

PANDIT JAWAHARLAL NEHRU COLLEGE OF AGRICULTURE
AND RESEARCH INSTITUTE, KARAİKAL

No.5302/PJN/E1/Estt/2008

Date: -09-2008

NOTE

Sub: PAJANCOA & R.I. Karaikal – Estt. – Judgement
of the Hon'ble High Court, Chennai in W.P. Nos.
5219 and 6336 of 2006 setting aside G.O.Ms.No.
22/Ag dated 10.10.2005 of the Chief Secretariat
(Agrl.) - Implication & Follow-up action – Reg.

This relates to the common Judgment of High Court, Chennai in Writ
Petitions No. 5219 and 6336 of 2006 setting aside the G.O.Ms.No.22/Ag dated
10.10.2005 of the Chief Secretariat (Agriculture), Puducherry.

2. The case is that Dr. K. Paramasivam (Petitioner in W.P.No. 5219/2009) and three others namely Dr. V. Chellamuthu, Dr. A. Baskar and Dr. P. Nasurudeen (Petitioners in W.P. No.6336) were appointed in PAJANCOA & R.I. Karaikal as Professor on direct recruitment. Fourteen Associate Professors, who were cited as Private respondents in the said Writ Petitions who were earlier worked in the Agriculture Department, Puducherry as Agricultural Officers were absorbed as Assistant Professor in the PAJANCOA & R.I. Karaikal on possessing the requisite P.G. qualification for the post of Assistant Professors. The Government of Puducherry issued an orders vide G.O.MsNo.22/Ag dated 10.10.2005 of the Chief Secretariat (Agriculture), Puducherry which envisaged for providing the benefit of counting of their past service rendered in the Agricultural Department, Puducherry as Agricultural Officer for promotion to the post of Professors. Aggrieved by the orders of the Govt. of Puducherry, the petitioners filed two writ petitions in High Court of Judicature, Chennai.

3. The Petitioners contended that PAJANCOA & R.I. Karaikal is governed by the Rules and Regulations of the UGC according to which Associate Professor with eight years and Asst. Professor and Associate Professor put together possessing continuous service of 17 years (both with

Ph.D., qualification) can alone be considered for the promotion as Professor. They argued that private respondents 4 to 17 could not be equated to them by counting their past service rendered in the Agricultural Department Puducherry as Agricultural Officers. They contended that by virtue of impugned G.O., the Respondents 4 to 17 would become seniors to them. They argued that Private respondents who were not discharging the duties of teaching and research activities when they were working as Agricultural Officers. They have also contended that their promotion to the post of Dean would be affected by the impugned order and prayed to set aside the G.O.Ms.No.No.22/Ag dated 10.10.2005 of the Chief Secretariat(Agriculture) Puducherry.

4. The Government of Puducherry, the first Respondent, in the case replied that the PAJANCOA & R.I. Karaikal is a Registered Society under the Central Societies Registration Act and it is governed by the Governing Body and the rules and regulations framed by them. The objective of the society is to run the institution on the same pattern on which the Tamil Nadu Agricultural University is being run and in so far as the appointment of teaching staff is concerned, the qualification and academic standard prescribed by the Tamil Nadu Agricultural University are being followed.

5. The Government further replied that the date on which the degree in Ph.D., was acquired by the Assistant Professor shall be the effective date to decide the Seniority for promotion to the post of Professor. Persons absorbed by the PAJANCOA & R.I. Karaikal as Assistant Professors and promoted to the post of Associate Professors were considered for promotion to the post of Professor and eligible Associate Professor alone were promoted to the post of Professor as all of them were qualified to the said post during the period of 1995-1999. Further it was replied that the Recruitment Rules were framed in the year 1993 and a decision was taken to absorb the Assistant Professors who were on deputation from the date of appointment. Almost all the Assistant Professors acquired the qualifications of Ph.D., on various dates and they are eligible for being considered to the post of Professor.

6. The Government of Puducherry submitted that the Career Advancement Scheme (CAS) introduced by the UGC and for giving the

benefit under Career Advancement scheme, the basic years of service in the feeder category in the feeder has been taken in to consideration. Initially person in the Agricultural Department who posses P.G. qualifications were appointed as Lecturers as an urgent and one time measure. As posting was done as a one time measure on urgent basis, consideration of their case for grant of benefit for Career Advancement Scheme was also one time measure since they do not have had any previous experience. Accordingly it was recommended for consideration of their previous service in the Department of Agriculture to count for the qualifying service to count the benefit of Career Advancement Scheme.

7. The Government further argued that the PAJANCOA & R.I. applying the rules of the Tamil Nadu Agricultural University to its governance and as such the U.G.C. norms will have no application to the PAJANCOA & R.I. Karaikal. Further it was replied that the U.G.C. norms do not apply to them in as much as the I.C.A.R has in consideration of the U.G.C. regulations framed its own regulations and made them applicable to all the Agricultural Colleges & Research Institute and the PAJANCOA is one such institutions affiliated to Tamil Nadu Agricultural University.

8. The Private Respondents (excepted 13,14,15) argued that the post of Dean is not a promotional post and that the petitioners rights are not in any way affected by the said G.O.Ms.No.22/Ag dated 10.10.2005. They averred that they were engaged in various extension activities and farms related managerial activities and therefore the contention of the petitioners that while working as Agricultural Officers in Agricultural Department, they were not discharging teaching and research functionss, is not correct. Further they repudiated the contention of the petitioners that they do not possess the Ph.D., qualifications while entering the service has no relevance in as much as they were appointed in the institutions as per the Recruitment Rules. They averred that promotion to the Selection Grade scale in the post of Assistant Professor and for promotion as Associate Professor, possession of Ph.D., is not a precondition under the Career Advancement Scheme.

9. The Respondents further stated that the impugned order was issued in recognition of their services rendered in the Department of Agriculture and in the respondent institution and that such a proposal to recognize their past

service was considered and approved by the Governing Body of the respondent institution. They submitted that the petitioners have no grievance about their qualifications possessed by them in as much as they Tamil Nadu Agricultural University which extended similar benefits to count the past services of the one who came from other department.

10. The Respondents submitted that the impugned G.O.Ms.No.22/Ag dated 10.10.2005 is based on the U.G.C. norms and as per Tamil Nadu Agricultural University norms and there is no infirmity in the norms. Further they denied the petitioner's contention that their promotional chance to the post of Dean would be affected in as much as the impugned G.O. can only extend the benefit of the respondents for their Career Advancement Scheme in the post of Associate Professor and Professor and the post of Dean is not a promotion post.

11. The Respondents furnished the details of the case of Thiru P. Murugesapoopathy who was given the benefit of past services by the Tamil Nadu Agricultural University and said that then case is similar.

12. The counsel for the petitioner submitted that the impugned G.O. has been passed in consideration of the following 3 aspects.

a) The letter dated 23.12.2004 sent the first respondent as per the resolution passed by the Governing Body of PAJANCOA & R.I. on 13.04.2000 resolving to direct the Dean of the second respondent College to send the proposal for counting of the past services rendered in the Agricultural Department for promotion of the respondents 4 to 17 as Professors under Career Advancement Scheme to the first respondents for scrutiny was considered.

b) The proposals on par with the Agricultural Officers/Assistant Veterinary Surgeon absorbed in the Tamil Nadu Agricultural University and Tamil Nadu Veterinary and Animal Sciences University, Chennai was considered for issue of the impugned G.O.

c) The benefits under the Career Advancement Scheme subject to the fulfillment of Assured Career Advancement Scheme was also one of the factor considered.

13. The counsel for the petitioner contended that as per the Society Rules the Governing Body is the competent authority to decide the matters relating to the recruitment and promotion of teaching and non-teaching staff of the institution and that is why the issue regarding the counting of past service of the past service was placed in the Governing Body for decision on 14.04.2000. As such the action of the 1st respondent in issuing the Govt. Order by taking a decision as to counting the past service for promotion is outside jurisdiction of the Government and it amounts to exceeding their authority and encroaching upon the administration function of the Governing Body.

14. The counsel for the petitioner submitted that examination of the proposal on par with the Tamil Nadu Agricultural University is improper and illegal in as much as such a decision was made to avoid duplication of work in the field of research by the University as well as in the research wing of the department. The guidelines and norms are specifically provided under the UGC notification 1998 for counting of past services for the post of Asst. Professor for further promotion. Under clause 8 of the U.G.C. Notification 1998, it has been specifically stated that previous same without any break as a lecturer equivalent in University, College etc., should alone be counted for placement of lecturer in Senior Scale or Selection Grade provided that the post was in equivalent grade/scale of pay as such counting past service rendered by the respondents 4-17 as Agricultural Officers which is not an equivalent post of Asst. professor and not carry equal pay scale as that of Assistant Professor is against U.G.C. norms and the rules of the 2nd Respondent institution governing the recruitment and promotion and since the G.O. is illegal.

15. The counsel for the petitioner contended that the CAS under the U.G.C. notification 1998 provides for promotion from the post Associate Professor to the post of Professor only if they possess a minimum experience of 8 years as Associate Professor or a total services of 17 years in a College or University. In the instant case the respondents 4-17 have not attained the eligibility. Therefore counting of past services rendered by the respondents 4-

17 before they were appointed as Assistant Professor does not under any of these two categories. The CAS provides that where a person is appointed by direct recruitment /transfer from another post in the same grade then the past service as well as past promotions in the earlier posts will be counted for computing regular service for the purpose of ACPS in the new hierarchy the reason that, the service is in the same scale during that period in question. However, if the appointment is made to a post in a higher grade, then such appointment, whether by direct recruitment or by transfer or initially on deputation followed by absorption will be treated as direct recruitment and past service/promotion which was in different scale will not be counted.

16. In the case of respondents 4-17, they were appointed initially on deputation followed by absorption and their appointment will amount to direct recruitment and therefore their past services would cease to be effective on the date of such fresh and direct recruitment. The appointment as Assistant Professor is not an appointment by transfer from the same cadre or a promotions from the lower cadre. Therefore counting the past services of respondents 4-17 for the purpose of promotion to the post of professor is illegal and is in violation of the scheme. The counsel has drawn the attention of the court to the specific statement of the Dean that relevant particulars were not available at the time of consideration of proposal (i.e.,) in the year 2000 (i.e., 12.04.2000), he submitted that the decision was to go by the yardsticks fixed by the U.G.C./ICAR and the proposal for counting the past services ought not to have been acted up contrary to U.G.C./I.C.A.R. norms. Further he pointed out the audit objection of the Audit General, Tamil Nadu in this regard.

17. The Government Pleader for Puducherry has submitted that the U.G.C. norms are not applicable to the respondent institution and they are governed by the regulation of the Agricultural University and the rules promoted by the 3rd respondent institution. He submitted that the past services of the respondents 4-17 were considered as a one time measure for applying the CAS and taking in to account the urgent need in the College. As ICAR has framed its own rules adopted by the TNAU and the same is being followed by the 3rd respondent College. Therefore he submitted that U.G.C. norms are not applicable to the 2nd respondent institution.

18. The counsel for the respondents 4-17 has submitted that the U.G.C. Rules are very much applicable to the 3rd respondent institution. She made a forceful plea that the U.G.C. is applicable to Agricultural Universities and the colleges as well even ICAR adopted the U.G.C. norms. Further she submitted that as long as their service conditions are not attached granting the benefit of ACPS to the respondents can not be questioned.

19. After hearing both the sides and the submission of the Government Pleader of Puducherry, the Hon'ble Court observed as follows:

The Hon'ble court relied upon the letter dated 18.09.2003 of the Dean, PAJANCOA & R.I. addressed to the Secretary that as per Appendix VII of the U.G.C./ICAR guidelines that the posts of Agricultural officers and Assistant Professor are not equal either by qualification or by scale of pay. The Transfer of service of Agricultural Officers to Tamil Nadu Agricultural University by the Government of Tamil Nadu was done before the issue of U.G.C./ICAR norms for counting their past services. Now the Tamil Nadu Agricultural University has totally stopped the transfer of Agricultural Officers from the Department of Agriculture, Govt. of Tamil Nadu. In Tamil Nadu Agricultural University also the services rendered in Department of Agricultural was not counted for CAS. Further the Governing Body of PAJANCOA & R.I. (Karaikal) Society at its XXIII meeting held on 21.12.1999 approved the revised Career Advancement Scheme for placement of Assistant-Professor in the Senior Scale, Selection Grade and Associate Professor only. The Professor post will be filled up only against sanctioned posts. The direction of the Chief Secretary to Govt./Chairman is "We have to go by the yardsticks fixed by the UGC/ICAR and the present case does not fit the conditions prescribed as per the UGC/ICAR norms." As per the directions of the Chief Secretary-cum-Chairman, the Association has been explained in this regard. The post of Agricultural Officers does not equivalent to the post of Asst. Professor both in pay scale and qualification. Hence consideration for counting of past services of Agricultural Officers rendered in the Agricultural Department was not approved by the Chairman. The Private respondents 4-17 were not holding the post of equivalent grade/scale of pay, equivalent to the post of Assistant Professor in

PAJANCOA & R.I. and they were drawing in lesser scale of pay. On comparative assessment of the post of Assistant Professor come under 'A' category and the private respondents, who were working as Agricultural Officers, falls under 'C' category.

20. The Hon'ble High court, Chennai has relied upon the clarification issued by the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel and Training dated 18.07.2001 which clarifies counting of past services of an initially appointed on deputation in a grade higher than the grade of the post held on regular basis and was subsequently absorbed against the ex-cadre post according to which 'where a person is appointed on direct /transfer basis from another post in the same grade, their past regular service for the purpose of ACPS in the new hierarchy. The reason being that so long as service is in the same scale during the period in question, it is immaterial whether he has been holding different posts in the same scale. However, if the appointment is made to a post in a higher grade, there such appointment whether by direct recruitment or by transfer or initially on deputation followed by absorption, will be treated as direct recruitment and past service/promotion (which was in a different scale) will not be counted. In the case where a person is appointed to an ex-cadre post in higher post in higher scale initially on deputation followed by absorption, while the service rendered in the earlier post, which was in a lesser scale, can not be counted, there is no objection to the period spend initially on deputation to ex-cadre post period to absorption being counted towards regular service for the purposes of grant of financial upgradation under ACPS as it is in the same scale of pay and same post.

21. Hence, the court has not agreed the submission of the Counsel of the Private respondents 4-17 that the guidelines issued by the DOPT is applicable only to Central civilian employees and not to PAJANCOA & R.I. and observed that there can not be difference in application of U.G.C. norms whether it is AICTE or ICAR and UGC has to be applied uniformly to all person covered under the Scheme. The court has also relied on the audit objection of the Senior Audit Officer of the Audit General, Tamil Nadu which has raised its objection based on the clarification issued by the DOPT.

22. The Court has observed that there is no reference to the subsequent development (i.e.,) issuance of U.G.C. guidelines for implementation of the ACPS and the specific note of the Chief Secretary/Chairman of the Committee dated 9.9.2003. the court taking note of the contention of the petitioners observed that unless the Governing Body takes a decision in the matter of counting of the past services rendered in the Agricultural Department, the first respondent can not take a decision in the matter based on a resolution said to have been passed in the year 2000 which was without reference to the U.G.C./ICAR norms and that the proposals have to be sent to Administrative Secretariat for scrutiny and the first respondent has to examine as to whether the proposal has the sanction of the Governing Body in the light of UGC/ICAR.

23. After introduction of the U.G.C./ICAR norms, when the Tamil Nadu Agricultural University has taken a decision not to count the past services rendered in the Agricultural Department which is evident from the letter dated 18.09.1993 of the Dean, PAJANCOA & R.I. , the decision taken by the 1st Respondent runs contra to the norms followed by the Agricultural University. Therefore, the reasons contained in G.O. that the proposal has been examined on par with the Agricultural Officers/Asst. Veterinary Surgeons absorbed in the Tamil Nadu Agricultural University, Coimbatore and Tamil Nadu Veterinary and Animal Sciences Universities are erroneous. There is no reference as to whether U.G.C. norms and other factors stated supra have been considered or not. There is no rule or regulation of Society dealing with the counting of past service. Therefore respondents 1 and 2 have to be necessarily fell back on U.G.C. norms for counting the past services rendered in some other department for the purpose of Career Advancement, promotion and seniority.

24. As per ICAR norms, the previous service without any break as Assistant Professor or equivalent in a University college, National Laboratory or Scientific Organisation like CSIR, ICAR, DRDO, U.G.C. and as a U.G.C. Research Scientist should be counted for placement of lecturers (Assistant Professor) in Senior Scale/Selection Grade provided:

- i) The post was in equivalent grade/scale of pay as the Asst. Professor.

- ii) The qualification for the post were not lower than the qualification prescribed by U.G.C. for the post of Asst. Professor.

While appointing the respondents 4 to 17, the Dean, PAJANCOA & R.I. in his letter dated 02.08.1993 has stated that the respondents were absorbed as Assistant Professor in the scale of pay of Rs.2200-75-2800-100-4000 and that their previous services will be considered only for retirement benefits. If the services rendered by them have to be considered for the ACPS for purpose of fixation of pay, promotion and seniority, then it would be amounting to treating the services rendered in the lower scale of pay /grade (Agricultural Officer) is equivalent to the services rendered in higher scale of pay/grade (Assistant Professor) in PAJANCOA & R.I. (Karaikal), which means treating unequals as equals in the matter of seniority.

25. The second respondents Institution was founded only on 2nd October 1987. If the services rendered by Dr. G. Mohamed Yassin in the Agriculture Department 15 years 4 months and 27 days were to be counted, for fixing the seniority, it would certainly bring about an anomalous situation, when the Institute itself was founded only on 2nd October 1987.

26. The court also contended the action of the Government that Government can try to introduce new cause in the counter affidavit to support to impugned order. It is well settled that when an order is passed by statutory authority, the same should be supported by reasons contained therein and it can not be permitted to support his order on the basis of statement made in the counter affidavit.

27. The Hon'ble High Court, Chennai based on the above findings held that the contention of the petitioner that their promotional chances to the post of Dean may not be correct in the light of recruitment rules which states that the post of Dean should be filled up by deputation or direct recruitment. But the averments in the writ petitions certainly expose the grievance of the petitioner that the private respondents 4 to 17 can not be equated to them by counting their past services rendered in the lower post /grade and for that above reasons the impugned Govt. order is set aside.

Implication perceived by the PAJANCOA & R.I. Karaikal consequent on the setting aside of G.O.Ms.No.22/Ag dated 10.10.2005 of the Chief Secretariat (Agriculture) Puducherry.

28. At the time of personal interview held on 31.08.2006 under the career Advancement Scheme (CAS in short), the eligibility of 17 years of qualifying service of Associate Professors, who were covered in terms of the G.O.Ms.No.22/Ag dated 10.10.2005 of the Chief Secretariat (Agriculture), Puducherry and promoted as Professor were reckoned their services Assistant Professor, Associate Professor in PAJANCOA & R.I. Karaikal alongwith the past services of Agricultural Officers rendered in the Agriculture Department, Puducherry. At the time of interview, only three Associate Professors were qualified for the post of professor without the implementation of the G.O.Ms.No.22/Ag dated 10.10.2005 of Chief Secretariat (Agriculture), Puducherry as detailed below:

Sl. No	Name	Date of entry in PAJANCOA	Date of eligibility for the posts of professor as per ICAR/ RR
1.	Dr. Omar Hattab	03.05.88	03.05.2005
2.	Dr. R.Govindarasu	11.08.88	11.08.2005
3.	Dr. J. Rammohan	17.04.89	17.04.2006
4.	Dr. G. Mohamed Yassin	15.11.89	15.11.2006
5.	Dr. C. Rettinassabady	01.11.89	01.11.2006
6.	Dr. A. Shaik Allaudin	04.12.89	23.03.2008*
7.	Dr. K. Madiazahagan	06.07.90	06.07.2007
8.	Dr.S.Muthukumarasamy	14.09.90	14.09.2007
9.	Dr. P. Pandian	30.09.91	30.09.2008
10.	Dr. S. Thirumeni	11.03.93	11.03.2010
11.	Dr. D. Adiroubane	5.11.90	05.11.2007

E.O.L and Overstayal of leave from 15.04.04 to 2.08.2005 were not reckoned.

29. But they were promoted provisionally subject to the outcome of the Writ Petitions Nos.5219/2006 and 6336/2006 pending in the High Court of Jurisdiction, Chennai. The incumbents Sl.No.1 to 10 have been fixed the minimum pay of the pay of Rs.16400/- in the scale of pay of Rs.16400-450-20400-500-22400/- w.e.f., 1.09.2006 Sl.No.11, Dr. D. Adiroubane was re-assessed and promotion as Professor in the DPC held on 28.02.2008.

30. Therefore, the provisional promotion orders issued to them have to be revoked and they have to be reverted to their lower post viz., Associate Professor. The pay and allowances have to be regulated accordingly and the over payment of the pay and allowances made them have to be recovered and this can be done by adjusting the same against the payment of arrears on the revised pay on the implementation of the recommendations of Sixth Central Pay Commission.

31. Further, while evaluating the Associate Professors in the Personal Interview held on 31.08.2009 and 28.02.2009 for promotion to the posts of Professors, 1.5 marks per year to the maximum of 15 marks out of 100 were allotted to the Associate Professors who are possessing over and above of 17 years of qualifying years for the post of Professor which were arrived both the services of PAJANCOA & R.I. and the Agricultural Department . Therefore, the evaluation of candidates are to be re-assessed without the past services of the Individual.

32. Before, initiating action for their reversion to the lower post, regulation of pay and recovery/adjustment of overpayment of pay and allowances, conduct of review DPC , the Govt. may kindly arrange to obtain the opinion of the Law Department, Puducherry as to ascertain whether the case is fit for appeal and contemplates further action to withdraw the said G.O.Ms.No.22/Ag dated 10.10.2005 of the Chief Secretariat (Agriculture), Puducherry.

33. The petitions in the case viz., Dr. P. Paramasivam, Dr. A. Baskar, Dr. V. Chellamuthu and Dr. P. Nasurudeen have filed their Memo. of Caveat petition and the same also enclosed for kind perusal.

34. Hence, necessary opinion of the Law Department, Puducherry as to the fact whether the case is fit for appeal may kindly be arranged to be obtained or further action contemplated to withdraw the G.O. in question may kindly be communicated.

35. The file is submitted to the Secretary to Government (Agriculture) with a request to submit the file to the Chief Secretary to Government-cum-Chairman for his perusal and for further action please.

OFFICE OF THE CHIEF SECRETARY
No. 00355
Received on 15 OCT 2009
Disseminated on 20 OCT 2009

[Signature]
22/09/09
Collector-cum-Dean

OFFICE OF THE SECRETARY
1454 A (Sag) Agri 109
No. 124 SEP 2009
Received 19/8/09
Disseminated On 27

Secretary to Government (Agriculture)

[Signature]
19/10

Chief Secretary to Government/
Chairman, PAJANCOA & R.I.

[Signature]
19/10

20 OCT 2009
CUTTING 334/14/09-17

[Handwritten mark]

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from above

LAW DEPARTMENT

36. The opinion sought on file relates to assessing whether the order dated 3.4.2009 of the High Court in H.P. Nos. 5219 and 6236 of 2006 is fit for appeal.

37. At the first instance, the administrative department may be advised to kindly arrange to obtain the views of the SGP in this regard and thereafter forward the file to the department for an opinion.

for
22/10/09

[Signature]
(A. RAGOO)
DEPUTY SECRETARY (LAW)

I.D. Note No 334/14/09-17
Dated 23-10-09

SECRETARY (AGRI) Pl. Obtain the opinion of the Advocate of the 13 case/SGP

Sect.
19/10/09

Dean/Sec. KKL

38. SAG ph dir
[Signature]
29/10/09

is enclosed herewith for information.

PAJANCOA & R.I. KARAIKAL

(from pre-page

Note no. 5302/OS-1/1/08

2.12.09

40. As directed by the Secretary to Government (Agri.), the opinion of Senior Government Pleader for Government of Puducherry, High Court, Chennai has since been obtained and the same is placed at p.No.47/cores.

OFFICE OF THE SECRETARY	
No. 1851/Secy(Agr.)/09	
Received	7.12.09
Despatched On	7.12.09

[Signature]
02/12/09
Collector-cum-Dean

Secretary to Government (Agri.)/41. As desired by Law

Deptt. at para 37, the opinion of Sr. Govt. Pleader is obtained in which he has recommended for appeal in Supreme Court. Originally the same employees have filed the case in H.C. and PAJANCOA as well as many other affected employees (teachers) are Respondents. So in this situation Law Deptt. should advise whether: (i) PAJANCOA should go for appeal or (ii) leave the matter to teacher - Respondents Applicants (of H.C. case) to go on appeal or (iii) considering the merit of the judgement ~~PAJANCOA~~ should not go for appeal.

OFFICE OF THE SECRETARY	
07455	
7 DEC 2009	

[Signature]
7/12
42. How can the Society contend that UGC guidelines do not apply in the case of PAJANCOA? The Respondent's should be treated as fresh appointees only.
Sey Agr. *[Signature]* 8/12
Deant Agr. *[Signature]* 8/12

45. The Government of Puducherry has issued a Government Order vide G.O.M.S.No.22/Ag. dated 10.10.2005 of the Chief Secretariat (Agriculture), Puducherry.
46. Aggrieved by it, 4 Professors working in PAJANCOA&RI, Karaikal approached the Hon'ble High Court of Chennai vide Writ Petitions No.5219 and 6336 of 2006 and the Hon'ble High Court has ^{set} ~~set~~ aside the said G.O.Ms.No.22/Ag.
47. The respondents in these two writ petitions were not only the Chief Secretary to Government, the Dean, PAJANCOA&RI, but also 14 other faculty members working in PAJANCOA&RI whom the petitioners claimed were unduly benefited because of the impugned G.O.
48. The main contentions of the petitioners are as follows:
 - (a) The respondents were earlier working as Agricultural Officers in the Department of Agriculture under the Government of Puducherry which is Group 'C' post, carrying a lower scale of pay when compared to the post of Assistant Professor, which is classified as Group 'A' category of post carrying higher scale of pay.
 - (b) For the appointment of Agricultural Officer, the minimum qualification is B.Sc.,(Agri.), whereas for the post of Assistant Professor the minimum qualification is Post Graduation i.e., M.Sc.,(Agri.)
 - (c) The respondents were deputed to the PAJANCOA&RI, Karaikal on different dates between 1988 and 1993 to serve as Assistant Professor on temporary basis and were subsequently absorbed and their services were regularized as Assistant

Professor on permanent basis by an order from their date of deputation.

(d) The petitioners also contended that the respondents had given an undertaking, stating that they would not claim the benefit of past service put in by them in the Agricultural Department.

(e) The petitioners also contended that the Institute is governed by rules and regulations framed by UGC.

(f) They also contended that if the impugned G.O. is implemented, some of the persons taken from the Agricultural Department would march ahead of the petitioners in seniority who were directly recruited in the Institutions.

49. The Union Territory of Puducherry in their counter Affidavit have submitted the following contentions:

i) The PAJANCOA&RI, Karaikal is a society registered under the Central Societies Registration Act and it is governed by the Governing Body and the rules and regulations framed by them.

ii) The Government of Puducherry further submitted (*vide* para 23 of the High Court Order) that the University Grants Commission (UGC) norms is not applicable to the PAJANCOA&RI, whereas in all the recruitments and career advancement schemes the UGC norms is followed in total, pay and other benefits were also fixed as per UGC norms. They also contended that the Tamil Nadu Agricultural University norms is being followed for the case of counting of past services. These contentions have also been set away by the Hon'ble High Court.

50. The Tamil Nadu Agricultural University has also counted the past services of the faculty members who had worked in the Agricultural Department as a one time measure because of the fact that after the University was started, research work was continued both by Professors of the University and of the Research Wing of the Agricultural Department of Tamil Nadu. As there was duplication of work in the field of research by the University as well as by the Research wing of the Agricultural Department, it was decided, as a one time measure, to merge the Research Wing of the Agricultural Department with the University. But in the case of PAJANCOA&RI faculty members, the Agricultural Officers have performed only the Extension activities.
51. The decision to merge the Research Wing of the Agricultural Department with the Tamil Nadu Agricultural University was made when the UGC norms regarding absorption were non exist whereas at the time of issue of the impugned G.O.Ms.No.22/Ag. Dated 10.10.2005 by the Government of Puducherry, the UGC guidelines and norms for counting of past services came in existence wherein it has been specifically stated that previous service without any break as Assistant Professor or equivalent in a University, College etc., should alone be counted for placement of Lecturer in senior scale or selection grade provided the post was in equivalent grade / scale of pay as the post of lecturer and that the qualification for the post were not lower than the qualification prescribed the UGC from the post of Assistant Professor. The UGC guidelines also state that for promotion from the post of Associate Professor to the post of Professor, only if they possess a minimum experience of eight years as Associate Professor or a total service of 17 years in the college or in the University. In the above case, the respondents 4 to 17 have not completed either of the two.

52. The UGC guidelines also states^{that} if the appointment is made to a post in a higher grade then such appointment, whether by direct recruitment or by transfer or initially on deputation followed by absorption will be treated as direct recruitment and past service/ promotion which was in a different scale will not be counted.
53. The Court has also taken note that the respondent college has rejected the request of one Dr.T.Ganapathy, for consideration of his past services as Agricultural Officer for the purpose of promotion and also a letter dated 18.09.2003 from the Dean of the respondent institution that the counting of past services has been decided against them citing decision taken earlier in the case of Dr.T.Ganapathy.
54. The Court has also noted the per contra submission of the learned counsel of the respondents that TNAU is following the UGC norms which are very much applicable to the PAJANCOA&RI.
55. The court has noted that the Chief Secretary-cum-Chairman in a earlier file has noted that "we have to go by the yardsticks fixed by UGC/ICAR. It has been explained already that their cases do not fit the conditions prescribed 'D' above. This need not be examined in FD. We may ask the Dean to give a detailed explanation reply to the Association".
56. But in the G.O.Ms.No.22/Ag, there is absolutely no reference to the subsequent developments, (i.e.) issuance of UGC guidelines for implementation of ACPS and the specific Note of the Chief Secretary and Chairman of the Committee, dated 09.09.2003, referred to in the letter of the Dean, PAJANCOA&RI, Karaikal dated 18.09.2003.

57. The Court has also noted that the impugned order is also silent about the decision of the XXXII meeting of the Governing Body held on 04.04.2003 and the subsequent communications, dated 18.09.2003 and 19.07.2004 of the Chief Secretary and Chairman of the Committee.
58. The Court has also noted that the proposals have been directed to be sent to Administrative Secretariat for scrutiny and that the Chief Secretariat ought to have been examined as to whether the proposal has the sanction of the Governing Body in the light of UGC/ICAR norms.
59. The Court also noted that if the services rendered by the respondent have to be considered for the ACPS for the purpose of fixation of pay, promotion and seniority, then it would be amounting to treating the services rendered in the lower scale of pay / grade (Agricultural Officer), is equivalent to the services rendered in higher scale of pay / grade (Assistant Professor) which means, treating the unequal as equals in the matter of seniority.
60. The file has already been submitted to the Law Department for opinion which ask to obtain the views of the Senior Government Pleader as to whether this is a fit case for the appeal. The Senior Government Pleader has opined that the case is fit for appeal.
61. Further, on a close perusal of the High Court order dated 03.04.2009, which is very elaborate and detailed, the Government of Puducherry need not go on appeal but to leave to the respondent 4 to 17 to decide on future course of action at their level.
62. The said G.O.Ms.No.22/Ag. dated 10.10.2005 of the Chief Secretariat (Agriculture), Puducherry has to be cancelled, the

consequential benefits already acquired by the private respondents 4 to 17 due to the impugned G.O. has to be cancelled, the monetary and other benefits reworked and recovered from them.

63. The file is submitted for orders,

i) whether the Government of Puducherry should go on appeal against the Hon'ble High Court Order in the light of the opinion given by the Senior Government Pleader.

ii) whether the Government can implement the orders of the Hon'ble High Court Order and leave it to respondents 4 to 17 to decide the future course of action at their level.

64. In case the Government decides to implement the Orders of the Hon'ble High Court for setting aside G.O.Ms.No.22, the benefits that were given to respondents 4 to 17 needs to be reworked and recovered from them.

(Dr. N. VASANTHA KUMAR, I.A.S.,)
COLLECTOR-CUM-DEAN.

OFFICE OF THE SECRETARY	
No.	67313
Received	30 DEC 2009
Dispatched	4 JAN 2010

No. 5352/KPS-1/09
ESP/08 dt. 23 Dec 09

OFFICE OF THE SECRETARY	
1984/Conty Agri 109	
29 DEC 2009	
23/12/09	

SECRETARY (AGRICULTURE) 65 My remarks at 14/N may kindly

be seen. Decn's remark at para 61 is self explanatory. The Underigned is of view that Govt. should not go for ~~the~~ appeals and the Resps. No. 4 to 17 are free to go to next higher court if they so desire. May pt. decide. Law Deptt. b opinion may be sought in this regard.

CS/Chairman (b) What is Jp's opinion on 29/12 Court's observations referred to in para 59 on pre-judge? How can there be logically and legally interested? In case Jp

is able to give a sound defence then we
may go on for appeal. Otherwise, endorse X on page
31/12

Sing (A/P)

Dea
5/1

7913/CS/09

4/1/10

Dea/cr.
(PASANCOA)

STO
N
08/01/10

OFFICE OF THE SECRETARY
No. 1984 Secy. Pgn. 09
Received 4/1/10
Despatched On 6/1/10

OFFICE OF THE DEAN
PASANCOA & P. KARAKAL
Current No.
File No. 2435/PJN/E
Date of issue 08.01.10

From Pre page.

**PANDIT JAWAHARLAL NEHRU COLLEGE OF AGRICULTURE AND
RESEARCH INSTITUTE, SERUMAVILANGAI, KARAİKAL.**

No.5298/PJN/Estt/E1/2010

Dt.9-7-2010

OFFICE OF THE SECRETARY

No. 1310/Secy/Asst/140

Received on 12 JUL 2010

Despatched on 14/7/10

Sub: PAJANCOA – Karaikal – Operation of Impunged G.O.
M.S.No.22, dt.10-10-2005 set aside – Increment not
granted – Reg.

67 This file relates to the representation of the following staff members of PAJANCOA & RI, Karaikal regarding not granting of annual increment from 1-7-2009.

1. Dr. K. Omar Hattab, Professor ✓
2. Dr. D. Adiroubane, Professor ✓
3. Dr. R. Govindarasu, Professor ✓
4. Dr. J. Rammohan, Professor ✓
5. Dr. A. Shaik Alauddin, Professor ✓
6. Dr. S. Muthukumarasamy, Professor ✓
7. Dr. K. Mathiazhagan, Professor ✓
8. Dr. P. Pandian, Professor ✓

z. 68 In this regard it is stated that the above staff members were the Respondents in the Writ Petition of W.P. Nos. 5219 and 6336 of 2006 filed in the Hon'ble High Court, Chennai. The Hon'ble High court, Chennai, has stated in its order dt.30-4-2009 that the Chief Secretary to Govt. and the PAJANCOA & RI, Karaikal (Respondent 1 and 2) have to necessarily fall back on UGC norms for counting of past services rendered in other departments for the purpose of career advancement, promotion and seniority.

z. 69 The respondents 4 to 17 were already promoted to the post of Professor by counting the past services as 'Agriculture Officer' in Agriculture Department, Puducherry as per G.O.Ms.22, dt.10-10-2005 and therefore the impunged G.O.Ms.No22 is set aside by the Hon'ble High Court, Chennai. But the respondents 4 to 17 have not been reverted to their original post as per the court order dt.30.4.2009 since they appealed the Hon'ble High Court to hold the operation of order. This interium stay order dt.17-3-2010 is subject to any objection of UGC as regards the conformity of the impunged G.O. with UGC Norms and the UGC ought to have been included in this case as party by the respondent 1 and 2. At present this file is at the hands of Govt. pleader, Chennai.

z. 70 Meanwhile the 5th respondent Dr. D. Adiroubane, Professor (Agrl. Entomology) of PAJANCOA & RI, Karaikal has sought for information under RTI Act 2005 about the copy of the decision taken for not sanctioning the annual increment which is similar to the requests of the above said staff. The APIO, PAJANCOA & RI, Karaikal has furnished a copy of the notings of the then Dean on the requisition of Dr. D. Adiroubane, Professor wherein it is stated that: "only the operation of Hon'ble High Court Order is stayed and validity of G.O.Ms.No.22 has not been upheld". A copy of the notings of the then Dean is enclosed herewith for information.

..2..

71. Therefore it is stated that until the case file is cleared by the Hon'ble High Court, neither the increment to the respondents 4 to 17 can be given nor the judgement of setting aside of the G.O.Ms No.22, dt 10-10-2005 can be implemented by reversion of post to the original position and recovery of pay from them. The requests of the above said staff members addressed to Chief Secretary to Govt. for granting annual increment are placed herewith for favour of kind information.

OFFICE OF THE SECRETARY
No: 1310/Secy/Ag
Received 31- AUG-2010
Despatched on 11/8/10

AR 9/10/10
DEAN I/C

Secretary (Agriculture)

Chief Secretary-cum-Chairman
PAJANCOA & RI (Society)

T2. May discuss alongwith case details
and copy of USC norms for counting
of past services rendered in other
departments, + see Hc No 22.
13.7.10.

Dean I/C
PAJANCOA
Karaiel
SAO I/C PL
16/10/10

T3. As directed in para 6/ante by the Secretary (Agri)
Ruduckery, the case file in connection with WP 5319
and 6336 of 2006 is placed herewith for favour of
disposal.

AR 9/10/10
Dean I/C

Secretary (Agriculture)

T4. Dismissed
and file submitted

with Secretary (Agriculture) on 03-08-10

AR 02/08/10

Dean I/C

44950
11/8/10

Secretary (Agriculture)

P.L. minimum

11/8/10

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11/8/10
A-4

(from pre-page)

CHIEF SECTT. (AGRI. & FORESTS)

76. The proposal in the file relates to representations received for granting of annual increments from 01.07.2009 to Dr.K.Omar Hattab, Professor and 7 other Professors of PAJANCOA & RI, Karaikal who are Respondents in WP 5219 and 6336/2006 filed in the Hon'ble High Court, Chennai.

77. Notings of the Dean, PAJANCOA&RI, Karaikal from para 67 to 71/nf. and observation of the Secretary to Govt. (Agri.) thereunder may please be seen.

78. It is seen from the file that the Professors as mentioned at para 67/nf. were the respondents in the Writ Petition of W.P.No.5219 and 6336 of 2006 filed in the Hon'ble High Court, Chennai. The High Court, Chennai has stated in its order dt.03.04.2009 that the Chief Secretary to Govt. and the PAJANCOA & RI, Karaikal (Respondents 1 and 2) have to necessarily fell back on UGC norms for counting of past services rendered in other departments for the purpose of career advancement, promotion and seniority. It has also been stated the respondents 4 to 17 were already promoted to the post of Professor by counting the past services as "Agricultural Officer" in Agriculture Department, Puducherry as per G.O.Ms.No.22 dt. 10.10.2005 and therefore the impugned G.O.Ms.No.22 is set aside by the Hon'ble High Court, Chennai. But they have not been reverted to their original post as per the above order dt. 03.04.2009 since they appealed the Hon'ble High Court (civil appellate jurisdiction) to hold the operation of Order. This interim stay order dt. 17.03.2010 is subject to any objection of UGC as regards the conformity of the impugned G.O.with UGC norms and the UGC ought to have been included in this case as party by the respondent 1 and 2.

79. It has been stated that meanwhile the 5th Respondent viz. Dr.D.Adiroubane, Professor (Agri. Entomology) of PAJANCOA & RI, Karaikal has sought for information under RTI Act 2005 about the copy of the decision taken for not sanctioning the annual increment which is similar to the requests of the above said staff. The Asst.P.I.O, PAJANCOA & RI has furnished a copy of the notings of the then Dean on the requisition of Dr.A.Adiroubane wherein it is stated that "only the operation of the Hon'ble High Court order is stayed and validity of G.O.Ms.No.22 has not been upheld".

80. The Secretary to Govt. (Agri.) has made discussion with the Dean along with the case file and UGC norms in connection with WP 5219 and 6336 of 2006 and the institution has submitted for orders as to whether the requests of the staff members for granting annual increment may be considered since until the case is cleared by the Hon'ble High Court, neither the increment to the respondent 4 to 17 can be given nor the judgement of setting aside of the G.O.Ms.No.22 dt. 10.10.2005 can be implemented by reversion of post to the original position and recovery of pay from them.

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P. 55-61/cor

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(from pre-page)

81. Before the file is submitted to the Chief Secretary for orders, the file may be referred to the Law Department for their opinion through the Special Secretary (Agriculture).

CGS
11/11/10

[Signature]
11/11/10

OFFICE OF THE SECRETARY	
2064/Secy/Agri/10	
Received	2 NOV 2010
Cached on	2 NOV 2010

U.S. (Agri.)

[Signature]
11/11/10

Spl. Sec. (Agri.)

[Signature]

2064/44950/CS (Agri) 11/11/10
11-11-10

Law Dept

[Signature]

LAW DEPARTMENT PONDICHERRY	
Received on	2 NOV 2010
Current No.	281/2010/10-10

[Signature]
3/10/10

11/11/10

11/11/10

[Signature]

(from pre-page)

LAW DEPARTMENT

82. The advice sought on file relates to granting or not, the annual increments from 1.7.2009 onwards to Dr.K.Omar Kattah, Professor and 7 others of PAJANCOA & RI, Karaikal, who are the respondents in W.P.Nos.5219 & 6336 of 2006 filed before the Hon'ble High Court, Chennai. We are sorry that this file got mixed up with old files and could not be traced out earlier.

83. The gist of case is that the petitioner in the above mentioned W.P.No.5219 of 2006 is working as Professor and Head of the Department of Plant Breeding Genetic in PAJANCOA & RI and the petitioners in W.P.Nos.6336 of 2006 are working as Professor and Head of the Department of Agronomy, Soil Science and Agriculture Chemistry and Agricultural Economics and Extension in the above said Institute. It is noted that the petitioners were earlier working as Associate Professors in Tamil Nadu Agricultural University with Doctorate Degrees. On the other hand, the respondents 4 to 17 in both the above mentioned W.Ps. were earlier working as Agricultural Officers in the Department of Agriculture, Puducherry, which is a Group 'C' post in which carried a lesser scale of pay when compared to the post of Assistant Professor, which was classified as Group 'A' post carrying higher scale of pay. The respondents were drawn on deputation to serve as Assistant Professors and they were subsequently absorbed and their services were regularised as Assistant Professor on permanent basis by an order dated 2.8.199 with retrospective effect from the date of their deputation to the second respondent institution.

84. It is observed further that G.O.Ms.No.22 dated 10.10.2005 was issued by the Agriculture Department, for counting of past services rendered in Agriculture Department by the 14 Agricultural Officers deputed from Agriculture Department, Puducherry and absorbed as Assistant Professors, for considering them for benefits under Career Advancement Scheme, subject to the fulfilment of Assured Career Advancement Scheme. This was stated to be against UGC norms which provided for taking into account the basic years of service in the feeder category. However it was countenanced by the Administrative Department that, UGC norms will have no application to the Institution in as much as the Indian Council of Agricultural Research

(from pre-page)

has in consideration of the UGC regulations framed its own rules and regulations and made them applicable to all the Agricultural Colleges and Research Institutes all over India and PAJANCOA & RI being one such college and Research Institute affiliated to TNAU, need not conform to UGC norms. However, the High Court has allowed the prayer of the petitioners in the above mentioned W.Ps., observing that, 'this court is of the view that the impugned order is contrary to the norms prescribed by UGC norms, the practice being followed as on today in Tamil Nadu Agricultural Universities after 1999 (after the introduction of UGC norms). Accordingly the impugned G.O. has been set aside.'

85. Thereafter, the respondents in the above W.Ps., filed appeal before the Hon'ble High Court of Judicature, Madras by way of W.A.Nos.1467 & 1468 of 2009 challenging the above said Order in W.P.Nos.5219 & 6336 of 2006. The High Court vide Interim Order dated 17.3.2010 in the above said Writ Appeals has ordered as follows:-

".....Interim stay subject to any objection of the University Grants Commission as regards the conformity of the impugned G.O. with the U.G.C. norms. The pleading in the Writ Petition is that the G.O. is contrary to UGC norms. Then, UGC ought to have been made as party by first respondent/ writ petitioner, so that we can hear the UGC's views in this regard and if the UGC expresses its opinion before us that the impugned G.O. does not in any way, violate their norms, then the writ petitioners can have no grievance....."

86. It is at this instance, that the file has been referred to this department seeking advice as to whether the requests of the staff members for granting annual increment may be considered since until the case is cleared by the Hon'ble High Court, neither the increment to the respondents 4 to 17 can be given nor the judgement of setting aside of the G.O.Ms.No.22 dated 10.10.2005 can be implemented.

87. In this context, it is observed that the High Court has already impleaded UGC as party in the Writ Appeal and has also stayed the Order dated 3.4.2009 of the High Court in W.P.Nos.5219 & 6336 of 2006. In the said circumstance, the G.O.Ms.No.22 dated 10.10.2005 is deemed to be effective and in such view of the matter, the Writ Appellants may be allowed the increments in the time scale of pay in posts held by him.

(from pre-page)

88. However, by way of abundant caution, the administrative department may sanction the increments with a rider that the increments sanctioned to the above said appellants would be subject to the outcome of the Writ Appeal pending before the High Court and shall be liable to be recovered from their future pay and other benefits accruing to them, if the appeal is not decided in their favour.

281/adv/10. LD
7/9/12

(JOHN CLAUDE POMPEI MARIDASSOU)
LAW SECRETARY TO GOVERNMENT

Secretary (Agri)

OFFICE OF THE SECRETARY (AGRICULTURE WELFARE FIRE SERVICE) CHIEF SECRETARY PUDUCHERRY.	
840/PA	
Received on 7/09/12	
Dispatched on 07/09/12	

89. may like to see for information please.
file was referred to the Law Deptt in 2010 and its opinion has been received in September 2012. Advice of Law Deptt. need to be examined in backdrop of development of this case in High Court in three years.

OFFICE OF THE CHIEF SECRETARY PUDUCHERRY	
5201	
Seen on 10 SEP 2012	
Dispatched	

840/Secy(Agr) 112
bc: 11/09/12

90. The case has been decided in the High Court & further taken up with Supreme Court. Always the some of the Asst. Professors, who are respondents are also likely to retire shortly. In which case, recovery of excess payment, if any may become difficult. Dean may re-examine & put up.

Sec (Agr)

Dean

Yany
11/09/12

17.9.12

From pre-page No.28 /-

No.5302/PJN/E1/Estt./2012

Date: 16/12/2012

- A | 91. This file relates to the 14 Agricultural Officers whose past services as Agricultural Officers in the Department of Agriculture, Govt. of Puducherry was counted for promotion to the post of Professors at PAJANCOA&RI by the impugned G.O.Ms.No.22/Ag. Dated 10.10.2005. Out of the 14 Agricultural Officers, only ten of them were promoted as Professors (herein after called as G.O.Professors).
- B | 92. The said G.O.Ms.No.22/Ag. dated 10.10.2005 was challenged by the aggrieved directly recruited Professors (hereinafter called as Direct Professors) in the High Court of Madras through W.P.No.5219 & 6336 of 2006, as they will become juniors to the G.O.Professors who were promoted by counting their past services in the Dept. of Agriculture by implementing the said G.O.
93. The judgment on the above Writ Petitions of the Single Judge dated 30.04.2009 had set aside the G.O.Ms. No.22/Ag. dated 10.10.2005.
- C | 94. As a first step in implementing the judgment, the then Collector-cum-Dean, PAJANCOA&RI, Karaikal withheld the annual increment of the G.O.Professors with effect from 01.07.2009 till their promotion is regularized. However, the G.O.Professors were not reverted back to their original post of Associate Professor.
- D | 95. Subsequently, the G.O.Professors challenged the judgment of the single Judge through Writ Appeals No.1467 & 1468 / 2009 dated 17.03.2010. This writ Appeals were taken up by the two member - Division Bench of High Court of Madras.
- E | 96. The two member - Division Bench gave an interim order of stay of the operation of the judgment dated 30.04.2009 of the Single Judge in W.P.No.6336/2006, vide its order dated 26th March 2010.
97. Based on the above interim order of stay dated 26.03.2010, the G.O.Professors requested for grant of annual increments which was withheld with effect from 01.07.2009.
- F | 98. But the then Collector-cum-Dean, PAJANCOA&RI, Karaikal did not consider their request stating that "the G.O.Ms.No.22/Ag. is not in force as only the Honorable Court Order has been stayed. Let us wait for the final outcome". Therefore the withheld of increments were not revoked and the status quo is being continued till date.
- G | 99. The then Dean submitted a file (No.5298/PJN/Estt/E1/2010, dated 09.07.2010) to the Chief Secretary and Chairperson, stating that "only the operation of the Hon'ble High Court Order is stayed and validity of G.O. Ms.22 has not been upheld" and hence the annual increment to the G.O.Professors can not be given till the final judgment is pronounced (para 67 to 71 / ante - P.No.22 & 23).

This file was referred to the Law Department for clarification / opinion regarding grant of annual increment to the G.O.Professors through the Special Secretary to the Govt.(Agriculture), as early as 2.11.2010 (para 80 and 81 / ante.).

100. In the mean time, the stay was vacated by the Direct Professors and the case in W.A.No.1467 and 1468 of 2009 of the G.O.Professors was taken up by the two member - Division Bench and final judgment was pronounced on 12th September 2011, dismissing the Writ Appeals of G.O.Professors and setting aside the G.O.Ms.No.22/Ag., by upholding the judgment dated 30.04.2009 of the single judge.

101. The Law Department gave its opinion on 30.4.2012 in the file and the file was put up from the Law Department to the Secretary (Agriculture) on 07.09.2012 (Para 88 / ante). The Law Department advised to sanction annual increment, subject to the outcome of the Writ Appeal pending before the High Court.

102. The opinion of the Law Department could not be considered at present because the final judgment of the Division Bench was pronounced as early as 12th September 2011 (nearly two years before the opinion of Law Department is obtained).

103. The observations of the Secretary (Agriculture) and the notings of the Chief Secretary and Chairman (Para 89&90 / ante.) may please be perused. Their observation is very pertinent in respect of not grant of increment as there was lot of developments in the mean time.

104. Out of ten G.O.Professors, who enjoyed the benefit of G.O.Ms.No.22, only seven G.O.Professors appealed against the judgment dated 12.09.2011 of the two member - Division Bench of High Court of Madras on 19.11.2011 at the Supreme Court of India through a petition for Special Leave to Appeal(civil) No.33338-33339 of 2011.

105. The Hon'ble Supreme Court of India passed an interim order "to maintain the status quo". It means, the status before the special Leave petition has to be maintained. That is the operation of the judgment of the Division Bench alone is stayed and the validity of G.O.Ms.No.22/Ag. Dated 10.10.2005 ^{has not been} is upheld. Therefore the annual increment that was withheld with effect from 01.07.2009, based on the judgment of Single Judge in W.P.No.5219 & 6336 / 2009 is still continued.

106. Subsequently, the whole spectrum of the cases related to the G.O.Ms.No.22/ Ag. dated 10.10.2005 was placed by the Dean in the 40th meeting of the Governing Body of PAJANCOA (Karaikal) Society held on 16.02.2012 as agenda item No.20:Any other item (Table Agenda). After a detailed discussion, the Governing Body directed the Dean, PAJANCOA&RI to wait for the outcome of the final judgment of the Hon'ble Supreme Court of India. Till date, the case is pending at the Supreme Court of India.

107. Therefore, the grant of annual increment to the G.O.Professors has to be decided taking into account of the developments after the increments were withheld with effect from 01.07.2009.

108. In the mean time, one of the G.O.Professors by name, Dr.D.Adiroubane, Professor of Agricultural Entomology, PAJANCOA&RI had retired on 31.08.2012 on superannuation.

109. In anticipation of the superannuation of Dr.D.Adiroubane on 31.08.2012, in the light of the pending case at the Supreme Court of India and the Audit objections against his promotion to the post of Professor based on G.O.Ms.No.22, the Dean submitted a file to the Chief Secretary and Chairman for withholding a sum of Rs.3,47,263/- (Rupees three lakhs forty seven thousand two hundred and sixty three only) from the earned leave encashment due for Dr.D.Adiroubane. The withholding of the above sum was done, as there is not other source to recover the excess amount paid, in case the judgment of the Supreme Court is not in his favour. Moreover, excess payment could not be recovered after superannuation, as there was no provision for pension to Dr.D.Adiroubane at PAJANCOA&RI.

110. The file is submitted to the Chief Secretary and Chairman through the Secretary (Agriculture) requesting for a direction whether to grant the annual increment or not to the G.O.Professors, in the light of the developments in the case related to the G.O.Ms. No.22/Ag. dated 10.10.2005.

OFFICE OF THE DEAN
PAJANCOA & RI KARAIKAL

Current No: 5302 / P J N / E /
File No: Estt / 2012, dt
Date of Receipt: 26-12-12
Date of Forward: 26-12-12

OFFICE OF THE SECRETARY
(AGRICULTURE)
PUDUCHERRY

1982 / PA
27/12/12
28/12/12

OFFICE OF THE CHIEF SECRETARY
PUDUCHERRY

No. 7386
Received: 28-12-2012
Despatched on:

1982 / Secy (Agri) / n
dt. 21/12/12

CHIEF SECRETARY AND CHAIRPERSON
PAJANCOA (KARAIKAL) SOCIETY.

Sec (Agri)

Dean

4.1.13

Yan
30/12/2012
27/12/12

31.12.12

The content of the note

111. We may wait for the decision of Honble Supreme court. Division bench of Honble High court has also set aside the appeal of Go Professors. Honble Supreme court has stayed the operation of Honble High court order and validity of Go Ms 22 has not been upheld.
Sub pl.

SECRETARY TO GOVT.(AGRICULTURE)