



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :06.03.2019

CORAM:

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

WEB COPY

WP (MD) Nos.24483 to 24489 of 2018

M.VASANTHA KUMARI	...	PETITIONER IN WP (MD) NO.24483 OF 2018
J.JUSTIN RAJ	...	PETITIONER IN WP (MD) NO.24484 OF 2018
A.MURUGAN	...	PETITIONER IN WP (MD) NO.24485 OF 2018
C.GLORY RAJA BAI	...	PETITIONER IN WP (MD) NO.24486 OF 2018
H.JEYARANJINI	...	PETITIONER IN WP (MD) NO.24487 OF 2018
G.KUMAR	...	PETITIONER IN WP (MD) NO.24488 OF 2018
S.SUGANTHAM	...	PETITIONER IN WP (MD) NO.24489 OF 2018

Vs.

1.THE STATE OF TAMIL NADU,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF SCHOOL EDUCATION,
FORT SAINT GEORGE,
CHENNAI - 9.

2.THE DIRECTOR OF SCHOOL EDUCATION,
COLLEGE ROAD, CHENNAI

3.THE JOINT DIRECTOR OF SCHOOL EDUCATION (VOCATIONAL),
COLLEGE ROAD, CHENNAI 6
..RESPONDENTS NO.1 TO 3 IN ALL CASES

4.THE CHIEF EDUCATIONAL OFFICER,
KANYAKUMARI DISTRICT, NAGERCOIL
..4TH RESPONDENT IN WP (MD) NOS.24483,24484,24486,
24488 AND 24489 OF 2018

5.THE HEADMASTER, GOVERNMENT TRIBAL RESIDENTIAL HIGHER SECONDARY
SCHOOL, PECHIPPARAI, KANYAKUMARI DISTRICT.
..5TH RESPONDENT IN WP (MD) NOS.24483,24486,
AND 24488 OF 2018

4.THE CHIEF EDUCATIONAL OFFICER,
TIRUNELVELI DISTRICT
..4TH RESPONDENT IN WP (MD) NOS.24485 AND 24487 OF 2018

5.THE HEADMASTER, A.V.J.GOVERNMENT, HIGHER SECONDARY SCHOOL,
ITTAMOZHI, TIRUNELVELI DISTRICT.
..5TH RESPONDENT IN WP (MD) NOS.24485 AND 24487 OF 2018

Common Prayer in WP(MD).Nos. 24483 to 24489 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondents herein to consider and pass orders on the petitioners representation dated 12/10/2018, 22/10/2018, 29/09/2018, 05/10/2018, 04/10/2019, 09/10/2018, and 27/10/2018 seeking to re-fix petitioners pension by counting 50% of the petitioners part-time Vocational Instructor service between 20/08/1982 to 04/10/1996, 03/07/1978 to 27/11/1986, 27/08/1981 to 31/03/1990, 03/06/1981 to 04/10/1996, 28/08/1981 to 31/03/1990, 01/08/1984 to 31/03/1990 and 07/07/1980 to 04/10/1996 respectively, and disburse arrears of pension from the date of retirement.

For Petitioner : Mr.EVN.Siva
For Respondents : Mrs.S.Srimathy,
Special Government Pleader
(in all Cases)

COMMON ORDER

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

2.The petitioners, seeking re-fixation of pension by taking into account the 50% of services rendered by them, as part time Vocational Instructors, 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 petitioners also brought to the notice of the authorities the decision of writ appeals 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 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 issues have also to be considered, which are against the petitioners and the same will also be looked into, before



taking a decision with regard to the claim made by the petitioners. In addition to that, G.O.Ms.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.

<https://hcservices.ecourts.gov.in/hcservices/> to the learned Special Government Pleader, the issue is to be considered at length, taking into consideration of all the relevant materials.



8. In such view of the matter, 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 after affording opportunity of hearing to the petitioners.

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

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort Saint George, Chennai - 600 009.
2. The Director of School Education,
College Road, Chennai - 600 006.
3. The Joint Director of School Education (Vocational),
College Road, Chennai - 600 006.
4. The Chief Educational Officer,
Kanyakumari District,
Nagerocil.
5. The Headmaster,
Government Tribal Residential Higher Secondary School
Pechipparai, Kanyakumari District
6. The Chief Educational Officer
Tirunelveli District
7. The Headmaster
A.V.J. Government Higher Secondary School
Ittamozhi, Tirunelveli District

1 CC to M/s.SPL GP (SR-52282,52284,52286,52285,52287,52288[F]
dated 07/03/2019)

+7 CC to M/s.E.V.N.SIVA, Advocate (SR-52530[F] dated 08/03/2019)

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