

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.2584 of 2018
and CMP No.21027 of 2018

1. The Government of Tamil Nadu,
Rep. by Secretary to Government,
School Education Department,
Fort St. George,
Chennai - 600 009.

2. The Director of School Education,
College Road,
Chennai - 600 006.

3. The Joint Director of School Education,
(Vocational),
College Road,
Chennai - 600 006.

4. The District Educational Officer,
Dharmapuri District,
Dharmapuri.

... Appellants

Vs.

S.Alagarasan

सत्यमेव जयते

... Respondent

Writ Appeal filed under Clause 15 of the Letters Patent
against the Order dated 24.10.2016 made in W.P.No.16054 of 2016.

W.P.No.16054 of 2016

Praying issue a writ of Mandamus to direct the respondents
to count 50% of petitioner service for a period from 13.01.1983
to 31.03.1990 as Double Part Time Vocational Instructor along
with regular service as Vocational Instructor for a period from
01.04.1990 till 31.05.2016 the date of retirement as
qualifying service for the purpose of pensionary benefits.

For Appellants : Mr.C.Munusamy (Education)
Special Government Pleader

For Respondent : Mr.R.Saseetharan

J U D G E M E N T

(Order of the Court was delivered by S.MANIKUMAR, J)
Instant writ appeal is directed against the order dated 24.10.2016 made in W.P.No.16054 of 2016.

2. Short facts leading to the filing of writ appeal are as follows:

Respondent was appointed as a Double Part Time Vocational Instructor on 13.01.1983 on consolidated pay. On repeated requests, made by the part time teachers for regularisation of their services, Government conceded to their requests by issuing orders for regular appointment in a phased manner. Eventually, respondent's services were regularized with effect from 1.4.1990 in the light of G.O.Ms.No.834/Education dated 23.9.1994. Respondent reached the age of superannuation and retired on 31.05.2016, putting in 26 years and 2 months of service. The grievance of the respondent is that though he was initially appointed as Double part time vocational instructor on temporary basis and by virtue of his lengthy and continuous service, he was absorbed in regular vacancy, the temporary service rendered by him, for the period between 13.01.1983 and 31.03.1990, has not be taken into account, for the purpose of calculating the qualifying service, for pensionary benefits. Hence, respondent filed W.P.No.16054 of 2014 for a writ of mandamus, to direct the appellants to count 50% of the services rendered by him, from 13.01.1983 to 31.03.1990 as Double Part Time Vocational Instructor, along with regular service as Vocational Instructor for a period from 01.04.1990 till 31.05.2016, the date of retirement, as qualifying service for the purpose of pensionary benefits.

3. After hearing the learned counsel for both parties and following the earlier orders of this Court, a learned Single Judge, allowed W.P.No.16054 of 2014 along with WP Nos.16055 & 16056 of 2014 vide order dated 24.10.2016. Relevant portion of the said common order is extracted hereunder.

"5. The issue involved in these writ petitions, is covered by the order of this Court, dated 14.02.2014 in W.P.No.4408 of 2014, wherein in respect of a similarly placed person like that of the petitioners herein, this Court allowed the Writ Petition. Hence, following the said order, dated 14.02.2014 in w.P.No.4408 of 2014, the present writ

petitions are also allowed. No Costs."

4. Aggrieved by the abovesaid order, appellants have filed the instant writ appeal.

5. On this day, when the writ appeal came up for admission, Mr.C.Munusamy, learned Special Government Pleader (Education), submitted that the order made in WA No.882 of 2016 etc. batch dated 06.04.2018, is squarely applicable to the case on hand and implementing the said order Government have issued G.O.Ms.No.194, School Education (Pa.Ka.7-1) Department dated 12.09.2018. Submission of the learned Special Government Pleader is placed on record.

6. Heard the learned Special Government Pleader (Education) and perused the materials available on record.

7. Perusal of the judgment in WA No.882 of 2016 etc. batch dated 06.04.2018, shows that the present appeal is squarely covered by the abovesaid judgment. The relevant portion of the judgment is extracted hereunder.

"15. In terms of the above discussions, we dispose of the writ appeals as under:

(i) 50% of the services rendered by the respondents herein, as Part Time Vocational Instructor (either as Single Part time or Double Part Time Vocational Instructor), shall be counted for the purpose of computing pension and other retiral benefits.

(ii) The above said benefit shall be extended only to the respondents in these writ appeals and for the persons similarly situated like that of the respondents herein, whose cases are pending before this Court. Thus it is made clear that the above said benefit shall not be extended to any other future cases that may be filed on this account, on the ground of delay and that may be filed on this account, on the ground of delay and laches, since all along they have not come up before this Court and remained as fence-sitters. It is also needless to point out that allowing such cases would amount to opening the pandora's box, touching upon the financial implications of the State."

Further, implementing the above order, Government have issued G.O.Ms.No.194, School Education (Pa.Ka.7-1) Department dated 12.09.2018.

8. In view of the above, the instant writ appeal is dismissed. No Costs. Consequently, the connected Civil Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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+1cc to the Government Pleader, S.R.No.80958

सत्यमेव जयते

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NRI (CO)
GSP (13/12/2018)

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