



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD) No.16432 of 2017

C.Jeyarani Gnanadevi

... Petitioner

Vs.

1.The State of Tamilnadu
Rep. by its Secretary
School Education Department
Fort St. George, Chennai.

2.The Joint Director (vocational) of
School Education, College Road,
Chennai.

3.The District Educational Officer,
Thoothukudi Education District
Thoothukudi District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to take the 50% of the part time service rendered by the petitioner ie. from 16.08.1985 to 04.10.1996 and regularise the service for the pension benefits ie., for the period of 23 years 08 months 21 days based on the judgment dated 09.04.2014 passed in WP No.16771 of 2013.

For Petitioner : Mr.R.Saravanan
For Respondents : Mr.R.Karthikeyan
Additional Government Pleader

ORDER

By consent of both sides, this writ petition itself is taken up for final disposal.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

3.The learned counsel for the petitioner would submit that the petitioner was appointed as a part time Vocational Teacher on 16.08.1985. Subsequently her services were regularised on 30.11.2014. and also attained the age of superannuation on 30.11.2014.



4. The learned counsel would further submit that though the petitioner was appointed as a part time Vocational Teacher on 16.08.1985, she was doing her job on full time basis. But her part time services rendered from 16.08.1985 to 04.10.1996 were not taken into account, while calculating her pensionary benefits for the period of service rendered by her. Since 11 years 1 month and 18 days, she served as part time employee and 18 years one month and 27 days on regular basis, as per the judgment of this Court in W.P.No.39177/2002 dated 16.04.2009 counting 50% part time service for the purpose of calculating the pension may be applied to the case of the petitioner. Again, it is stated that the Government also preferred appeal in W.A.No.1702/2010, the same was also dismissed by judgment dated 20.09.2010. Against which, the Government again preferred SLP before the Apex Court, which was also dismissed. As a result, the issue has come to an end holding that 50% of the part time service rendered by any employee shall be counted for the purpose of pension, if the service of the part time employee on being observed or regularised by passing any order, the respondents should calculate not only the regular service, but also the service rendered on part time.

5. Referring to 11(4)(i) of the Tamilnadu Pension Rules, 1978, it is stated that the above relief also specifically shows that half of the service rendered under the State Government in non provincialised service, consolidated pay, honorarium or daily wages basis on or after 1st January 1961 in respect of Government employees absorbed in regular service before 1st April shall be counted for retirement benefits along with the regular service. Referring to Rule 11(4)(1), it is stated that the service rendered in non provincialised service, consolidated pay, honorarium or daily wages basis shall be in a job involving whole time employment.

6. In the present case, she was appointed on part time basis on 16.08.1985 and was doing full time job. Therefore, they regularised the service from 05.10.1996. After such regularisation, the petitioner has rendered 18 years, 1 month and 27 days. Therefore, the petitioner is entitled to get the benefit of 11(4)(1) of the Tamil Nadu Pension Rules, 1978.

7. In Similar circumstances, I have also passed an order directing the respondents to count the service rendered by the incumbent on part time basis keeping in mind the service of part time employees were regularised subsequently. In the present case also, the petitioner's services were regularised. As a result, she has been found in regular service for a period of 18 years 1 month and 27 days. Therefore, the respondents are directed to count the part time service of the petitioner from 16.08.1985 to 04.10.1996 along with the regular service for the pensionary benefits and



pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order.

8. The writ petition is disposed of with the above direction.
No costs.

WEB COPY

Sd/-
Assistant Registrar (ADII)

/True Copy/

Sub-Assistant Registrar

To

1. The Secretary
State of Tamilnadu
School Education Department
Fort St. George, Chennai.

2. The Joint Director (vocational) of
School Education, College Road,
Chennai.

3. The District Educational Officer,
Thoothukudi Education District
Thoothukudi District

+One cc to Mr. R. Saravanan, Advocate, SR.No.77113

RR
RL/5C/3P/KP/SAR1/25/9/2017

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