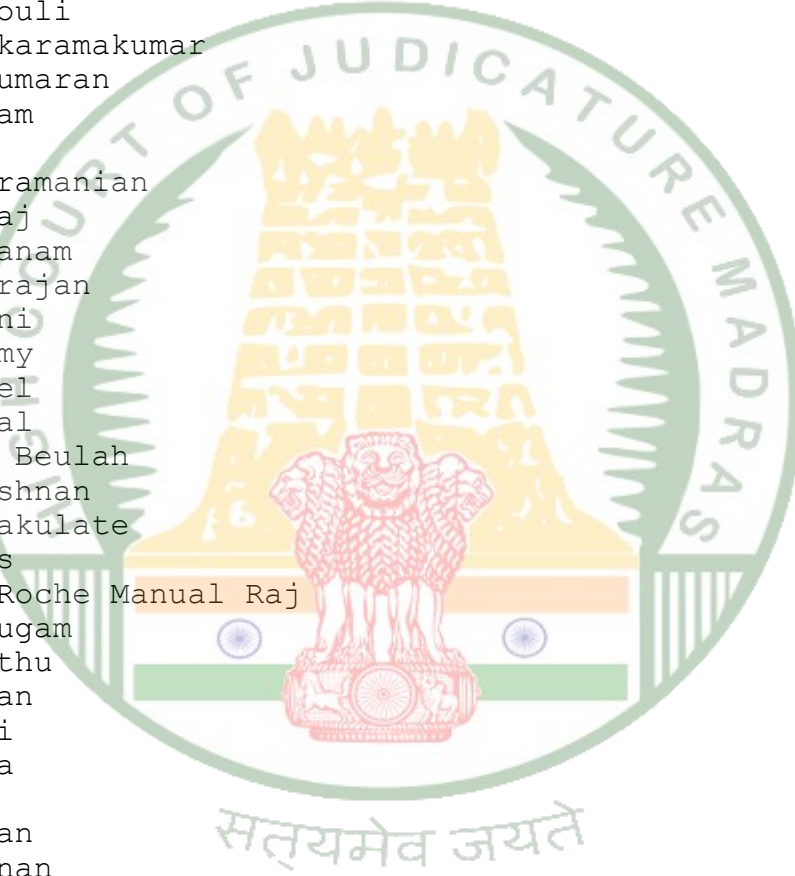


IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :14.06.2018
CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.Nos.9979 to 9981 of 2014
and MP.Nos.2, 2 & 2 of 2014

1. S.Gunasekaran
2. R.Mahalingam
- 3.M.Shajahan
- 4.G.Bhuvaneshwari
- 5.T.Ravikumar
- 6.S.Chandramouli
- 7.P.Vijayavikaramakumar
- 8.S.T.Muthukumaran
- 9.S.Nagalingam
- 10.H.B.Raju
- 11.G.Balasubramanian
- 12.D.James Raj
- 13.K.Janarthanam
- 14.R.Govindarajan
- 15.S.Selvamani
- 16.R.Kittusamy
- 17.N.Kathirvel
- 18.N.Yegyammal
- 19.J.Hepsiba Beulah
- 20.S.Balakrishnan
- 21.S.Meri Anakulate
- 22.S.Cancious
- 23.A.Joseph Roche Manual Raj
- 24.T.M.Shanmugam
- 25.L.Nachimuthu
- 26.S.Natarajan
- 27.J.Usharani
- 28.R.Jesindha
- 29.B.Bulgan
- 30.V.Rajendran
- 31.A.Karupannan
- 32.M.Sathiyamurthy
- 33.K.Allimuthu
- 34.S.Aruchamy
- 35.R.Rani
- 36.K.Loganathan

- 1.S.Victoria
- 2.S.Meganathan
- 3.A.Mohideen Basha
- 4.A.Karuppiah
- 5.R.Sivanathan
- 6.Y.Arokiaraj



WEB COPY

...Petitioners in WP.No.9979 of 2014

7.C.Vadivel
8.S.Chelladurai
9.V.Poornachandiran
10.S.Syed Shahul Hameed ..Petitioners in WP.No.9980 of 2014

1.S.Navamani
2.G.Selvi
3.P.Manoharan ..Petitioners in WP.No.9981 of 2014

vs

- 1.The State of Tamil Nadu,
Rep by its Secretary to Government,
Finance Department,
Fort St.George,
Chennai-600 009.
- 2.The State of Tamil Nadu,
Rep by its Secretary to Government,
School Education Department,
Fort St. George, Chennai 600 009.
- 3.The Director of School Education,
DPI Compound, College Road,
Chennai-600 006.
- 4.The Joint Director (Vocational)
Directorate of School Education,
DPI Compound, College Road,
Chennai-600 006. ..Respondents in all W.P.'s

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the letter of the 2nd respondent having Ref.No.16280/VE/2011-4, dated 14-06-2012 rejecting the request of the 3rd respondent to take the services rendered by part time vocational instructors for the purpose of pension and quash the same and consequently direct the 4th respondent to send the proposal for computing the 50% service rendered by the petitioners as part time Vocational Instructors drawing consolidated pay for calculating the qualifying service for pension and the quantum of pension under Rule 43 (2) of the Tamil Nadu Pension Rules to the 2nd respondents to enable the 1st respondent to sanction the pension to the petitioners based on the said proposal from the date of retirement death of the petitioners and to enable the concerned authorities to disburse the pension to the petitioners as and when the petitioners retire from service.

For Petitioners	:	Mr.C.Uma
(In all W.P.'s.)		
For Respondents	:	Mr.M.Elumalai
(In all W.P's)		Government Advocate

COMMON O R D E R

The relief sought for in these writ petitions is to call for the records relating to the letter of the 2nd respondent having Ref.No.16280/VE/2011-4, dated 14-06-2012 rejecting the request of the 3rd respondent to take the services rendered by part time vocational instructors for the purpose of pension and quash the same and consequently direct the 4th respondent to send the proposal for computing the 50% service rendered by the petitioners as part time Vocational Instructors drawing consolidated pay for calculating the qualifying service for pension and the quantum of pension under Rule 43 (2) of the Tamil Nadu Pension Rules to the 1st and 2nd respondents to enable the 1st respondent to sanction the pension to the petitioners based on the said proposal from the date of retirement of the petitioners and to enable the concerned authorities to disburse the pension to the petitioners as and when the petitioners retire from service.

2.The learned counsel for the writ petitioners made a submission that the writ petitioners were appointed as part-time Vocational instructors in the higher secondary school and their appointment were subsequently approved. Initially, the petitioners were paid the consolidated pay and subsequently, brought under regular establishment as a regular employee with effect from 1986. Thus, the writ petitioners claim that as per amended Rule 11 of the Tamil Nadu Pension Rules 1978, 50% of the services rendered as part-time employee has to be taken into account for the purpose of calculating service. However, the claim of the writ petitioners was rejected on the ground that the part-time service is not stipulated in the Rule and therefore, the case of the writ petitioners cannot be considered.

3.The learned counsel appearing for the writ petitioners cited the orders of the Hon'ble Division Bench of this Court dated 16th March 2015 passed in W.A.No.359 of 2015 and the order dated 21.04.2017 passed in W.A.(MD).No.392 of 2014. The Hon'ble Division Bench of this Court in Writ Appeal No.359 of 2015 dated 16.03.2015 passed the following orders, which is extracted hereunder:

"13.The learned Single Judge has rightly come to the conclusion as under and granted the afore stated benefits:

"4(c) The workload not less than 20 periods in a week is a whole time employment for a day. In fact, such appointment is Full Time Appointment, but the Government of Tamil Nadu with a view to deny the benefits of Full Time employment, designated the Vocational Instructors as Double Part Time Vocational

Instructor. The Government of Tamil Nadu, in order to deny regular salary and permanent status to the Part Time Vocational Instructors, has introduced the system of Double part time teacher. As per the said system, though Vocational Instructor has taken classes in the morning and evening, he will be treated as Double Part Time Vocational Instructor and not Full Time Vocational Instructor. The petitioner worked for a whole day i.e., forenoon as well as in afternoon. But, he was designated as Double part Time Vocational Instructor instead of Full Time employee. After prolonged correspondence, the Government of Tamil Nadu has issued G.O.Ms.No.712 dated 28.5.1990 and G.O.Ms.No.834 dated 23.9.1994, G.O.Ms.No.221 dated 15.7.1999 to regularise the service of the Vocational Instructor.

14.Thus, the impugned order does not suffer from infirmity, illegality of irregularity, warranting interference in this appeal. Accordingly, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed."

4.This apart, another Hon'ble Division Bench of this Court in W.A.(MD).No.392 of 2014 dated 21.04.2017 passed the following orders which is extracted hereunder:

"11.Learned Additional Government Pleader after elaborately referring to the factual matrix placed reliance on the decision of the Division Bench in the case of The Principal Secretary Social Welfare and Nutritious Meal Programme Department and others Vs. M.Palanikani made in W.A.Nos.587 etc. batch dated 03.12.2014 and submitted that the Division Bench has allowed the appeals and set aside the order passed by the learned single Judge wherein relief was granted to count 50% of the services in the noon meal scheme.

12.Firstly, we may point out that the terms of employment of staff in the noon meal scheme are not in pari material with that of the terms of appointment of vocational instructors. This fact cannot be denied by the appellants. Furthermore, in paragraph 21 of the said judgment, the Court framed the question which has to be decided with a specific reference and a cut off date which had been fixed namely, on 01.04.2003. Admittedly, all the writ petitioners were appointed much prior to the said date and the decision of the Hon'ble Division Bench is factually distinguishable. Thus, we are of the considered view that the impugned order having been rendered by referring to and relying upon the decisions of the Hon'ble First Bench, we find no grounds to take a different view in the matter. Accordingly, the writ appeals are dismissed. No

costs. Consequently, connected miscellaneous petitions are closed."

5. In view of the above Judgment of two different Hon'ble Division Benches of this Court, the present writ petitions deserve to be considered. Accordingly, the order impugned passed by the Director of School Education, Chennai, in proceedings in Ref.No.16280/VE/2011-4 dated 14.06.2012 is quashed and the respondents are directed to consider the case of the writ petitioners for counting of 50% of service rendered by them as part-time single and double part-time vocational instructor by verifying their service records and pass appropriate orders in this regard within a period of 12 weeks from the date of receipt of a copy of this order.

6. Accordingly, the writ petitions stand allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.
lok

Sd/-
Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
The State of Tamil Nadu,
Finance Department,
Fort St. George, Chennai-600 009.

2. The Secretary to Government,
The State of Tamil Nadu,
School Education Department,
Fort St. George, Chennai 600 009.

3. The Director of School Education,
DPI Compound, College Road,
Chennai-600 006.

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

+1cc to M/s.C.Uma, Advocate SR.No.37430

NRL (CO)
sm:3.7.2018

W.P.Nos.9979 to 9981 of 2014