

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28-03-2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.25271 of 2018

And

W.M.P.Nos.29380 and 29381 of 2018

S.Thinagarar

.. Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Finance (Pay Cell) Department,
Fort St. George,
Chennai-600 009.
2. The State of Tamil Nadu,
Represented 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.
5. The Chief Educational Officer,
Thiruvarur, Thiruvarur District.
6. The District Educational Officer,
Thiruvarur, Thiruvarur District.
7. The Headmaster,
Swamy Dayananda Higher Secondary School,
Manjakkudi, Kodavasal Taluk,
Thiruvarur District.

.. Respondents

PRAYER:

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the letter of the second respondent having Ref.No.16280/VE/2011-4, dated 14.6.2012 to the third respondent rejecting the request of the third respondent to take the service rendered by Part Time Vocational Instructors for the purpose of pension and quash the same and consequently direct the fourth respondent to send the proposal for computing the 50% service rendered by the petitioner 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 second respondent to enable the first respondent to sanction the pension to the petitioner based on the said proposal from the date of retirement of the petitioner and to enable the concerned authorities to disburse the pension to the petitioner.

For Petitioner : Mr.M.Murugabharathi

For Respondents : Mr.A.Raja Perumal,
Additional Government Pleader.

O R D E R

In respect of the grievances of the writ petitioner, the learned Additional Government Pleader, appearing on behalf of the respondents, made a submission that the Government issued G.O.Ms.No.194, School Education Department, dated 12.9.2018, granting the benefit of the counting of 50% of the services rendered in the post of Part Time Vocational Instructors.

2. However, the learned counsel for the writ petitioner states that cut off date fixed in the Government Order would affect the writ petitioner as the case of the writ petitioner false beyond the cut off date.

3. It is pertinent to note that the said G.O.Ms.No.194, School Education Department, dated 12.9.2018 was issued by the Government in implementation of the order of the Hon'ble Division Bench of this Court dated 6.4.2018 in W.A.Nos.882, 808 of 2017 etc. batch, the Hon'ble Division Bench of this Court passed the orders as follows:-

"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."

4. The Government issued orders in G.O.Ms.No.194, School Education Department, dated 12.9.2018, in implementation of the order of the Hon'ble Division Bench of this Court. Thus, this Court cannot consider the relief, as such, sought for in the present writ petition as the same has already been decided by the Hon'ble Division Bench of this Court and the Government also has implemented the order by issuing G.O.Ms.No.194, School Education Department, dated 12.9.2018.

5. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(I Cell)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Secretary to Government,
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Finance (Pay Cell) Department,
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Thiruvarur District.

6. The District Educational Officer,
Thiruvarur,
Thiruvarur District.

+1cc to the Government Pleader, S.R.No.31085

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VBA (CO)
CS/25/04/2019



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