



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

WEB COPY

W.P(MD)Nos.24702, 24707, 24717, 24721 of 2019

and

W.M.P(MD)No.21327, 21328, 21335, 21338 of 2019

W.P(MD)No.24702 of 2019

M.Rengarajan

... Petitioner

vs.

1.The State of Tamilnadu,
Rep. by its Principal Secretary,
School Education Department, [Pa.Ka.T-1],
Fort St., George, Chennai-09.

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

3.The Chief Educational Officer,
O/o.Chief Educational Office,
Thallakulam, Madurai.

... 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 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 i.e., from 09.06.1988 to 16.10.1992 for the pension benefits.

W.P(MD)No.24707 of 2019

M.Arul Mary Syriyapushpam

... Petitioner

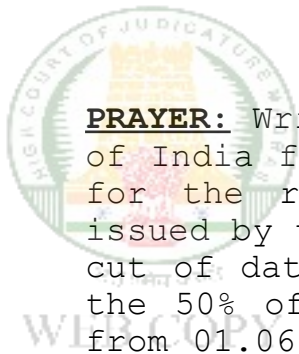
vs.

1.The State of Tamilnadu,
Rep. by its Principal Secretary,
School Education Department, [Pa.Ka.T-1],
Fort St., George, Chennai-09.

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

3.The Chief Educational Officer,
O/o.Chief Educational Office, Thallakulam, Madurai.

... 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 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 i.e., from 01.06.1986 to 12.11.1997 along with the regular service for the pension benefits i.e., for the period of 22 years 03 months 10 days.

W.P(MD)No.24717 of 2019

M.Rosaly

... Petitioner

vs.

- 1.The State of Tamilnadu,
Rep. by its Principal Secretary,
School Education Department, [Pa.Ka.T-1],
Fort St., George, Chennai-09.
- 2.The Director (Vocational) of
School Education, College Road, Chennai-06.
- 3.The District Educational Officer,
O/o.Chief Educational Office,
Thallakulam, Madurai.

... 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 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 i.e., from 27.06.1983 to 04.10.1996 along with the regular service for the pension benefits i.e., for the period of 29 years 03 months 13 days.

W.P(MD)No.24721 of 2019

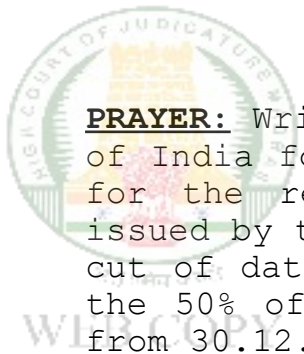
C.Shanmugam

... Petitioner

vs.

- 1.The State of Tamilnadu,
Rep. by its Principal Secretary,
School Education Department, [Pa.Ka.T-1],
Fort St., George, Chennai-09.
- 2.The Join Director (Vocational) of
School Education, College Road, Chennai-06.
- 3.The Chief Educational Officer,
O/o.Chief Educational Office,
Thallakulam, Madurai.

... 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 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 i.e., from 30.12.1985 to 15.10.1992 along with the regular service for the pension benefits.

For Petitioners : Mr.R.Saravanan
For Respondents : Mr.M.Karuppasamy,
Government Advocate

COMMON ORDER

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

2. The petitioners are working as Vocational Instructors. Subsequently, as per the Government Order, the petitioners were brought under regular time scale of pay. Number of part time Vocational Instructors initiated proceedings for taking into consideration their service rendered as part time employees. In the writ petitions, it was decided that 50% of the service so rendered will be taken into account for pensionary benefits. Against which, writ appeals and SLP filed by the Government were dismissed. The Government implemented the order, judgment of this Court in this regard, to the persons, who have approached this Court for the said relief. The Government while implementing the order of this Court, passed G.O.Ms.No.194, School Education (SE7-1) Department, dated 12.09.2018 and fixed the cut off date as 06.04.2018. In the said G.O., the Government has stated that the persons, who have obtained the orders and the writ petitions filed by the persons are pending as on 06.04.2018 only will be entitled for 50% of their service rendered as part time vocational instructors. Therefore, the petitioners have come out with these present writ petitions challenging the portion of the said Government Order.

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.

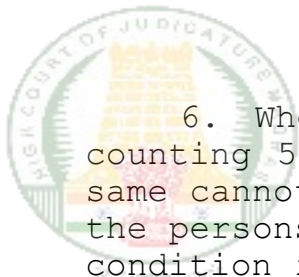


4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

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 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 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 6.4.2018. The said condition imposed by 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 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 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, all the writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Principal Secretary,
School Education Department, [Pa.Ka.T-1],
Fort St., George, Chennai-09.

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

3.The Chief Educational Officer, Thallakulam, Madurai.

+4 CC to M/s.R.SARAVANAN, Advocate (SR-100589[F] dated 22/11/2019)
+1 CC to M/s.SPL GP (SR-101132[F] dated 25/11/2019)

W.P (MD) Nos.24702, 24707,
24717, 24721 of 2019
22.11.2019

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SDS (18.12.2019) 5P 9C