the applicability of Article 16(4) of the Constitution of India. Aggrieved by the common order



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passed by the learned single Judge the appellants had preferred Writ Appeals.

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10. He would further submit that the University has only four backlog vacancies i.e., two for SC and two for ST, for which separate notification is already issued by the University. The Backlog vacancies were also carried over by the University and in the impugned notification 18% is for Scheduled Caste and 1% is for Schedule Tribes are reserved. The impugned notification is only for filling up the Assistant Professor post and not for any other cadre post. He would contend that the pursuant to the impugned notification candidates belonging to SC communities had applied and they were interviewed in the ratio of 1:6 and for other categories at the ratio of 1:11 and the notification was also published in newspapers enabling all the candidates to apply.

11. He would submit that those persons who are appointed to the post of Assistant Professor will be promoted strictly in accordance with UGC Guidelines, which are duly approved by the first respondent. As per the



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UGC Guidelines, the Assistant Professor at Stage-1 on completing of 4 years of satisfactory service will be promoted to the stage-2, the Assistant Professor Stage - 2, on completion of 5 years of further service, will be promoted as Assistant Professor Stage – 3, Assistant Professor Stage 3, on completion of 3 years of further service, will be promoted as Associate Professor and the Associate Professor, on completion of 3 years of service will be promoted as Professor. So it is clear that a person who was appointed as Assistant Professor has to cross 4 promotions to reach the level of Professor. He would contend that as per the UGC Guidelines which are duly approved by the State, the rules of reservation is not made applicable to any of these promotions.

12. He would further submit that the post of Professor is a primary cadre post to various category of University Officers and it is a tenure post only for a period of 3 years and on completion of such tenure, if they have left over service, they will again work as Professors. The scale of pay to post of Professors and University Officers are the same. There is no additional pay or honorarium is attached to the post of University officers. He would

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further submit that the assignment of Dean/Directorship is only for the purpose of performing certain additional administrative works along with his original academic work and there are only 32 posts of University Officers. Whereas the number of eligible professors are much higher. When applications are called for to the post of University Officers, the number of applications received was always more than the notified vacancies. As in the impugned notification in W.P.No.8855 of 2020 dated 10.06.2020, there were only 4 vacancies but 27 applications were received and the notification impugned in W.P.No.34343 of 2022 dated 21.11.2022, vacancy is for 6 post for which 25 applications were received.

13. He would further submit that the notifications dated 30.06.2017 and 20.12.2018, the respondent University had called for filling up the post of University Officers. Whereas those notifications were not challenged by the petitioner for the best reason known to him and the petitioner has selectively filed the present writ petitions. In the previous notifications all qualified Professors participated in the selection process and four among the 27 selected Professors belonged to SC/ST category, the selection was based

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on merit and no reservation was provided by the respondent. All kind of promotions and career advancements are made on the basis of guidelines issued by the UGC on recommendations of the Indian Council of Agricultural Research and by way of issuance of Government Order by the Government of Tamil Nadu.

14. He would submit that the qualifications specified in the notification was to participate in the process and those who clear the process are transferred in the tenure post as University Officers and the same cannot be termed as violative of Article 16 of the Constitution of India. The eligible candidates among the Professors who are already in service in Tamil Nadu Agricultural University are subjected to transfer to the tenure post of the University officers. He would further contend that the University has fixed the following qualifications for the post of University Officer, i.e., Ph.D. Degree with the basic degree in Agricultural Sciences, minimum of five years experience as Professor in TNAU and should have minimum left over service up to 15.05.2025. The notification impugned in the present Writ Petitions has been issued in ensuring fairness and providing equal opportunity among

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the Professors of the University and the same cannot be said to be in violation of the rights of the Writ Petitioner.

15. He would further submit that the post of University Officer is selected from among the eligible professors who are already employed at the University. The employees association as well as the writ petitioner has not produced any document to substantiate their claim that SC/ST employees were not adequately represented in the University, particularly to the post of University officers. Hence, he seeks interference of this Court to allow the Writ Appeals and to dismiss the Writ Petitions.

16. Countering his arguments Mr.P.Wilson, learned Senior counsel appearing for the first respondent in both the Writ Appeals would submit that the first respondent is a welfare association registered on 21.09.2007 under the Tamil Nadu Societies Registration Act, 1975. The employees of SC/ST working in Tamil Nadu Agricultural University are the members of the association and that the members had applied for the post of University Officers and the opportunity for those members were denied. He would

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submit that the appellant University issued a Circular vide No.R3/2903/2012 dated 27.08.2012 inviting application for the recruitment of 31 University Officers without specifying the adoption of reservation policy. The first respondent made an representation to the University which was not considered, and the first respondent had filed W.P.No.25703 of 2012 challenging the aforesaid Circular, and this Court by order dated 11.10.2012, had given interim injunction.

17. He would submit that despite the orders the appellants had filled the post with in-service candidate whenever any one of the 31 posts fallen vacant due to the retirement of the incumbent. Like that 16 vacancies were filled up gradually one by one and all of a sudden rest of the 15 University officers were relieved for unknown reason though they have more than 2 to 3 years of service and in their place other 15 new persons were appointed by an order dated 01.07.2013 and thus all the 31 vacancies were filled up. Against which the first respondent filed a Contempt Petition. No.1962 of 2013. Meanwhile, the appellant University has issued an advertisement dated 09.09.2013 inviting application for filling up 11 back log vacancies

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SC-7, SC(A0-1 & ST-3. The University has issued another notification for filling up 166 post, in the following manner, i) G.T: 35, ii) G.T.(W):16, iii) B.C: 30, iv) B.C(W):14, v) BCM:4, vii) MBC/DNC:28, vi) BCM(W):2, viii) MBC/DNC(W):5 x) SC(W): 8, ix) SC:17, xi) SC(A):2, xii) SC(A)W:3, xiii) ST:1 and ST(W):1

18. He would further submit that the University without even making any attempt to fill up Short Fall vacancies in the lowest/ entry level post have issued a general advertisement dated 09.09.2013 for filling up 166 posts. On 27.06.2013 when the first respondent had an discussion with the Registrar & Deputy Registrar came to know that there are 177 vacant posts of Teaching Faculties and steps were taken to fill up these posts. He would contend that 67 short fall vacancies ought to have being filled before going for any general recruitment.

19. He would further submit that as per Letter No.PIO-TNAU/RTI/Th.M.S.Manikesan/2012 dated 21.12.2012. total strength of the teaching faculties as on 01.11.2012 was 1212, out of which professors are 412, Associate Professors -239 and Assistant Professors -561 and the



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strength of SC and ST teachers was 180, out of which Professors are 09, Associate Professors -55 and Assistant Professors -1160. Out of these 17 SC and ST teachers were selected under General turn during 2009. Hence they cannot be considered to be recruited under SC and ST category. Excluding these 17 teachers the strength of SC and ST teachers are 163, which comes around 13 percentage of the total teacher's strength.

20. He would submit that as per, G.O.Ms.No.220 of Personnel & Administrative Reforms Department dated 14.09.2007, it states that in order to restore the representation of SC and ST in service, where their representation is less than 18 per cent and 1 per cent, respectively, shall furnish the short fall vacancies in the lowest/entry level of post and direct recruitment shall be made as one time measure. He would contend that the representation of the teaching faculties of the appellant University of SC and ST is just 13 per cent. When the first respondent had an discussion with the Registrar and Deputy Registrar (Administration), of the appellant University the first respondent came to know that about 177 vacant posts of teaching



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faculties are identified and steps are taken by the administration to fill up the posts.

21. He would submit that based on the representation of the first respondent to the National Commission for Schedule Caste, an inspection was made and certain recommendations were issued. The Government has categorically given directions to all the Universities to follow the rule of reservation strictly but the same is being violated by the appellant University. The appointments made vide the impugned notifications is not a promoted posts but they are filled up by direct recruitment. Therefore the members of the first respondent University association needs to be adequately considered, thereby seeks to dismiss the Writ Appeals.

22. The learned Senior Counsel, Mr.V.Prakash, appearing for the petitioner in both the Writ Petitions and Contempt Petition, would submit that, the recruitment to the post of University Officer/Deans is done since from 1971. Even though eligible candidates were available from SC & ST, adequate opportunity and representation was not provided. He would



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contend that the posts of University Officers/Deans are of the same cadre, having equal powers and responsibilities, and that the posts are interchangeable and transferable within the jurisdiction of University and it is a Selection Post.

23. He would submit that, the respondents are not following the adoption rule of reservation in the selection to post of University officer/Dean which violates the policy of rule of reservation. He would further submit that, the Tamil Nadu Agricultural University Statute mandates 6 years experience in the post of Professor for selection to the post of University Officer/Dean, and in particular, in the absence of any amendment requiring only 5 years of experience in the statute. The qualification required under the impugned notification that the candidate should have a minimum of 3 years of left-over service, which is nowhere stated in the University Act, Statute, and Regulations, therefore the condition imposed by the Registrar, Tamil Nadu Agricultural University is in violation of rules in force.



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24. He would further submit that in the year 2012, when the University has issued Circulars without adopting the reservation policy for SC/ST the petitioner has filed W.P.Nos.25703 of 2012 & 26356 of 2013, before this Court and this Court had granted an interim order and stayed the operation of notification impugned in W.P.No. 25703 of 2012, even after which the 2nd and 3rd respondents continued to proceed with the selection process and a Contempt Petition No.1962 of 2013 was filed and Orders were passed by this Court on 31.01.2018, directing the University to issue fresh notification by indicating the adoption of reservation vacancies of Government of Tamil Nadu based upon the representation of employees Association dated 04.09.2012.

25. He would further submit that, the respondents are bound to follow G.O.Ms.No.91 of Adi Dravida and the Tribal Welfare Department dated 28.11.2001 in respect of the recruitment to the post of University Officer, for which the recruitment is done through selection. He would contend that if currently 6 posts of University officers are being called for, two posts are liable to be reserved for SC/ST candidates. The respondents has not notified



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the adoption of reservation nor followed the rule of reservation in respect of recruitment to the post of University officers/Deans since its establishment.

26. Therefore, the petitioner has filed a W.P.No.8855 of 2020, and this Court by order dated 07.07.2020 had passed an Interim Order, thereafter on 21.11.2022, the Registrar, TNAU has issued another circular without adopting the rule of reservation applicable to SC/ST category. He would further submit that the University has not followed the interim order against which the Writ Petitioner has filed a contempt petition before this court and the same is taken on file as Cont.Petition No.670 of 2022, and against the Circular issued in No.R3/020587/2022 the petitioner has preferred W.P.No.33434 of 2022. Hence the petitioner seeks to quash the circulars issued by Registrar, TNAU dated 10.06.2020 and 21.11.2022 respectively and to issue fresh Circulars considering the rule of reservation applicable to SC/ST category.

27. We have also heard, Mr.V.Sajeev Kumar, learned Special Government Pleader for 2nd respondent in W.A.No.545 of 2018 and for 3rd respondent in W.A.No.546 of 2018 and for the 1st respondent in



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W.P.No.8855 of 2020 and for 1st and 2nd respondents in W.P.No.33434 of 2022. He states that he adopts the submissions made on behalf of the Tamil Nadu Agricultural University and we gave our anxious consideration to the submissions made on behalf of respective sides.

28.We have considered the rivals submissions made on either side and perused the materials placed on record.

29.The issue involved in these batch of cases before us is relating to the application of Article 16(4-A) & 16 (4-B) in the appointment of University Officers of the Tamil Nadu Agricultural University.

30.The case of the association as well as the other Writ Petitioner is that the post of University Officers is a fresh recruitment and not a case of promotion whereas on the other hand the University claims that the said post is neither a post of promotion or a fresh recruitment. The further case of the University is that the University officers are selected from among the existing employees of the University as per its Statutes and Regulations.

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31.From a reading of the relevant provision, it could be seen that the post of University Officers particularly to the post of Dean, the persons, who are in services of the University alone eligible to participate in the process of selection. Further as regards to the post of Dean of faculty, the same is only for a period of three years and the same is to be made on rotation as per seniority. Therefore, the post of University Officer in respect of a Dean of the faculty is concerned, it is clear that the same is neither a recruitment nor a promotion. As regards to the post of Dean of college, it could be seen that the same is being also done by way of selection of the eligible persons as per the Regulations. Similarly the post of Directors in various Departments are also to be filled up from the persons, who are already in service of the University. A reading of the circular impugned would also show that the qualifications of Deans and Directors are Ph.D., Degree with a minimum five years of service as Professor in Tamil Nadu Agricultural University. In annexure to the said circular 25 posts were sought to be filled up and against each of the said post eligibility criteria had also been stated. From a combined reading of the Tamil Nadu University Act, Statutes, Regulations

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and the circulars issued, it could be seen that what is sought to be done is a selection of the existing professors in the University to the various posts that is sought to be filled up.

32.In such view of the matter, we are constrained to hold that the post of University Officers to which the claim for applicability of Article 16 (4-A) and 16 (4-B) is not applicable as neither fresh recruitment or promotion is made. For better appreciation of applicability of the aforesaid provision, the same are extracted hereunder:-

(4-A) Nothing in this article shall prevent the State from making any provision for reservation (in matters of promotion, with consequential seniority, to any class) or classes of posts in the services under the State in favour of the Scheduled Casts and the Schedules Tribes which in the opinion of the State are not adequately represented in the services under the State.

(4-B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or



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clause (4-A) as a separate class of vacancies to be filled up in any succeeding year or years and such class or vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty percent reservation on total number of vacancies of that year.

33.Article 16(4-A) empowers the State from making any provision for reservation in the matters of promotion with consequential seniority to any classes of posts in the service under the State in favour of SC & ST which in the opinion of the State are not adequately represented in the services under the State.

34.In the present case, there has been no provision that had been made by the State Government in reservations in the matters of promotion particularly in the present Tamil Nadu Agricultural University. Since we have already held that the post of University Officers particularly the Dean of faculty and the Dean of college are selection post and the Dean of faculty in particular is by way of rotation based on seniority with a tenure of three years Article 16(4-A) cannot be applied.



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35. Since we have already held that the post of University Officers are filled up only by way of selection and not by way of a fresh recruitment, there can be also no applicability of Article 16(4-B) in respect of the said post.

36. The learned Single Judge had infact given a finding that no such efforts have been made by the authorities to ascertain the backwardness and inadequacy of the representation of SC & ST on the basis of any quantifiable data. For better appreciation, the relevant paragraph is extracted hereunder:-

26. It is the duty of the respondent authorities to ascertain the backwardness and inadequacy of representation of Scheduled Castes and Scheduled Tribes in the promotional cadres based on quantifiable data is a continuous process and cannot be a onetime exercise. The situation has to be assessed and reviewed on each occasion when promotion/ recruitment is contemplated.

27. In the case on hand, the respondent authorities did not make any attempt to pay heed to the representation of the petitioner association seeking reservation in the promotion specifically pleading that the members of the petitioner association, belonging to Scheduled Castes and Scheduled Tribes, have not been given adequate representation for the



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last 40 years, despite such constitutional provisions enabling the State Government to form its opinion based on the quantifiable data regarding adequacy of representation. No iota of material has been placed on record to show that the respondent authorities have considered any quantifiable data before notifying the vacancies, more so, when there are 31 vacancies which are in different disciplines. In such view of the matter, the writ petition in W.P.No.25703 of 2012 deserves to be allowed.

28. It is not disputed by the respondent authorities that 67 short fall vacancies exist. The existence of backlog vacancies of Scheduled Castes and Scheduled Tribes in promotional cadres, by itself, indicates inadequate representation in such cadres. By virtue of the provisions of the Constitution, referred supra, steps taken by the respondent University to go for regular recruitment of 166 posts, without filling up the shortfall vacancies with persons belonging to Scheduled Castes and Scheduled Tribes would deprive the persons belonging to backward classes leading to inadequacy of their representation. In the case on hand, it is not placed on record as to the time limit prescribed by the respondent authorities for the reserved post for being carried forward and as to whether such time limit for carrying forward the post reserved has lapsed. Before going for such regular recruitment, the respondent authorities will have to certainly ascertain the backwardness and inadequacy of representation of Scheduled Castes and Scheduled Tribes in the promotional



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cadres based on quantifiable data.

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37. In such an event, we are of the considered opinion that the learned Single Judge has wholly erred in giving a direction as indicated in the said order.

38. As regards W.A.No.546 of 2018 is concerned, the prayer made in the Writ Petition is challenging a circular issued for filling up of 166 posts in various faculties. The claim of the first respondent in the Writ Appeal is that in issuing the said notification provisions of Article 16(4-B) had not been followed inasmuch as there was no separate notification for the backlog vacancies. As rightly pointed out by the learned Senior counsel appearing for the Appellant, the learned Single Judge had not discussed the issues raised in the Writ Petition, but had set aside the order on the conclusion arrived at by him in respect of another Writ Petition, which relates to the filling up of posts of University Professors. The issue in this Writ Appeal is totally different from the issues involved in the other Writ Appeal, which we have adjudicated supra.

39. The learned counsel appearing for the appellant had brought to the



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notice of this Court that a separate advertisement had been issued for filling up the backlog vacancies. A reading of the affidavit filed by the first respondent in his Writ Petition does not disclose the factum of issuance of a separate advertisement by the Appellant University to fill up the backlog vacancies particularly in the SC & ST category. This in our view is nothing but suppression of material evidence in approaching this Court. On this ground alone, the relief claimed by petitioner in his Writ Petition would have to be disallowed ignoring the said fact and also the issue involved in the Writ Petition filed by the petitioner, the learned Single Judge had set aside the advertisement impugned in the Writ Petition. As we have factually found that there was a separate notification for filling up the backlog vacancies of the previous recruitment process, we do not find any infirmity in the advertisement issued by the appellant University, which had been set aside by the learned Single Judge.

40. In fine the Writ Appeals are allowed and the impugned order made in W.P.No.25703 of 2012 and W.P.No.26356 of 2013 are hereby set aside and the Writ Petitions are dismissed. Consequently Connected



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Miscellaneous Petitions are closed. However there shall be no order as to costs.

41. In view of the reasonings and findings we have given and in disposing of the Writ Appeals and the Writ Petitions, we do not find any necessity to further adjudicate on the complaint of violation of the order passed by this Court and accordingly the Contempt Petition is closed. Consequently, the Sub Application No.167 of 2022 is also closed.

(R.S.K.,J.) (K.B., J.)
22.12.2023

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation:Yes/No
pbn

To

- 1.The State of Tamilnadu
Rep., by its Chief Secretary,
Secretariat, Chennai – 600 009.
- 2.State of Tamil Nadu Represented by
The Principal Secretary and Agricultural Production

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Commissioner,

WEB COPY Agricultural Department, Secretariat,
Chennai.



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W.A.No.545 of 2018 etc batch

R.SURESH KUMAR., J.
and
K.KUMARESH BABU.,J.

Pbn

Writ Appeal Nos.545 & 546 of 2018 &
W.P.Nos.8855 of 2020 and 33434 of 2022 &
Cont.P.No.670 of 2022 and Sub App.No.167 of 2022

22.12.2023

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