



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.16252 of 2019

and

W.M.P. (MD)No.12923 of 2019

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M.Murugamani

... Petitioner

Vs.

1.The State of Tamilnadu,
Represented by its Principal Secretary,
School Education Department, (Pa.Ka.7-1),
Fort St. George, Chennai-09.

2.The Director of School Education,
College Road, Chennai-06.

3.The District Educational Officer,
Uthamapalayam Educational District,
Uthamapalayam, Theni District-625 533.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned G.O.Ms.No.194, dated 12.09.2018 issued by the first respondent and consequential impugned order passed by the second respondent dated 02.2019 bearing Na.Ka.No.001668/V1/E3/2019 and quash the same with regard to the cut of date i.e., 06.04.2018 and directing the respondents to take the 50% of the part time service rendered by the petitioner ie., from 03.10.1979 to 01.04.1990 along with the regulars service for the pension benefits i.e., for the period of 27 years 10 months 03 days.

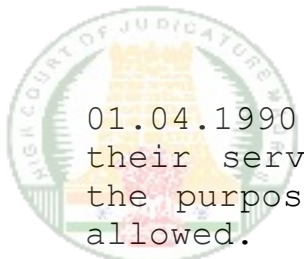
For Petitioner : Mr.R.Saravanan

For Respondents : Mrs.S.Srimathy,
Special Government Pleader.

ORDER

This Writ Petition is filed to quash the Government Order in G.O.Ms.No.194, dated 12.09.2018 issued by the first respondent and consequential order passed by the second respondent dated 02.2019 bearing Na.Ka.No.001668/V1/E3/2019.

2.The petitioner's husband was appointed as Vocational Teacher on 03.10.1979. Subsequently, he was regularised on



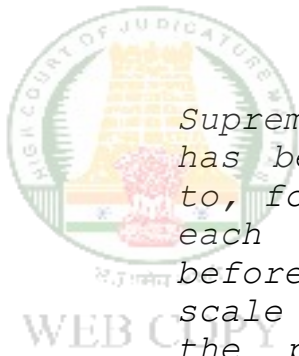
01.04.1990. Number of writ petitions were filed, claiming 50% of their service rendered as part time employees to be counted for the purpose of calculating pension. All the Writ Petitions were allowed. The Writ Appeal and Special Leave Petition filed by the Government were dismissed. The Government implemented the order of this Court and 50% of the service rendered by the similarly placed persons was taken into account for calculating pension. While so, the Government has passed the impugned G.O.Ms.No.194, School Education (SE7-1) Department, dated 12.09.2018, imposing a condition that teachers, who are brought on regular time scale of pay before 01.04.2003 and filed Writ Petition and obtained order before 06.04.2018 or the Writ Petitions are pending, alone are entitled for counting 50% of the service rendered as part time Vocational Instructors.

3. According to the learned counsel for the petitioner, in service matter, when a relief is granted to the employees, similarly placed employees are also entitled for the said relief and relied on the order dated 09.07.2018, made in W.P(MD)No.14365 of 2014 etc., batch and Writ Appeals in W.A.(MD)No.392 of 2017 etc., batch. The learned counsel appearing for the petitioner contended that the cut off date fixed in the Government Order is not valid, as the Government is not entitled to prevent similarly placed persons to approach the Court later and prayed for quashing the cut-off date fixed in G.O.Ms.No.194, School Education (SE7-1) Department, dated 12.09.2018.

4. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

5. The petitioner is seeking 50% of the service rendered by her husband as part time Vocational Instructors to be counted for calculating pension payable to them. This issue was already considered by this Court in W.P.No.14365 of 2014 etc., batch, relied on by the learned counsel for the petitioner. This Court has granted relief to the similarly placed persons, like that of the petitioner herein. The appeal and Special Leave Petition filed by the Government were dismissed. This Court, by the order dated 09.07.2018, after extracting the earlier order of this Court in paragraphs 44 and 45, has 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."

6. When a relief is granted to an employee with regard to counting 50% of service rendered by him as part time employee, the same cannot be restricted only to the persons filed Writ Petition or the persons filed the Writ Petitions on or before 06.04.2018. The said condition imposed in the impugned Government Order, is arbitrary and there is no reason given by the Government for fixing such cut-off date. In view of the same, the said condition is invalid and is liable to be set aside. For the above reason, the condition imposed in the Government Order, is quashed. The respondents are directed to consider the representation of the petitioner for counting 50% of the service rendered by her husband as part time Vocational Instructors, taking into account the various orders passed in the Writ Petitions and the judgment of this Court, dated 21.04.2017, made in W.A.(MD)No.392 of 2017 etc., batch.

7. With the above observations and directions, this Writ



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Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar (CS)

Myr

To

1.The Principal Secretary,
State of Tamilnadu,
School Education Department, (Pa.Ka.7-1),
Fort St. George, Chennai-09.

2.The Director of School Education,
College Road, Chennai-06.

3.The District Educational Officer,
Uthamapalayam Educational District,
Uthamapalayam, Theni District-625 533.

+1 CC to MR.R. SARAIVANAN, Advocate (SR-102273[F] dated 28/11/2019)

+1 CC to MR.SPL GP (SR-102823[F] dated 29/11/2019)

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28.11.2019

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