



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.06.2019

CORAM:

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.(MD)No.11494 of 2019

Mrs.G.Vasantha

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to
Government School Education Department,
Fort St. George, Chennai-9.

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

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

4.The Chief Educational Officer,
Office of Chief Educational Officer,
Sivagangai.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to consider the petitioner's representation, dated 17.11.2018 and to grant the pension by considering 50% of her part time service period as vocational teacher for the purpose of pension and retirement benefits to the petitioner within the time fixed by this Court.

For Petitioner : Mr.V.Raghavachari
For R1, R2 & R4 : Mrs.S.Srimathy
Special Government Pleader
For R3 : Mr.P.Gunasekaran

O R D E R

The petitioner seeks for a direction directing the respondents to consider the petitioner's representation, dated 17.11.2018 and to grant pension by considering 50% of her part time service period as vocational teacher for the purpose of pension and retirement benefits to the petitioner.



2.The learned counsel appearing for the petitioner submitted that this Court has already decided similar issue in W.P(MD)No.16771 of 2013 etc., batch, dated 09.04.2014 and 2019 SCC Online Mad 1201 in W.A.No.964 of 2019, dated 01.04.2019, wherein this Court has held as follows:-

"10.In the order dated 08.10.2012 in W.A.No.1618 of 2012 preferred against the aforesaid order, the Division Bench of this Court confirming the same, held as follows:

"7.From a mere reading of the order in W.P.No.30003 of 2004, it is clear that this Court has already given a specific finding on facts that the Rural Medical Practitioners are to be treated as employees on regular service working in the rural dispensaries. As such, the earlier services rendered by the Respondent cannot be refused to be taken into account with the G.O.Ms.No.408 dated 25.08.2009 and he cannot be treated differently.

8.It is also pertinent to note that the Government Order gives the benefit to the erstwhile consolidated and daily rated employees who are not in a better position than the Respondent. As rightly held by the learned Judge that when a party gets a right under a judgment, the said accrued right cannot be denied based upon an artificial classification. Further, this Court on the earlier occasions found that such a classification cannot be sustained in the eye of law. More so, to explain, at the cost of repetition, the very object of G.O.Ms.No.408 dated 25.08.2009 is to given benefits to the employees, who were working earlier on consolidated pay as well as daily rated wages. Therefore, the 50% of the service rendered by the Respondent from 01.07.1972 till 01.10.1984 will have to be taken into account for calculation of pension. We are in total agreement with the findings rendered by the learned single Judge. Therefore, the interference sought to be made into the well considered and merited order passed by the learned single Judge is neither warranted nor called for."

11.In the light of the clear findings in the earlier decisions of this Court referred supra and in the absence of any materials placed before this Court to the contrary, it is not possible to accept the self-serving claim of the Respondents that the services of the Rural Medical Officers like the Petitioner prior to 01.10.1984 were engaged on part time basis. We must also point out here that the Hon'ble Supreme Court of India in State of Uttar Pradesh v. Arvind Kumar Srivastava [(2015) 1 SCC 347] has reiterated that when a particular set of employees have been given relief by the Court, all other identically situated employees



should be treated alike by extending that benefit and not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. In view of the aforesaid dictum, the petitioner is entitled to the same benefit, which has been granted in respect of similarly placed persons in the decisions referred supra.

12. The order passed by the Writ Court is in consonance with the earlier orders passed by the Division Benches of this Court and we do not find any reason to differ from the same."

The learned counsel has also brought to the notice of this Court that following the judgment of the Division Bench, this Court has passed an order in W.P.Nos.33057 and 33058 of 2014, dated 11.02.2019 and held thus:-

"3. The learned Government Advocate appearing for the respondents has submitted that following the above Division Bench judgment of this Court, the Government has passed an order in G.O.Ms.No.194 School Education Department, dated 12.09.2018, entitling the said benefit. She also submitted that these writ petitions have been filed in the year 2014 and as per the Division Bench Judgment of this Court, the relief would cover the writ petitions, pending till 06.04.2018.

4. Admittedly, the petitioners have approached this Court in the year 2014. It is also seen that the petitioners have made representations dated 23.09.2014 to the first respondent in this regard. Hence, the first respondent is directed to consider the representations of the petitioners dated 23.09.2014 in the light of the Division bench judgment of this Court in W.A.Nos.882 of 2017 etc., batch dated 06.04.2018 and also the order passed by the Government in G.O.Ms.No.194 School Education Department dated 12.09.2018, and pass appropriate orders, as expeditiously as possible, preferably within a period of twelve weeks from the date of receipt of the copy of the order."

3. It is also seen that the petitioners has made representation, dated 17.11.2018 to the respondents in this regard. Hence, the first respondent is directed to consider the representation of the petitioner dated 17.11.2018 in the light of the Division Bench Judgment of this Court in W.A.Nos.882 of 2017 etc batch, dated 06.04.2018 and also the order passed by the Government in G.O.Ms.No.194 School Education Department dated 12.09.2018 and pass appropriate orders, as expeditiously as possible, preferably within a period of twelve weeks from the date of receipt of a copy of this order.



4.The Writ petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

WEB COPY

Sub Assistant Registrar(CS)

To

- 1.The State of Tamil Nadu,
Represented by its Secretary to
Government School Education Department,
Fort St. George, Chennai-9.
 - 2.The Director of School Education,
D.P.I.Campus,
College Road,
Chennai.
 - 3.The Accountant General (Accounts and Entitlements),
Accountant General Department,
Chennai-625 018.
 - 4.The Chief Educational Officer,
Office of Chief Educational Officer,
Sivagangai.
- +1 CC to Mr.P.GUNASEKARAN, Advocate SR-67985.
+1 CC to SPL GP SR-68506.

W.P (MD) No.11494 of 2019
11.06.2019

CS: (26/06/2019) 4P 7C