



W.P.No.17314 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

**W.P.No.17314 of 2024**

V.Mathivanan

... Petitioner

Vs

1. The Government of Tamil Nadu,  
represented by Secretary  
to Government,  
School Education Department,  
Fort St.George, Chennai – 600 009.
2. The Director of School Education,  
College Road, Chennai – 600 006.
3. The Joint Director of School Education,  
(Vocational Education), College Road,  
Chennai – 600 006.
4. The Chief Educational Officer,  
Krishnagiri District,  
Krishnagiri.
5. The Headmaster,  
Government Higher Secondary School,  
Kaveripattinam, Krishnagiri District.

.... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India,



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praying for issuance of a Writ of Mandamus, directing the Respondents to verify the service records of the petitioner and to count 50 percentage of the service rendered by the petitioner in the post of single Part time Vocational Instructor at Government Higher Secondary School, Kaveripakkam, the then Dharmapuri District, in Electric motor rewinding subject for the period from 05.08.1989 to 04.10.1996 as qualifying service for the purpose of pensionary benefits along with the regular service rendered in the post of vocational instructor for the period from 05.10.1996 to 30.06.2022 when the petitioner retired from service and to submit a revised proposal to the Accountant General for sanction and to grant the pensionary benefits and arrears of pension.

For Petitioner : Mr.R.Saseetharan  
For Respondents : Mrs.S.Mythreye Chandru  
Special Government Pleader

### **ORDER**

This writ petition has been filed for direction directing the Respondents to verify the service records of the petitioner and to count 50 percentage of the service rendered by the petitioner in the post of single Part time Vocational Instructor at Government Higher Secondary School, Kaveripakkam, the then Dharmapuri District, in Electric motor rewinding subject for the period from 05.08.1989 to 04.10.1996 as qualifying service for the purpose of pensionary benefits along with the regular service rendered in the post of vocational instructor for the period from 05.10.1996 to 30.06.2022 when the petitioner retired from service and to submit a revised proposal to the Accountant General



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for sanction and to grant the pensionary benefits and arrears of pension.

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2. Heard the learned counsel on either side and perused the materials available on record.

3. The entitlement of the petitioner, who is a Vocational Instructors, to seek for counting of 50% of the past services from the date of his initial appointment till the date of regularization, has already been considered by a Division Bench of this Court in a batch of Writ Appeals in W.A.No.2907 of 2019 etc. batch dated 29.08.2023 and have passed the following order:-

*“These intra-court appeals had been preferred by the petitioners being aggrieved against the order of the learned single Judge insofar as it relates to the direction to consider the case of the petitioner in terms of G.O.Ms.No.194, School Education Department, dated 12.09.2018.*

*2. The petitioners are all Vocational Instructors Teachers whose service had been regularised and their plea is to count 50% of their past service that they have been rendered as temporary/part time Vocational Instructors from their date of initial appointment till the date of regularization for the purpose of pensionary benefits.*

*3. Various orders have been passed by this Court directing the respondents to count such service of part time/temporary service for calculating the pension of persons whose service has been regularized prior to 01.04.2003. However, a Division Bench of this Court in a batch of writ appeals had fixed a cut off date viz., 06.04.2018 to be a date, after which no such request should be entertained. Based*



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upon the aforesaid order, the Government had issued a Government Order in G.O.(Standing)No.194, School Education (SE7-1) Department, dated 12.09.2018, wherein the Government had issued the following orders:

“5. In the above circumstances, in compliance of the judgments of Hon'ble Madras High Court/Madurai Bench of Madras High Court and in order to implement the judgment of Madras High Court dated 06.04.2018 in W.A.Nos.882, 808/2017, 1224, 1395, 1471, 1283 and 1323/2016 and in C.M.P.Nos.12269, 11319/17, 15744, 15745, 17938, 17939, 18318, 18319, 17906, 17919 and 17159/2016, the Government has carefully considered the suggestions of the Director of School Education. It has decided to accept the same. Accordingly, Government is passing orders that out of the Part-time Vocational Instructors of Government and Government-Aided Higher Secondary Schools who were brought under regularized salary scale before 01.04.2003, only those who have filed petitions before Madras High Court and Madurai Bench of Madras High Court and got judgements and those similarly placed Vocational Instructors who have filed petition before 06.04.2018 and whose petitions are still pending are alone given permission to get their pension computed on basis of 50% of the services rendered during Part-time service.”

4. It is also brought to the notice of this Court that one of us (Mr.R.SURESH KUMAR,J.) while dealing in a batch of writ petitions i.e., W.P.(MD).Nos.14365 of 2014 & etc., batch, before the Madurai Bench of this Court by order dated 09.07.2018, after considering the various aspects and the judgment of the Patna High Court, has held that no specific date could be drawn and directed the Government to consider the cases of the similarly placed persons even an application is received after 06.04.2018. The relevant paragraphs are extracted hereunder for better appreciation:

"Para19. Further, it is a settled



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*proposition of law that, in service matters, if the similarly placed persons, who are entitled to get the benefit under law, having been denied the benefit, even though in this regard already a decision has been rendered by the Court of law and the same is implemented, the very same relief shall also be extended to all similarly placed persons irrespective of the fact, whether they approached the Court or not, if the law declared by the Court is a judgement in rem.*

*Para 21. Moreover, the cause of action arose in these kind of cases are continuous\ cause of action as each of the petitioners, who are the erstwhile employees of the respective employer/State would be entitled to get the pensionary benefits till their life time. Thereafter, the legal heirs would be entitled to get the family pension benefits.*

*Para 41. If the said principle is applied to the facts of the present case, except the decision dated 06.04.2018 of a Division Bench of this Court, no other Division Bench either prior to or after to that, has taken any different view, as the one taken in the said judgment and in all other Division Bench judgments, a uniform and consistent stand taken by this Court was that, the benefit of taking into account 50% of the services rendered by the employees before they brought into regular service shall be the basis for calculating for the purpose of pension and retiral benefits. Even in the said judgment dated 06.04.2018 in W.A.No.882/2017, that view was accepted and endorsed by the said Division Bench also, but the only embargo the Division Bench has put in that, the said benefit cannot be extended to those who come to the Court hereafter. In order to meet out the said embargo, the aforesaid judgments of the Hon'ble Apex Court, as referred to above, with regard to the continuous cause of action and the benefit, which has been declared by the Court through a judgment in rem has to be extended to similarly placed persons, had*



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been quoted.

*"Para 44. In view of the aforesaid judgments, wherein the issue as has been put forth by the learned counsel for the petitioners, having been dealt with and decided more than once by the Writ Court and the same has been confirmed by the Division Bench of this Court more than once and in cases, where SLP preferred before the Hon'ble Supreme Court, wherein also the view taken by this Court has been confirmed, all these petitioners are entitled to, for calculating 50% of the past services, rendered by each of the petitioners in the respective employment before they got absorbed by bringing them under the time scale of pay irrespective of the years of service, for the purpose of pensionary benefits. Hence, these petitioners also shall be entitled to get the same benefits and accordingly, all these writ petitions are fit to succeed.*

*Para 45. In the result, these writ petitions are allowed and the respective respondents in each of the writ petitions are hereby directed to take into account the 50% of the past services rendered by each of the petitioners either as Vocational Instructors or any other employment either as a Part Time / Full time / adhoc /temporary / daily wages employees before they brought in under the regular time scale of pay on permanent basis or absorption and by calculating the said 50% of their past service, pension eligibility and pension enhancement or difference of pay and pension shall be calculated and disbursed in favour of the respective petitioners. After fixing the revised pension by taking into account the past 50% services, the revised pension arrears shall be calculated and to be disbursed to the petitioners within a period of 12 weeks from the date of receipt of a copy of this order. It is needless to mention that the petitioners shall continue to receive the revised pension."*



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5. Further, recently a Division Bench of this Court in a batch of writ appeals in W.A.Nos.2133 of 2019, dated 03.03.2023 had approved the view taken by one us (Mr.R.SURESH KUMAR, J.), the relevant portion of the judgment is extracted hereunder:

“8. No doubt, the writ petitioners have approached the Court with few months delay and it is not in dispute, that, but for the fixation of cut-off date, they would have been entitled to the benefits of service rendered by them as vocational teachers. The learned Single Judge in the common order in W.P.No. 14365 of 2014 dated 09.07.2018 had also referred the common judgment dated 06.04.2018 made in W.A.No.882 of 2017 etc., and having noted the fact that persons similarly placed have been granted the benefits by referring to various judgments of the Hon'ble Supreme Court of India had held that the petitioners in those writ petitions are also entitled to such benefits. Therefore, the principle as enunciated in the above said order is that, the respondents/officials cannot deny the lawful right of the appellants/petitioners herein, which have already accrued to them and has been continuously accruing. Therefore, restricting the benefits only to those petitioners who approached this Court prior to 06.04.2018 and denying the same to the appellants/petitioners who are similarly placed is unreasonable, arbitrary and violative of the Article 14 of the Constitution of India.

9. Further more, the learned counsel appearing for the appellants/petitioners would submit that the writ petitions filed by the appellants/petitioners were disposed, following the G.O.Ms.No.194 dated 12.09.2018. However, a Writ petition in W.P.(MD).No.22785 of 2019 etc. batch dated 05.11.2019 was filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of



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*the impugned G.O.Ms. No.194, dated 12.09.2018 issued by the first respondent and quash the same with regard to the cut-off date i.e., 06.04.2018 and directing the respondents to take the 50% of the part time service rendered by the petitioner in that writ petition.*

*10.The observation made in the W.P.(MD).No.22785 of 2019 etc., batch is extracted as hereunder:*

*"Placing reliance on the observation made in W.P.(MD).No.14365 of 2014 etc., batch, this Court has passed the following order :*

*6.The learned counsels for the petitioners would submit that, the issue raised in this batch of cases is covered by number of orders passed by this Court. They also submitted that, the decisions rendered by the learned Single Judge of this Court, had been upheld by a Division Bench of this Court, where also, the said view taken by the Writ Court had been confirmed*

*and in some of the cases the matters were taken up to the Hon'ble Supreme Court, where also, the view taken by this Court directing the official respondents to calculate the 50% of the services temporarily rendered by the similarly placed persons for the purpose of their pensionary benefits, had been affirmed and upheld and the orders have also been complied with by issuing Government Orders in this regard. All those, who have already filed writ petitions and got orders for recalculating the pension, are fully eligible for pension by taking into account their 50% of the past services rendered by them before their absorption."*

*11. Therefore, the respondents cannot deny the lawful right of the appellants/petitioners herein by virtue of G.O.Ms.No.194 dated 12.09.2018 for the reason that*



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*the cut-off date in the said G.O has been quashed in the above mentioned writ petitions. Therefore, the objections raised by the respondent/officials are liable to be rejected, accordingly they are rejected. The appellants/petitioners are entitled to, for calculating 50% of the past services, rendered by each of the petitioner in the respective employment before they got absorbed by bringing them under the time scale of pay irrespective of the years of service, for the purpose of pensionary benefits. Accordingly, this point is answered.*

*12.In the result, these writ appeals are allowed subject to the above observations, setting aside the orders in all the writ petitions mentioned above. Consequently, connected writ petitions are allowed. The respective respondents in each of the writ appeals/writ petitions are hereby directed, after fixing the revised pension by taking into account the past 50% services, the revised pension arrears shall be calculated and to be disbursed to the appellants/petitioners within a period of twelve weeks from the date of receipt of a copy of this order. No costs.*

*6. The Government after taking into consideration of various subsequent judgments had issued G.O.Ms.No.127, School Education(பக(7)1)Department, dated 12.07.2023, wherein the Government had directed to take into account the 50% of service that has been rendered as part time Vocational Instructors from the date of initial appointment till the date of regularization in respect of 563 persons who had approached the Court after 06.04.2018. The relevant portion of the Government order is extracted hereunder:*

|                                                                                                                                                                       |                                                                                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>சென்னை உயர்நீதிமன்றம் மற்றும் சென்னை உயர்நீதிமன்ற மதுரை கிளையில் பெறப்பட்ட தீர்ப்பாணைகளுக்கிணங்கவும், நீதிமன்ற அவமதிப்பு வழக்குகளை தவிர்க்க வேண்டியும், வழக்கு</i> | <i>மாண்புமையுள்ள உயர்நீதிமன்றம் மற்றும் சென்னை உயர்நீதிமன்ற மதுரை கிளையில் பெறப்பட்ட தீர்ப்பாணைகளுக்கிணங்கவும், நீதிமன்ற அவமதிப்பு வழக்குகளை தவிர்க்க வேண்டியும், வழக்கு</i> |
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ஆலோசனை மற்றும் மேற்பார்வைக் குப்பின் கருத்தின்படிப்படையிலும், பள்ளிக் கல்வி ஆணையரின் கருத்துருவினை அரசு கவனமுடன் பரிசீலித்து அதனை ஏற்கலாம் என முடிவு செய்து, அவ்வாறே 06.04.2018க்குப் பின்னர் வழக்கு தொடுத்து தீர்ப்பாணை பெற்ற அரசு மற்றும் அரசு உதவிபெறும் மேல்நிலைப் பள்ளிகளில் பணிபுரிந்து ஓய்வு பெற்ற 20 தொழிற்கல்வி ஆசிரியர்களது 50% பகுதிநேர பணிக்காலத்தினை ஓய்வூதியத்திற்கு கணக்கில் எடுத்துக் கொள்ள அனுமதித்து ஆணை வெளியிடப்பட்டதற்கு பின்னேற்பு அனுமதி அளித்தும், 01.04.2003க்கு முன்னர் பணிவரன்முறை செய்யப்பட்ட அரசு, அரசு உதவிபெறும், நகராட்சி மற்றும் மாநகராட்சி பள்ளிகளில் பணிபுரியும் மற்றும் ஓய்வு பெற்ற தொழிற்கல்வி ஆசிரியர்களில், அரசாணை (நிலை) எண்.194 பள்ளிக் கல்வித் துறை நாள் 12.09.2018-இல் குறிப்பிடப்பட்டுள்ள நாளான 06.04.2018க்குப் பின்னர் வழக்கு தொடுத்து தீர்ப்பாணை பெற்றுள்ள 460 தொழிற்கல்வி ஆசிரியர்கள் (454+6) மற்றும் வழக்குகள் நிலுவையில் உள்ள 103 தொழிற்கல்வி ஆசிரியர்கள் ஆக மொத்தம் 563 தொழிற்கல்வி ஆசிரியர்களுக்கு நீதிமன்றத்தில் நிலுவையில் உள்ள மேல்முறையீடு மற்றும் சீராய்வு மனுக்களில் பிறப்பிக்கப்படும் இறுதி தீர்ப்புக்குட்பட்டு அவர்களின் பகுதிநேர பணிக்காலத்தில் 50 விழுக்காட்டை ஓய்வூதியத்திற்கு கணக்கில் எடுத்துக் கொள்ள பள்ளிக் கல்வி இயக்குநருக்கு அனுமதி அளித்தும் அரசு ஆணையிடுகிறது."

7. The petitioners have also been appointed as part time Vocational Instructors and thereafter, their service have been regularized prior to 01.04.2003. Therefore, they are also entitled for counting 50% of their past service rendered as part time Vocational Instructors for calculating their pension. However, the learned single Judge in the impugned order had directed the case to be considered in accordance with G.O.Ms.No.194, School Education Department, dated 12.09.2018, which direction according to us in view of the subsequent development would not be an appropriate



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direction.

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8. Therefore the respondents are directed to take into consideration the 50% of the service rendered by them from the date of initial appointment till the date of regularization as part time Vocational Instructors that each of the petitioners have put in and recalculate their pension that is paid to the petitioners.

9. The needful shall be undertaken by the respondents within a period of eight(8) weeks from the date of receipt of a copy of this order.

10. We also take judicial notice of the fact that various such claims are pending before this Court for very long time. In such circumstances, it would only be incumbent upon the Government to issue a Government Order, wherever the Vocational Instructors who have been regularised before 01.04.2003 and who prior to their regularisation have been working as part time /temporary basis, then in their respect 50% of such service from the date of initial appointment to the date of regularisation shall be reckoned for calculating their pension and their pension shall be re-fixed. This direction is issued considering the fact that such persons even after their superannuation being senior citizens should not be unnecessarily driven to Court. Considering the said circumstances, we direct the Government to issue such order within a period of three (3) months from the date of receipt of a copy of this order.

With these observations, these writ appeals are disposed of. No costs.”

4. The claim made in the present Writ Petition is also for counting of the past services of the petitioner, who is a Vocational Instructor, from the date of his initial appointment till the date of regularization, which are the same facts



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involved in the aforesaid Writ Appeals. As such, the petitioner could also be entitled for a similar relief.

5. Accordingly, there shall be a direction to the respondents herein, to pass appropriate orders, counting 50% of the petitioner's services from the date of his initial appointment till the date of regularization and consequently, pass orders for revision of his retirement benefits, including pension, within a period of six (6) weeks from the date of receipt of a copy of this order.

6. With the above directions, this Writ Petition stands allowed. No costs.

02.07.2024

Internet: Yes  
Index : Yes/No  
Neutral Citation : Yes/No  
Speaking/Non Speaking order  
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To

1. The Secretary to Government,  
The Government of Tamil Nadu,  
School Education Department,  
Fort St.George, Chennai – 600 009.
2. The Director of School Education,  
College Road, Chennai – 600 006.
3. The Joint Director of School Education,  
(Vocational Education), College Road,  
Chennai – 600 006.
4. The Chief Educational Officer,  
Krishnagiri District,  
Krishnagiri.
5. The Headmaster,  
Government Higher Secondary School,  
Kaveripattinam, Krishnagiri District.



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**G.K.ILANTHIRAIYAN. J.**

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