



W.P.(MD)No.17508 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.17508 of 2024

G.Suresh Kumar

... Petitioner

vs.

1.The Principal Secretary to the Government,
School Education Department,
Fort St.George, Chennai - 9.

2.The Commissioner of School Education,
Directorate of School Education,
DPI Complex College Road, Chennai.

3.The Joint Director (Vocational)
Directorate of School Education,
DPI Complex College Road,
Chennai - 600 006.

4.The Chief Educational Officer,
Thevarpuram Road,
Pudugramam,
Thoothukudi District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to calculate the 50% of service rendered by the petitioner as part time



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Vocational Instructor drawing consolidated pay along with regular service for arriving net qualifying service for calculation of pension and to grant all monetary and other attendant benefits and arrears within a stipulated time.

For Petitioner : Mr.M.Saravanakumar

For Respondents : Mr.T.Amjadkhan
Government Advocate

ORDER

Heard Mr.M.Saravanakumar, learned counsel appearing for the petitioner and Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents.

2. The petitioner has filed this writ petition seeking to direct the respondents to calculate 50% of service rendered by him as part time Vocational Instructor drawing consolidated pay along with regular service for arriving net qualifying service for calculation of pension and to grant all monetary and other attendant benefits and arrears within a stipulated time.



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3. Mr.M.Saravanakumar, learned counsel for the petitioners submitted that similarly placed persons have already filed writ petitions in W.P.Nos.2146 & 2150 of 2021, wherein, the Principal Seat of this Court has passed the following orders on 16.10.2023.

“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 and 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



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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 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.”



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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 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 their 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:-

“6.மேற்கண்ட சூழ்நிலையில் மாண்புமிகு சேன்னை உயர்நீதிமன்றம் மற்றும் சேன்னை உயர்நீதிமன்ற மதுரை கிளையில் பெறப்பட்ட தீர்ப்பாணைகளுக்கிணை-” கவும். நீதிமன்ற அவமதிப்பு வழக்குகளை தவிர்க்க வேண்டியும். வழக்கு ஆலோசனை மற்றும்



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மேற்பார்வைக் குழுவின் 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 நான் 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 services 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.

8. Hence, these Writ Petitions are disposed and the respondents are directed to consider the representation of the petitioners for counting 50% of the services rendered by them as part time Vocational Instructors by taking into account of the various orders passed in the Writ Petitions and the judgment of this Court dated 21.04.2017, made in W.A.(MD)No.392 of 2017 etc., batch. No costs.”



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4. The petitioner has also been appointed as part time Vocational Instructor and his services has been regularised prior to 01.04.2003. Since the petitioner is also similarly placed, he is also entitled to the similar relief granted in W.P.Nos.2146 & 2150 of 2021, dated 16.10.2023.

5. In view of the above observations, this writ petition is **disposed of** and the respondents are directed to consider the representation of the petitioner dated 07.07.2024 for counting 50% of the services rendered by him as part time Vocational Instructor by taking into account of the various orders passed in earlier writ petitions and the judgment of this Court dated 21.04.2017 in W.A.(MD)No.392 of 2017 etc., batch. No costs.

30.07.2024

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order

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Fort St.George, Chennai - 9.
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R.N.MANJULA, J.

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