

W.P. No. 18778 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2025

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P. No. 18778 of 2020

and

W.M.P. No. 23343 of 2020

S. Selvakumar

... Petitioner

Vs.

1.State of Tamilnadu,
Represented by its Agricultural Production
Commissioner and Principal Secretary,
Fort St. George,
Chennai – 600 009.

2.The Tamil Nadu Agricultural University,
Represented by its Vice-Chancellor,
Coimbatore – 641 003.

3.The Registrar,
Tamil Nadu Agricultural University,
Coimbatore – 641 003.

4.University Grant Commission,
Represented by its Secretary,
New Delhi.

... Respondents

Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the circular dated 19.10.2020, made in No.R3/14062/2020, issued by the 3rd respondent, quash the same insofar as directing the University officers / Heads of Department / Heads of Research Stations / KVKs to send the details of ATS part I & II passed and its entry



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in Service Register with page number and consequently direct the University to issue a fresh notification / circular containing no such requirement of clearing accounts test (ATS Part I & II) for considering a candidate's application under Carrier Advancement Scheme (CAS) and as per Letter No. 16458/AU/2019-2, dated 16.10.2019 of the Agricultural Production Commissioner and Principal Secretary to the Government.

For Petitioner : Mr. S. Shanmugasundaram
For Respondents : Mr. T.M. Rajangam, for R1
Government Advocate
Mr. S. Manikandan, for R2 & R3
Mr. B. Rabu Manohar, for R4
Standing Counsel

ORDER

This Writ Petition has been filed for the issuance of a writ of certiorarified Mandamus, to call for the records relating to the circular dated 19.10.2020, made in No.R3/14062/2020, issued by the 3rd respondent, quash the same insofar as directing the University officers / Heads of Department / Heads of Research Stations / KVKs to send the details of ATS part I & II passed and its entry in Service Register with page number and consequently direct the University to issue a fresh notification / circular containing no such requirement of clearing accounts test (ATS Part I & II) for considering a candidate's application under Carrier Advancement Scheme (CAS) and as per Letter No. 16458/AU/2019-2, dated 16.10.2019 of the Agricultural Production Commissioner and Principal Secretary to the Government.

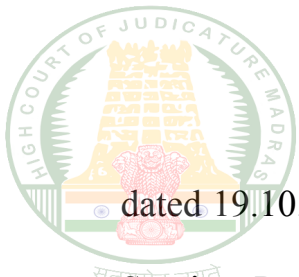


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2. The brief facts leading to the present writ petition as stated in the affidavit filed in support of the writ petition is as follows: -

i) The petitioner was appointed as Assistant Professor in the Department of Post Harvest Technology Centre on 01.06.2006 and shifted to the Directorate of Water Technology Centre on 09.05.2007, then transferred to Krishi Vigyan Kendra, Arupukkottai on 01.02.2016 and then to the Department of Soil and Water Conservation Engineering on 01.02.2019 and he was working as Assistant Professor in the said Department. The third respondent had issued notification dated 05.01.2019 in No.R3/00470/2019 inviting application for Associate Professor and petitioner applied under Career Advancement Scheme (CAS) for promoting him to the post of Associate Professor. However, petitioner's application has neither rejected nor was he called for the interview which perplexed him. Therefore, he sent a number of representations dated 19.03.2019, 06.05.2019 and 02.12.2019 to the authorities, but he did not get any response. When he contacted the office of third respondent, they informed him that his application was not processed as he did not pass Accounts Test for Subordinate Service (ATS) Part I and II, which is according to them mandatory for considering a person's application under CAS.

ii) Subsequently, petitioner came across another circular dated 19.10.2020 in No.R3/14062/2020 issued by the third respondent inviting applications for evaluation to higher academic level under CAS for the eligible teaching staff. The said circular



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dated 19.10.2020 intimates that the details of ATS Part I & II passed and its entry in Service Register with page number are to be attached. Thus, once again, the University is putting the condition of clearing accounts test as mandatory eligible condition for processing the application which is not in consonance with G.O.Ms.No.14 Agriculture (AU) Department, dated 22.01.2019 and Letter No.16458/AU/2019-2 dated 16.10.2019 of the Agricultural Production Commissioner and Principal Secretary to the Government. Challenging the same, the petitioner came up with the present writ petition.

3. Mr. B. Rabu Manohar, the learned counsel for the fourth respondent would submit that UGC has prescribed clause 1.1 under UGC Regulations on minimum qualifications for appointment of teacher & other academic staff in Universities and Colleges and measures for maintenance of standards in Higher Education 2018. According to the UGC Regulations, there are various amendments from time to time are framed after detailed deliberations by the Expert Committee and are mandatory in nature and cannot be overlooked at any stage and all the Universities / Institutions / Colleges have been advised to strictly comply with them and according to them, in various needs of education, standards laid down by authorities established by the relevant Act of Parliament under Article 246 of the Constitution for the purpose of co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions, shall prevail.



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4. Further he would submit that where there is no such norms and standards have been laid down by any regulatory authority, UGC Regulations herein shall be applicable till such time as any norms or standards are prescribed by the appropriate regulatory authority. Provided further that for appointment to the post of Assistant Professor and equivalent positions pertaining to disciplines in which the National Eligibility Test (NET), conducted by the University Grants Commission or Council of Scientific and Industrial Research as the case may be, or State level Eligibility Test (SLET) or the State Eligibility Test (SET) conducted by bodies accredited by the UGC for the said purpose, qualifying in NET/SLET/SET shall be an additional requirement. The UGC Regulations are mandatory and has to be followed and the third respondent University is entitled to fix additional qualifications over and above the UGC Regulations provided it doesn't run contrary to UGC Regulations and dilute the standards of the qualifications prescribed by UGC.

5. Per contra, the learned counsel for the petitioner would contend that it is not open to the University to look forward the condition which is strange and the UGC Regulations were not followed and the respondents 2 and 3 have prescribed passed in ATS and which was withdrawn on 26.09.2022 and the waiving the accounts test by the board on 09.09.2022 has approved and the petitioner was considered for the posts at that point of time when he was eligible and if there is no such condition, he would



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have been appointed at an earlier point of time and not later point of time. Further submits that the UGC Regulations with all other orders state Regulations that come to conclusion that UGC Regulations are supreme and not even a State Government could enact any law which is contrary; that whether the precondition of the University Accounts Test for Subordinate Service (ATS) Part I and Part II is sustainable or not and when the judgments of this Court states that the UGC Regulations are supreme, the Court has to consider the same and pass appropriate orders. According to them that the board is bound by the decision of the first respondent and Board cannot impose any condition asking without consent of the State Government and also without following UGC Regulations as held by the Bench of this Hon'ble Court and states that the same to be considered.

6. The learned counsel appearing for the respondents 2 & 3 have filed a detailed counter and would submit the TNAU has 18 Colleges functioning in 14 campuses, 38 Research Stations, 14 Krishi Vigyan Kendras and 3 Diploma Institutions, which are located in various Districts of the State of Tamil Nadu. It is further averred in the counter that TNAU rated as one of the best Agricultural University in India by Indian Council of Agricultural Research, New Delhi as an Institute of excellence for higher education in Agriculture and allied subjects. TNAU is a Non-Profit organization and plays a vital role in the development of agriculture besides furthering the advancement of learning and promotion of education and to



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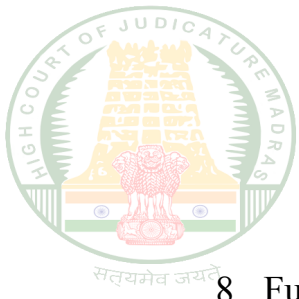
accomplish research and extension in agriculture and allied science.

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7. Further, TNAU is governed under the Tamil Nadu Agricultural University Act, 1971 and is an autonomous institution. As per the Act, TNAU is governed by authorities such as the Board of Management, the Academic Council, the Board of Studies of each faculty and such other bodies of the University as may be declared by the statutes to be authorities of the University. The Board of Management is the highest authority vested with various powers under Section 19 of the Act and the powers relevant for the purpose of this case is extracted hereunder: -

“(h) to determine and regulate all questions of policy relating to the University in accordance with the provisions of this Act and the statutes;

“(o) to exercise such other powers and perform such other duties not inconsistent with the provisions of this Act or the statutes as may be necessary for carrying out the purposes of this Act.”



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8. Further it is averred in the counter that as the Professors / Associate Professors in the University have been entrusted with the responsibility as Head of the Department / Head of the Research Stations during their service period and besides their regular teaching, research and extension activities, they have the duties and responsibilities of Administration and Bill and Cheque Drawing powers (i.e., Establishment of Staff including pay fixation, sanction of increment and leave, Drawal of Pay bill and T.A. Bill, regulating Joining time, Pension proposals, purchase, Settlement of purchase bill, Preparation of Budget and Accounts, Bank Reconciliation etc) they must have sufficient knowledge on the Government Rules in respect of Establishment, Budget and Accounts etc., to avoid mismanagement. Therefore, in ourder to impart sufficient knowledge in Government Rules / Establishment / Budget and Accounts the TNAU took a policy decision and the Board of Management TNAU at its 168th meeting held on 30.05.2014 has resolved and prescribed the condition that

“All the Technical (Teaching) Staff in the category of Assistant Professors (with Academic Grade Pay of Rs.6,000/-, Rs.7,000/- and Rs.8,000/-) should pass Account Test for Subordinate Officers Part I and Part II to qualify themselves for next promotion.”



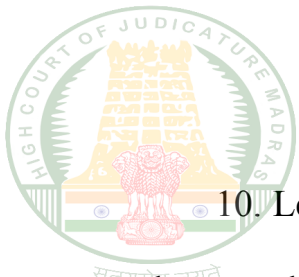
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9. Further it is averred that initially two years time was granted from 01.04.2014 to 31.03.2016 to pass the said Tests and by proceedings dated 05.08.2014, the time was extended for one more year i.e., from 01.04.2016 to 31.03.2017. Further, by circular dated 05.04.2016, it was notified that

“All the Technical (Assistant Professors / Non-Technical Staff members working in TNAU are requested to pass Account Test for Subordinate Officers Part-I and Part-II in addition to the qualifications mentioned in relevant pages in Appendix – 1 of ASR of Tamil Nadu Agricultural University, since Account Test for Subordinate Officers Part-I and Part-II will be a requisite qualification for all the next level promotion posts of above said categories”

And since then, a pass in Account Test for Subordinate Officers Part-I and Part-II has been prescribed as a requisite qualification for grant of promotion from the post of Assistant Professor to the post of Associate Professor. Further it is averred that though the petitioner is aware of the same has submitted an application in pursuance of the notification issued in the year 2019 and he was not considered for the selection process. Hence, the petitioner herein does not have the requisite qualification of pass in ATS paper I & II and therefore, the claim of the petitioner to promote him as Associate Professor without requisite qualification is devoid of merits and hence, the writ petition is liable to be dismissed.



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10. Learned counsel for the respondents further submits that the petitioner had subsequently passed account test in the year 2019. He further submits that the petitioner had filed another writ petition in the year 2020 for the similar prayer and it is seen that the writ of mandamus directing the respondent to consider and pass order disposing of his representation. In the said representation it is made clear that the petitioner promoted as Associate Professor on 08.10.2022 in the Academic Level-13A of Rs.1,31,400-2,17,100 and by further proceedings dated 19.10.2022 issued by the Director, Water Technology Centre, Tamil Nadu Agricultural University, Coimbatore, his pay was fixed with notional effect from the date of service of eligibility to become Associate Professor, i.e., 01.06.2018, but monetary benefit with effect from the actual date of joining i.e., only on 10.10.2022. As his pay was fixed retrospective effect from 01.06.2018, but the service eligibility, the monetary benefit was fixed with effect from 10.10.2022. The petitioner submits that giving notional effect from the date of service eligibility but monetary benefits were not given to him. He is loosing an amount of Rs.27 lakhs as an Associate Professor and he would submit that they have to pay the amount and consider the representation.

11. Learned counsel for the respondents would further submit that he has suppressed all these facts before the said Court that he has already filed writ petition in the year 2020 and there is no mention about this and seeking to consider his representation. They also would submit that the said person cannot have the said



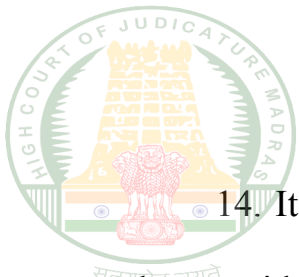
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qualification at that point of time when he ought to have been considered and only considering the effect since the said notification was withdrawn at the later point of time, this case was considered on the ground and fixed notionally from 2018 onwards for the work he has done, he has been paid and he has not joined duty in the year 2018, he cannot seek for the retrospective effect. Hence, prays to dismiss the present writ petition.

12. This Court is not inclined to interfere with the said claim made by the petitioner in the other writ petition. We are confining ourselves only to the present writ petition filed in the year 2020 where there was challenge made to the said notification which is devoid of merits, as the petitioner has not challenged the notification which was issued in 168th Board of Management meeting and subsequent notification only he has challenged. Hence, this Court is of the view that there is no merit in considering the petitioner's case.

13. Accordingly, this Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.



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14. It is also seen that the power to make regulations by the Universities are also considered by the University Grant Commission and they have stated that over and above if the Universities can fix additional qualification they can, but it should not be contrary to any of the Regulations passed by the UGC, here they only ask for having pass in the account test, which is not contrary to the UGC.

25.02.2025

Index :Yes/No

Neutral Citation :Yes/No

AT

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2.The Vice-Chancellor,
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V.BHAVANI SUBBAROYAN, J.

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