



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD)Nos.16255, 16259, 16272, 16273, 16275, 16278, 16281 and 16289 of 2019

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and
W.M.P. (MD)Nos.12925, 12929, 12938, 12940, 12941, 12943, 12944 and 12947 of 2019

S. Gunasekara Pandian	... Petitioner(s) in WP(MD). 16255/ 2019
A. Rajaguru	... Petitioner(s) in WP(MD). 16259/ 2019
K. Selvaraj	... Petitioner(s) in WP(MD). 16272/ 2019
J. David Kirubakaran	... Petitioner(s) in WP(MD). 16273/ 2019
K. Bharathi	... Petitioner(s) in WP(MD). 16275/ 2019
A. Kannan	... Petitioner(s) in WP(MD). 16278/ 2019
B. Pethuchetty	... Petitioner(s) in WP(MD). 16281/ 2019
J. Fenny Joyce Victoria	... Petitioner(s) in WP(MD). 16289/ 2019

1. The State of Tamil Nadu Rep by its Principal Secretary,
School Education Department (Pa.Ka.7-1) Fort St.George, Chennai.
2. The Director of School Education, College Road, Chennai.
3. The District Educational Officer,
O/o District Educational Office, Uthampalayam, Theni District.

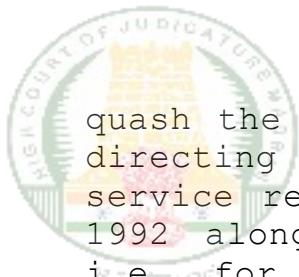
**... Respondents in WP(MD)16255, 16272, 16273,
16275, 16278, 16281 and 16289 / 2019**

1. The State of Tamil Nadu Rep by its Principal Secretary,
School Education Department (Pa.Ka.7-1) Fort St.George, Chennai.
2. The Director of School Education, College Road, Chennai.
3. The Chief Educational Officer O/o Chief Educational Officer,
Theni District.

... Respondents in WP(MD)16259/ 2019

Prayer in WP(MD). 16255 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for records of the impugned G.O.Ms.No.194 dated 12-09-2018 issued by the 1st Respondent and consequential impugned order passed by the 2nd Respondent dated -2-2019 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 percent of the part time service rendered by the petitioners ie from 05-09-1985 TO 16-10-1992 along with the regulars service for the pension benefits i.e., for the period of 29 years 02 months 06 days.

Prayer in WP(MD) . 16259 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for records of the impugned G.O.Ms.No.194 dated 12-09-2018 issued by the 1st Respondent and consequential impugned letter sent by the 3rd Respondent dated 25-03-2019 bearing RC.No.4066/B4/2018 and quash the same with regard to the cut of date i.e 06-04-2018 and directing the respondents to take the 50 percent of the part time service rendered by the petitioners ie from 13-10-1986 to 16-10-1992 along with the regulars service for the pension benefits i.e., for the period of 28 years 07 months 17 days.

Prayer in WP(MD) . 16272 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for records of the impugned G.O.Ms.No.194 dated 12-09-2018 issued by the 1st Respondent and consequential impugned order passed by the 2nd Respondent dated -2-2019 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 percent of the part time service rendered by the petitioners ie from 02-08-1984 to 01-04-1990 along with the regulars service for the pension benefits i.e., for the period of 28 years 06 months.

Prayer in WP(MD) . 16273 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for records of the impugned G.O.Ms.No.194 dated 12-09-2018 issued by the 1st Respondent and consequential impugned order passed by the 2nd Respondent dated -2-2019 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 percent of the part time service rendered by the petitioners ie from 04-10-1979 TO 01-04-1990 along with the regulars service for the pension benefits i.e., for the period of 27 years 05 months 10 days.

Prayer in WP(MD) . 16275 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for records of



the impugned G.O.Ms.No.194 dated 12-09-2018 issued by the 1st Respondent and consequential impugned order passed by the 2nd Respondent dated -2-2019 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 percent of the part time service rendered by the petitioners ie from 16-07-1979 to 01-04-1990 along with the regulars service for the pension benefits i.e., for the period of 25 years 02 months 08 days.

Prayer in WP(MD) . 16278 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for records of the impugned G.O.Ms.No.194 dated 12-09-2018 issued by the 1st Respondent and consequential impugned order passed by the 2nd Respondent dated -2-2019 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 percent of the part time service rendered by the petitioners ie from 16-07-1979 TO 01-04-1990 along with the regulars service for the pension benefits i.e., for the period of 28 years 03 months 08 days.

Prayer in WP(MD) . 16281 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for records of the impugned G.O.Ms.No.194 dated 12-09-2018 issued by the 1st Respondent and consequential impugned order passed by the 3rd Respondent dated -2-2019 bearing R.C.No.387/B3/2019 and quash the same with regard to the cut of date i.e 06-04-2018 and directing the respondents to take the 50 percent of the part time service rendered by the petitioners ie from 23-07-1979 to 01-04-1990 along with the regulars service for the pension benefits i.e., for the period of 26 years 1 months 23 days.

Prayer in WP(MD) . 16289 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for records of the impugned G.O.Ms.No.194 dated 12-09-2018 issued by the 1st Respondent and consequential impugned order passed by the 2nd Respondent dated -2-2019 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 percent of the part time service rendered by the petitioners ie from 01-09-1984 TO 01-04-1990 along with the regulars service for the pension benefits i.e., for the period of 29 years 06 months.



For Respondents in all WPs: Mrs.S.Srimathy,
Special Government Pleader.

COMMON ORDER

Since the issues involved in these Writ Petitions are one and the same, these Writ Petitions are heard together and disposed of by way of this common order.

2.All the petitioners are appointed as Vocational Teachers on various dates. Subsequently, they were regularised on various dates from 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 petitioners, 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 petitioners 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 petitioners and the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

5.The petitioners are seeking 50% of their service rendered by them 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 petitioners. This Court has granted relief to the similarly placed persons, like that of the petitioners herein. The appeal and Special Leave Petition

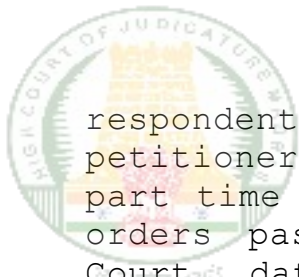


filed by the Government were dismissed. This Court, by the order dated 09.07.2018, after extracting the earlier order of this Court in paragraphs 44 and 45, has held as follows:-

"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 petitioners for counting 50% of the service rendered by them 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.

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7.With the above observations and directions, all the Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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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 Chief Educational Officer,
O/o. Chief Educational Office,
Theni District.

4.The District Educational Officer,
O/o.District Educational Office
Uthamapalayam, Theni District

+8 CC to MR.R. SARAIVANAN, Advocate (SR-102273[F] dated 28/11/2019)

**W.P. (MD) Nos.16255, 16259, 16272,16273,
16275, 16278, 16281 and 16289 of 2019
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