

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition Nos.40292 to 40297 of 2016

K.Vijayakumaran	... Petitioner in WP.40292/16
A.Arivazhagan	... Petitioner in WP.40293/16
K.Navaneetham	... Petitioner in WP.40294/16
V.Rajendran	... Petitioner in WP.40295/16
K.Senthilnathan	... Petitioner in WP.40296/16
A.Muthuramalingam	... Petitioner in WP.40297/16

vs.

- 1 Government of Tamilnadu
Rep. by Secretary to Government School
Education Department Fort St. George
Chennai-9
- 2 The Director of School
Education College Road Chennai-6
- 3 The Joint Director of
School Education (Vocational) College Road
Chennai-6 ..Respondents 1 to 3 in all WPs
- 4 The Chief Educational
Officer Udhagamandalam
Nilgiris District ..4th Respondent in WP.40292/16
- 5 The Chief Educational
Officer, Nagapattinam District...4th Respondent in
WP.40293/16
- 6 The Chief Educational
Officer, Tanjavur. ..4th Respondent in WP.40294 to 40296/16
- 7 The District Education Officer,
Thirunelveli South,
Thirunelveli.
- 8 The Chief Educational
Officer, Tirunelveli District,
Tirunelveli. ..4 &5th Respondent in WP.40297/16

WP.No.40292/16: Writ petition have been filed under Article 226 of the Constitution of India, praying for Writs of mandamus directing the respondents to count 50% of petitioners service for a period from 14.8.1984 to 31.3.1990 as Double Part Time Vocational Instructor along with regular service as Vocational Instructor for a period from 1.4.1990 to 31.7.2015 the date of retirement as qualifying service for the purpose of pensionary benefits and send a revised pension proposal to the Accountant General for sanction and grant arrears of pensionary benefits.

WP.no.40293/16: Directing the respondents to count 50% of petitioners service for a period from 14.7.1980 to 31.3.1990 as Single and Double Part Time Vocational Instructor along with regular service as Vocational Instructor for a period from 1.4.1990 to 31.3.2016 the date of retirement as qualifying service for the purpose of pensionary benefits and send a revised pension proposal to the Accountant General for sanction and grant arrears of pensionary benefits.

WP.No.40294/16: Directing the respondents to count 50% of petitioners service for a period from 12.11.1984 to 31.3.1990 as Single and Double Part Time Vocational Instructor along with regular service as Vocational Instructor for a period from 1.4.1990 to 31.7.2016 the date of retirement as qualifying service for the purpose of pensionary benefits and send a revised pension proposal to the Accountant General for sanction and grant arrears of pensionary benefits.

WP.NO.40295/16: Directing the respondents to count 50% of petitioners service rendered on a consolidated pay in the post of Double Part Time Vocational Instructor for a period from 15.9.1984 to 22.5.1993 along with the regular service rendered for a period between 23.5.1993 to 30.9.2007 when the petitioner retired from service for the purpose of pensionary benefits and issue a consequential direction to the respondents to send revised pension proposal to the Accountant General of Tamilnadu for sanction.

WP.No.40296/16: Directing the respondents to count 50% of petitioners service for a period from 17.7.1982 to 31.3.1990 as Single and Double Part Time Vocational Instructor along with regular service as Vocational Instructor for a period from 1.4.1990 to 31.12.2013 the date of retirement as qualifying service for the purpose of pensionary benefits and send a revised pension proposal to the Accountant General for sanction and grant arrears of pensionary benefits.

WP.No.40297/16: Directing the respondents to count 50% of petitioners service for a period from 25.6.1979 to 23.7.1985 as Single and Double Part Time Vocational Instructor along with

regular service as P.G.Assistant for a period from 27.2.1985 to 31.5.2009 as qualifying service for the purpose of pensionary benefits and to grant arrears of pension and other pensionary benefits.

For Petitioner : Mr.R.Saseetharan,
in all WPs

For Respondents : Mr.V.Anandhamoorthy,
in all WPs Addl. Govt. Pleader,

COMMON ORDER

By consent, the main writ petitions themselves are taken up for final disposal.

2. The petitioners have come up with the present writ petitions for a mandamus, directing the respondents to count 50% of their service as Double Part Time Vocational Instructor along with regular service as Vocational Instructor as qualifying service for the purpose of pensionary benefits and send a revised pension proposal to the Accountant General for sanction and grant arrears of pensionary benefits.

3. Though very many averments have been made in the affidavits filed in support of the writ petitions, at the time of arguments, learned counsel appearing for the petitioners, by relying upon the order passed by this Court in W.P.No.16416 of 2007 dated 9.4.2011, submitted that the learned Single Judge of this Court by relying upon the judgment rendered by the Division Bench of this Court in W.A.No.1702 of 2010, wherein the Division Bench directed the respondents to count 50% of the service rendered by the petitioners in that writ petition, who were working as Part-time Vocational Instructors, directed the respondents to consider the request of the petitioners in that writ petition in the light of the judgment of the Division Bench made in W.A.No.1702 of 2010 and pass appropriate orders counting 50% of the service rendered as Part-time Vocational Instructors for the purpose of calculating pension. Since the petitioners are also similarly placed persons, similar order could be passed in these writ petitions also.

4. I have also heard the learned Additional Government Pleader, who has taken notice on behalf of the respondents.

5. Keeping the submissions made on either side, I have carefully gone through the entire materials available on record.

6. It would be useful to extract the relevant passage from the judgment made in W.A.No.1702 of 2010 and the same is extracted hereunder:-

" 7. According to the petitioner, he had worked as Part-time Vocational Instructor between 23.10.1981 and 4.10.1996, on consolidated pay. He has also made a representation dated 10.4.2013, one month prior to his retirement, the copy of which is enclosed at page No.16 of the typed set of papers filed in support of the writ petition. Earlier, a learned Single Judge, after considering the issue as to whether Single / Double Part time teachers paid consolidated pay, are entitled to count 50% of the services, for the purpose of computing the qualified period of service, for grant of pension, in N.Rajendran v.The State of Tamil Nadu, represented by its Secretary to Government, School Education Department, Chennai, and 3 others in W.P.No.39177 of 2012 dated 16.4.2009, has set aside the order of rejection of the Accountant General (A&E), Chennai, the second respondent therein, and a further order of the Government and consequently, directed the respondents therein, to calculate the pension of the petitioner therein and also issued a further direction to pay the same within eight weeks. Being aggrieved by the above said order, the Government have preferred an appeal in W.A.No.1702 of 2010. While confirming the decision of the learned Single Judge, the Hon'ble First Bench of this Court, by order dated 20.9.2010, has ordered as follows:-

" Heard the learned counsel for the appellant and perused the impugned order passed by the learned single Judge, allowing the writ petition quashing the order passed by the appellants/respondents and further directing the appellants/respondents to calculate the pension of the petitioner.

2. Admittedly, the writ petitioner was appointed as Double Part Time Teacher in the second respondent School on 07.09.1978. After the Government Order issued in 1990 for filling up 800 posts of Educational Instructors, the writ petitioner was appointed as Double Part Time Teacher in 1991 in regular time scale of pay. After putting about 11 years, 11 months and 24 days of service as consolidated Vocational Instructor and 10 years and 11 months service as regular time scale Agricultural Instructor, as the writ petitioner was superannuated, his claim for pension was refused by the impugned order passed by the second appellant/second respondent.

3. It is evident from the records that the writ petitioner was appointed on consolidated pay from 07.09.1978 to 31.03.1990. Thereafter, he was brought into regular time scale of pay from 1.4.1990 to 31.3.1994 and from 23.9.1994 to 31.5.2001. Therefore, the learned single Judge rightly held that 50% of the said service should be added for the purpose of calculating the length of service for pension purpose. We do not find any error in the impugned judgment. Hence, the writ appeal is dismissed. There will be no order as to costs. Consequently, M.P.No.1 of 2010 is also dismissed."

Since the present petitioners are also similarly placed person, I am of the opinion that the present writ petitions could be allowed.

7. In fine, all the writ petitions are allowed and the respondents are directed to count 50% of the petitioners' part time service as Vocational Instructor for the purpose of calculating pension. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

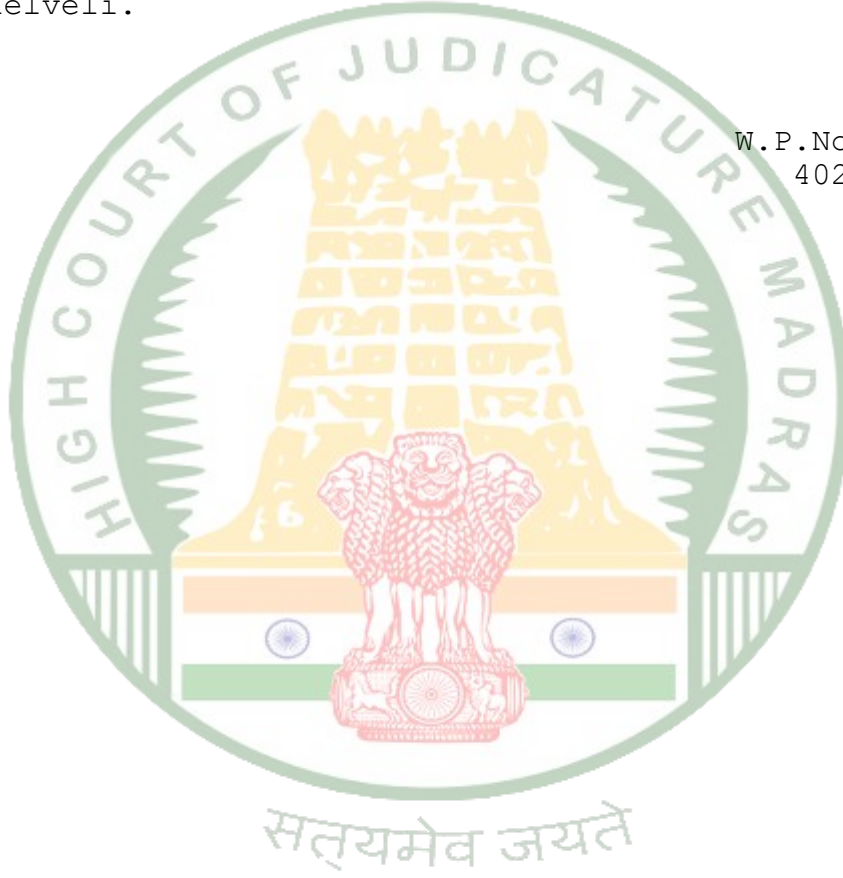
To

- 1.The Secretary to
Government,
Government of Tamilnadu
School Education Department
Fort St. George Chennai-9
- 2 The Director of School
Education College Road Chennai-6
- 3 The Joint Director of
School Education (Vocational) College Road
Chennai-6
- 4 The Chief Educational
Officer Udhagamandalam Nilgiris District

- 5 The Chief Educational Officer, Nagapattinam District.
- 6 The Chief Educational Officer, Tanjavur.
- 7 The District Education Officer, Thirunelveli South, Thirunelveli.
- 8 The Chief Educational Officer, Tirunelveli District, Tirunelveli.

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40297 of 2016



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