



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE. R.MAHADEVAN

W.P. (MD) Nos.10632 to 10635 of 2019

WP (MD) No.10632 of 2019:

S.Sagaya Shanthi

.. Petitioner

Vs.

1.The State of Tamil Nadu
rep.by its Secretary to Government,
School Education Department,
Secretariat, Chennai - 9.

2.The Director of School Education,
D.P.I.Campus,
College Road, Channai.

3.The Chief Educational Officer,
Trichy, Trichy District.

.. Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Mandamus directing the respondents herein to take 50% of the service rendered by the petitioner as part time Vocational Instructors drawing consolidated pay between 23.07.1983 to 31.03.1990 along with regular service from 01.04.1990 for calculating the qualifying service for the purpose of pension and the quantum of pension under Rule 43(2) of the TamilNadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering the petitioner's representation dated 03.03.2019.

WP (MD) No.10633 of 2019:

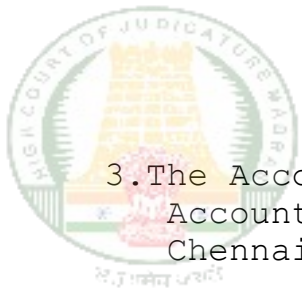
L.Padmini

.. Petitioner

Vs.

1.The State of Tamil Nadu
rep.by its Secretary to Government,
School Education Department,
Secretariat, Chennai - 9.

2.The Director of School Education,
D.P.I.Campus,
College Road, Channai.



3.The Accountant General (Accounts and Entitlements),
Accountant General Department,
Chennai - 600 018.

4.The Chief Educational Officer,
Krishnagiri,
Krishnagiri District - 625 001.

.. Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Mandamus directing the respondents herein to take 50% of the service rendered by the petitioner as part time Vocational Instructor drawing consolidated pay between 28.10.1985 to 11.11.1997 along with regular service between 12.11.1997 to 31.05.2011 for calculating the qualifying service for the purpose of pension and the quantum of pension under Rule 43 (2) of the TamilNadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering the petitioner's representation dated 03.03.2019.

WP(MD)No.10634 of 2019:

A.Ramasubramanian

.. Petitioner

Vs.

1.The State of Tamil Nadu
rep.by its Secretary to Government,
School Education Department,
Secretariat, Chennai - 9.

2.The Director of School Education,
D.P.I.Campus,
College Road, Channai.

3.The Accountant General (Accounts and Entitlements),
Accountant General Department,
Chennai - 600 018.

4.The Chief Educational Officer,
Ramanthapuram,
Ramanathapuram District.

.. Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Mandamus directing the respondents herein to take 50% of the service rendered by the petitioner as part time Vocational Instructor drawing consolidated pay between 11.08.1979 to 31.03.1990 along with regular service between 01.04.1990 to 30.06.2016 for calculating the qualifying service for the purpose of pension and the quantum of pension under Rule 43 (2) of the TamilNadu Pension Rules and to sanction pension and



other pensionary benefits and also to pay arrears by considering petitioner's representation dated 03.03.2019.

WP (MD) No.10635 of 2019:

S.Alagu Sundaram

.. Petitioner

Vs.

1.The State of Tamil Nadu
rep.by its Secretary to Government,
School Education Department,
Secretariat, Chennai - 9.

2.The Director of School Education,
D.P.I.Campus,
College Road, Channai.

3.The Chief Educational Officer,
Pudukottai,
Pudukottai District.

.. Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Mandamus directing the respondents herein to take 50% of the service rendered by the petitioner as part time Vocational Instructor drawing consolidated pay between 02.02.1987 to 15.10.1992 along with regular service from 16.10.1992 for calculating the qualifying service for the purpose of pension and the quantum of pension under Rule 43(2) of the TamilNadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering the petitioner's representation dated 02.10.2018.

For Petitioners : Mr.R.Ragavendran
For Respondents : Mrs.S.Srimathy
Special Government Pleader
in all the writ petitions.

COMMON ORDER

These writ petitions have been filed praying for a direction to the respondents to refix the petitioners' pension by counting 50% of their services rendered as part time Vocational Instructor and disburse the arrears accordingly.

2.Heard the learned counsel for the petitioners and the Special Government Pleader for the respondents. By consent, the writ petitions are taken up for final disposal at the stage of admission itself.



3. According to the petitioners, seeking refixation of pension by taking into account the 50% of services rendered by them as part time Vocational Instructors, they submitted their respective representations and non consideration of those representations resulted in filing of the present writ petitions.

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4. The learned Counsel for the petitioners submitted that the claim of the similarly placed persons had already been considered, by this Court in a batch of cases, in WP(MD)No.14365 of 2014, etc., dated 09.07.2018 wherein, a direction was issued to the authorities to revise the pension and to pay the arrears to them, within the time stipulated thereon. The learned counsel for the petitioners also brought to the notice of this Court, the decision rendered by this Court in WA No.359 of 2015 and WA No.882 of 2017, which cover the same issue, but the respondents failed to consider the same.

5. The learned Special Government Pleader appearing for the respondents 1 to 3 submitted that the said judgment made in the writ appeals has been challenged before the Hon'ble Supreme Court by way of SLP, which is pending consideration. She also pointed out that various other issues have also to be considered, which are against the petitioners and the same will be looked into, before taking a decision with regard to the claim made by the petitioners. In addition to that, G.O.Ms.No.194, dated 12.08.2018 will also be taken into consideration, while considering the claim of the petitioners. Further, it is submitted that the petitioners are not coming within the cut off date as held by the Hon'ble Supreme Court and the said fact has also to be analysed before considering the claim of the petitioners.

6. I have considered the rival submissions made on either side. In WP(MD)No.14365 of 2014 etc., batch of cases dated 09.07.2018, this Court held as follows:

"44. In view of the aforesaid judgments, wherein the issue as has been put forth by the learned counsel for the petitioners, having been dealt with and decided more than once by the Writ Court and the same has been confirmed by the Division Bench of this Court more than once and in cases, where SLP preferred before the Hon'ble Supreme Court, wherein also the view taken by this Court has been confirmed, all these petitioners are entitled to, for calculating 50% of the past services, rendered by each of the petitioners in the respective employment before they got absorbed by bringing them under the time scale of pay irrespective of the years of service, for the purpose of pensionary benefits. Hence, these petitioners also shall be entitled to the same benefits and accordingly, all these writ petitions are fit to succeed.



45. In the result, these writ petitions are allowed and the respective respondents in each of the writ petitions are hereby directed to take into account the 50% of the past services rendered by each of the petitioners either as Vocational Instructors or any other employment either as a Part Time / Full time / adhoc / temporary / daily wages employees before they brought in under the regular time scale of pay on permanent basis or absorption and by calculating the said 50% of their past service, pension eligibility and pension enhancement or difference of pay and pension shall be calculated and disbursed in favour of the respective petitioners. After fixing the revised pension by taking into account the past 50% services, the revised pension arrears shall be calculated and to be disbursed to the petitioners within a period of 12 weeks from the date of receipt of a copy of this order. It is needless to mention that the petitioners shall continue to receive the revised pension.

7. According to the learned Special Government Pleader, the issue is to be considered at length, taking into consideration of all the relevant materials.

8. Considering the facts and circumstances of the case and having regard to the fact that this Court has already passed orders in an identical issue in WP(MD)No.14365 of 2014 etc., batch cases, dated 09.07.2018, this Court directs the respondents to consider the claim of the petitioners, seeking pension by adding 50% of their part time services, based on their respective representations dated 03.03.2019 and 02.10.2018 and pass appropriate orders on merits and in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order, after affording an opportunity of hearing to the petitioners.

9. The writ petitions are disposed of, on the above terms. No costs.

Sd/-

Assistant Registrar (T & P)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Secretary to Government,
State of Tamil Nadu
School Education Department,
Secretariat, Chennai - 9.
2. The Director of School Education,
D.P.I. Campus,
College Road, Chennai.
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Trichy, Trichy District.
4. The Accountant General (Accounts and Entitlements),
Accountant General Department,
Chennai - 600 018.
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Pudukottai,
Pudukottai District.
6. The Chief Educational Officer,
Ramanthapuram,
Ramanathapuram District.
7. The Chief Educational Officer,
Krishnagiri,
Krishnagiri District - 625 001.

+1CC TO MR.P.GUNASEKARAN, Advocate Sr. No.63695
+4CC TO MR.R.RAGAVENDRAN, Advocate Sr. No.64621
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 64041

W.P. (MD) Nos.10632 to 10635 of 2019
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KMV (CO)
TR (22.05.2019) 6P 14C