

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2016

CORAM

The Hon'ble Mr. Justice SATISH K.AGNIHOTRI
and
The Hon'ble Mr. Justice M. VENUGOPAL

W.A.No.35 of 2016
and
CMP No.452 of 2016

1. The Government of Tamil Nadu,
rep. 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/Respondents

Vs.

Mrs. C.S. Maheswari ... Respondent/Petitioner

Writ Appeal filed under Clause 15 of the Letters Patent against order dated 19.02.2014 made in W.P. No. 4487 of 2014. Petition filed under Article 226 of the constitution of India to issue a writ of Mandamus directing the respondents to include the services rendered by the petitioner from initial appointment till regularization (i.e. 2.2.1981 to 31.3.1990) for the pension purpose

For Appellants : Mr. R. Karthikeyan
Govt. Advocate (Education)

For Respondent : Mr. R. Saravana Kumar

JUDGMENT

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

The instant intra-court appeal arises from the order dated 19.02.2014 passed in W.P.No. 4487 of 2014.

2. With the consent of the learned counsel for the parties, this writ appeal is taken up for final disposal.

3 The respondent herein / writ petitioner filed the writ petition seeking for a direction to the respondents to include the services rendered by her from the initial appointment till regularisation (from 02.02.1981 to 31.03.1990) for the purpose of pensionary benefits.

4 Indisputably, the writ petitioner was initially appointed as Single Part Time vocational teacher on 2nd February, 1981. Subsequently, she was promoted as double part time vocational teacher on 1st June, 1981 on consolidated pay. The petitioner was brought into 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. The learned Single Judge disposed of the writ petition directing the respondents therein to count 50% of the services rendered by the petitioner from 2nd February, 1981 to 31st March, 1990 along with regular service for the purpose of pensionary benefits. Thereagainst, the writ appeal is preferred by the appellants herein.

5 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 double 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."

6 Following the aforestated decision, 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.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ra/vvk

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. Saravanakumar, Advocate Sr.9683
+ 1 cc to the Government Pleader sr.9999

W.A.No.35 of 2016

KK(CO)
Eu 26.02.16