



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WP (MD) No.11469 of 2019

R.Anbalagan

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort Saint George,
Chennai - 600 009.

2.The Director of School Education,
DPI Campus,
College Road,
Chennai.

3.The Director of Personnel,
DPI Campus,
College Road,
Chennai.

4.The Accountant General (Accounts and Entitlements),
Accountant General Department,
Chennai - 625 018.

5.The Chief Educational Officer,
Office of the Chief Educational Officer,
Sivagangai.

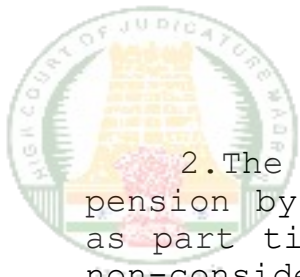
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 04.02.2019 and to include 50% of service period of the petitioner as part time vocational Teacher in his service register for purpose of calculating the pension benefits

For Petitioner	: Mr.V.Raghavachari
For Respondent	: Mrs.S.Srimathy,
Nos.1 to 3 & 5	Special Government Pleader
For Respondent	: Mr.P.Gunasekaran
No.4	

ORDER

This writ petition has been filed praying for a direction to the respondents to refix the petitioner's pension by counting 50% of his service rendered as part time Vocational Teacher and disburse the arrears accordingly.



2.The case of the petitioner is that seeking refixation of pension by taking into account the 50% of services rendered by him as part time Vocational Teacher, he submitted a representation and non-consideration of the same resulted in filing of the present writ petition.

3.The learned Counsel for the petitioner 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 petitioner also brought to the notice of this Court the decision of the writ appeals in WA Nos.359 of 2015 and 882 of 2017, which cover the same issue and submitted that the respondents failed to consider the claim of the petitioner in the light of the said decision.

5.Per contra, the learned Counsel appearing for the respective respondents submitted that the said judgment of the writ appeals has been challenged before the Hon'ble Supreme Court by way of SLP, which is pending consideration. They also pointed out that various other issues have to be considered, which are against the petitioner and the same will be looked into, before taking a decision with regard to the claim made by the petitioner. 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 petitioner.

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 putforth 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 and 5 submitted that the said issue is to be considered at length, taking into consideration all the relevant materials.

8. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side and also following the aforesaid order, the respondents are directed to consider the claim of the petitioner, seeking pension by adding 50% of his part time service and pass appropriate orders, on merits and in accordance with law, after affording opportunity of hearing to the petitioner, within a period of twelve weeks from the date of receipt of a copy of this order.

9. The writ petition is disposed of, on the above terms. No costs.

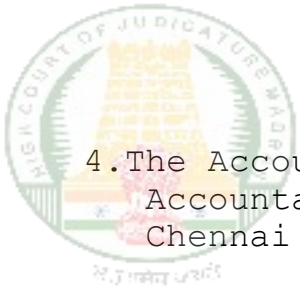
sd/
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
Department of School Education,
Fort Saint George,
Chennai - 600 009.
2. The Director of School Education,
DPI Campus,
College Road,
Chennai.
3. The Director of Personnel,
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4. The Accountant General (Accounts and Entitlements),
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5. The Chief Educational Officer,
Office of the Chief Educational Officer,
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+1 CC to SPL GP (SR-64880[F] dated 02/05/2019)

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DSK/RK

MK (11.06.2019) 4P 7C