

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2016

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

W.A.No.34 of 2016
and
C.M.P.No.451 of 2016

- 1.The Government of Tamil Nadu,
represented by its Secretary,
School Education Department,
Fort St. George, Chennai-600 009.
- 2.The Director of School Education,
Chennai-600 006.
- 3.The Joint Director (Hr. Secondary),
Vocational, Chennai-600 006. ... Appellants/Petitioners

Vs.

Mrs.K.Banumathy ... Respondent/Petitioner

This writ appeal is preferred under Clause 15 of Letters Patent against the order dated 19.02.2014 made in W.P.No.4485 of 2014.

WP.NO.4485 of 2014:Writ Petition filed Under Article 226 of the Constitution of India for the issuance of Writ of Mandamus directing the respondents to include the services rendered by the petitioner from initial appointment till regularization (i.e.7.6.1984 to 31.3.1990) for the pension purpose.

For Appellants : Mr.K.Karthikeyan, GA(Education)

For Respondent : Mr.R.Saravanakumar

JUDGMENT

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant intra-court appeal arises from the order dated 19th February, 2014 made in W.P.No.4485 of 2014.

2 The respondent herein / writ petitioner filed the writ petition seeking for a direction to the respondents therein / appellant herein to include the services rendered by her from the initial appointment till regularisation (from 7.6.1984 to 31.3.1990) for computation of pension.

3 Indisputably, the writ petitioner was appointed as Double Part Time Vocational Teacher on 7th June, 1984, on consolidated pay of Rs.600/-. The services of the writ petitioner was regularised on the time scale of pay by G.O.Ms.No.712, Education (HS) Department, dated 28th May, 1990. Thereafter, the writ petitioner has filed the instant writ petition seeking for the aforestated direction.

4 An identical issue as to whether part time teachers appointed as Vocational Teachers are entitled to 50% of their services as qualifying service for the purpose of computing pension, came up for consideration in Government of Tamil Nadu, represented by the Secretary to Government, School Education Department, Fort St. George, Chennai-600 009 and 3 others Vs. B.Raghavendran [W.A.No.359 of 2015]. A Division Bench of this court, considering all relevant G.Os, by judgment dated 16th March, 2015, held as under :

"11.On bare perusal of the aforestated G.Os, it emerges that employees must be under non-provincialised service, consolidated pay, honorarium and daily wages and absorbed in permanent government service before 1.4.2003. The respondent was absorbed in permanent service on 1.4.1990. The employee should also work as full time employee. No doubt, the respondent had worked as Single Part Time vocational instructor from 17.10.1978 to 21.8.1979 and doubt part time vocational instructor from 22.8.1979 till 31.3.1990, the day he was absorbed in regular time scale.

12.The respondent has averred specifically in his writ petition affidavit that his workload was not less than 20 periods in a week and as such, double part time means full time as there is no concept of double part time, when the employee is required to work in the morning and also in the afternoon. In fact, the employment of the respondent was full time, not part time. There is no denial on the part of the authorities either before the writ court or in the appeal memo filed before us. Thus, the working of the respondent for not less than 20 periods in a week has been established. It is also not disputed that if an

employee works for not less than 20 periods in a week, he is a full time employee. Thus, for all practical purpose, the respondent ought to have been treated as full time employee from 22.8.1979 till he was absorbed in regular service and retired. Accordingly, 50% of the respondent's period as double part time vocational instructor from 22.8.1979 till 31.3.1990 be counted for the purpose of computing pensionary benefits under the aforestated G.Os."

There is no distinguishing feature, except the date of appointment. Thus, we hold that this case is squarely covered by the aforestated judgment.

5 For the reasons mentioned herein-above, there is no reason to take a contrary view in the case on hand and as such, no interference is warranted. Accordingly, the writ appeal stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The Secretary,
The Government of Tamil Nadu,
School Education Department,
Fort St. George, Chennai-600 009.
- 2.The Director of School Education,
Chennai-600 006.
- 3.The Joint Director (Hr. Secondary),
Vocational, Chennai-600 006.

+1 cc to Mr.R.Saravana Kumar Advocate sr.5347
+1 cc to Government Pleader sr.5120

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