



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)Nos. 21631, 21632, 21634 to 21638, 21640 to 21644, 21647 to 21657 of 2019

WEB COPY

E.Marimuthu	... Petitioner in WP(MD). 21631/ 2019
D.Anbazhagan	... Petitioner in WP(MD). 21632/ 2019
S.Asaitambi	... Petitioner in WP(MD). 21634/ 2019
R.Nedunchezhiyan	... Petitioner in WP(MD). 21635/ 2019
K.Niraimathi	... Petitioner in WP(MD). 21636/ 2019
S.Chithambaram	... Petitioner in WP(MD). 21637/ 2019
S.Palanivelu	... Petitioner in WP(MD). 21638/ 2019
S.Gomathi	... Petitioner in WP(MD). 21640/ 2019
S.Poongulali	... Petitioner in WP(MD). 21641/ 2019
N.Rani	... Petitioner in WP(MD). 21642/ 2019
K.M.Gopal	... Petitioner in WP(MD). 21643/ 2019
S.Kodiyarasan	... Petitioner in WP(MD). 21644/ 2019
K.Varadharajan	... Petitioner in WP(MD). 21647/ 2019
S.Jeyarani	... Petitioner in WP(MD). 21648/ 2019
R.Subba Raju	... Petitioner in WP(MD). 21649/ 2019
A.V.Virginia	... Petitioner in WP(MD). 21650/ 2019
M.Chinnadurai	... Petitioner in WP(MD). 21651/ 2019
M.Srinivasan	... Petitioner in WP(MD). 21652/ 2019
S.Thenmozhi	... Petitioner in WP(MD). 21653/ 2019
J.Santhi	... Petitioner in WP(MD). 21654/ 2019
P.Srimathi Santhi	... Petitioner in WP(MD). 21655/ 2019
M.Soundarajan	... Petitioner in WP(MD). 21656/ 2019
K.Sivakumar	... Petitioner in WP(MD). 21657/ 2019

/ VERSUS /

1. The State of Tamil Nadu

Rep by its Secretary to Government,

School Educational Department, Secretariat, Chennai-9

2. The Director of School Education,

<https://hcservices.ecourts.gov.in/hcservices/111Campus/CollegeRoad,Chennai....> Respondents in ALL WPs



3. The Chief Educational Officer,
Pudukkottai, Pudukkottai District.

... 3rd Respondent in WP(MD) Nos.
21631, 21632, 21634 to 21638, 21640
to 21644 & 21647 of 2019 and
WP (MD)Nos.21652 to 21657 of 2019

4. The Chief Educational Officer,
Trichy,
Trichy District.

... 3rd Respondent in WP (MD)Nos.
21648 of 2019 & 21650 of 2019

5. The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.

... 3rd Respondent in WP (MD)No.
21649 of 2019

6. The Chief Educational Officer,
Tiruppur,
Tiruppur District.

... 3rd Respondent in WP (MD)No.
21651 of 2019

Prayer in WP(MD). 21631/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents herein to take 50 percent of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 22.02.1987 to 31.03.1990 along with regular service from 01.04.1990 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamilnadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 06.07.2019 within the time limit fixed by this Court.

Prayer in WP(MD). 21632/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents, herein to take 50 percent of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 05-08-1986 to 15-10-1992 along with regular service from 16-10-1992 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamil Nadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 26-07-2019, within the time limit fixed by this Court.



Prayer in WP(MD). 21634/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents, herein to take 50 percent of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 12-08-1986 to 15-10-1992 along with regular service from 16-10-1992 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamil Nadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 06-07-2019, within the time limit fixed by this Court.

Prayer in WP(MD). 21635/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents herein to take 50 percent of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 05.08.1986 to 15.10.1992 along with regular service from 16.10.1992 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamilnadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 26.07.2019 within the time limit fixed by this Court.

Prayer in WP(MD). 21636/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents herein to take 50 percent of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 20.09.1996 to 09.06.2002 along with regular service from 10.06.2002 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamilnadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 26.07.2019 within the time limit fixed by thisCourt.

Prayer in WP(MD). 21637/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents, herein to take 50 percent of service rendered by the petitioner as part time vocational



instructors drawing consolidated pay between 20-09-1996 to 09-06-2002 along with regular service from 10-06-2002 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamil Nadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 26-07-2019, within the time limit fixed by this Court.

Prayer in WP(MD). 21638/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents herein to take 50 percent of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 01.09.1986 to 15.10.1992 along with regular service from 16.10.1992 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamilnadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 26.07.2019 within the time limit fixed by this Court.

Prayer in WP(MD). 21640/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents, herein to take 50 percent of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 14-02-1986 to 19-01-1995 along with regular service from 20-01-1995 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamil Nadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 26-07-2019, within the time limit fixed by this Court.

Prayer in WP(MD). 21641/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents herein to take 50 percent of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 20.09.1996 to 09.06.2002 along with regular service from 10.06.2002 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamilnadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 26.07.2019 within the time limit fixed by this Court.



Prayer in WP(MD). 21642/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents herein to take 50 percent of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 02.09.1988 to 15.10.1992 along with regular service from 16.10.1992 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamilnadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 26.07.2019 within the time limit fixed by this Court.

Prayer in WP(MD). 21643/ 2019 :

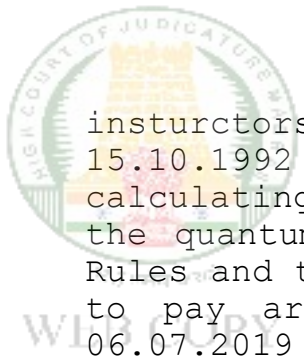
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents, herein to take 50 percent of service rendered by the petitioner as part time vocational insturctors drawing consolidated pay between 19-09-1986 to 15-10-1992 along with regular service from 16-10-1992 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamil Nadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 26-07-2019, within the time limit fixed by this Court.

Prayer in WP(MD). 21644/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents, herein to take 50 percent of service rendered by the petitioner as part time vocational insturctors drawing consolidated pay between 20-09-1996 to 09-06-2002 along with regular service from 10-06-2002 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamil Nadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 26-07-2019, within the time limit fixed by this Court.

Prayer in WP(MD). 21647/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents, herein to take 50 percent of service rendered by the petitioner as part time vocational



insturctors drawing consolidated pay between 24.09.1986 to 15.10.1992 along with regular service from 16-10-1992 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamil Nadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 06.07.2019 within the time limit fixed by this Court.

Prayer in WP(MD). 21648/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents, herein to take 50 percent of service rendered by the petitioner as part time vocational insturctors drawing consolidated pay between 21-07-1986 to 15-10-1992 along with regular service from 16-10-1992 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamil Nadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 25-02-2019, within the time limit fixed by this Court.

Prayer in WP(MD). 21649/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents, herein to take 50 percent of service rendered by the petitioner as part time vocational insturctors drawing consolidated pay between 4.11.1982 TO 4.10.1996 along with regular service from 05.10.1996 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamil Nadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 27.08.2019 within the time limit fixed by this Court.

Prayer in WP(MD). 21650/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents, herein to take 50 percent of service rendered by the petitioner as part time vocational insturctors drawing consolidated pay between 05-08-1985 to 15-10-1992 along with regular service from 16-10-1992 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamil Nadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 06-07-2019, within the time limit fixed by this Court.



Prayer in WP(MD). 21651/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents, herein to take 50 percent of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 9.10.1985 TO 15.10.1992 along with regular service from 16.10.1992 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamil Nadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 27.08.2019 within the time limit fixed by this Court.

Prayer in WP(MD). 21652/ 2019 :

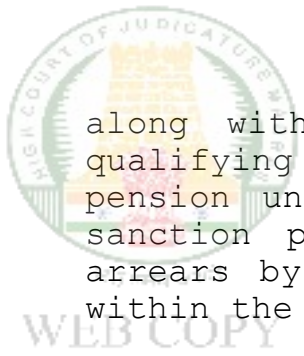
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents, herein to take 50 percent of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 23.8.1982 TO 31.03.1990 along with regular service from 1.4.1990 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamil Nadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 26.7.2019 within the time limit fixed by this Court.

Prayer in WP(MD). 21653/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents, herein to take 50 percent of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 28.8.1986 TO 15.10.1992 along with regular service from 16.10.1992 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamil Nadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 26.7.2019 within the time limit fixed by this Court.

Prayer in WP(MD). 21654/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents, herein to take 50 percent of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 20.9.1996 TO 09.06.2002



along with regular service from 10.06.2002 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamil Nadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 26.7.2019 within the time limit fixed by this Court.

Prayer in WP(MD). 21655/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents, herein to take 50 percent of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 05.3.1986 TO 15.10.1992 along with regular service from 16.10.1992 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamil Nadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 26.7.2019 within the time limit fixed by this Court.

Prayer in WP(MD). 21656/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents, herein to take 50 percent of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 26.08.1985 to 15.10.1992 along with regular service from 16.10.1992 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamil Nadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 06.7.2019 within the time limit fixed by this Court.

Prayer in WP(MD). 21657/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus Directing the respondents, herein to take 50 percent of service rendered by the petitioner as part time vocational instructors drawing consolidated pay between 23/09/1988 TO 15/10/1992 along with regular service from 16/10/1992 for calculating the qualifying service, for the purpose of pension and the quantum of pension under Rule 43(2) of the Tamil Nadu Pension Rules and to sanction pension and other pensionary benefits and also to pay arrears by considering petitioner's representation dated 26.7.2019 within the time limit fixed by this Court.



For Petitioner : Mr.R.Ragavendran
(in all WPs)

For Respondents : Mr.A.Thiagarajan,
Government Advocate
(in all WPs)

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

3.The case of the petitioners is that seeking refixation of pension by taking into account the 50% of services rendered by them, as part time Vocational Instructors, they submitted their respective representations and non consideration of those representations resulted in filing of the present writ petitions.

4.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 W.P(MD)No.14365 of 2014, etc. batch, 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.

5.The learned Counsel for the petitioners also brought to the notice of this Court the decision of writ appeals in W.A.No.359 of 2015 and WA No.882 of 2017, which covers the same issue and submitted that the respondents failed to consider the claim of the petitioners in the light of the said decision.

6.Per contra, the learned Government Advocate appearing for the respondents submitted that the said judgment of the writ appeal has already been challenged before the Hon'ble Supreme Court, by way of SLP, which is pending consideration. He also pointed out that various other issues have also to be considered, which are against the petitioners and the same will 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.

7. I have considered the rival submissions made by the learned counsel on either side and perused the materials on record. In WP (MD)No.14365 of 2014 etc, batch 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."

8. However, the learned Special Government Pleader appearing for the respondent Nos.1, 2 and 4 submitted that the said issue is to be considered at length, taking into consideration all the relevant materials.

9. In view of the rival submissions without deciding the issue on merits, 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 on merits and in accordance with law, after affording opportunity of hearing to the petitioners, within a period of twelve weeks from the date of receipt of a copy of this order.



10. In the result, all the writ petitions are disposed of, on the above terms. No costs.

Sd/-

Assistant Registrar (P&A)

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// True Copy //

Sub Assistant Registrar(CS)

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To

- 1.The Secretary to Government,
School Education Department,
Secretariat, Chennai-9.
- 2.The Director of School Education,
D.P.I Campus, College Road,
Chennai.
- 3.The Chief Educational Officer,
Pudukottai,
Pudukottai District.
- 4.The Chief Educational Officer,
Trichy,
Trichy District.
5. The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
6. The Chief Educational Officer,
Tiruppur,
Tiruppur District.

+23 CC to Mr.R. RAGAVENDRAN, Advocate(SR-92001[F] dated 15/10/2019)

+1cc to SPL GP SR NO.NO.92458

W.P(MD)Nos. 21631, 21632,
21634 to 21638, 21640 to
21644, 21647 to 21657 of 2019
15.10.2019

VB(15.11.2019) 11P 31C