



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **30.04.2019**

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

WEB COPY

WP(MD) Nos.11340, 11047, 11049 and 11048 of 2019

K.RAJENDRAN ... Petitioner in WP(MD). 11340/ 2019
J.CELINE ... Petitioner in WP(MD). 11047/ 2019
K.SUNDARI ... Petitioner in WP(MD). 11049/ 2019
P.RAMANATHAN ... Petitioner in WP(MD). 11048/ 2019

Vs. -

1. THE STATE OF TAMIL NADU
REP. BY ITS SECRETARY TO GOVERNMENT,
SCHOOL EDUCATION DEPARTMENT,
FORT ST.GEORGE, CHENNAI-9
2. THE DIRECTOR OF SCHOOL EDUCATION,
DPI CAMPUS, COLLEGE ROAD,
CHENNAI. ... R1 & R2 in all writ petitions
3. THE ACCOUNTANT GENERAL (A&E),
ACCOUNTANT GENERAL DEPARTMENT,
CHENNAI-18. ... R3 in WP(MD) No.11340/2019 &
R4 in WP(MD) Nos.11047/2019 to 11049/2019.
4. THE DIRECTOR OF PERSONNEL,
D.P.I. CAMPUS, COLLEGE ROAD,
CHENNAI. ... R3 in WP(MD) Nos.11047/2019 to 11049/2019.
- 5 THE CHIEF EDUCATIONAL OFFICER,
O/o. THE CHIEF EDUCATIONAL OFFICER,
RAMANATHAPURAM. ... R4 in WP(MD). 11340/ 2019
- 6 THE CHIEF EDUCATIONAL OFFICER,
OFFICE OF THE CHIEF EDUCATIONAL OFFICER,
SIVAGANGAI. ... R5 in WP(MD) Nos.11047/2019 to 11049/2019

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents herein to consider the petitioners representation dated 04.02.2019 and to include 50% of the service period as part time Vocational Teacher in his service register for the purpose of calculating the pension benefits within the time fixed by this Court.



For Petitioners : Mr. V. Raghavachari in all W.Ps.

For R1, R2 and R4
in WP(MD)No.11340/19
and for R1 to R3 and

R5 in WP(MD)Nos.11047/19

to 11049/2019 : Mrs.S.Srimathy,
Special Government Pleader

For R3 in WP(MD)No.11340/19

For R4 in WP(MD)Nos.11047/19 to

11049/19 : Mr. P. Gunasekaran

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 Instructors and disburse the arrears accordingly.

2.The case of the petitioners is that 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.

3.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.

4.The learned Counsel for the petitioners also brought to the notice of this Court the decision made in WA No.359 of 2015 and WA No.882 of 2017, which covers the same issue and submitted that the respondents failed to consider the claim of the petitioners in the light of the said decision.

5.Per contra, the learned Special Government Pleader appearing for the respondents 1 to 3 submitted that the said judgment of the writ appeal 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.

6.I have considered the rival submissions. In WP(MD)No.14365 of 2014 etc cases, 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 get 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. However, the learned Special Government Pleader appearing for the respondents 1 to 3 submitted that the said issue is to be considered at length, taking into consideration all the relevant materials.

8. In view of the rival submissions, the respondents are directed to consider the claim of the petitioners, seeking pension by adding 50% of their part time services and pass appropriate orders on merits and in accordance with law, after affording opportunity of hearing to the petitioners, within a period of twelve weeks from the date of receipt of a copy of this order.



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

Sd/-

Assistant Registrar(T & P)

// True Copy //

Sub Assistant Registrar(CS)

trp

To

- 1.The Secretary,
Government School Education Department,
Fort Saint George,
Chennai - 600 009.
- 2.The Director of School Education,
DPI Campus, College Road, Chennai -600 006.
- 3.The Accountant General (Accounts and Entitlements),
Accountant General Department,
Chennai - 625 018.
- 4.The Chief Educational Officer,
O/o. The Chief Educational Officer,
Ramanathapuram.
5. The Director of Personnel,
D.P.I. Campus, College Road,
Chennai.
- 6 The Chief Educational Officer,
Office of the Chief Educational Officer,
Sivagangai.

+1CC TO MR.P.GUNASEKARAN, Advocate Sr. No.64214

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 64884, 64893,
64892, 64891

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30.04.2019

DKS (CO)

TR (10.06.2019) 4P 6C