

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.02.2019

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

W.A No.340 of 2017,
CMP No.5167 of 2017

- 1.The Secretary to Government,
School Education Department,
Fort St.George, Chennai - 600 009.
- 2.The Director of Elementary Education,
College Road,
Chennai - 600 006. Appellants/Respondents1&2

Vs

- 1.T.R.Ganesan Respondent/Petitioner
- 2.The Accountant General of Tamil Nadu,
Teynampet,
Anna Salai,
Chennai. 2nd Respondent/3rd Respondent

Prayer:- Writ Appeal filed under clause 15 of Letters Patent,
against the order made in W.P.No.23679 of 2014 dated 02.09.2014.

Prayer in W.P.No.23679 of 2014:-

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of mandamus, direction the respondents to count the 50% of services rendered by the petitioner in the Post of Part Time Pre Vocational Instructor as qualifying service along with services rendered by him in the Post of Full Time Pre Vocational Instructor and accordingly sanction Pension and other pensionary benefits to the petitioner and pay the arrears of Pensionary benefits within a stipulated time.

For Appellants : Mr.C.Munusamy
Special Govt.Pleader

For Respondents : Mr.R.Prem Narayan for R1
No appearance - R2

J U D G M E N T

(Delivered by K.K.SASIDHARAN,J.)

The learned single Judge issued a direction to the appellants to count 50% of the service rendered by the first respondent in the post of Part Time Pre Vocational Instructor along with regular service for the purpose of sanctioning pensionary benefits. Feeling aggrieved, the State has come up with this appeal.

2. The learned Special Government Pleader by producing a copy of the judgment dated 6 April 2018 in W.A.No.882 of 2017 and etc., batch, submitted that the issue is squarely covered by the decision rendered by the Division Bench.

3. The issue relating to counting the past service was considered by the Division Bench and it was resolved by issuing directions. Paragraph 15 of the judgment in W.A.No.882 of 2017 reads thus:-

15. In terms of the above discussion, 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 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.

4. The first respondent filed the writ petition even before the judgment of the Division Bench in W.A.No.882 of 2017 and etc., batch. We are therefore of the view that the learned single Judge was correct in allowing the writ petition.

5. By following the judgment of the Division Bench dated 6 April 2018 in W.A.No.882 of 2017 and etc., batch, we dismiss the intra court appeal filed by the State. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to Government,
School Education Department,
Fort St.George, Chennai - 600 009.
- 2.The Director of Elementary Education,
College Road,
Chennai - 600 006.
- 3.The Accountant General of Tamil Nadu,
Teynampet,
Anna Salai,
Chennai.

+1 cc to Mr.R.Prem Narayan, Advocate Sr.No.15402
+1 cc to The Government Pleader, Sr.No.16080

LN(CO)
CSL/25.03.2019

W.A No.340 of 2017

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