

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2019

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.25144 of 2018

R.Govindaraj

... Petitioner

Vs

1. The Secretary to Government
School Education Department
Fort St.George,
Chennai-600 009.
2. The Joint Director of School
Education(Vocational Education)
College Road,
Chennai-600 006.
3. The Chief Educational Officer
Tiruppur District
Tiruppur.
4. The Secretary,
R.V.G.Aided Higher Secondary School,
Kurichikottai & Post,
Udumalai Taluk,
Tiruppur District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent pertaining to G.O.Ms.No.194, School Education (Pa.Ka.7-1) Department dated 12/09/2018 and quash the same in so far as it fixes the cut-off date as 06/04/2018 and consequently direct the respondents 1 & 2 to count 50% of petitioner's part time service for the period from 15/07/1985 to 15/10/1992 along with regular service of Vocational Teacher as qualifying service for the purpose of calculating the pensionary benefits.

For Petitioner : Mr.S.Kamadevan

For Respondents : Mr.A.Raja Perumal
Additional Government Pleader
for R1 to R3
No appearance for R4

O R D E R

The G.O.Ms.No.194 School Education (Pa.Ka.7-1) Department dated 12/09/2018 is sought to be quashed in the present writ petition and further direction is sought to count 50% of petitioner's part time service for the period from 15/07/1985 to 15/10/1992 along with regular service of Vocational Teacher as qualifying service for the purpose of calculating the pensionary benefits.

2. On a perusal of the impugned G.O.Ms.No.194 School Education (Pa.Ka.7-1) Department dated 12.09.2018, it is seen that the said Government order was passed by the Government based on the judgment of the Hon'ble Division Bench of this Court in W.P.No.882 and 808 of 2017 dated 06.04.2018. G.O.Ms.No.194 also refers to the orders of the Hon'ble Division Bench and in paragraph No.5 of the impugned Government order, the cut-off date was fixed based on the judgment of the Hon'ble Division Bench, more specifically in paragraph No.13,14,15 of the judgment, which are all extracted here under:

"13. Thus, in respect of Double Part Time Vocational Instructor, in the judgment made in W.A.No.359 of 2015 dated 16.03.2015, this Court made a threadbare analysis of the relevant Government Orders and arrived at the conclusion that the Double Part Time Vocational Instructor therein is entitled for the relief. Hence, this Court is not inclined to interfere with the said finding.

14. In respect of Single Part Time Vocational Instructor, as already discussed above, in the judgment made in W.A.(MD)Nos.392 of 2017, etc.batch dated 21.04.2017, this Court relied upon the judgment of this Court in the case of W.P.No.11389 of 2003 etc., dated 08.07.2004 wherein the Hon'ble Division Bench held that the Single Part Time teachers should be treated equally with Double Part Time teachers and all benefits

that were given to the Double Part Time teachers should be extended to the Single Part Time teachers as well. The said decision had attained finality. Having taken into consideration all the relevant facts, Government Orders and the judgments of this Court, the said decision has been taken rejecting the plea against extension of the said benefit to the Single Part Time Vocational Instructor, which in the considered opinion of this Court, does not require any interference.

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 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."

3. When the Government has issued the orders based on the judgment of the Hon'ble Division Bench, this Court is of the considered opinion that the said Government Order cannot be quashed. This apart, the case of the writ petitioner was not considered based on the order of the Hon'ble Division Bench as well as the consequential order issued by the Government in G.O.Ms.No.194. Thus, the present writ petition is devoid of merits.

4. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

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School Education Department
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Chennai-600 009.
2. The Joint Director of School
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College Road,
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3. The Chief Educational Officer
Tiruppur District
Tiruppur.

+lcc to the Government Pleader sr.41251

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